

1 RESOLUTION NO. 2012-124

2
3 SPONSOR Mr. Pry

4
5 DATE April 2, 2012

6 COMMITTEE Rules

7 **A Resolution confirming the award by the Board of Control of Change Order No. 1 to a**
8 **professional service contract with Fisher & Phillips, LLP, to provide legal representation**
9 **and services to the County of Summit and John J. Guy, receiver for Edwin Shaw Hospital**
10 **for Rehabilitation, in an appeal to the 10th District Court of Appeals in Ohio Public**
11 **Employees Retirement System v. Akron General Medical Center, County of Summit and**
12 **Edwin Shaw Hospital for Rehabilitation, Case No. 07DVH 11-15705, in the Franklin**
13 **County Court of Common Pleas, in the amount of \$25,000.00 (for an increase of 100%), for**
14 **a total amount of \$50,000.00, for the Executive's Department of Law, Insurance and Risk**
15 **Management, and declaring an emergency.**

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17 WHEREAS, in 2007, OPERS filed a lawsuit against the County, Edwin Shaw Hospital
18 for Rehabilitation ("ESHR") and Akron General Medical Center ("AGMC"), Ohio Public
19 Employees Retirement System v. Akron General Medical Center, County of Summit and Edwin
20 Shaw Hospital for Rehabilitation, Case No. 07DVH 11-15705, in the Franklin County Court of
21 Common Pleas, seeking a declaratory judgment as to which party is responsible for making
22 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 hereto as Exhibit A and incorporated herein as if fully restated, authorizing
32 the hiring of outside counsel to represent the County and ESHR in the appeal;

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

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38 WHEREAS, in order to continue with the appeals process, additional funds are
39 necessary, in the amount of \$25,000.00; and

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41 WHEREAS, at its February 29, 2012 meeting, the Board of Control approved Change
42 Order No. 1 to the aforementioned contract, in the amount of \$25,000.00 (for an increase of
43 100%), for a total amount of \$50,000.00; and

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45 WHEREAS, this Council finds and determines, after reviewing all pertinent information,
46 that it is necessary and in the best interest of the County of Summit to confirm the award of
47 Change Order No. 1 to the professional service contract with Fisher & Phillips, LLP, in the
48 amount of \$25,000.00 (for an increase of 100%), for a total amount of \$50,000.00, for the
49 aforementioned reasons;

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51 NOW, THEREFORE, BE IT RESOLVED, by the Council of the County of Summit,
52 that:

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4 SECTION 1

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6 The Board of Control's award of Change Order No. 1 to a professional service contract
7 with Fisher & Phillips, LLP, to provide legal representation and services to the County of
8 Summit and John J. Guy, receiver for Edwin Shaw Hospital for Rehabilitation ("ESHR"), in an
9 appeal to the 10th District Court of Appeals in Ohio Public Employees Retirement System v.
10 Akron General Medical Center, County of Summit and Edwin Shaw Hospital for Rehabilitation,
11 Case No. 07DVH 11-15705, in the Franklin County Court of Common Pleas, in the amount of
12 \$25,000.00 (for an increase of 100%), for a total amount \$50,000.00, is hereby confirmed and
13 the County Executive is authorized to execute any documents necessary to effect Change Order
14 No. 1.

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16 SECTION 2

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18 This Resolution is hereby declared to be an emergency in the interest of the health, safety
19 and welfare of the citizens of the County of Summit and for the further reason that it is necessary
20 to immediately authorize Change Order No. 1 to a professional service contract with Fisher &
21 Phillips, LLP to represent the County and ESHR in a pending appeal in the 10th District Court of
22 Appeals.

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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 any of its committees that resulted in such formal action were in
35 meetings open to the public, in compliance with legal requirements, including Section 121.22 of
36 the Ohio Revised Code.

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38 INTRODUCED March 19, 2012

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40 ADOPTED April 2, 2012

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45 CLERK OF COUNCIL


PRESIDENT OF COUNCIL

46 APPROVED April 2, 2012

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50 EXECUTIVE

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52 ENACTED EFFECTIVE April 2, 2012

Voice Vote: 10-0-1: Yes: Comunale, Crawford, Feeman, Kostandaras, Kurt Lee, Prentice, Rodgers, Roemer, Schmidt. Abstain: Shapiro