



## Legislation Text

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**File #:** 3128-2022, **Version:** 1

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**BACKGROUND:** The cases of *Gutknecht Construction Co. v. City of Columbus*, Case No. 21 CV-002381 and *Gutknecht Construction Co. v. City of Columbus*, Case No. 21 CV-002382, pending in the Franklin County Court of Common Pleas, were filed on April 15, 2021, and named the City of Columbus, through its Departments of Finance & Management and Recreation & Parks, respectively, as defendant. Subsequently, both cases were consolidated into *Mr. Excavator v. Gutknecht, et. al*, Case No, 21 CV-1568. Due to the specialized and complex nature of the construction litigation, it was necessary for the City Attorney's office to retain outside counsel to represent the City. The City Attorney's office entered into special legal counsel contracts with Porter Wright Morris & Arthur LLP on May 5, 2021. It is now necessary to modify the contracts in order to continue to provide the statutorily required representation.

**FISCAL IMPACT:** This ordinance authorizes the expenditure of \$300,000.00 with Porter Wright Morris & Arthur LLP Funding to provide special legal counsel services. The related contract modifications will come from each department. The maximum amount of the contract modification for each contract is \$150,000.00. The total amount for each of the contracts, as modified, is \$200,000.00.

**COMPANY:** Porter Wright Morris & Arthur LLP, Vendor No.: 006060, FID: 31-4373657, 41 South High Street, Columbus, OH 43215

To authorize the City Attorney to modify an existing contract for special legal counsel services with Porter Wright Morris & Arthur LLP, for the cases of *Gutknecht Construction Co. v. City of Columbus*, Case No. 21 CV-002381 and *Gutknecht Construction Co. v. City of Columbus*, Case No. 21 CV-002382, pending in the Franklin County Court of Common Pleas as consolidated into *Mr. Excavator v. Gutknecht, et. al*, Case No, 21 CV-1568; to authorize the transfer of \$150,000.00 from the General Fund to the Recreation and Parks Operating Fund; to authorize the expenditure of \$150,000.00 from the General Fund; to authorize the expenditure of \$150,000.00 from the Recreation and Parks Operating Fund; and to declare an emergency. (\$300,000.00)

**WHEREAS**, the City Attorney had a need for special counsel services with regard to the case of *Gutknecht Construction Co. v. City of Columbus*, Case No. 21 CV-002381 and *Gutknecht Construction Co. v. City of Columbus*, Case No. 21 CV-002382, pending in the Franklin County Court of Common Pleas; and,

**WHEREAS**, the City Attorney and Porter Wright Morris & Arthur LLP entered into a special counsel contract on May 5, 2021 to provide special legal services to the City on behalf of the City Attorney and the Departments of Finance & Management and Recreation & Parks with regard to matters pertaining to the litigation; and,

**WHEREAS**, the cases were subsequently consolidated into *Mr. Excavator v. Gutknecht, et. al*, Case No, 21 CV-1568, also in the Franklin County Court of Common Pleas; and,

**WHEREAS**, this modification will provide for continuation of those services; and,

**WHEREAS**, an emergency exists in the usual daily operation of the City Attorney's Office in that it is immediately necessary to authorize the City Attorney to modify the contracts with Porter Wright Morris & Arthur LLP in order to provide for uninterrupted services in their representation; **NOW, THEREFORE**,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That the City Attorney is hereby authorized to modify the contracts entered into on May 5, 2021 with Porter Wright Morris & Arthur LLP to provide special legal counsel services to the City Attorney and the Departments of Finance & Management and Recreation & Parks with regard to the cases of *Gutknecht Construction Co. v. City of Columbus*, Case No. 21 CV-002381 and *Gutknecht Construction Co. v. City of Columbus*, Case No. 21 CV-002382, pending in the Franklin County Court of Common Pleas and consolidated into *Mr. Excavator v. Gutknecht, et. al*, Case No, 21 CV-1568 to state that the maximum amount to be paid pursuant to each of the Contracts is amended to \$200,000.00 each, which maximum amount may not be exceeded without approval of additional modification by Columbus City Council.

**SECTION 2.** That the transfer of \$150,000.00, or so much thereof as may be needed pursuant to the action authorized in Section 1, is hereby authorized from the General Fund 1000 to the Recreation and Parks Operating Fund 2285, per the account codes in the attachment to this ordinance.

**SECTION 3.** That the expenditure of up to \$150,000.00, or so much thereof as may be needed pursuant to the action authorized in Section 1, is hereby authorized in the General Fund 1000, per the account codes in the attachment to this ordinance.

**SECTION 4.** That the expenditure of up to \$150,000.00, or so much thereof as may be needed pursuant to the action authorized in Section 1, is hereby authorized in the Recreation and Parks Operating Fund 2285, per the account codes in the attachment to this ordinance.

**SECTION 5.** That the monies in the foregoing Sections shall be paid upon order of the Director of Finance and Management, and that no order shall be drawn or money paid except by voucher, the form of which shall be approved by the City Auditor.

**SECTION 6.** That the funds necessary to carry out the purpose of this ordinance are hereby deemed appropriated, and the City Auditor shall establish such accounting codes as necessary.

**SECTION 7.** That the City Auditor is authorized to make any accounting changes to revise the funding source for all contracts or contract modifications associated with this ordinance.

**SECTION 8.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and immediately after its passage and signature by the Mayor, or within 10 days thereafter if the Mayor neither signs nor vetoes the same.