



**Request for City Council Committee Action
From the City Attorney's Office**

Date: February 22, 2006

To: Ways & Means/Budget Committee

Subject: Boone Trucking, et al. v. Weis Construction Company and the City of Minneapolis, et al.
U.S. District Court No.: 05-0024 MJG/JGL – Claims of Boone Trucking and NDN Drywall

Recommendation: That the City Council authorize settlement of Plaintiff NDN Drywall's case for the amount of \$5,000.00 payable to NDN Drywall and its attorney, David Shulman from Fund/Org. 6900 150 1500 3000, and that the City Attorney be authorized to execute any documents necessary to effectuate these settlements.

Previous Directives:

Prepared by: Sydnee N. Woods, Assistant City Attorney Phone: 673-2625

Approved by: _____
Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain): \$5,000.00 from Fund/Org. 6900 150 1500 3000
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact:

City Goals: Build Community

Background/Supporting Information

The Boone trucking case involves claims of discrimination in the hiring of subcontractors by contractors working on Heritage Park and the new Central Library projects. Plaintiffs allege violations of state and federal law. The City pursued a Rule 12 Motion to Dismiss/ Motion for Summary Judgment with only limited success. The City has since settled all the other claims.

In 2001, Mortenson/Thor (not a party in the above-captioned case), was selected through a competitive process to act as the Construction Manager on the New Central Library Project. The successful bidder for the Interiors contract was Defendant PCL Construction Services, Inc ("PCL"). The goals for the utilization of women-owned and minority-owned

businesses in sub-contracting for the Interiors Contract were set at 15% for women-owned businesses and 25% for minority-owned businesses.

PCL's proposed utilization did not meet the set utilization goals established for the Interiors Contract. Therefore, prior to approving PCL for the contract award, Contract Compliance Officer Marvin Taylor examined whether PCL made a good faith effort to meet the goals outlined in the City's bidding requirements. After reviewing documents provided by PCL, and placing numerous phone calls to SUBP contractors who were not utilized to determine whether, in fact, they were contacted, Taylor and the Minneapolis Department of Civil Rights determined PCL made good faith efforts to achieve the previously set participation goals. PCL provided information documenting its efforts at maintaining a working environment free of harassment, intimidation and coercion, establishing and maintaining an internal list of recruitment resources, encouraging internal recruitment of women and minorities for employment, and reaching out to women-owned and minority-owned businesses.

To Taylor's knowledge, Plaintiff NDN Drywall never submitted bids to PCL for any part of the Interiors Contract for the New Central Library Project. Nor did it submit a formal written complaint to the Minneapolis Department of Civil Rights. However, given the time and expense involved to complete the discovery process, the length of time of a possible federal court trial, and the possibility of a verdict of against the City, at a recent court-ordered settlement conference the City offered Plaintiff \$5,000 for full and final settlement of its case.