



**Request for City Council Committee Action  
from the Departments of  
The City Attorney and  
Community Planning and Economic Development**

Date: January 23, 2006

To: Council Member Paul Ostrow, Chair, Ways and Means/Budget Committee

**Subject: Settlement with F-Troop, LLC in the matter of Land Registration, original application of Minneapolis Community Development Agency, to register the title to certain land in the City of Minneapolis, co-application by City of Minneapolis v. F-troop, LLC, et al, Hennepin County Court File No. 20786.**

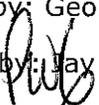
**Recommendation:**

Approve settlement with F-Troop, LLC in the matter of Land Registration, original application of Minneapolis Community Development Agency, to register the title to certain land in the City of Minneapolis, co-application by the City of Minneapolis v. F-Troop, LLC, et al, Hennepin County Court File No. 20786: including the stipulated withdrawal, and dismissal with prejudice, by F-Troop, LLC of all objections and claims of damages, the mutual release of any and all claims by F-Troop, LLC and the City, each against the other, and the authorization of an Easement Agreement between the City and F-Troop, LLC, subject to such dismissal with prejudice by F-Troop, LLC, providing for the encroachment of F-Troop, LLC-owned wall located on City-owned property (along the northwesterly property line of the Pantages Theatre/Stimson Building) and authorizing City retained counsel to file all necessary settlement and release of claims documents with Hennepin County District Court and authorizing proper City officers to execute all necessary settlement and release of claims documents to effect a full and complete settlement with F-Troop, LLC in this matter.

**Previous Directives.**

No previous directives.

Prepared by: George Kissinger, Senior Project Coordinator, 612.673.5014.

Approved by:  Jay M. Heffern, City Attorney, 612.673.3272.

Approved by: Charles T. Lutz, Deputy Director, CPED, 612.673.5196.

**Permanent Review Committee (PRC)** Approval \_\_\_\_\_ Not Applicable X

**Policy Review Group (PRG)** Approval \_\_\_\_\_ Date of Approval \_\_\_\_\_ Not Applicable X

Presenter in Committee: George Kissinger

**Financial Impact (Check those that apply)**

- No financial impact (If checked, go directly to Background/Supporting Information).
- Action requires an appropriation increase to the \_\_\_\_ Capital Budget or \_\_\_\_ Operating Budget.
- Action provides increased revenue for appropriation increase.
- Action requires use of contingency or reserves.
- Business Plan: \_\_\_\_ Action is within the plan. \_\_\_\_ Action requires a change to plan.
- Other financial impact (Explain):
- Request provided to department's finance contact when provided to the Committee Coordinator.

**Community Impact.**

Neighborhood Notification: N/A

City Goals: N/A

Comprehensive Plan: N/A

Zoning Code N/A

Other: Settlement of current litigation between the City and private party.

**Background/Supporting Information.**

The MCDA/City commenced land registration of the Pantages Theatre/Stimson Building property in order to be able to file a three dimensional registered land survey that would serve as the basis for a legal description for the sale of the Stimson Building property to Stimson Partners, LLC. As part of the land registration process, parties of interest, or potential interest, were notified of the pending land registration proceeding. One adjacent property owner, F-Troop, LLC (First Avenue Night Club), filed an objection to the land registration and made claims against the City of certain damages including asking the Court to require that the City commence condemnation of the F-Troop owned property as partial compensation for lost economic value. There was also a claim that there may be a party wall between the two owners' property.

The City, at the direction of the Hennepin County Examiner of Titles, prepared survey that would show the actual physical conditions present along the disputed boundary. The survey was prepared and presented to F-Troop, LLC and to the Examiner of Titles. The survey showed that there was no party wall, that each owner has a separate wall, that the City wall was totally within the City property line and that the F-Troop, LLC wall encroached slightly on City-owned property. The extent of that encroachment is zero feet at the North Seventh Street right-of way line to a maximum distance of 0.12 feet at the southerly property line (running diagonally a distance of 136.1 feet). The extent of this encroachment could be considered "de minimus" and does not effect the day to day operation of either the City-owned property or the F-Troop, LLC owned-property.

Upon recognition of the actual physical conditions present, the parties began a negotiation that would allow the legal encroachment of the F-Troop, LLC wall on City property. That negotiation has concluded with the agreement of terms of a formal easement agreement to be executed by the parties and recorded. The negotiated terms also include: (a) the dismissal, with prejudice, of all claims and objections made by F-Troop, LLC in this matter, (b) the release of claims that could have been brought by F-Troop, LLC against Stimson Partners, LLC and (c) an understanding that the City and F-Troop, LLC will each be responsible for their respective legal fees and costs.

The subject easement will run with the land and will cease upon the voluntary or involuntary removal of the F-troop, LLC wall and upon the mutual consent and filing of a certificate to such event; with each party agreeing that such consent will not be unreasonably withheld.