

RESOLUTION # _____

Resolution Selecting Special Legal Counsel to Investigate and Take Legal Action Regarding the Manufacture, Marketing, Sale, and Distribution of Opioid Products in the County.

WHEREAS, On September 19, 2017, the Buncombe County Board of Commissioners passed a Resolution, which, among other things, instructed the Buncombe County Legal Department to monitor the ongoing investigation by the State and evaluate the opioid crisis that is taking an enormous toll on the people and families of Buncombe County, as well as impacting Law Enforcement, Emergency Management, and Health and Human Services with significant increased demand for services effect on the County; to investigate the feasibility of joining any lawsuits or potential lawsuits; and to publish a Request for Information seeking an attorney(s) and/or law firm(s) competent to handle any litigation the County might pursue and to report the findings to the County Manager; and

WHEREAS, the County Legal Department has completed its evaluation of the crisis and recommends that the Board retain a lawyer, law firm, and/or consortium of law firms to act as Special Legal Counsel in prosecuting this matter; has issued a Request for Information and engaged with respondents thereto; and has recommended to the County Manager and this Board at least three respondents that are competent to handle any litigation the County might pursue regarding this matter; and

WHEREAS, it was the intention of the Buncombe County Board of Commissioners on October 17, 2017, to select Greene, Ketchum, Farrell, Bailey & Tweel, LLP; Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, PA; Baron & Budd, PC; Hill Peterson Carper Bee & Deitzler PLLC; McHugh Fuller Law Group; and Seagle Law to act as Special Legal Counsel; and

WHEREAS, pursuant to N.C. Gen. Stat. § 153A-11, A local unit is “vested with all the property and rights of property belonging to the corporation; [has] perpetual succession; may sue and be sued; [and] may contract and be contracted with....”

WHEREAS, the Buncombe County Board of Commissioners has the authority to take action to protect the public health, safety, and welfare of the residents and citizens of Buncombe County;

WHEREAS, there exists a serious public health and safety crisis involving opioid abuse, addiction, morbidity, and mortality in Buncombe County;

WHEREAS, the diversion of legally produced controlled substances into the illicit market causes or contributes to the serious public health and safety crisis involving opioid abuse, addiction, morbidity, and mortality in Buncombe County;

WHEREAS, the opioid crisis unreasonably interferes with rights common to the general public of Buncombe County; involves a significant interference with the public health, safety, peace, comfort, and convenience of citizens and residents of

Buncombe County; includes the delivery of controlled substances in violation of State and Federal law and regulations; and therefore constitutes a public nuisance;

WHEREAS, the opioid crisis is having an extended and far reaching impact of the general public, health, and safety, of residents and citizens of Buncombe County and must be abated;

WHEREAS, the violation of any laws of the State of North Carolina, or of the United States of America controlling the distribution of a controlled substance is inimical, harmful, and adverse to the public welfare of the residents and citizens of Buncombe County constitutes a public nuisance;

WHEREAS, the Buncombe County Board of Commissioners has the authority to abate, or cause to be abated, any public nuisance including those acts that unreasonably interfere with rights common to the general public of Buncombe County and/or involve a significant interference with the public health, safety, peace, comfort, and convenience of citizens and residents of Buncombe County;

WHEREAS, Buncombe County has expended, is expending, and will continue to expend in the future County funds to respond to the serious public health and safety crisis involving opioid abuse, addiction, morbidity, and mortality within Buncombe County; and

WHEREAS, the Buncombe County Board of Commissioners have received information that indicates that the manufacturers and wholesale distributors of controlled substances have distributed in areas surrounding Buncombe County, North Carolina, may have violated Federal and/or State laws and regulations that were enacted to prevent the diversion of legally produced controlled substances into the illicit market.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County of Buncombe as follows:

1. The Buncombe County Board of Commissioners hereby declare the opioid crisis a public nuisance which must be abated for the benefit of Buncombe County, its residents, and citizens.
2. That it hereby selects the law firms Greene, Ketchum, Farrell, Bailey & Tweel, LLP; Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, PA; Baron & Budd, PC; Hill Peterson Carper Bee & Deitzler PLLC; McHugh Fuller Law Group; and Seagle Law to act to act as Special Legal Counsel on a contingency fee basis to investigate and take legal action regarding the opiate/opioid crisis afflicting the County including but not limited to taking action against those involved in the manufacture, marketing, sale, and distribution of opioid products.
3. That it hereby authorizes the execution of an agreement for legal services between Buncombe County and the law firms named above, and any firms acting in concert therewith, consistent with this resolution.

- 4. That, by and with the consent of the County Legal Department, County staff is hereby instructed to proceed with this undertaking and all acts and doings of officers, employees and agents of the County, whether taken prior to, on, or after the date of this Resolution, that are in conformity with and in the furtherance of the purposes and intents of this Resolution as described above shall be, and the same hereby are, in all respects ratified, approved and confirmed.
- 5. That the Chairman and County Manager, or either of them, or their designee, are hereby authorized to execute such documents as may be required to effect the purposes and intents of this resolution and to interview prospective law firms that respond to the aforementioned Request for Information.
- 6. That any prior resolutions or parts thereof of the Board in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.
- 7. That this resolution shall become effective upon its adoption.

This the 7th day of November, 2017.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Kathy Hughes, Clerk

By: _____
Brownie Newman, Chairman

APPROVED AS TO FORM

County Attorney