RESOLUTION NO. 2012-342

SPONSOR Mr. Pry

DATE September 17, 2012 COMMITTEE Rules

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

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

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

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

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

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

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

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the County of Summit to award Change Order No. 2 to the professional service contract with Fisher & Phillips, LLP, in the amount of $20,000.00, for a cumulative increase of $45,000.00 (180%), for a total amount of $70,000.00, for the aforementioned reasons;
RESOLUTION NO. 2012-342
PAGE TWO

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

SECTION 1

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

SECTION 2

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

SECTION 3

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

SECTION 4

It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted 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 legal requirements, including Section 121.22 of the Ohio Revised Code.
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