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ORDINANCE No. 183463

*Approve settlement of claims with Thomas/Wright, Inc., EBAA Iron, Inc., and HD Supply Water Works Group, Inc., fka U.S. Filter Distribution Group, Inc. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. In December 2007, the City of Portland, Bureau of Environmental Services ("BES"), filed a lawsuit against Ken Leahy Construction, Inc., and Thomas/Wright, Inc., in Multnomah County Circuit Court, entitled *City of Portland v. Ken Leahy Construction, Inc., and Thomas/Wright, Inc.*, Case No. 0712-14686, asserting claims for breach of the contract and for negligence. In turn, Ken Leahy Construction filed third-party claims against EBAA and HD Supply.
2. TWI, EBAA and HD Supply have agreed to settle with BES as shown in the attached Exhibit 1 (Settlement Agreement with TWI) and Exhibit 2 (Settlement Agreement with EBAA and HD Supply). The City Attorney's office and BES recommend approval of this settlement by City Council.
3. The City Attorney is authorized to prosecute and continue the lawsuit against the remaining parties and take all legal action necessary. Any settlement with other parties will come before Council for approval.

NOW, THEREFORE, the Council directs:

- a. The Director of BES is authorized to execute the Settlement Agreement with Thomas/Wright, Inc., EBAA Iron, Inc., and HD Supply Water Works Group, in substantially similar form to that attached as Exhibits 1 and 2 to this Ordinance. Funds received pursuant to this ordinance shall be placed in BES's account.

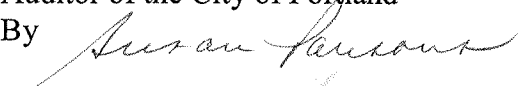
Section 2. The Council declares that an emergency exists in order to avoid undue and costly delay in settling this lawsuit; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council: JAN 13 2010

Commissioner: Dan Saltzman
Prepared by: James H. Van Dyke
Date Prepared: January 7, 2010

LaVonne Griffin-Valade
Auditor of the City of Portland

By



Deputy

Agenda No.
ORDINANCE NO.
Title

183463

*Approve settlement of claims with Thomas/Wright, Inc. ("~~TWT~~"), EBAA Iron, Inc. ("~~EBAA~~"), and HD Supply Water Works Group, Inc., fka U.S. Filter Distribution Group, Inc. ("~~HD Supply~~"). (Ordinance)

<p>INTRODUCED BY Commissioner/Auditor:</p>	<p>CLERK USE: DATE FILED <u>JAN 08 2010</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Adams</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard</p>	<p>LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <u>[Signature]</u> Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: Environmental Services Bureau Head: Dean Marriott</p> <p>Prepared by: Chief Deputy City Attorney James H. Van Dyke Date Prepared: January 7, 2010</p> <p>Financial Impact Statement Completed <input type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input checked="" type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Council Meeting Date January 13, 2010</p> <p>City Attorney Approval</p> <p>Chief Deputy City Attorney James H. Van Dyke</p>	<p>ACTION TAKEN:</p>

AGENDA

TIME CERTAIN
Start time: _____

Total amount of time needed: _____
(for presentation, testimony and discussion)

CONSENT

REGULAR
Total amount of time needed: _____
(for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz ✓	
2. Fish	2. Fish ✓	
3. Saltzman	3. Saltzman	
4. Leonard	4. Leonard ✓	
Adams	Adams ✓	