

PORTLAND DEVELOPMENT COMMISSION
Portland, Oregon

RESOLUTION NO. 6559

**AUTHORIZING SETTLEMENT OF LITIGATION BETWEEN THE
PORTLAND DEVELOPMENT COMMISSION AND TYRONE
HENRY.**

WHEREAS, on May 16, 2006, Tyrone Henry filed an action against the Portland Development Commission in the United States District Court for the District of Oregon (the "Court") and that action is currently pending in the Court as Tyrone Henry v. Portland Development Commission, Lori Sundstrom and Bruce Warner (Case No. CV06-712-HU) (the "Case").

WHEREAS, on May 17, 2006, PDC notified its insurance carrier, Zurich American Insurance Company (the "Insurance Company"), of the Case, and the Insurance Company is currently defending the Case on PDC's behalf;

WHEREAS, on January 3, 2008, the parties to the Case entered mediation in an attempt to settle the Case (the "Mediation");

WHEREAS, based on the Mediation, the parties to the Case arrived at a proposed settlement, the terms and conditions of which are set forth in a Settlement Agreement and Release by and among Tyrone Henry, PDC, Bruce Warner and Lori Sundstrom, a copy of which is attached hereto as Exhibit A (the "Settlement Agreement");

WHEREAS, the Insurance Company has recommended to PDC the settlement of the Case on the terms and conditions set forth in the Settlement Agreement; and

WHEREAS, PDC desires to settle the Case on the terms and conditions set forth in the Settlement Agreement.

NOW, THEREFORE, BE IT RESOLVED that the Executive Director is hereby authorized to enter into the Settlement Agreement for and on behalf of PDC;

BE IT FURTHER RESOLVED that the Executive Director is hereby authorized to make changes to the Settlement Agreement if such modifications, in the opinion of the Executive Director and General Counsel, do not materially change PDC's obligations or risks;

BE IT FURTHER RESOLVED that the Executive Director and General Counsel are authorized to take such further action and execute such additional documents, consistent with the terms and conditions of the Settlement Agreement, as they consider necessary or desirable to implement the Settlement Agreement and cause the dismissal of the Case; and

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

Adopted by the Portland Development Commission on February 13, 2008.



Renee A. Castilla, Recording Secretary

SETTLEMENT AGREEMENT AND RELEASE

1. The parties to this Settlement Agreement and Release (the “Agreement”) are Tyrone Henry (“Henry”), the Portland Development Commission, Bruce Warner, and Lori Sundstrom. Mr. Warner, Ms. Sundstrom and the Portland Development Commission are collectively referred to as “PDC”; Henry and PDC are collectively referred to herein as the “parties.”

2. For purposes of this Agreement, PDC includes, without limitation, the City of Portland, a municipal corporation of the State of Oregon, all boards, commissions, committee, councils, departments, and all other bodies or units operating there under, as well as all current or former commissioners, committee members, councilpersons, officers, employees, insurers, agents and assigns for all entities referred to in this paragraph.

3. Henry was employed by the Portland Development Commission from approximately July 17, 2000 to March 7, 2006. Henry has alleged that he was treated adversely because of his race, and PDC disputes this allegation (the “Dispute”). The Dispute arises out of Henry’s employment with and termination by PDC.

4. This Agreement is made and entered into for the purpose of settling the Dispute and is not and shall not be construed as an admission of any sort by PDC. PDC expressly denies any wrongdoing and/or liability to Henry.

5. In exchange for the promises, covenants and consideration described in this Agreement and to the fullest extent permitted under applicable law, Henry hereby releases and forever discharges PDC and any related parties from any and all claims, demands, actions, suits, causes of action, debts, accounts or controversies of any nature whatsoever, known or unknown, that Henry has, or may have, against PDC up to and including the date Henry executes this Agreement. This release includes, without limitation, all claims arising out of, or in any way

related to, Henry's employment with and termination by PDC and all claims that were asserted or could have been asserted by Henry against PDC up through and including the date of the execution of this Agreement.

