



FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: MARGARET SELL, FINANCE DIRECTOR/CITY CLERK

DATE: OCTOBER 19, 2021

AGENDA TEXT: DISCUSSION AND POSSIBLE ACTION CONCERNING PARTICIPATION IN THE COLORADO OPIOIDS SETTLEMENT

BACKGROUND

The State, as well as several Colorado local governments, have pursued litigation against various pharmaceutical companies for their role in causing the opioid epidemic in Colorado. That litigation recently resulted in settlements with Purdue Pharma, McKinsey & Co., Johnson & Johnson, AmerisourceBergen, Cardinal Health, and McKesson, resulting in up to approximately \$400 million in settlement funds for both the State and Colorado local governments to abate the opioid crisis.

The Colorado Department of Law has come to an agreement with Colorado's local governments for distributing opioid settlement and recovery funds to local counties and municipalities. The attached Memorandum of Understanding ("MOU") is the product of a lengthy and complex negotiation between the Attorney General's Office, Colorado Counties, Inc. ("CCI"), Colorado Municipal League ("CML"), and many negotiating local governments detailing that distribution process.

To maximize the settlement funds within Colorado, it is important that all Colorado counties and municipalities (subdivisions) participate in these settlements and the distribution process by signing the following four documents:

1. The Colorado Opioids Settlement MOU that lays out the allocation of Opioid recoveries in the State of Colorado;
2. The Subdivision Settlement Participation Forms that releases subdivisions' legal claims against Johnson & Johnson, AmerisourceBergen, Cardinal Health, and McKesson; and
3. The Settlement Participation Form that releases the subdivisions' legal claims in the Janssen Settlement
4. The Colorado Subdivision Escrow Agreement that ensures subdivisions' legal claims are released only when 95% participation by certain local governments has been reached. That 95% participation threshold is important because it triggers certain amounts of incentive payments under the settlements and signals to the settling pharmaceutical companies that the settlements have wide acceptance.

Signing the agreement will put Colorado and local governments in a position to maximize our share of the settlements and begin putting the settlement funds to use abating the crisis in our communities.

Funds are restricted in use for Approved Purposes that focus on abatement strategies as outlined in Exhibit A of the MOU which consist of 1) Treatment 2) Prevention and 3) Additional Areas.

Each Region will create a “Regional Council” consisting of members from the local governments to determine what Approved Purposes to fund with the Region’s allocation. The Regional Council will have the power to designate a fiscal agent prior to receipt of funds and shall make annual reports on the use of funds to the Abatement Council

FISCAL IMPACT

The following is the **default** allocation of funds from the estimated settlement assuming full participation by local government entities within the State. Local governments within the Mesa County area may enter into an agreement that provides for a different allocation of funds.

	% Allocation	Estimated distribution*
Colorado Settlement estimated		\$ 400,000,000
Mesa County Area Share of CO settlement	2.8911%	\$ 11,564,400
Distribution of Mesa County Area Share		
Mesa County	60.8549%	\$ 7,037,504
Grand Junction	37.1505%	\$ 4,296,232
Fruita	1.6696%	\$ 193,079
Palisade	0.2208%	\$ 25,534
Collbran	0.0920%	\$ 10,639
Debeque	0.0123%	\$ 1,422

**Assumes full participation by local government entities and estimated settlement of \$400 million*

Distribution of funds will be over a period of years with the Big 3 distributed over an 18 year period and Johnson and Johnson over a 9 year period.

Attorney fees and expenses will be paid from the local governments through a “BackStop Fund” for attorney fees and costs. Legal firms must first apply to any national common benefit fee fund with the Back-Stop fund to be used to pay the difference between what law firms are owed and amount received from the national common benefit fee fund. Attorney fees are limited to 8.7% of the local government share (Fruita - \$16,800) and 4.35% of the total Regional Share (Mesa County Region - \$503,000).

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The opioid crisis is a significant concern in the community with opioid misuse and addiction having far reaching effects on the lifestyle and economic health of the public. The prevention and treatment of opioid disorders is part of the core values of the City to protect the public’s health, safety and welfare. The City’s participation in this settlement will help to provide the community with treatment, prevention, education, and alternatives to opioid use.

OPTIONS AVAILABLE TO THE COUNCIL

Participate in the state-wide settlement agreements with funding from opioid distributors (pharmaceutical companies) to help offset negative impacts from opioid use.

Decline to participate in the settlement agreements with risk that the state may not receive full settlement dollars based on reduced levels of participation from local governments.

RECOMMENDATION

It is the recommendation of staff that the Council by motion:

AUTHORIZE THE MAYOR TO SIGN AND EXECUTE THE FOLLOWING DOCUMENTS RELATED TO THE CITY OF FRUITA'S PARTICIPATION IN THE COLORADO OPIOID SETTLEMENT

- **SETTLEMENT PARTICIPATION FORM (JANSSEN SETTLEMENT)**
- **SUBDIVISION SETTLEMENT PARTICIPATION FORM**
- **COLORADO OPIOID SETTLEMENT MEMORANDUM OF UNDERSTANDING**
- **COLORADO SUBDIVISION ESCROW AGREEMENT**