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150054

GEORGE YERKOVICH, AUDITOR  
CITY OF PORTLAND, ORE.

## ACCEPTANCE

BY                     Portland, Oregon, July 24, 1980

GEORGE YERKOVICH  
Auditor of the City of Portland.  
Room 202, City Hall  
Portland, Oregon 97204

Dear Sir:

This is to advise the City of Portland, Oregon, that I hereby accept the terms and provisions of Ordinance No. 150054, passed by the Council July 23, 1980, authorizing an agreement with the law firm of Wickwire, Peterson & Gavin to assist the Office of the City Attorney in defense of an action filed in the U.S. District Court for the District of Oregon by Dorfman Construction Company, Inc., Civil Action File No. 80-539, providing for a transfer of funds, providing for acceptance thereof,

and in consideration of the benefits to be received thereunder by me I hereby agree to abide by and perform each and all of the terms and provisions thereof applicable to me.

Very truly yours,

WICKWIRE, PETERSON &amp; GAVIN

[CORPORATE  
SEAL]

\*

Lynn B. Lonsen, Partner2029 Century Park E., Los Angeles, CA. 90067

Address

APPROVED AS TO FORM

Approved as to form

Christopher P. Thomas

CITY ATTORNEY

City Attorney

\*When an acceptance is required from a firm or corporation the Acceptance must be signed by an officer of the firm or corporation stating his or her official title, and corporations must affix the corporate seal.

## ORDINANCE NO. 150054

An Ordinance authorizing an agreement with the law firm of Wickwire, Peterson & Gavin to assist the Office of the City Attorney in defense of an action filed in the U.S. District Court for the District of Oregon by Dorfman Construction Company, Inc., Civil Action File No. 80-539, providing for a transfer of funds, providing for acceptance thereof, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. The City entered into a contract with Dorfman Construction Company, Inc., a California firm, for construction of the S.E. Relieving Interceptor Phase I Job No. 3097 for the Bureau of Public Works, under a federal grant.
2. During the course of construction, Dorfman placed the City on notice of a claim for extra payment based upon the changed site conditions clause of the specifications, which claim the City has denied.
3. The Bureau of Public Works, the City Engineer, and the City Attorney's Office have been involved in evaluations and negotiations for possible settlement of the claim.
4. During the course of negotiations and evaluations, the City, by purchase order, employed the law firm of Wickwire, Peterson & Gavin at its branch office in Los Angeles, California, to assist in the evaluation of the claim.

5. The firm of Wickwire, Peterson & Gavin was selected, based on their expertise in construction contract claims and law suits arising therefrom, and the fact that their established hourly rates are competitive with other expert counsel in the field. Further consideration was the fact that Dorfman Construction Company, Inc. is based in Los Angeles, California and the firm of Wickwire, Peterson & Gavin is in the area of Dorfman Construction Company's home office, and therefor, the cost for discovery procedures for the City would be less.
6. Legal fees associated with the defense of this lawsuit are difficult to estimate but it is expected that outside counsel's charges could be between \$10,000 and \$50,000.
7. In order to provide the necessary funds for payment of legal expenses and legal fees of outside legal counsel, it is necessary to transfer \$20,000 from general operating contingencies to the City Attorney's Office Book No. 31200067 Expense Code 210.

NOW, THEREFORE, the Council directs:

- a. That an agreement be entered into providing for the employment of the law firm of Wickwire, Peterson & Gavin to assist the Office of the City Attorney in defense of the lawsuit Dorfman Construction Company, Inc., v. City of Portland, filed in the U.S. District Court for the District of Oregon, Civil Action File No. 80-539. Payment shall be at the law firm's standard rates currently set at \$100 per hour for partners, \$60-\$70 for associates, \$60 for construction analysis and \$30 for law clerks. Payment for costs including, but not limited to, travel, miscellaneous expenses, long distance phone calls, and reproduction costs shall be at cost.
- b. The City Attorney shall have authority to direct and authorize the services to be performed by the firm of Wickwire, Peterson & Gavin, and shall assist in all possible ways

# ORDINANCE No.

with the defense of the above referenced lawsuit.

- c. The services and expenses to be incurred by the firm of Wickwire, Peterson & Gavin shall not exceed the sum of \$20,000 without further authorization by the City Council.
- d. In order to provide the necessary funds for payment of legal expenses and legal fees for the agreement hereinabove authorized, the sum of \$20,000 is transferred from the 1980-81 fiscal year's budget from general operating contingencies to the Office of the City Attorney BUC No. 31200105 Expense Code 210 and payment for legal expenses and legal fees shall be charged to BUC No. 31200105 Expense Code 210; all such payments shall be subject to the approval by the City Attorney, and when approved, the Mayor and Auditor are hereby authorized to draw and deliver warrants in payment of the above described legal services, based upon the hourly charges set forth hereinabove; billings may be submitted monthly, and payment is authorized on a monthly basis subject to approval by the City Attorney.

Section 2. This Ordinance shall be an effective agreement between the City and the law firm of Wickwire, Peterson & Gavin, Attorneys at Law, One Century Plaza, Suite 4250, 2029 Century Park East, Los Angeles, California 90067, upon acceptance of the terms of this Ordinance by the law firm.

Section 3. The Council declares that an emergency exists, in order that the legal services described in Section 1 may be made available to the City immediately to make timely appearance in the lawsuit; therefore, this Ordinance shall be in full force and effect, subject to acceptance as set forth in Section 2 hereinabove, after its passage by the Council.

Passed by the Council, JUL 23 1980

COMMISSIONER MILDRED A. SCHWAB  
RLHurtig:slj  
07/17/80

Attest:

  
Auditor of the City of Portland

Calendar No. 2638

# ORDINANCE No. 150054

## Title

An Ordinance authorizing an agreement with the law firm of Wickwire, Peterson & Gavin to assist the Office of the City Attorney in defense of an action filed in the U.S. District Court for the District of Oregon by Dorfman Construction Company, Inc., Civil Action File No. 80-539, providing for a transfer of funds, providing for acceptance thereof, and declaring an emergency.

Filed JUL 18 1980

GEORGE YERKOVICH

Auditor of the CITY OF PORTLAND

Deputy

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Ivancie	1	
Jordan	1	
Lindberg	1	
Schwab	1	
McCready	1	

FOUR-FIFTHS CALENDAR	
Ivancie	
Jordan	
Lindberg	
Schwab	
McCready	

INTRODUCED BY
COMMISSIONER MILDRED SCHWAB

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety
Utilities
Works

BUREAU APPROVAL
Bureau:
Prepared By: Robert L. Hurtig
Date: 07-17-80
Budget Impact Review:
<input type="checkbox"/> Completed <input type="checkbox"/> Not required
Bureau Head:

CALENDAR
Consent
Regular

NOTED BY
City Attorney
City Auditor
City Engineer