

1 RESOLUTION NO. 2023-022

2
3 SPONSOR Executive Shapiro

4
5 DATE January 30, 2023 COMMITTEE Rules

6
7 **A Resolution authorizing the Executive to settle any or all claims, and to execute any**
8 **corresponding settlement agreements, in litigation titled County of Summit, Ohio v Express**
9 **Scripts, Inc., et al, 23-op-45001-DAP, before Judge Dan Aaron Polster in the United States**
10 **District Court, Northern District of Ohio, for the Executive's Department of Law,**
11 **Insurance and Risk Management, and declaring an emergency.**

12
13 WHEREAS, this Council previously adopted Resolution No. 2019-332 authorizing the
14 Executive to settle any or all claims, and to execute any corresponding settlement agreements, in
15 litigation titled In re: National Prescription Opiate Litigation, Case No. 1:17-MD-2804, before
16 Judge Dan Aaron Polster in the United States District Court, Northern District of Ohio, with any
17 manufacturing or distributor Defendant with less than a 10% share of the opioid market in
18 Summit County; and

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20 WHEREAS, this Council subsequently adopted Resolution No. 2019-361 authorizing the
21 Executive to expand the scope of this authorization to further authorize the Executive to settle
22 any or all claims, and to execute any corresponding settlement agreements, in litigation titled In
23 re: National Prescription Opiate Litigation, Case No. 1:17-MD-2804, before Judge Dan Aaron
24 Polster in the United States District Court, Northern District of Ohio, with any manufacturing or
25 distributor Defendant, regardless of market share of the opioid market in Summit County and to
26 additionally authorize settlement with Pharmacy Defendants; and

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28 WHEREAS, the Executive has retained the law firm of Motley Rice to continue to
29 represent the County in subsequent litigation; and

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31 WHEREAS, due to discovery and depositions conducted in the prior actions, Motley
32 Rice identified for the County and the Executive has initiated litigation against the County's
33 Prescription Benefits Managers for their participation in the Opioid Epidemic that has so
34 adversely affected the residents of Summit County in litigation titled County of Summit, Ohio v
35 Express Scripts, Inc., et al, 23-op-45001-DAP, before Judge Dan Aaron Polster in the United
36 States District Court, Northern District of Ohio (the "Lawsuit"); and

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38 WHEREAS, in the Lawsuit, the County has sued several Defendants who are or were, at
39 all times relevant to the County's Complaint, Prescription Benefit Managers for the County; and

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41 WHEREAS, it is possible that the County may reach a settlement of any or all claims
42 asserted by the County in the Lawsuit against one or more of the Prescription Benefit Managers
43 for the County during the time in which the County asserts the actions of the Defendants
44 transpired; and

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46 WHEREAS, the Executive cannot settle any or all such claims brought in the Lawsuit
47 against such Defendants and execute any corresponding settlement agreements without authority
48 provided by this Council; and

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50 WHEREAS, this Council finds and determines, after reviewing all pertinent information,
51 that it is necessary and in the best interest of the County to authorize the Executive to settle any
52 or all claims, and to execute any corresponding settlement agreements, in the Lawsuit, with any

1 RESOLUTION NO.
2 PAGE TWO 2023-022

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4 Prescription Benefit Managers for the County during the time in which the County asserts the
5 actions of the Defendants transpired;

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

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10 SECTION 1

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12 The Executive's hiring of Motley Rice to provide further counsel is ratified and she is
13 hereby authorized to settle any or all claims, and to execute any corresponding settlement
14 agreements, in the litigation titled County of Summit, Ohio v Express Scripts, Inc., et al, 23-op-
15 45001-DAP, before Judge Dan Aaron Polster in the United States District Court, Northern
16 District of Ohio (the "Lawsuit") against the Prescription Benefit Managers for the County during
17 the time in which the County asserts the actions of the Defendants transpired. The Executive is
18 further authorized to take any action and to execute any other documents necessary to effectuate
19 the settlement of the claims authorized under this Section.

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21 SECTION 2

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23 This Resolution is hereby declared an emergency in the interest of the health, safety and
24 welfare of the residents of the County of Summit and for the further reason to immediately
25 authorize any of the aforementioned settlements to occur in a timely fashion and in accordance
26 with applicable laws and rules governing such settlements.

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28 SECTION 3

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

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34 SECTION 4

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36 It is found and determined that all formal actions of this Council concerning and relating
37 to the adoption of this Resolution were adopted in an open meeting of this Council, and that all
38 deliberations of this Council and of any of its committees that resulted in such formal action,
39 were in meetings open to the public, in compliance with all legal requirements, including Section
40 121.22 of the Ohio Revised Code.

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42 INTRODUCED January 30, 2023

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44 ADOPTED February 13, 2023

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46 hauwen marsh
47 CLERK OF COUNCIL

Veronica Rose
PRESIDENT OF COUNCIL

48
49 APPROVED February 13, 2023

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51 Steve Shapiro
52 EXECUTIVE

1 ENACTED EFFECTIVE February 13, 2023

Voice Vote - YES: 11-0: Darrow, DeVitis, Dickinson, Donofrio, McKenney, Rodgers, Schmidt, Sims, Walters, Wiedie Higham, Wilhite