



## Staff Report

**TO:** City Council  
**FROM:** Elizabeth Gibbs, City Manager  
**DATE:** April 4, 2023  
**SUBJECT:** National Opioid Settlements – Second Round

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**Description** Resolution to authorize the City to enter into the participation and allocation agreements for the National Opioid Settlements

### **Background and Analysis:**

#### **NATIONAL OPIOID SETTLEMENTS SETTLEMENT AGREEMENTS & BACKGROUND**

##### **A. 2021 SETTLEMENT AGREEMENT (ROUND 1)**

On September 7, 2021, the City Council authorized Chief of Police Thuilliez to sign the national settlement agreements with McKesson, AmerisourceBergen, Cardinal, and Johnson & Johnson in Opioid related litigation. That initial settlement resolved investigations and litigation over the companies' roles in creating and fueling the opioid epidemic. The settlement also required significant industry changes, the intent of which was to prevent this type of crisis from ever happening again.

The purpose of the underlying lawsuit was to hold opioid manufacturers accountable for their role in creating the opioid epidemic. The lawsuit, brought on behalf of the People of the State of California, alleged that the opioid manufacturers engaged in a sophisticated and deceptive marketing campaign to promote opioids for use in treating chronic pain while knowingly downplaying the risks, leading to an explosion of opioid prescriptions and widespread opioid addiction and abuse. The lawsuit sought injunctive relief to prevent such practices in the future, civil penalties, and abatement of the public nuisance created by the overwhelming increase in opioid abuse and addiction.

The terms of that settlement were that:

- The three distributors would collectively pay up to \$21 billion over 18 years;
- Johnson & Johnson must pay up to \$5 billion over nine years with up to \$3.7 billion to be paid during the first three years;

- The total funding distributed will be determined by the overall degree of participation by both litigating and non-litigating state and local governments;
- The **substantial majority of the money is to be spent on opioid treatment and prevention**; and
- **Each state's share of the funding was determined by agreement among the states using a formula that considers the impact of the opioid crisis on the state – the number of overdose deaths, the number of residents with substance use disorder, and the number of opioids prescribed – and the population of the state.**

The settlement also included injunctive relief terms to help prevent this type of crisis from reoccurring. McKesson, AmerisourceBergen, and Cardinal are required, for a period of 10 years, to:

- Establish a centralized independent clearinghouse to provide all three distributors and state regulators with aggregated data and analytics about where drugs are going and how often, eliminating blind spots in the current systems used by distributors;
- Use data-driven systems to detect suspicious opioid orders from customer pharmacies;
- Terminate customer pharmacies' ability to receive shipments, and report those companies to state regulators when they show certain signs of drug diversion;
- Report and prohibit shipping of suspicious opioid orders;
- Prohibit sales staff from influencing decisions related to identifying suspicious opioid orders; and
- Require senior corporate officials to engage in regular oversight of anti-diversion efforts.

In addition, Johnson & Johnson is required to:

- Stop selling opioids for 10 years;
- Not fund or provide grants to third parties for promoting opioids;
- Not lobby on activities related to opioids; and
- Share clinical trial data under the Yale University Open Data Access Project.

### 1. Opioid Statistics for California

In 2020, opioid overdose deaths rose nationwide to a record 93,000, a nearly 30% increase over the prior year. The opioid epidemic has also caused considerable harm to California's communities. In 2020, the California Department of Public Health reported: 5,363 deaths related to an opioid overdose; 15,664 emergency department visits related

to an opioid overdose; and 14,867,436 prescriptions for opioids. The epidemic has resulted in considerable costs to the state in the form of healthcare, child welfare, criminal justice, and many other programmatic costs. The Overdose Detection Mapping Application Program reports that national suspected overdoses in 2020 rose 18% in March, 29% in April, and 42% in May compared to the same months in 2019.

