

1 RESOLUTION NO. 2016-329

2  
3 SPONSOR Ms. Shapiro

4  
5 DATE September 12, 2016 COMMITTEE Finance

6  
7 **A Resolution authorizing the County Executive to execute a Mutual Release with Western**  
8 **Surety Company relating to the construction of the Summit County Children Services**  
9 **Visitation Renovation Project, pursuant to which the County will pay an amount not to**  
10 **exceed \$43,105.29, for the Executive's Department of Law, Insurance and Risk**  
11 **Management, and declaring an emergency.**

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13 WHEREAS, County Council previously adopted Resolution No. 2012-029, which  
14 confirmed an award by the Board of Control of a construction contract with Kraiger  
15 Construction Co., L.L.C. for Summit County Children Services Visitation Renovation Project  
16 (the "Project"), in Council District 4, in an amount not to exceed \$229,600.00; and

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18 WHEREAS, on or about 2/16/12, the County entered into a contract with Kraiger  
19 Construction Co., L.L.C. for the Project (the "Contract"); and

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21 WHEREAS, Western Surety Company issued Performance and Payment Bond Number  
22 71214565, effective 1/11/12 (the "Bond") on behalf of Kraiger Construction Co., L.L.C. and in  
23 favor of the County of Summit; and

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25 WHEREAS, the County subsequently issued change orders related to the Project  
26 totaling \$11,417.90, resulting in an adjusted total amount for the Project of \$241,017.80; and

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28 WHEREAS, the County has filed a claim with Western Surety Company, on the  
29 Performance Bond, alleging Kraiger Construction Co. L.L.C.'s failure to complete the Project;  
30 and

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32 WHEREAS, various sub-contractors filed claims with Western Surety Company, on the  
33 Payment Bond, for which the County reimburses Western Surety; and

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35 WHEREAS, the County and Western Surety Company have negotiated a Mutual  
36 Release pursuant to which Western Surety Company has agreed to accept and the County has  
37 agreed to pay an amount not to exceed \$43,105.29 in full and final compromise settlement of  
38 any and all claims which Western Surety paid under the Payment Bond; and

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40 WHEREAS, this Council finds and determines, after reviewing all pertinent information,  
41 that it is necessary and in the best interest of the County of Summit to authorize the County  
42 Executive to execute a Mutual Release with Western Surety Company relating to the  
43 construction of the Project, pursuant to which the County will pay an amount not to exceed  
44 \$43,105.29, for the aforementioned reasons;

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46 NOW, THEREFORE, BE IT RESOLVED by the Council of the County of Summit,  
47 State of Ohio, that:

48  
49 SECTION 1

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51 The County Executive is hereby authorized to execute a Mutual Release with Western  
52 Surety Company relating to the construction of the Summit County Children Services Visitation

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PAGE TWO

SECTION 1 (Cont.)

Renovation Project (the "Project"), pursuant to which the County will pay an amount not to exceed \$43,105.29.

SECTION 2

This Resolution is hereby declared an emergency in the interest of the health, safety and welfare of the citizens of the County of Summit, and for the further reason to immediately authorize the Executive to execute a Mutual Release with Western Surety Company settle the County's claims under the Performance and Payment Bond related to the Project.

SECTION 3

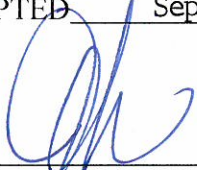
Provided this Resolution receives the affirmative vote of eight members, it shall take effect immediately upon its adoption and approval by the Executive; otherwise, it shall take effect and be in force at the earliest time provided by law.

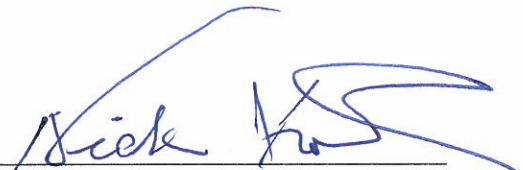
SECTION 4

It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this 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.

INTRODUCED August 22, 2016

ADOPTED September 12, 2016

  
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CLERK OF COUNCIL

  
\_\_\_\_\_  
PRESIDENT OF COUNCIL

APPROVED September 13, 2016

  
\_\_\_\_\_  
EXECUTIVE

ENACTED EFFECTIVE September 13, 2016

Voice Vote: YES: 10-0 - Crawford, Dickinson, Donofrio, Feeman, Kostandaras, Prentice, Rodgers, Schmidt, Walters, Wilhite  
ABSENT: Lee