



**Contra
Costa
County**

To: Board of Supervisors
From: Sharon L. Anderson, County Counsel
Date: May 8, 2018

Subject: SPECIALIZED LEGAL SERVICES - OPIOID LITIGATION

RECOMMENDATION(S):

APPROVE and AUTHORIZE the County Counsel, or her designee, to execute, on behalf of Contra Costa County, an agreement for specialized professional legal services with Baron & Budd, P.C., Greene, Ketchum, Farrell, Bailey & Tweel, LLP, Hill Peterson Carper Bee & Deitzler PLLC, Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, P.A., McHugh Fuller Law Group PLLC, and Powell & Majestro, PLLC, in connection with claims and litigation against the manufacturers and distributors of highly addictive and dangerous opioid drugs.

FISCAL IMPACT:

These legal services will be funded from the recovery of monies, if any, at the conclusion of the litigation, under the terms specified in the professional services agreement. Attorneys' fees for pursuing the litigation will be eighteen percent (18%) of the total gross recovery. Total fees and expenses under the contract may not exceed fifty percent (50%) of the gross recovery. There is no charge to the County for attorneys' fees or costs if the County does not recover anything in the litigation.

BACKGROUND:

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **05/08/2018** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: May 8, 2018

David Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Sharon Anderson, County Counsel, 335-1800

By: Stacey M. Boyd, Deputy

Public entities throughout the United States have commenced litigation

BACKGROUND: (CONT'D)

against the major pharmaceutical manufacturers and distributors that actively promoted and sold drugs containing opiates in violation of state and federal law, including the federal Controlled Substances Act. Drugs manufactured by these companies include: OxyContin, Actiq, Fentora, Duragesic, Nucynta, Nucynta ER, Opana/Opana ER, Percodan, Percocet, Zydane, Kadian, and Norco.

On May 1, 2018, the Board of Supervisors authorized the initiation of a civil action to eliminate the hazard to public health and safety caused by the opioid epidemic, to abate the nuisance caused thereby, and to recoup monies that have been spent and will be spent because of false, deceptive and unfair marketing and/or unlawful diversion of prescription opioids by the drug manufacturers and distributors. This lawsuit will seek reimbursement to the County for taxpayer funds that already have been spent responding to this epidemic, as well as the local costs of continuing the fight, including emergency response, prevention, monitoring and treatment; and equitable relief to help alleviate opioid use dependence, fund local action to resolve this crisis, and try to undo some of the widespread damage that these drugs have caused.

It is recommended that this legal team be selected to assist the County in this litigation. These firms currently represent over 300 cities and counties throughout the United States, including the majority of California counties that have announced their intention to file suit against pharmaceutical distributors for opioid-related claims.

CONSEQUENCE OF NEGATIVE ACTION:

The County will not be able to retain this legal team in connection with this litigation.