**B. 2023 SETTLEMENT AGREEMENT (ROUND 2)**

Recently, Walmart, Walgreens, Teva, Allergan and CVS have reached tentative nationwide settlements regarding the national prescription opiate litigation. The approval process and terms of this second round of settlements agreements are similar to first round settlement agreements. In this second round, Walmart, Walgreens, Teva, Allergan and CVS will be paying a maximum of \$20.2 billion (collectively) payable to the states and local subdivisions. Following is the estimated payout:

<b><u>Defendant</u></b>	<b><u>Estimated Max Payout (100% participation)</u></b>	<b><u>Years</u></b>
<b>CVS</b>	\$5,022,083,578	10 years
<b>Walgreens</b>	\$5,522,528,766	15 years
<b>Walmart</b>	\$3,011,242,061	Primarily paid within 3 years, but if participation levels are not met until later, payment can extend over 6 years
<b>Teva</b>	\$4,246,567,371.76	6 years
<b>Allergan</b>	\$2,372,972,184.12	7 years

The estimated gross recovery to the state of California is \$1.8 billion. 70% of this amount will go to participating cities/towns.

Following are the proposed settlement amounts for cities in Riverside County:

Participating Subdivision	Abatement Percentage
Riverside County	4.534%
Banning	0.017%
Beaumont	0.021%
Blythe	0.012%
Canyon Lake	0.000%
Cathedral City	0.067%
Coachella	0.021%
Corona	0.147%
Desert Hot Springs	0.024%
Eastvale	0.000%
Hemet	0.051%
Indio	0.056%
Jurupa Valley	0.001%
Lake Elsinore	0.021%
La Quinta	0.063%
Menifee	0.032%
Moreno Valley	0.137%
Murrieta	0.048%
Norco	0.016%
Palm Desert	0.083%
Palm Springs	0.076%
Perris	0.009%
Rancho Mirage	0.052%
Riverside	0.268%
San Jacinto	0.010%
Temecula	0.022%
Wildomar	0.008%

The estimated payout to the City of Beaumont during the life of the 2023 Settlement Agreements (second round) is approximately \$300,000. Permitted Uses of the settlement funds are the same as the uses set forth in the 2021 Settlement Agreements (first round); examples are:

- Support treatment of Opioid Use Disorder (OUD) and any co-occurring or related Substance Use Disorder or Mental Health (SUD/MH) issues
- Support people in treatment for and recovery from OUD and any co-occurring SUD/MH issues
- Provide connections to care for people who have – or are at risk of developing – OUD and any co-occurring SUD/MH issues
- Address the needs of persons with OUD and any co-occurring SUD/MH issues who are involved – or are at risk of becoming involved – in the criminal justice system

- Address the needs of pregnant or parenting women with OUD and any co-occurring SUD/MH issues, and the needs of their families, including babies with neonatal abstinence syndrome
- Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids
- Support efforts to discourage or prevent misuse of opioids, overdose deaths or other opioid-related harms

## 2. Important Information and Dates for the City

In order to participate in the 2023 Settlement Agreements (second round), Cities must affirmatively opt-in by **April 18, 2023, and sign the settlement documents—a resolution is attached for this purpose**. The City Attorney has submitted a notice of interest to the settlement fund administrator to preserve the City’s opportunity for participation. If authorized, Chief Thuilliez is in possession of the required documentation for submission.

### **Fiscal Impact:**

The estimated payout to the City of Beaumont during the life of the 2023 Settlement Agreements (second round) is approximately \$300,000.

The estimated cost to prepare this item is \$650.

### **Recommended Action:**

Waive the full reading and adopt by title only, “A Resolution of the City Council of the City of Beaumont Authorizing the City to Enter into the Settlement Agreements with CVS, Allergan, Teva, Walmart, and Walgreens, Agree to the Terms of the Related State-Subdivision Agreements, and Authorize Entry into the Related State-Subdivision Agreements with the Attorney General.”

### **Attachments:**

- A. Resolution
- B. Participation Form and Allocation Agreements