



Agenda Report

Fullerton City Council

MEETING DATE: FEBRUARY 5, 2019

TO: CITY COUNCIL / SUCCESSOR AGENCY

SUBMITTED BY: KENNETH A. DOMER, CITY MANAGER

SUBJECT: APPROVAL OF AN ENGAGEMENT TO REPRESENT WITH THE LAW FIRMS OF ROBINS KAPLAN, LLP AND ANDREWS & THORNTON, AAL ALC TO JOIN LITIGATION AGAINST OPIOID MANUFACTURERS AND DISTRIBUTORS

SUMMARY

Based on discussion regarding anticipated litigation with the City Council in Closed Session on January 15, 2019, it is proposed that the City enter into an Engagement to Represent with the law firms of Robins Kaplan, LLP and Andrews & Thornton, AAL ALC regarding seeking reimbursement for expenses related to the opioid epidemic.

RECOMMENDATION

Approve and authorize the Mayor to sign the Engagement to Represent with the law firms of Robins Kaplan, LLP and Andrews & Thornton, AAL ALC.

PRIORITY POLICY STATEMENT

This item matches the following Priority Policy Statements:

- Fiscal and Organizational Stability
- Public Safety.

FISCAL IMPACT

The agreement is a retainer with the fees charged based on the gross award from litigation and paid from award amount. There is no fee to the City if there is no recovery of damages in the litigation.

DISCUSSION

Hundreds of lawsuits by public entities have been filed across the country against opioid manufacturers and distributors alleging that these large and profitable corporations are

legally responsible for the increase in drug overdoses, homelessness, addictions, overuse of opioid medications, and heroin use plaguing cities. Opioids include powerful legal prescription painkillers such as hydrocodone, morphine and oxycodone, as well as heroin. It is alleged that opioid manufacturers and distributors are liable for the increased costs to local governments in addressing these affects because opioid companies engaged in misleading advertising, suspicious sales, kickbacks and other nefarious behavior.

The City, primarily through its Police and Fire Departments, but to include Public Works for increased clean-up activities, expends tens of thousands of dollars annually on matters related to the opioid epidemic. Cities and Counties across the country are filing lawsuits to seek damages as a way to recoup costs as well as highlight the overarching issue of addiction to opioids. The County of Orange has filed its own lawsuit and options exist for the City to join lawsuits submitted to either Federal or State courts. Currently, there are more than 400 such lawsuits across the nation and those filed in Federal Court are now consolidated in a multi-district litigation program under U.S. District Judge Dan Polster in Ohio. Actions filed since 2014 in California State Court are still pending, and additional actions are expected to be filed.

Attachments:

- Attachment 1 – 2017 Opioid Overdose & Death in Orange County Presentation
- Attachment 2 – 2017 Opioid Overdose & Death in Orange County Report
- Attachment 3 – Engagement to Represent