

1 RESOULTION NO. 2011-154

2
3 SPONSOR Mr. Pry

4
5 DATE April 18, 2011

COMMITTEE Rules

6
7 **A Resolution authorizing the County Executive, on behalf of the County of Summit and the**
8 **Office of the County Engineer, to pay the cost of purchasing a Tideflex Checkmate Inline**
9 **Valve in consideration for the execution of a Release in order to resolve any and all claims,**
10 **and authorizing the Executive to execute the Release, for the Engineer and the Executive,**
11 **and declaring an emergency.**

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13 WHEREAS, on September 14, 2009, a lawsuit was filed in the Court of Common Pleas
14 of Summit County, Ohio captioned *Callander, et. al. v. Bath Township, et. al.*, being Case No.
15 2009 09 6760 (hereinafter "the lawsuit") which named the Township of Bath, Ohio, the County
16 of Summit, Ohio, and the Office of the Summit County Engineer as party defendants; and

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18 WHEREAS, the lawsuit sought relief against the governmental entities for appropriation
19 of private property, injunctive relief and mandamus concerning the alleged discharge of storm
20 water onto the property of a private residence; and

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22 WHEREAS, personnel of the County Engineer, County Executive, County Prosecutor
23 and the Township conducted a review and investigation into the matter and based upon said
24 review and investigation the parties desire to resolve any and all claims as more fully set forth in
25 the "Mutual Release and Settlement Agreement" agreed to by all parties to the lawsuit; and

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27 WHEREAS, the County of Summit and the Engineer, as a term of the settlement and to
28 resolve any and all claims wish to purchase a Tideflex Checkmate Inline Valve (hereinafter
29 "valve") from Red Valve Company, Inc. at a cost not to exceed the sum of \$5,000.00 as more
30 fully set forth below; and

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32 WHEREAS, this Council has determined by reviewing all pertinent information that
33 authorizing the Executive and the Engineer to pay the cost of purchasing the aforesaid valve to
34 resolve any and all claims set forth in the lawsuit and authorizing the Executive to execute a
35 Release settling the lawsuit, is necessary and in the best interest of the County;

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

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40 SECTION 1

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42 The County Executive and the County Engineer are hereby authorized to purchase a
43 Tideflex Checkmate Inline Valve from Red Valve Company, Inc., to be installed by the
44 Township of Bath, Ohio, in consideration for a full release of any and all claims against the
45 Engineer's Office and the County of Summit. The Executive is further authorized to execute the
46 release and other documents necessary to protect the interests of the County.

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48 SECTION 2

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50 The cost to purchase said Tideflex Checkmate Inline Valve should not exceed the sum of
51 \$5,000.00 and shall be purchased by the County Engineer from funds already appropriated to
52 said Office.
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2 PAGE TWO

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4 SECTION 3

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6 The Township of Bath shall install said valve, assume liability for its continuing
7 maintenance and pay a monetary sum of money to the property owners as more fully set forth in
8 the aforesaid "Mutual Release and Settlement Agreement".
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10 SECTION 4

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12 This Resolution is hereby declared an emergency in the interest of the health, safety and
13 welfare of the citizens of the County of Summit, and for the further purpose that it will
14 immediately allow the parties to effectuate a settlement of a pending lawsuit.
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16 SECTION 5

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18 Provided this Resolution receives the affirmative vote of eight members, it shall take
19 effect immediately upon its adoption and approval by the Executive; otherwise, it shall take
20 effect and be in force at the earliest time provided by law.
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22 SECTION 6

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24 It is found and determined that all formal actions of this Council concerning and relating
25 to the adoption of this Resolution were adopted in an open meeting of this Council, and that all
26 deliberations of this Council and of any of its committees that resulted in such formal action,
27 were in meetings open to the public, in compliance with all legal requirements, including Section
28 121.22 of the Ohio Revised Code.
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30
31 INTRODUCED April 4, 2011

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33 ADOPTED April 18, 2011

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38 CLERK OF COUNCIL


PRESIDENT OF COUNCIL

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40 APPROVED April 18, 2011

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43 
44 EXECUTIVE

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46 ENACTED EFFECTIVE April 18, 2011

Voice Vote: 10-0 YES: Komunale, Crawford, Feeman, Kostandaras
Kurt, Prentice, Rodgers, Roemer, Schmidt, Smith ABSENT: Shapiro