



BUSINESS OF THE CITY COUNCIL CITY OF SNOQUALMIE

AB23-043
March 27, 2023
Committee Report

AGENDA BILL INFORMATION

TITLE:	AB23-043: Approving Attorney General's Office Opioid Distributor and Manufacturer Settlement	☐ Discussion Only
PROPOSED ACTION:	Approve the following documents: Settlement Agreements with Teva, Allergan, CVS, Walgreens and Walmart and the Allocation Agreement	☒ Action Needed: ☒ Motion ☐ Ordinance ☐ Resolution

REVIEW:	Department Director/Peer	Perry Phipps	3/16/2023
	Finance	Jen Ferguson	
	Legal	Bob Sterbank	
	City Administrator	Mike Sauerwein	3/16/2023

DEPARTMENT:	Legal		
STAFF:	Bob C. Sterbank – City Attorney		
COMMITTEE:	Public Safety	COMMITTEE DATE: March 20, 2023	
MEMBERS:	Ethan Benson	Cara Christensen	Rob Wotton
EXHIBITS:	• AB23-043x1 – AB22-118 • AB23-043x2 – Participation Form for Teva Settlement • AB23-043x3 – Participation Form for Allergan Settlement • AB23-043x4 – Participation Form for CVS Settlement • AB23-043x5 – Participation Form for Walgreens Settlement • AB23-043x6 – Participation Form for Walmart Settlement • AB23-043x7 – Allocation Agreement II		

AMOUNT OF EXPENDITURE \$ n/a

AMOUNT BUDGETED \$ n/a

APPROPRIATION REQUESTED \$ n/a

SUMMARY

INTRODUCTION

This agenda bill concerns settlement of the State of Washington's litigation against two opioid manufacturers (Teva and Allergan) and three opioid distributors (CVS, Walgreens, and Walmart) for their role in the national opioid epidemic. Approval of the agenda bill will approve and authorize the City's participation in six agreements – an Allocation Agreement among the State of Washington and Washington counties, cities and towns, and 5 settlement agreements.

Collectively, these agreements allocate settlement funds from the State of Washington litigation between the State and counties, cities and towns, and distribute the funds individually by region among the counties, cities and town. If approved by Snoqualmie and a sufficient number of other local governments, Snoqualmie could receive a total amount under the 5 settlements of approximately \$127,000, which is roughly the same amount it agreed to under the previous settlement with McKesson Corporation, Cardinal Health, Inc. and AmerisourceBergen Corporation, approved by Council in 2022 via AB22-118. The settlement amount would be paid out over 15 years.

The agreements are:

- (1) Teva Global Opioid Settlement Agreement (Participation form is AB23-043x2)
- (2) Allergen Public Global Opioid Settlement Agreement (Participation form is AB23-043x3)
- (3) Walgreens Settlement Agreement (Participation form is AB23-043x4)
- (4) CVS Settlement Agreement (Participation form is AB23-043x5)
- (5) Walmart Settlement Agreement (Participation form is AB23-043x6)
- (6) Allocation Agreement Governing the Allocation of Funds Paid by Certain Settling Opioid Manufacturers and Pharmacies ("Allocation Agreement II") (AB23-043x7)

LEGISLATIVE HISTORY

On September 12, 2022, Council approved, via AB22-118, the City's participation in the Opioid Distributor Settlement, which involved settlement agreements with three opioid distributors - McKesson Corporation, Cardinal Health, Inc. and AmerisourceBergen Corporation. Council also approved the Allocation Agreement that divided the settlement proceeds among Washington State and its local governments, and the One Washington Memorandum of Understanding Between Washington Municipalities, which provided for the distribution of settlement monies among participating Washington municipalities according to a specified percentage set forth in the MOU.

BACKGROUND

Please refer to AB22-118, included as Exhibit 1 to this Agenda Bill (AB23-043x1), for a history of the opioid litigation and the Opioid Distributor Settlement, which the City signed onto in 2022, along with every one of the 125 eligible local governments. The documents approved in AB22-118 are very similar to the proposed settlement agreements attached as Exhibits 2-7 here.

On December 21, 2022, Washington Attorney General Bob Ferguson announced that Washington State had signed multistate resolutions with five companies that produced or sold opioids - Teva, Allergan, CVS, Walgreens and Walmart. These announced resolutions are not final until each of the 5 companies evaluates the number of states and local governments that join, and then decides whether to finalize the agreements. Under the resolutions, the Attorney General's Office estimates that the five defendant companies would pay the following approximate amounts to Washington State: CVS - \$110.6 million over 10 years; Walgreens - \$120.3 million over 15 years; Walmart - \$62.6 million, most of it paid in the first year; Teva - \$90.7 million over 13 years; and Allergan - \$50 million over 7 years.

