

1 RESOLUTION NO. 2012-342

2
3 SPONSOR Mr. Pry

4
5 DATE September 17, 2012

6 COMMITTEE Rules

7 A Resolution awarding Change Order No. 2 to a professional service contract with Fisher
8 & Phillips, LLP, subject to the approval of the Board of Control, to provide legal
9 representation and services to the County of Summit and John J. Guy, receiver for Edwin
10 Shaw Hospital for Rehabilitation ("ESHR"), in an appeal to the 10th District Court of
11 Appeals in Ohio Public Employees Retirement System v. Akron General Medical Center,
12 County of Summit and Edwin Shaw Hospital for Rehabilitation, Case No. 07DVH 11-
13 15705, in the Franklin County Court of Common Pleas, in the amount of \$20,000.00, for a
14 cumulative increase of \$45,000.00 (180%), for a total amount of \$70,000.00, for the
15 Executive's Department of Law, Insurance and Risk Management, and declaring an
16 emergency.

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18 WHEREAS, in 2007, OPERS filed a lawsuit against the County, ESHR and AGMC,
19 Ohio Public Employees Retirement System v. Akron General Medical Center, County of Summit
20 and Edwin Shaw Hospital for Rehabilitation, Case No. 07DVH 11-15705, in the Franklin County
21 Court of Common Pleas, seeking a declaratory judgment at to which party is responsible for
22 making employer contributions on behalf of ESHR employees hired by AGMC; and

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24 WHEREAS, on September 21, 2011, the Franklin County Court of Common Pleas issued
25 a final order granting OPERS' motion for summary judgment holding that the County and ESHR
26 are jointly liable for making employer contributions on behalf of these employees, which the
27 County and ESHR have determined should be appealed; and

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29 WHEREAS, upon a joint application by the County Executive and County Prosecutor
30 pursuant to Section 305.14 of the Ohio Revised Code, the County Court of Common Pleas issued
31 and order, attached to Resolution No. 2012-124 as Exhibit A and incorporated therein as if fully
32 restated, authorizing the hiring of outside counsel to represent the County and ESHR in the
33 appeal;

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35 WHEREAS, at its October 26, 2011 meeting, the Board of Control awarded a
36 professional service contract to Fisher & Phillips, LLP to provide legal representation to the
37 County and ESHR concerning the appeal, in the amount of \$25,000.00; and

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39 WHEREAS, this Council previously adopted Resolution No. 2012-124, which confirmed
40 the award of Change Order No. 1 to the aforementioned contract, in the amount of \$25,000.00
41 (for an increase of 100%), for a total amount of \$50,000.00; and

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43 WHEREAS, in order to continue with the appeals process, including oral argument,
44 additional funds are necessary, in the amount of \$20,000.00, for a cumulative increase of
45 \$45,000.00 (180%), for a total amount of \$70,000.00; and

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47 WHEREAS, this Council finds and determines, after reviewing all pertinent information,
48 that it is necessary and in the best interest of the County of Summit to award Change Order No. 2
49 to the professional service contract with Fisher & Phillips, LLP, in the amount of \$20,000.00, for
50 a cumulative increase of \$45,000.00 (180%), for a total amount of \$70,000.00, for the
51 aforementioned reasons;

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4 NOW, THEREFORE, BE IT RESOLVED, by the Council of the County of Summit,
5 that:

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7 SECTION 1

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9 Change Order No. 2 to the professional service contract with Fisher & Phillips, LLP is
10 hereby awarded, subject to the approval of the Board of Control, to provide legal representation
11 and services to the County of Summit and John J. Guy, receiver for Edwin Shaw Hospital for
12 Rehabilitation (“ESHR”), in an appeal to the 10th District Court of Appeals in Ohio Public
13 Employees Retirement System v. Akron General Medical Center, County of Summit and Edwin
14 Shaw Hospital for Rehabilitation, Case No. 07DVH 11-15705, in the Franklin County Court of
15 Common Pleas, in the amount of \$20,000.00, for a cumulative increase of \$45,000.00 (180%),
16 for a total amount of \$70,000.00. is hereby confirmed and the County Executive is authorized to
17 execute any documents necessary to effect Change Order No. 2.

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19 SECTION 2

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21 This Resolution is hereby declared to be an emergency in the interest of the health, safety
22 and welfare of the citizens of the County of Summit and for the further reason that it is necessary
23 to immediately authorize Change Order No. 2 to a professional service contract with Fisher &
24 Phillips, LLP to represent the County and ESHR in a pending appeal in the 10th District Court of
25 Appeals.

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27 SECTION 3

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

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33 SECTION 4

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35 It is found and determined that all formal actions of this Council concerning and relating
36 to the adoption of this Resolution were adopted in an open meeting of this Council, and that all
37 deliberations of this Council and any of its committees that resulted in such formal action were in
38 meetings open to the public, in compliance with legal requirements, including Section 121 .22 of
39 the Ohio Revised Code.
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RESOLUTION NO. 2012-342
PAGE THREE

INTRODUCED August 27, 2012

ADOPTED September 17, 2012



CLERK OF COUNCIL



PRESIDENT OF COUNCIL

APPROVED September 18, 2012



EXECUTIVE

ENACTED EFFECTIVE September 18, 2012

Voice Vote: 10-0. YES: Comunale, Crawford, Feeman, Kostandaras, Kurt, Lee, Prentice, Rodgers, Roemer, Schmidt, ABSENT: Shapiro