



City Council

Approval of a Resolution Authorizing the City Manager to Execute All Documents Necessary for the City of Olympia to Participate in an Opioid Settlement Negotiated by the Washington State Attorney General with Certain Opioid Distributors

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Title

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Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the Resolution Authorizing City Manager to Execute All Documents Necessary for the City of Olympia to Participate in an Opioid Settlement Negotiated by the Washington State Attorney General with Certain Opioid Distributors which will result in release of any claims belonging to the City of Olympia against the settling opioid distributors.

Report

Issue:

Whether to authorize the City Manager to execute the Participation Form, Allocation Agreement, and any other documents required for the City of Olympia to participate in the opioid settlement negotiated by the Washington Attorney General with opioid distributors Cardinal Health, AmerisourceBergen and McKesson.

Staff Contact:

Mark Barber, City Attorney, 360.753.8223

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

The City of Olympia has joined in federal multi-district court litigation to sue parties responsible for overdose deaths and harms resulting from use of opioids by residents of Olympia. The Attorney General of Washington (AGO), Bob Ferguson, brought a lawsuit against three of the largest opioid distributors, Cardinal Health, AmerisourceBergen and McKesson in King County Superior Court to recover monetary damages sustained by the state as a result of the reckless and negligent behavior of the distributors who profited from the opioid crisis at the expense of Washington state residents.

The AGO has negotiated a proposed settlement resolution with Cardinal Health, AmerisourceBergen and McKesson that will result in these three companies paying approximately \$518 million over 17 years as compensation for harms to Washington residents, if all conditions of the proposal are met. The proposed opioid distributor settlement will only be finalized after 100% of litigating Washington local governments, and 90% of non-litigating Washington local governments with a population over 10,000 agree to the settlement proposal by executing and returning a Participation Form before the deadline of September 23, 2022, for local government approval. The proposed Distributors - Washington Settlement Agreement lists the City of Olympia as 1 of 121 "Primary Subdivisions" of local governments in the state of Washington, and 1 of 37 "Litigating Subdivisions" subject to the terms of the distributors' settlement agreement.

The AGO strongly urges approval by local governments to the settlement proposal, while recognizing no settlement is perfect, this settlement will result in Washington state receiving significantly more than Washington would have received had the AGO accepted the national resolution earlier this year. If the requisite participation by Washington local governments does not occur, the state of Washington will not receive the \$518 million to help Washington combat the opioid epidemic. However, if approved, these financial resources will start flowing into Washington's communities, including the City of Olympia, to abate the opioid crisis that continues to devastate families across Washington state.

On March 22, 2022, the City of Olympia entered into a One Washington Memorandum of Understanding Between Washington Municipalities as a "Participating Local Government" and a "Litigating Local Government" in the United States District Court for the Northern District of Ohio in *In Re: National Prescription Opiate Litigation*, Case No. 1:17-md-02804-DAP to address a variety of issues including distribution of opioid funds, allocation, and abatement use. The City of Olympia qualifies as a "Litigating Local Government" as having filed suit against any Pharmaceutical Supply Chain Participant pertaining to the opioid epidemic prior to September 1, 2020.

Approval and execution of settlement documents including a Participation Form and an Allocation Agreement are necessary to complete the terms of the AGO's proposed settlement with the three opioid distributors. If all litigating Washington local governments and 90% of non-litigating local governments agree to the settlement's terms, the settlement may be finalized which will include the City of Olympia releasing any and all of its claims against the three settling opioid distributors.

Neighborhood/Community Interests (if known):

None known.

Options:

1. Approve the Resolution authorizing the City Manager to execute all documents necessary to participate in the AGO's opioid settlement with national opioid distributors Cardinal Health, AmerisourceBergen and McKesson, and releasing any claims by the City of Olympia against

said opioid distributors.

2. Do not approve the Resolution giving authorization to the City Manager to execute all documents necessary to participate in the AGO's opioid settlement with three national opioid distributors. If the Resolution is not approved, the City of Olympia, as a litigating local government, would be a cause for the AGO's \$518 million settlement to fail as 100% of litigating Washington local governments must agree to the settlement terms by September 23, 2022.

Financial Impact:

Over a period of 17 years, the City of Olympia would receive approximately \$1.3 million for opioid abatement, minus contractual attorneys' fees.

Attachments:

Resolution
Participation Form
Allocation Agreement