

1 RESOLUTION NO. 2009-507

First Reading Passage Requested
(J. Dodson)

2
3 SPONSOR Mr. Pry and Mr. Kostandaras

4
5 DATE December 14, 2009

COMMITTEE: Rules

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7 **A Resolution authorizing the County Executive to execute agreements with any Summit**
8 **County municipality whereby the County Prosecutor will represent those municipalities in**
9 **the commencement and prosecution of a legal action, including, but not limited to, claims**
10 **for declaratory judgment and injunctive relief, against the Northeast Ohio Regional Sewer**
11 **District regarding its attempt to assert jurisdiction to manage stormwater within**
12 **communities in Summit County and its attempt to impose fees, taxes or assessments for the**
13 **management of the stormwater, for the Executive's Department of Law, and declaring an**
14 **emergency.**

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16 WHEREAS, Section 302.21 of the Ohio Revised Code provides that the County
17 Executive, with the consent of this Council, may enter into a contract with a municipality,
18 whereby the County agrees to perform a function of that municipality on behalf of the
19 municipality; and

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21 WHEREAS, the County may designate within said agreement which County office will
22 perform the municipality's function under the agreement; and

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24 WHEREAS, pursuant to Resolution No. 2009-473, this Council opposed the Northeast
25 Ohio Regional Sewer District's ("NORSRD") attempt to assert jurisdiction to manage stormwater
26 within communities in Summit County, Ohio and its attempt to impose fees, taxes or assessments
27 for the management of the stormwater; and

28
29 WHEREAS, the County of Summit has standing to bring a legal action, including, but
30 not limited to, claims for declaratory judgment and injunctive relief against NORSRD seeking,
31 among other items, a court order declaring that NORSRD lacks jurisdiction to manage stormwater
32 within Summit County and impose said fees, taxes or assessment and an order enjoining NORSRD
33 from attempting to manage stormwater in Summit County and impose said fees, taxes or
34 assessments; and

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36 WHEREAS, the County Executive intends to file the aforementioned legal action against
37 NORSRD; and

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39 WHEREAS, the County Prosecutor will represent that County in said action; and

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41 WHEREAS, due to budgetary constraints and the cost of legal services, certain
42 municipalities within Summit County with similar interests to those of the County against
43 NORSRD have expressed an interest to the County Executive and County Prosecutor that the
44 County, through the County Prosecutor, also represent those communities in the aforementioned
45 action; and

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47 WHEREAS, this Council finds and determines that it is necessary and in the best interest
48 of the County of Summit to authorize the County Executive to enter into agreements with any
49 Summit County municipality whereby the County Prosecutor will represent those municipalities
50 in the aforementioned legal action against NORSRD.

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4 NOW, THEREFORE, BE IT RESOLED by the Council of the County of Summit, State
5 of Ohio, that:

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7 SECTION 1

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9 The County Executive is hereby authorized to execute agreements with any Summit
10 County municipality whereby the County Prosecutor will represent those municipalities in the
11 commencement and prosecution of a legal action, including, but not limited to, claims for
12 declaratory judgment and injunctive relief, against the Northeast Ohio Regional Sewer District
13 regarding its attempt to assert jurisdiction to manage stormwater within communities in Summit
14 County and its attempt to impose fees, taxes or assessments for the management of the
15 stormwater.

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17 SECTION 2

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19 This Resolution is hereby declared an emergency in the interest of the health, safety and
20 welfare of the citizens of the County of Summit and for the further reason to immediately
21 authorize the County Executive to enter into such contracts so that the County may begin the
22 aforementioned legal action as soon as possible.

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24 SECTION 3

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

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30 SECTION 4

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32 It is found and determined that all formal actions of this Council concerning and relating
33 to the adoption of this Resolution were adopted in an open meeting of this Council, and that all
34 deliberations of this Council and of any of its committees that resulted in such formal action,
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36 INTRODUCED December 14, 2009

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38 ADOPTED December 14, 2009

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40 Shirley P. Greer
41 CLERK OF COUNCIL

Nick Kostandaras
PRESIDENT OF COUNCIL

42
43 APPROVED December 15, 2009

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45 Russell M. Pugh
46 EXECUTIVE

December 15, 2009
ENACTED EFFECTIVE

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Voice Vote: 10-1 YES: Comunale, Crossland, Feeman, Kostandaras, Poda, Prentice,
Rodgers, Schmidt, Shapiro, Smith NO- Crawford