This release includes, without limitation, any and all claims arising under any statutes, regulations, or ordinances pertaining to wages, conditions of employment or discrimination in employment, including Oregon Revised Statutes chapters 652, 653, 654, 659 and 659A; Title VII of the Civil Rights Act of 1964; the Family and Medical Leave Act; the Post-Civil War Civil Rights Acts; the Equal Pay Act of 1963; the Fair Labor Standards Act; the Occupational Safety and Health Act of 1970; the Rehabilitation Act of 1973; § 503 and § 504 of the Vocational Rehabilitation Act of 1973; the Americans with Disabilities Act; the Vietnam Era Veterans Readjustment Assistance Act; the Uniformed Services Employment and Reemployment Rights Act; the Older Workers Benefit Protection Act; the Age Discrimination in Employment Act; the Worker Adjustment and Retraining Notification Act; the Davis-Bacon Act; the Walsh-Healey Act; the Employee Retirement Income Security Act; the Contract Work Hours and Safety Standards Act; Executive Order 11246; the Charter of the City of Portland, the ordinances of the City of Portland and any regulations under or amendments of such authorities. This release also extends to all claims of any kind under any contract, tort or other legal, equitable or statutory theories.

6. In accordance with the Older Workers Benefit Protection Act, Henry hereby is advised of the following:

(a) Henry has the right to consult with an attorney before signing this Agreement and is encouraged to do so;

(b) This Agreement provides additional compensation to which Henry would not otherwise be entitled;

(c) Henry has twenty-one (21) days from his receipt of this Agreement to consider it; and

(d) Henry has seven (7) days after he signs it to revoke this Agreement (“the Revocation Period”) and this Agreement will not be effective until the Revocation Period has expired without exercise notwithstanding any other provision. Henry agrees that in order to exercise his right to revoke this Agreement he must do so in a signed writing delivered to Clarence Belnavis, Fisher & Phillips LLP, Suite 1250, 111 SW Fifth Avenue, Portland, OR 97204, before the close of the Revocation Period.

7. In consideration of the promises and covenants in this Agreement, PDC shall pay Henry the sum of Two Hundred and Twenty Thousand Dollars (\$220,000.00) (the “Payment”) to be divided as follows:

(a) Ten Thousand Dollars and Zero Cents (\$10,000.00) shall be paid as wages (the “wage check”) in a check made payable to Henry and shall be subject to applicable taxes and withholdings. Henry understands and acknowledges that, as a result of applicable taxes and withholdings, the net amount of the wage check shall be for an amount that is less than \$10,000.00;

(b) One Hundred Twenty-Three Thousand, Eight Hundred Thirty-Eight Dollars and Thirty-One Cents (\$123,838.31) shall be paid as general damages in a check made payable to Henry; and

(c) Eighty-Six Thousand, One Hundred Sixty-One Dollars and Sixty-Nine Cents (\$86,161.69) shall be paid to Henry’s legal counsel, Steenson, Schumann, Tewksbury, Creighton & Rose, PC., for attorneys’ fees and costs.

Henry understands and acknowledges that any applicable taxes and withholdings are solely the responsibility of Henry. The parties further acknowledge that the Payment will be

reported to the appropriate taxing authorities. The Payment shall be transmitted to the offices of Henry's attorney (Stenson, Schumann, Tewksbury, Creighton & Rose, PC) within ten (10) business days following both (a) the approval of this Agreement by PDC as set forth in Paragraph 13 below, and (b) receipt by counsel for PDC (Clarence Belnavis, Fisher & Phillips LLP) of an original copy of this Agreement signed by Henry.

8. Henry shall reimburse and indemnify PDC for any taxes or penalties incurred by PDC as a result of any nonpayment or underpayment of any taxes on the Payment. Henry acknowledges that he has not received any tax advice from PDC or its agents.

9. Following Henry's execution of this Agreement, Henry shall promptly direct his attorney to dismiss any administrative or civil actions he may have initiated or be prosecuting against PDC.

10. The Parties agree that it is in their mutual best interests to avoid any future employment relationship. For this reason, and in exchange for the Payment, Henry agrees that he will not seek or apply for employment with the Portland Development Commission. Portland Development Commission likewise agrees not to affirmatively contest any application by Henry for unemployment benefits. However, Portland Development Commission will respond truthfully if required to do so.

