

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED ORDINANCE OR
RESOLUTION ADOPTED BY CITY COUNCIL**

A RESOLUTION

**AFFIRMING THE CITY OF SAN ANTONIO'S COMMITMENT TO
PARTICIPATED IN NATIONAL OPIATE LITIGATION AND TO ENTER
INTO A CONTINGENT FEE CONTRACT FOR PROFESSIONAL LEGAL
SERVICES**

WHEREAS, the country is in the middle of a public health crisis stemming from a flood of opioids pouring into the cities and counties, destroying families, taking lives and sapping tax dollars and resources from the community; and

WHEREAS, the City of San Antonio has been impacted by this "opioid epidemic; and

WHEREAS, there is ongoing, multi-district litigation in the United States District Court, Northern District of Ohio, filed on behalf of cities and counties across the country against pharmaceutical manufacturers and distributors; and

WHEREAS, one of the fundamental purposes of multi-district litigation is to allow for efficient streamlined management of multiple nationwide cases to mitigate unnecessary duplication and costs for all parties; and

WHEREAS, it is in the best interest of the City of San Antonio and its citizens for the City to participate in this multi-district litigation; and

WHEREAS, the complexity and nature of multi-district mass tort litigation, the location of the multi-district lead Judge, the stage of the proceedings, and the staffing levels necessary to pursue these claims makes it unlikely that the representation of the City can adequately be performed solely by the City Attorney's office; and

WHEREAS, the nature of mass-tort litigation does not reasonably allow for the legal services to be obtained from attorneys in private practice under a contract for the payment of hourly fees;

WHEREAS, the City does not have appropriated funds available to pay the estimated amounts required under a contract for the payment of hourly fees because the undertaking of mass-tort litigation on an hourly basis would be cost prohibitive thus not allowing the City the opportunity to recover damages;

IT IS THEREFORE RESOLVED : that it is in the best interest of the City for the City Attorney to seek approval to enter into a contingency fee agreement for the provision of legal services on behalf of the City of San Antonio in the matter styled *In re: National Prescription Opiate Litigation*, MDL 2904 for the following reasons:

1. there is a substantial need for the legal services so that the City has the ability to recover damages to address the costs the City has incurred to deal with the Opioid crisis,
2. the legal services cannot be adequately performed by the attorneys and supporting personnel of the state governmental entity or by the attorneys and supporting personnel of another state governmental entity because the participation in mass tort multi-district litigation necessarily requires a contingency fee arrangement.
3. the legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because it is cost prohibitive for the City to individually engage in mass tort litigation on an hourly fee. Mass-tort litigation necessarily entails obtaining and reviewing thousands of documents from numerous defendants, deposing individuals from numerous defendants located across the country, and the preparation and conduct of a long trial all of which can be more effectively pursued under a contingency fee arrangement in multi-district litigation.
4. Consistent with the City Charter, the City Attorney is authorized to seek any and all necessary approval from State agencies to enter into and participate in a contingency fee contract for professional legal services related to the multi-district litigation.

PASSED AND APPROVED this ___ day of _____, 2019.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Andrew Segovia, City Attorney