



CITY of CALABASAS
CITY COUNCIL AGENDA REPORT

DATE: OCTOBER 29, 2021

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: KINDON MEIK, CITY MANAGER

SUBJECT: CONSIDERATION OF RESOLUTION NO. 2021-1762, APPROVING PARTICIPATION IN NATIONAL OPIOID SETTLEMENT AGREEMENT AND AUTHORIZING THE CITY ATTORNEY AND/OR CITY MANAGER TO EXECUTE THE RELATED PARTICIPATION AGREEMENT

MEETING DATE: NOVEMBER 10, 2021

SUMMARY RECOMMENDATION:

Staff recommends that the City Council consider adoption of Resolution No. 2021-1762 (Attachment A), approving a Resolution authorizing participation in National Opioid Settlement and authorizing the City Attorney and/or City Manager to execute the related participation agreement.

BACKGROUND:

On July 22, 2021, a settlement was announced in multi-district federal litigation based in Ohio against opioid manufacturers and distributors.¹

The settlement arose out of litigation brought in Ohio by states and cities against the three largest pharmaceutical distributors—McKesson, Cardinal Health and Amerisource Bergen — and the opioid manufacturer Janssen (owned by Johnson &

¹ Over 4,000 lawsuits have been filed against opioid manufactures and distributors in both federal and state courts. The settlement is the result of a consolidation of many of these cases.

Johnson).² The 3,800 litigants contended that the distributors and Janssen contributed to the national opioid crisis by ignoring signs of opioid addiction and overselling opioids. The proposed settlement is worth \$26 billion and will cover all states, counties, and cities — even those who are not part of the litigation. The opioid distributors will pay \$21 billion over an 18-year period and Janssen will pay \$5 billion over a 7-year period.^{3,4}

Under the terms of settlement, California is scheduled to receive approximately somewhere between \$2.269 and \$2.34 billion.⁵ It is the State's responsibility to develop a way to distribute these funds to cities and counties through an interstate allocation deal with cities and counties, otherwise the funds will be distributed to cities and counties according to a default model in the settlement. An intrastate allocation deal has been agreed upon, although the text of the deal has not yet been published by the Attorney General.

Jurisdictions must affirmatively opt-in to the settlement before January 2, 2022, to receive funds from the settlement.

DISCUSSION:

Despite not participating in the litigation against the opioid distributors and manufacturers, the City has two options. It can: (1) opt-in to the settlement; or (2) it can decide not to opt-in.

If the City opts-in to the settlement, it must release its claims against the opioid distributors and manufacturers participating in the settlement. In exchange, the City will receive funds, which can use to combat opioid abuse in the City and for other purposes. Under the terms of the settlement, the City would have to report how it spends funds received from the settlement.

By not acting, the City will not be a participant in the settlement. One advantage of not opting-in to the settlement is that the City would retain the ability to pursue its own litigation against opioid distributors and manufacturers. If the City does not opt-in, then funds to be received by the City under the settlement would instead go directly to the State.

REQUESTED ACTION:

² These distributors represent 85% of all opioids distributed in the United States.

³ The text of the Distributor Master Settlement Agreement can be found here:

https://nationalopioidsettlement.com/wp-content/uploads/2021/09/Final-Distributor-Settlement-Agreement-9.18.21_.pdf.

⁴ The text of the Janssen Settlement Agreement can be found here: <https://nationalopioidsettlement.com/wp-content/uploads/2021/09/Janssen-7-30-21-updated-20210920.pdf>.

⁵ This roughly translates to 9.9% of the settlement if the State receives \$2.34 billion.

Staff recommends that the City Council consider passage of Resolution No. 2021-1762, approving a Resolution authorizing participation in National Opioid Settlement and authorizing the City Attorney and/or City Manager to execute the related participation agreement.

ATTACHMENTS:

Attachment A: City Council Resolution No. 2021-1762