

County Council of Cuyahoga County, Ohio

Resolution No. R2011-0195

Sponsored by: County Executive FitzGerald/Department of Public Works	A Resolution ratifying Contract No. CP03937-01 with Equity Residential Properties Management Corp. for lease of office space located at 1701 East 12 th Street, Cleveland, for use by Department of Senior & Adult Services for the period 6/1/2001 - 1/31/2005; approving the transfer and encumbrance of funds in the amount not-to-exceed \$312,005.91 for payment of rent through 9/30/2011; and declaring the necessity that this Resolution become immediately effective.
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WHEREAS, the former governing board of Cuyahoga County, Ohio entered into a contract dated October 31, 1994, with Equity Residential Properties Management Corp. to lease space for various county agencies at the Reserve Square Apartment complex, located at 1701 East 12th Street, Cleveland, Ohio; and,

WHEREAS, a certain “First Expansion Amendment to Lease” (Contract No. CP03937-01) (hereinafter referred to as “the Amendment”) was approved by the former governing board (Resolution No. 0110128) on March 27, 2001, to exercise an option to expand the amount of leased space by 9,262 square feet and for additional funds; and,

WHEREAS, the written contract language in the Amendment that was executed by the County and the Lessor required the payment of \$312,005.91 as “Base Rent” for the additional 9,262 square feet of space for the period June 1, 2001 through January 31, 2005, *in addition to* \$301,676.32 for “Work Allowance” (i.e., build-out costs) for a total of \$613,682.23; and,

WHEREAS, due to a clerical error, Resolution No. 0110128 approving the contract and Auditor’s Certification inadvertently only listed the Work Allowance of \$301,676.32; leaving the \$312, 005.91 Base Rent amount agreed upon, but not referenced in the Resolution nor encumbered by the Auditor; and,

WHEREAS, this space was utilized by certain agencies of Cuyahoga County for the term of the Amendment and continuing through the now amended lease termination date of September 30, 2011;

WHEREAS, due to the number of subsequent amendments to the lease that were approved, the error was only recently discovered and traced back by staff of the Department of Procurement and Diversity after it was determined that sufficient funds were not encumbered and not available to close out the current lease term; and,

WHEREAS, the 2011 budget of the Department of Senior and Adult Services included an allocation for a 12-month certification of the rental agreement, but failed to recognize that the carryover encumbrance amount was insufficient to cover payments through the close of the lease term in September 2011; and,

WHEREAS, based on the first quarter estimates, there is an existing surplus in the budget of the Department of Senior and Adult Services as a result of attrition and budgeted FTEs that have not been filled that can be transferred to cover the funds necessary to close out the term of the lease in September 2011; and,

WHEREAS, the County Prosecutor reviewed the history of the lease and determined that the facts outlined above are correct and that the necessary action at this time is to request and obtain an appropriation under the same lease agreement in the amount of \$312,005.91 to authorize the payment of rent that was due under this lease; and,

WHEREAS, it is necessary that this Resolution become immediately effective in order that critical services provided by Cuyahoga County can continue.

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

SECTION 1. Contract No. CP03937-01 with Equity Residential Properties Management Corp., for lease of space located at 1701 East 12th Street, Cleveland, for use by the Department of Senior and Adult Services, for the period June 1, 2001 through January 31, 2005, is hereby ratified.

SECTION 2. Funds available within the current budget of the Department of Senior and Adult Services shall be transferred in the amount not-to-exceed \$312,005.91 for payment of rent at Reserve Square and are hereby authorized to be encumbered and paid when due to the Lessor (now known as “Reserve Apartments, LTD”) under the terms of the lease agreement, as amended, so that rent can be paid to close out the current lease term ending on September 30, 2011.

SECTION 3. It is necessary that this Resolution become immediately effective in order that critical services provided by Cuyahoga County can continue. Provided that this resolution receives affirmative vote of eight members of Council, this Resolution shall become immediately effective upon the signature of the County Executive.

SECTION 4. It is found and determined that all formal actions of this Council relating to the adoption of this Resolution 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 Resolution was duly adopted.

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

Nays: None

County Council Vice-President Date

County Executive Date

Clerk of Council Date

First Reading/Referred to Committee: May 31, 2011
Committee(s) Assigned: Public Works, Procurement & Contracting

Second Reading/Referred to Committee: June 14, 2011
Committee(s) Assigned: Public Works, Procurement & Contracting

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