



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 12/21/2021

ITEM NO: 5

DATE: December 14, 2021
TO: Mayor and Town Council
FROM: Robert Schultz, Town Attorney
SUBJECT: Authorize the Town Manager to Take All Necessary Steps and Execute Appropriate Documents to Participate in the Opioid Settlement Agreements with the Distributors and Janssen and Agree to the State Subdivision Agreements

RECOMMENDATION:

Authorize the Town Manager to take all necessary steps and execute appropriate documents to participate in the opioid Settlement Agreements with the Distributors and Janssen and agree to the State Subdivision Agreements.

BACKGROUND:

There are two proposed nationwide Settlements Agreements¹ (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 Agreements² provide the framework for how funds from the Settlements may be distributed, allocated, and spent in California. The amount that

¹ 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>

² 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>

PREPARED BY: Robert Schultz
Town Attorney

Reviewed by: Assistant Town Manager, and Finance Director

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

DATE: December 14, 2021

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%.

DISCUSSION:

Each City/Town 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 Town joins the Settlements, it can expect to receive its abatement percentage share, which is 0.013% of the CA Abatement Accounts Fund per Appendix 1 to the Proposed California State – Subdivision Agreement. It is staffs understanding that in the best-case scenario this may equate to a total of approximately \$198,630 for Los Gatos. This percentage is based on nationally available federal data on opioid use disorder, overdose deaths, and opioid shipments into California. If the Town opts into the Settlements, it must release its claims against the opioid distributors and manufacturers that are participating in the Settlements. The deadline to join the Settlements is January 2, 2022.

If the Town does not opt into the Settlements, the Town'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 Town preserves the ability to litigate against the opioid distributors and manufacturers.

CONCLUSION:

Staff recommends that Council authorize the Town Manager to advance participation in the Settlement Agreements arising from the National Opioid Litigation.

FISCAL IMPACT:

Potential Revenues in the amount of \$198,630.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.