

County Council of Cuyahoga County, Ohio

Ordinance No. O2011-0033

Sponsored by: County Executive FitzGerald/Department of Law and Councilmembers Connally, Simon and Miller	An Ordinance establishing procedures for authorization of settlement of litigation by or against the County or any of its officers, employees, departments, offices, agencies, boards, commissions, or other authorities, and amending Ordinance No. O2011-0030 to harmonize it with the provisions of this Ordinance; and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, there is currently pending, and will be in the future, various actions, claims, disputes, and lawsuits against and on behalf of Cuyahoga County which necessitate settlement; and,

WHEREAS, the Cuyahoga County Charter vests the County Executive with the authority to execute contracts on behalf of Cuyahoga County pursuant to Article II, Section 2.03, Subsection 6; and,

WHEREAS, pursuant to the Cuyahoga County Charter Article III, Section 9, Subsection 4, the County Council has enacted Ordinance 2011-014, as amended in Ordinance No. O2011-0030, which provides the procedures for making contracts and therein has provided specific monetary thresholds for those contracts that can be executed by the County Executive without Council approval, those that can be executed upon approval of the Board of Control, and those contracts that must first receive Council approval; and,

WHEREAS, Council made the legislative decision in Ordinance 2011-014, as amended in Ordinance O2011-0030, to separately establish the procedures governing the settlement of litigation through a separate ordinance; and,

WHEREAS, in order to ensure the efficient disposition of litigation and to improve the operation of County government, it is necessary to authorize the County Executive to adjust, settle, or compromise any action, cause of action, account, debt, claim, demand, dispute, grievance, arbitration, lawsuit, or any other matter in favor of or against the County or any of its officers, employees, departments, offices, agencies, boards, commissions, or other authorities of the County within the monetary thresholds established by Council; and,

WHEREAS, for the proper and efficient functioning of the new Cuyahoga County government, it is necessary that this Ordinance become immediately effective in order

that pending and future claims, disputes, demands, and lawsuits may be resolved expeditiously.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. The Cuyahoga County Executive is hereby authorized to adjust, settle, or compromise any action, cause of action, account, debt, claim, demand, dispute, grievance, arbitration, lawsuit, or any other matter in favor of or against the County or any of its officers, employees, departments, offices, agencies, boards, commissions, or other authorities of the County, except as follows:

- a. Settlements resulting in the County's expenditure of an amount in excess of \$50,000.00 for the voluntary acquisition, or taking through the power of eminent domain, of any real estate interest for any purpose other than making or repairing roads, including bridges, shall require prior approval of County Council; and,
- b. Settlements resulting in the County's expenditure of an amount in excess of \$50,000.00 for the voluntary acquisition through the good-faith negotiation process under Ohio Revised Code Chapter 163 prior to the institution of eminent-domain litigation, or taking through the power of eminent domain after institution of litigation, of any real estate interests for the purpose of making or repairing roads, including bridges, shall require prior approval by the Board of Control; and,
- c. Any other settlements than specified in Section 1, subsections (a) and (b) herein resulting in the County's expenditure of an amount in excess of \$100,000.00 shall require prior approval of County Council.

SECTION 2. Ordinance No. O2011-0030 is hereby amended to harmonize it with Section 1(b) of this Ordinance as follows (additions are bolded):

- a. Section 2.10(a)(4) of Ordinance No. O2011-0030 is hereby amended as follows to exclude real-estate transactions for the purpose of making or repairing roads, including bridges, from requiring prior Council approval:

All purchases or sales of real estate or real estate interests **for any purpose other than the making or repairing of roads, including bridges**, for more than \$50,000 and all leases of real estate or real estate interests as lessor or lessee in which the value of the purchase, sale, or lease is more than \$50,000.

- b. Ordinance No. O2011-0030 is hereby amended as follows to add Section 2.11(f) to authorize the Board of Control to approve real-estate transactions above \$50,000.00 for the purpose of making or repairing roads:

All purchases, including, the acquisition through settlement of eminent-domain litigation, of any real estate interests for the purpose of making or repairing roads, including bridges, in excess of \$50,000.00.

SECTION 3. The County Executive is hereby authorized to execute all settlement agreements, releases, conveyance documents, and any other documents necessary to effectuate the adjustment, settlement, or compromise of any action, cause of action, account, debt, claim, demand, dispute, grievance, arbitration, lawsuit, or any other matter in favor of or against the County or any of its officers, employees, departments, offices, agencies, boards, commissions, or other authorities of the County authorized in accordance with this Ordinance.

SECTION 4. The Fiscal Officer is hereby authorized and directed to pay the amount of any settlement or compromise authorized in accordance with this Ordinance.

SECTION 5. Provided that this Ordinance receives the affirmative vote of eight members of Council, it shall become immediately effective upon the signature of the County Executive. It is hereby determined to be necessary that this Ordinance become immediately effective in order that pending and future claims, disputes, demands and lawsuits may be resolved expeditiously.

SECTION 6. It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Ms. Simon, seconded by Ms. Conwell, the foregoing Ordinance was duly enacted.

Yeas: Rogers, Simon, Greenspan, Miller, Brady, Germana, Gallagher, Schron,
Conwell, Jones and Connally

Nays: None

County Council President

Date

County Executive

Date

Deputy Clerk of Council

Date

First Reading/Referred to Committee: July 26, 2011

Committee(s) Assigned: Justice Affairs

Additional Sponsorship Requested on the Floor: August 9, 2011

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