11. Within ten (10) business days after Henry has returned a signed original copy of this Agreement to counsel for PDC, PDC shall mail to Henry's attorney a signed copy of the letter attached as Exhibit A. Henry agrees to forward any requests for job references or job related inquiries directly to the then current HR Director of the Portland Development Commission. The HR Director or his/her designee will only provide information on dates of employment, job responsibilities, positions held, and rates of pay. PDC shall not be liable for

any responses to requests for references or inquires that are not addressed/directed as set forth in this paragraph.

12. Henry agrees and understands that this Agreement must be approved by a majority vote of Portland Development Commission's Commissioners, executed and not revoked by the parties before it is final. Portland Development Commission agrees to present this Agreement to its Commissioners for a vote on February 13, 2008.

13. This Agreement is binding upon and shall inure to the benefit of the parties and their respective heirs, administrators, executors, trustees, legal representatives, successors, predecessors, assigns, directors, officers, agents, employees, insurers and transferees.

14. In making this Agreement, Henry expressly acknowledges and agrees that he relied wholly upon his own judgment, belief and knowledge of the nature, extent and duration of his damages and that he has not been influenced to any extent in making this Agreement by any representations or statements by PDC or by any person or persons representing PDC or acting on PDC's behalf.

15. Each party has read this Agreement and understands its contents. The parties acknowledge and agree that they have been represented and advised by independent counsel of their choice throughout all negotiations that preceded the execution of this Agreement and with respect to their execution of this Agreement. Henry acknowledges and represents that he enters into this Agreement knowingly and voluntarily.

16. If a dispute arises regarding the interpretation, application or effect of this Agreement, or if any party alleges a breach of the terms of the Agreement, the dispute, issue or breach shall be submitted to confidential and binding arbitration in Portland, Oregon, pursuant to the rules of the American Arbitration Association or such other rules as agreed to by the parties. The arbitrator shall have discretion to award costs and disbursements incurred in the arbitration,

including reasonable attorneys' fees in accordance with applicable law. The parties agree that any proceeding to enforce this Agreement shall be strictly confidential in all respects. Any filing or initiation of any proceeding with any court regarding this Agreement without previous submission of the dispute for resolution in accordance with this Agreement shall constitute a material breach of this Agreement.

17. This Agreement contains the entire agreement and understanding between the parties and supersedes and replaces all prior negotiations and proposed agreements, written or oral. No amendments, modifications or supplements to this Agreement may be made other than by a writing signed by the parties. The terms of this Agreement are contractual and not a mere recital. This Agreement is effective upon execution.

THIS IS A RELEASE AGREEMENT THAT INCLUDES RELEASES OF IMPORTANT LEGAL RIGHTS YOU MAY HAVE. READ IT CAREFULLY BEFORE SIGNING.

TYRONE HENRY

Dated: _____

PORTLAND DEVELOPMENT COMMISSION

By: _____
Title: _____
Dated: _____

BRUCE WARNER

Dated: _____

LORI SUNDSTROM

Dated: _____

EXHIBIT A

To Whom It May Concern:

Re: Tyrone Henry

Mr. Henry began working for the Portland Development Commission (“PDC”) in October of 1999 as a Business Development Officer. He was hired by the PDC on July 17, 2000 as the Contracts Compliance Coordinator in the Finance Department, and worked in that capacity until March, 7, 2006. As the Contracts Compliance Coordinator, Mr. Henry was responsible for administering PDC’s Minority, Women, and Emerging Small Business (“MWESB”) Program by bringing business and contract opportunities to the businesses in this program. We wish him the best in his new endeavors.

Sincerely,

[HR Manager]

PDC

PORTLAND DEVELOPMENT COMMISSION

Resolution Number 6559

TITLE: AUTHORIZING SETTLEMENT OF LITIGATION
BETWEEN THE PORTLAND DEVELOPMENT
COMMISSION AND TYRONE HENRY

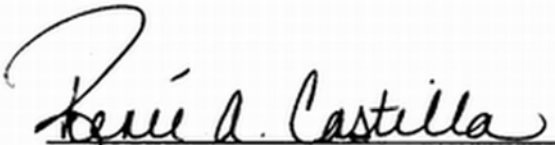
Adopted by the Portland Development Commission on February 13, 2008.

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Mark Rosenbaum, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Sal Kadri	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Bertha Ferrán	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Charles Wilhoite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	John Mohlis	<input checked="" 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: March 12, 2008