



Legislation Text

File #: Res 2018-72, **Version:** 1

RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT RETAINING KELLER ROHRBACK L.L.P. AS SPECIAL COUNSEL AND AUTHORIZING LITIGATION FOR CLAIMS AGAINST PHARMACEUTICAL COMPANIES AND DISTRIBUTORS

Summary and Background Information: State, county, and municipal governments throughout Colorado and across the nation are struggling to address the adverse impacts of the reported epidemic and crisis arising from the misuse, abuse, and over-prescription of opioids. The City has had to deal with the effects of this crisis and related opioid addiction, including costs to the City and damage to the community's health, safety, and welfare. The City desires to investigate and, if appropriate, pursue a recovery of these costs from responsible parties to address the multi-faceted issues related to opioid addiction.

Request for Qualifications & Recommendation: The City, along with a coalition of county and municipal governments led by the City and County of Denver, issued a request for qualifications seeking special counsel in pursuing claims for damages and injunctive relief against pharmaceutical companies and/or pharmaceutical distributors who manufacture, market and sell prescription opioids. The City Attorney reviewed submitted proposals and participated in finalist interviews.

Based on the submitted proposal, interviews, and proposed fee arrangement, the City Attorney recommends the retention of Keller Rohrbach, L.L.P., of Seattle, Washington, to represent the City in the investigation and filing of appropriate litigation (subject to further authorization of the City Council).

Fee & Retention Agreement: The proposed fee arrangement is for 15% of the total recovery up to \$500 million (for all represented coalition members) and 10% of a total recovery exceeding \$500 million, assessed after costs are deducted. Special counsel advances all fees and costs and expenses. The City is not responsible for attorney fees and litigation costs or expenses other than through a recovery. There will be no cost to the City other than staff time, record retention costs, and staff travel expenses, if any. The City Attorney will manage the special counsel and coordinate litigation activities.

The fee and other aspects of the representation (including representation of other Colorado jurisdictions) are detailed in the Professional Services Agreement.

Authority: Commerce City is authorized by the City Charter to file lawsuits (Section 2.2(a)) and retain special counsel (Section 8.10(b)). The proposed resolution authorizes the City Attorney, with the City Manager's consent, to approve the filing of litigation by special counsel.

Action Options:

- 1) Consider and approve, amend, or reject the resolution.
- 2) Postpone the resolution to a future Council meeting.

3) Refer the resolution to a Council study session for discussion.

Staff Responsible (Department Head): Robert Sheesley, City Attorney

Staff Member Presenting: Robert Sheesley, City Attorney

Financial Impact: Staff time/staff travel expenses (if any).

Funding Source TBD

Staff Recommendation: Approval.