

RESOLUTION NO. 21-175

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, COUNTY OF LOS ANGELES, AUTHORIZING THE CITY OF CARSON'S CITY MANAGER TO ENTER INTO THE SETTLEMENT AGREEMENTS WITH MCKESSON CORPORATION, CARDINAL HEALTH, INC., AMERISOURCEBERGEN CORPORATION, JOHNSON & JOHNSON, JANSSEN PHARMACEUTICALS, INC., ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC., AND JANSSEN PHARMACEUTICA, INC., BY EXECUTING STATE-SUBDIVISION AGREEMENTS ALLOCATING SETTLEMENT PROCEEDS, AND EXECUTING SETTLEMENT PARTICIPATION FORMS AUTHORIZING CITY PARTICIPATION IN THE SETTLEMENTS

WHEREAS, the United States is facing an ongoing public health crisis of opioid abuse, addiction, overdose, and death. The State of California and California local governments spend billions of dollars each year to address the direct consequences of this crisis; and

WHEREAS, since 2017, state and local governments in California and around the United States have been pursuing litigation (the "Litigation") against certain manufacturers, distributors, and retailers of opioid pharmaceuticals (the "Opioid Defendants") in an effort to hold the Opioid Defendants financially responsible for the impact of the Opioid Epidemic on the City of Carson (the "City"); and

WHEREAS, negotiations to settle claims against several of the Opioid Defendants, specifically McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation, Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. (the "Settling Defendants") have been ongoing for several years; and

WHEREAS, negotiations with the Settling Defendants have resulted in proposed nationwide settlements of state and local government claims to settle the Litigation; and

WHEREAS, the proposed terms of those proposed nationwide settlements have been set forth in the Distributors Master Settlement Agreement and the Janssen Master Settlement Agreement (collectively "Settlement Agreements") and, in order to participate in the Settlement Agreements, the City must enter into participation agreements with respect to each of the Settlement Agreements ("Participation Agreements"); and

WHEREAS, copies of the Settlement Agreements as well as summaries of the main terms of the Settlement Agreements, the deadlines for submitting the Participation Agreements to the Settlement Agreements and the MDL Court's Order setting deadlines for any Plaintiff who declines to enter into the Settlement Agreements, have been provided to the City Council with this Resolution; and

WHEREAS, the Settlement Agreements provide, among other things, for the payment of a certain sum to settling government entities in California including to the State of California and

Participating Subdivisions upon occurrence of certain events as defined in the Settlement Agreements (“California Opioid Funds”); and

WHEREAS, California local governments as well as the attorneys representing those local governments have engaged in extensive discussions with the State Attorney General’s Office (“AGO”) as to how the California Opioid Funds will be allocated, which has resulted in the “Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds-Distributor Settlement” and the “Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds-Janssen Settlement” (collectively the “Allocation Agreements”) which are agreements among all of the entities identified in the Allocation Agreements; and

WHEREAS, copies of the Allocation Agreements have been provided with this Resolution; and

WHEREAS, the Allocation Agreements propose to allocate the California Opioid Funds 15% to a State Fund; 70% to local governments in an Abatement Accounts Fund; and 15% to litigating local governments in a Subdivision Fund. For the avoidance of doubt, all funds allocated to California from the Settlements will be combined pursuant to Allocation Agreements, and 15% of that total shall be allocated to the State of California (the “State of California Allocation”), 70% to the California Abatement Accounts Fund (“CA Abatement Accounts Fund Allocation”), and 15% to the California Subdivision Fund (“CA Subdivision Fund Allocation”); and

WHEREAS, the funds in the California Abatement Accounts Fund (i.e., the CA Abatement Accounts Fund Allocation) will be allocated based on an allocation model developed in connection with the proposed negotiating class in the National Prescription Opiate Litigation (MDL No. 2804). The percentage from the California Abatement Accounts Fund allocated to each eligible local government (any county or city above 10,000 in population) (“Eligible Local Government”) is set forth in Appendix 1 to each Allocation Agreement and provided to the Council with this Resolution. The City’s share of the CA Abatement Accounts Fund is a product of the total in the CA Abatement Accounts Fund multiplied by the City’s percentage set forth in Appendix 1 (the “Local Allocation”); and

WHEREAS, any city that is an Eligible Local Government will be allocated its Local Allocation share only when it becomes a Participating Subdivision by signing the Participation Agreements to the Settlements. The Local Allocation share for a city that is a Participating Subdivision will be paid to the county in which the city is located, rather than to the city, so long as: (a) the county is a Participating Subdivision, and (b) the city has not advised the Settlement Fund Administrator that it requests direct payment at least 60 days prior to a Payment Date as defined in the Settlement Agreements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference.

SECTION 2. The City Council hereby approves and authorizes the City Manager to settle and release the City's claims against the Settling Defendants in exchange for the consideration set forth in the Settlement Agreements, Allocation Agreements and all exhibits thereto, including, without limitation, taking the following measures:

a. The execution of the Participation Agreement to the Distributors Master Settlement Agreement and any and all documents ancillary thereto;

b. The execution of the Participation Agreement to the Janssen Master Settlement Agreement and any and all documents ancillary thereto;

c. The execution of the Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds- Distributor Settlement by executing the signature pages thereof; and

d. The execution of the Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds-Janssen Settlement Allocation Agreements by executing the signature pages thereof.

SECTION 3. The City Council hereby ratifies, confirms, and approves all actions heretofore taken by the City Council and other appropriate public officers and agents of the City with respect to the matters contemplated under this Resolution.

SECTION 4. The City Council declares that, should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

SECTION 5. The City Clerk shall certify to the adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 6. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED, and ADOPTED this 7th day of December, 2021.

Lula Davis-Holmes, Mayor

ATTEST:

Joy Simarago, Deputy City Clerk

APPROVED AS TO FORM:

Sunny K. Soltani, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF CARSON)

I, Joy Simarago, Deputy City Clerk of the City of Carson, California hereby attest to and certify that the foregoing resolution, being Resolution No. 21-_____adopted by the Carson City Council at its meeting held on the 7th day of December, 2021, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Joy Simarago, Deputy City Clerk