In total, the Washington State share of new settlements is \$434 million. As with the 2022 Opioid Distributor Settlement, the total amount will be split 50 -50 between the State and local governments under the Allocation Agreement II. This agreement is very similar to the Allocation Agreement under the 2022 Opioid Distributor Settlement. Of the 50% local government share, the City's share will be allocated according to the methodology set forth in the One Washington MOU, which the City signed as part of the 2022 Opioid Distributor Settlement.

While the terms of the five settlements vary, the Office of the Attorney General expects the first payments to local governments to be made in 2023, unless there are delays. Because payments under the Walmart settlement are expected to be made mostly in the first year, the payment schedule will be frontloaded.

ANALYSIS

The total amount the City can expect from the five settlements, provided all eligible Washington cities and counties join, is equal to 0.0649164481 percent of the \$217 million allocated to local governments in Washington State, less attorneys' fees and costs. This amount will be roughly equivalent to the City's share under the Opioid Distributor Settlement, which was \$127,235.36.

The settlement documents include the Allocation Agreement II and the five settlement agreements. The Allocation Agreement II (AB23-043x7) is very similar to the Allocation Agreement in the 2022 Opioid Distributors Settlement, in that it divides the settlement proceeds between the State and Washington counties, cities and towns, with 50% of the Abatement Amount going to the State of Washington, and 50% to be allocated to Washington counties/cities/towns, according to the percentage amounts specified in the One Washington MOU previously signed by the City in 2022 as part of the Opioid Distributors Settlement.

The One Washington MOU is included as Exhibit 6 to the Allocation Agreement II. The One WA MOU provides for the distribution of opioid litigation settlement monies among participating Washington municipalities, according to specified percentages. It also sets forth a list of approved uses of the settlement funds. Since the One Washington MOU is part of both sets of settlements – the 2022 Opioid Distributor Settlement and the current set of five settlements presented in this agenda bill (AB23-043x2 – x6) – the allowed uses under the two sets of settlements are identical. They can be generally described as:

- (i) Improving and expanding treatment for opioid use disorder;
- (ii) Supporting individuals in treatment and recovery, including providing comprehensive wrap-around services to individuals with opioid use disorder, including housing, transportation, education, job placement, job training or childcare;
- (iii) Addressing the needs of pregnant women and their families, including those with babies with neonatal disorder;
- (iv) Preventing opioid misuse, overprescribing and overdoses through, among other strategies, school-based and youth-focused programs, public education campaigns, increased availability and distribution of naloxone and other drugs that treat overdoses, additional training and enhancements to the prescription drug monitoring program; and
- (v) Supporting first responders.

By signing the five settlement agreements, the City would agree to waive and release all potential future claims and covenant not to bring or file any future claims seeking to establish liability against the companies (Teva, Allergan, CVS, Walgreens and Walmart).

While the total amount allocated to local governments will depend on how many cities and counties join the settlement, according to the Office of the Attorney General, if even one eligible local government does not join, the total share of the settlement amount available to the joining local governments will drop by as much as 10 percent. If not enough local governments join, the Settlement Agreements will be null and void.

BUDGET IMPACTS

There are no budget impacts from participating in the Settlement Agreements with Teva, Allergan, CVS, Walgreens and Walmart or in the Allocation Agreement. Participation will enable the City to receive up to approximately \$127,000 over 15 years, to pay for a wide variety of uses, including first responder support. This will likely include possible funding assistance for the recently-approved Behavioral Health Specialist position, which will assist law enforcement in responding to drug-related calls, among others.

If Snoqualmie doesn't sign the three attachments, Snoqualmie will get no portion of a settlement allocation, although Snoqualmie may still benefit indirectly from funds received by King County and neighboring cities that do sign – but only if a sufficient number of local jurisdictions also agree to participate.

NEXT STEPS

N/A

PROPOSED ACTION

Move to approve the:

(1) Settlement Agreements with Teva, Allergan, CVS, Walgreens and Walmart;

(2) Allocation Agreement Governing the Allocation of Funds Paid By Certain Settling Opioid Manufacturers and Pharmacies (also known as the Allocation Agreement II); and

and authorize the Mayor to sign the Participation Forms for the five Settlement Agreements and the Allocation Agreement II.