

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL  
FROM: JEFF BERK, CHIEF ASSISTANT CITY ATTORNEY  
CITY ATTORNEY'S OFFICE  
SUBJECT: NATIONAL PRESCRIPTION OPIATE LITIGATION -  
DISTRIBUTOR SETTLEMENT AGREEMENTS

AGENDA ACTION: RESOLUTION

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RECOMMENDATION

It is recommended by the City Attorney that the Council, by resolution, authorize the City Manager to execute the following settlement agreements, subject to approval as to form by the City Attorney: (1) Participation Agreement to the Distributors Settlement Agreement and any and all documents ancillary thereto; (2) Participation Agreement to the Janssen Settlement Agreement and any and all documents ancillary thereto; (3) Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds- Distributor Settlement; and (4) Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds- Janssen Settlement; and directing use of settlement proceeds.

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EXECUTIVE SUMMARY

A \$26.5 billion dollar settlement was reached in a nationwide opioid litigation case brought by states and local governments throughout the United States. The County of Sonoma was a party to the action and has notified all the cities in the County that it can opt into the settlement and receive a portion of the proceeds, but must use those proceeds for abatement measures with strict annual reporting to the state.

BACKGROUND

There was a \$26.5 billion dollar settlement in a nationwide opioid litigation case brought by states and local governments throughout the United States. The County of Sonoma was a party to the action and has notified all the cities in the County that the cities can opt into the settlement and receive a portion of the proceeds, but must use those proceeds for abatement measures with strict annual reporting to the state. The terms of the agreement and formula used to determine the amount each city can get are already established as part of the settlement agreement and cannot be changed.

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PRIOR CITY COUNCIL REVIEW

Not applicable.

ANALYSIS

The settlement agreement allows a city to decide whether it wants to keep the proceeds and use it for programs within its jurisdiction, which would require annual reporting to the state on how the money was used, or it could direct that the proceeds go to the County. The agreement allows a city to change this decision periodically.

The amount the local governments in California will get is dependent upon the number of cities and counties in California that take formal action to opt in. This figure assumes 100% participation by all local governments in California and is therefore a best case scenario. The maximum the City can receive is \$2.9 million. 20% of that is spread over 11 years and 80% is spread over 18 years. For the first 11 years, the maximum estimated amount is about \$180,000 annually and about \$130,000 annually for the last seven years.

There are specific permitted uses for the settlement proceeds. The proceeds cannot be spent on anything that is not encompassed within these uses. City staff has done a preliminary review of the permitted uses of the proceeds and believes that there are existing (and potentially some new) programs that these funds could be used for. Possible uses include homeless outreach, specifically education and harm reduction, and first responder strategies and training regarding overdose treatment/prevention and education/wellness support. Proceeds could also be used to enhance the inRESPONSE program. Exhibit E of the Master Settlement is a List of Opioid Remediation Uses. Sonoma County Counsel's office prepared a list of current opioid prevention programs in the County. Those documents are attached as Attachments 1 and 2.

FISCAL IMPACT

Approval of this action does not have a direct fiscal impact on the General Fund. If Council elects to accept settlement funds, those funds can be used for specific permitted uses and may offset general fund spending.

ENVIRONMENTAL IMPACT

The Council finds that the proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA) under section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment, and that no further environmental review is required.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – List of Opioid Remediation Uses
- Attachment 2 – Sonoma County Opioid Prevention Programs
- Resolution/Exhibit A
  - Settlement Participation Form pursuant to the Distributor Settlement Agreement dated July 21, 2021
  - Proposed California State- Subdivision Agreement Regarding Distribution and Use of Settlement Funds – Distributor Settlement
  - Settlement Participation Form pursuant to the Janssen Settlement Agreement dated July 21, 2021
  - Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds - Janssen Settlement

CONTACT

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