

**RESOLUTION NO. 2018-073**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AUTHORIZING AND DIRECTING THE CITY ATTORNEY, ON BEHALF OF THE CITY, TO ENGAGE THE SERVICES OF OUTSIDE COUNSEL, TO FILE A LAWSUIT AGAINST VARIOUS, PHARMACEUTICAL MANUFACTURERS AND ENTITIES IN THE OPIOID DISTRIBUTION CHAIN, AND TO JOIN THE PENDING MULTIDISTRICT LITIGATION KNOWN AS “IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION,” FILED IN THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF OHIO, EASTERN DIVISION, IN ORDER TO PRESERVE THE CITY’S RIGHTS AND REMEDIES THEREUNDER; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, *“In Re: National Prescription Opiate Litigation,”* MDL No. 2804, Case No. 17md-0284, is filed as a nationwide multidistrict litigation seeking redress for the harm caused by alleged deceptive and fraudulent marketing practices of several pharmaceutical manufacturers, and the alleged failure to report suspicious purchases by certain wholesalers; and

**WHEREAS**, based on direction from the City Commission, City staff conducted due diligence and obtained a representation letter from Lief Cabraser, Heimann and Burnstein, LLP, hereinafter referred to as “Lief Cabraser,” and Robbins Geller Rudman & Dowd, LLP, hereinafter referred to as “Robbins Geller,” collectively “LC/RG” for the potential representation of the City in the above matter; and

**WHEREAS**, Elizabeth J. Cabraser of Lief Cabraser and Paul J. Geller of Robbins Geller have both been appointed by Judge Dan Aaron Polster of the U.S. District Court, Northern District of Ohio, Eastern Division, in this pending litigation, as members of the Plaintiffs’ Executive Committee and the Plaintiffs’ Settlement Committee; and

**WHEREAS**, both Broward County and the City of Fort Lauderdale have hired Lief Cabraser and Robbins Geller and three (3) other firms, and both the City of Pompano Beach and the City of Delray Beach have hired Robbins Geller; and

**WHEREAS**, LC/RG have offered to represent the City on a contingency fee and cost basis, wherein it will advance all fees and expenses necessary to prosecute the case; and

**WHEREAS**, if the case should settle at any time up to and including the litigation of a Motion for Summary Judgment, the City will pay LC/RG twenty-three percent (23%) of any recovery, plus reimbursement of costs and expenses, and should the case settle subsequent to the disposition of any Motions for Summary Judgment or go all the way to trial, LC/RG will receive twenty-six and one half percent (26.5%) of any recovery, plus reimbursement of costs and expenses; and

**WHEREAS**, LC/RG has agreed that to the extent that it negotiates a more favorable contingency fee with any other city or county in Florida of similar population, it will make such terms available to the City as well; and

**WHEREAS**, furthermore, LC/RG has agreed to defend and indemnify the City for any claims asserted against the City for its institution, prosecution, and/or resolution of this action, including, but not limited to, claims or sanctions involving attorneys' fees or costs, to the fullest extent allowable by law and any ethical rules; and

**WHEREAS**, the City Commission believes it is in the best interest of the residents of the City to pursue its legal remedies by engaging the services of outside counsel to file a lawsuit against various pharmaceutical manufacturers and to join the nationwide multidistrict litigation "*In Re: National Prescription Opiate Litigation*," MDL No. 2804, to vindicate the rights of the residents of Coconut Creek.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:**

**Section 1:** That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution.

**Section 2:** That the City Commission hereby authorizes and directs the City Attorney, or designee, to engage the services of outside counsel to file a lawsuit against various pharmaceutical manufacturers and to join the pending multidistrict litigation “*In Re: National Prescription Opiate Litigation*,” MDL No. 2804, and naming the City as plaintiffs in such lawsuit, seeking the appropriate relief for the alleged deceptive and fraudulent marketing practices of several pharmaceutical manufacturers and the alleged failure to report suspicious purchases by certain wholesalers.

**Section 3:** That the City Manager, or designee, is hereby authorized to execute legal representation agreement(s) and any other necessary documents pertaining to the litigation, subject to review and approval by the City Attorney, to effectuate the intent of this Resolution.

**Section 4:** That if any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or in application, it shall not affect the validity of the remaining portion or applications of this Resolution.

**Section 5:** That this Resolution shall be in full force and effect immediately upon its adoption.

**Adopted this 22<sup>nd</sup> day of March, 2018.**

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Joshua Rydell, Mayor

Attest:

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Leslie Wallace May, City Clerk

Rydell	<u>Aye</u>
Welch	<u>Aye</u>
Tooley	<u>Aye</u>
Sarbone	<u>Aye</u>
Belvedere	<u>Aye</u>