

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda Date: December 6, 2021  
Reviewed by: NA

**SUBJECT:** National Opioid Litigation and Authorization to Participate in Settlement Agreements Arising from the Litigation

**REPORT BY:** Mala Subramanian, City Attorney

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**STAFF RECOMMENDATION**

That the Council authorize the City Attorney to take all necessary steps and execute appropriate documents to participate in the Settlement Agreements with the Distributors and Janssen, agree to the State Subdivision Agreements, and allow direct payment to be made to the City.

**BACKGROUND**

There are two proposed nationwide Settlements Agreements<sup>1</sup> (Settlements) that would resolve opioid litigation against the three largest pharmaceutical distributors, McKesson, Cardinal Health and Amerisource Bergen (Distributors) and one manufacturer, Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson (collectively, Janssen). California has joined both Settlements and expects to receive up to 9.92% of the national settlement funds.

The Proposed California State-Subdivision Agreements<sup>2</sup> provide the framework for how funds from the Settlements may be distributed, allocated, and spent in California. The amount that California receives will depend on how many states and eligible cities and counties join the Settlements. California may receive up to \$1.8 billion from the Distributors Settlement to be paid over 18 years and \$423 million from the Janssen Settlement to be paid over 9 years. The funds are divided in three funds: (1) the state fund 15%; (2) CA Subdivision Fund 15%; and (3) CA Abatement Accounts fund 70%.

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<sup>1</sup> Distributors Settlement Agreement - <https://www.oag.ca.gov/system/files/media/final-distributor-settlement-agreement-10222021-exhibit-updates.pdf>

Janssen Settlement Agreement - <https://nationalopioidsettlement.com/wp-content/uploads/2021/09/Janssen-7-30-21-updated-20210920.pdf>

<sup>2</sup> California State Subdivision Agreement – Distributors <https://www.oag.ca.gov/sites/default/files/media/final-proposed-ca-state-subdivision-agreement-distributors-settlement.pdf>

California State Subdivision Agreement – Janssen <https://www.oag.ca.gov/sites/default/files/media/final-proposed-ca-state-subdivision-agreement-janssen-settlement.pdf>

## **DISCUSSION**

Each city and county within California with a population greater than 10,000 is eligible to receive funds and must decide whether to participate in the Settlements. The more subdivisions that participate, the greater the amount of funds that will flow to California and participating subdivisions.

If the City joins the Settlements, it can expected to receive its abatement percentage share, which is .013% of the CA Abatement Accounts Fund per Appendix 1 to the Proposed California State – Subdivision Agreement. We understand that in the best case scenario this may equate to a total of approximately \$207,000 for Albany. This percentage is based on nationally available federal data on opioid use disorder, overdose deaths, and opioid shipments into California.

If the City opts in to the Settlements, it must release its claims against the opioid distributors and manufacturers that are participating in the Settlements. The City will then receive the amount noted above, which will be paid to the County over the next 18 years, unless the City chooses direct payment. The City may decide to elect direct payment at any time. If the City receives direct payment it is obligated to report on the use of the funds, which must be used primarily for opioid abatement. The deadline to join the Settlements is January 2, 2022.

If the City does not opt in to the Settlements, the City's share will go to the State, but the total amount the State receives may be reduced since it is based on participating cities and counties. By not opting in, the City preserves the ability to litigate against the opioid distributors and manufacturers.

## **FINANCIAL CONSIDERATIONS**

If the City opts in to the Settlements, in a best case scenario the City could receive a total of approximately \$207,000 to be used for opioid abatement.