



Legislation Details (With Text)

File #: O-047-23 **Version:** 1 **Name:**
Type: Ordinance **Status:** Approved
File created: 1/13/2023 **In control:** Law Department
On agenda: 2/21/2023 **Final action:** 2/21/2023
Title: Authorizing the Mayor to enter into any necessary agreements to settle the litigation captioned City of Toledo v. Block Communications, Inc.; authorizing the Mayor to accept and deposit \$300,000 in settlement funds into the Capital Improvement Fund; authorizing the expenditure of \$20,000 from the Risk Management Fund in payment of professional services provided by the Spengler Nathanson law firm with respect to the litigation; and declaring an emergency.

Sponsors:**Indexes:****Code sections:****Attachments:** 1. Exhibit A, 2. Joint Statement

Date	Ver.	Action By	Action	Result
2/21/2023	1	City Council	Emergency	Pass
2/21/2023	1	City Council	Passage	Pass
1/24/2023	1	City Council	held	Pass

Authorizing settlement of litigation
Department of Law
P. Syring (x1020)

Authorizing the Mayor to enter into any necessary agreements to settle the litigation captioned *City of Toledo v. Block Communications, Inc.*; authorizing the Mayor to accept and deposit \$300,000 in settlement funds into the Capital Improvement Fund; authorizing the expenditure of \$20,000 from the Risk Management Fund in payment of professional services provided by the Spengler Nathanson law firm with respect to the litigation; and declaring an emergency.

SUMMARY & BACKGROUND:

On June 11, 2021, the City of Toledo initiated in Lucas County Common Pleas Court a lawsuit captioned *City of Toledo v. Block Communications, Inc.* The lawsuit, among other things, sought to recoup approximately \$972,474 expended by the City in connection with the Summit Street Roadways Improvement Project to relocate certain utility lines owned by Buckeye Cablesystem. The litigation focused on which party was responsible for the relocation costs.

During the pendency of the litigation, the parties were ordered by the Court to engage in mediation. Retired Judge James McMonagle conducted a mediation session, and the parties subsequently continued to negotiate until reaching the proposed resolution outlined here. The resolution calls for Buckeye to pay the City of Toledo \$300,000, which will be deposited in the Capital Improvement Fund. It further calls for the Administration to introduce a separate ordinance proposing to amend Toledo Municipal Code Section 945.10, which addresses, among other things, when a facility owner is required to pay for relocation of facilities located in the public right of way. The resolution does not require Council to approve the proposed amendment to the TMC and,

further, Council can exercise its full deliberative authority and take any course of action it determines is in the best interest of the City.

Finally, this ordinance authorizes the expenditure of up to \$20,000 from the Risk Management Fund to pay for the legal services of the City's outside counsel Spengler Nathanson, which represents the City in this matter.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That the Mayor is authorized to enter into necessary agreements to settle the litigation captioned *City of Toledo v. Block Communications, Inc.* in exchange for payment by Buckeye Cablesystem, Inc., of \$300,000 to be deposited in the Capital Improvement Fund Account Code 5040-89800-1129001STDSTD and for the City to consider amending Toledo Municipal Code 945.10.

SECTION 2. That an amount not to exceed \$20,000 is authorized for expenditure from the Risk Management Fund Account Code 7095-12000-1157001STDSTD for the purpose of paying for the legal services provided by the law firm of Spengler Nathanson in connection with the above-referenced litigation.

SECTION 3. That the Director of Finance is authorized to draw her warrant or warrants against the above Account Code in an amount not to exceed \$20,000 in payment of the obligations authorized in Section 2 upon presentation of proper voucher or vouchers.

SECTION 4. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were performed in an open meeting of this Council, and that all deliberations of this Council and 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.

SECTION 5. That this ordinance, being an emergency measure, shall take effect and be in force from and after its passage. The reason for the emergency lies in the fact that this ordinance is necessary for the immediate preservation of public peace, health, safety, and property, and for further reason that this ordinance must immediately be effective so the City may timely resolve the above-referenced litigation and pay obligations incurred for the delivery of legal services.

Vote on emergency clause: yeas 10, nays 0.

Passed: February 21, 2023, as an emergency measure:
yeas 8, nays 2.

Attest:

Gerald E. Dendinger
Clerk of Council

Matt Cherry
President of Council
Approved: February 22, 2023
Wade Kapszukiewicz
Mayor