

**PORTLAND DEVELOPMENT COMMISSION**  
Portland, Oregon

**RESOLUTION NO. 6828**

**AUTHORIZING SETTLEMENT OF LITIGATION BETWEEN THE  
PORTLAND DEVELOPMENT COMMISSION AND BROWN  
CONTRACTING, INC. RELATING TO THE DOWNTOWN  
WATERFRONT PARK IMPROVEMENT PROJECT**

**WHEREAS**, the Portland Development Commission (“PDC”) entered into a contract with Brown Contracting, Inc. (“Brown”) on May 30, 2008 (Contract No. 307009) (the “Contract”), for work on the Downtown Waterfront Park Improvement Project (the “Project”);

**WHEREAS**, the Project reached substantial completion on Phase A podium and odor control work May 1, 2009 and Phase B water feature work September 28, 2009;

**WHEREAS**, Brown has made certain claims under the Contract for additional work relating to the Project, certain aspects of which PDC disputes (the “Dispute”);

**WHEREAS**, there exists disagreement on the amount of compensation that is due to Brown under the Contract on account of the Dispute;

**WHEREAS**, under the terms of the Contract, PDC staff made several efforts to resolve the claims with Brown without success;

**WHEREAS**, on June 16, 2010, PDC and Brown entered mediation in an attempt to settle the Dispute (the “Mediation”);

**WHEREAS**, the parties failed to reach agreement on a settlement of the Dispute at the Mediation;

**WHEREAS**, as a result of discussions between PDC and Brown subsequent to the Mediation, PDC and Brown arrived at a proposed settlement to resolve the Dispute, including all claims;

**WHEREAS**, PDC desires to settle the Dispute in a manner consistent with the proposed settlement;

**WHEREAS**, the proposed settlement contemplates a payment from PDC in the amount of \$545,000 to resolve the Dispute and discharge PDC of all obligations under the Contract;

**WHEREAS**, there is \$384,897 remaining in the Board-approved Project budget; and

**WHEREAS**, this action will increase the Contract amount by \$160,103.

**NOW, THEREFORE, BE IT RESOLVED** that the Executive Director is hereby authorized to enter into a settlement agreement with Brown to settle the Dispute (the “Settlement Agreement”), subject to approval by the PDC General Counsel;

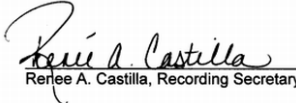
**BE IT FURTHER RESOLVED** that the Settlement Agreement may provide for monetary payment from PDC in an aggregate amount not to exceed \$545,000;

**BE IT FURTHER RESOLVED** that the Settlement Agreement may contain such other terms and conditions as the Executive Director considers necessary or desirable to implement the terms of the proposed settlement;

**BE IT FURTHER RESOLVED** that the Executive Director may execute and deliver such additional agreements, instruments or documents as he considers necessary or desirable to implement the terms of the proposed settlement; and

**BE IT FURTHER RESOLVED** that this resolution shall become effective immediately upon its adoption.

**Adopted by the Portland Development Commission on October 13, 2010.**



Renee A. Castilla, Recording Secretary

# PDC

PORTLAND DEVELOPMENT COMMISSION

## Resolution Number 6828

Title:

AUTHORIZING SETTLEMENT OF LITIGATION BETWEEN THE PORTLAND DEVELOPMENT COMMISSION AND BROWN CONTRACTING, INC. RELATING TO THE DOWNTOWN WATERFRONT PARK IMPROVEMENT PROJECT

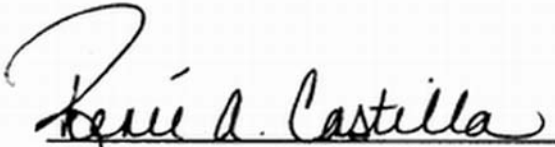
Adopted by the Portland Development Commission on October 13, 2010.

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Chair Scott Andrews	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Aneshka Dickson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner John Mohlis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Steven Straus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Commissioner Charles Wilhoite	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Consent Agenda		<input checked="" type="checkbox"/> Regular Agenda		

### Certification

The undersigned hereby certifies that:

*The attached resolution is a true and correct copy of the resolution as finally adopted at a Board Meeting of the Portland Development Commission and duly recorded in the official minutes of the meeting.*

  
Renee A. Castilla, Recording Secretary

Date: October 26, 2010