



Roll Call Number

21-1996

Agenda Item Number

3

Date December 27, 2021

RESOLUTION ELECTING TO PARTICIPATE IN OPIOID MANUFACTURER AND DISTRIBUTOR LITIGATION SETTLEMENTS AND APPROVING THE IOWA OPIOID ALLOCATION MEMORANDUM OF UNDERSTANDING (MOU)

WHEREAS, many governmental and private entities have undertaken to pursue 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 citizens of this country and to recover for the funds expended from governmental resources necessary to combat the opioid epidemic; and

WHEREAS, negotiations have been ongoing for several years in an effort to globally settle pending 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”); and

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

WHEREAS, the opportunity to participate in the Settlement proceeds has also been extended to other governmental entities that have not brought litigation against the Settling Defendants; and

WHEREAS, copies of the proposed terms of those proposed nationwide settlements have been set forth in two agreements, which are the Distributors Master Settlement Agreement and the J&J Master Settlement Agreement (collectively “Settlement Agreements”);

WHEREAS, the Settlement Agreements provide, among other things, for the payment of a certain sum to settling government entities in Iowa including to the State of Iowa and Participating Subdivisions, as that term is defined in the Settlement Agreements, upon occurrence of certain events as defined in the Settlement Agreements (“Iowa Opioid Funds”); and

WHEREAS, the Iowa Attorney General’s Office has negotiated an Iowa-wide distribution plan with both Litigating entities and non-litigating entities as to how the Iowa Opioid Funds will be allocated, which has resulted in the proposed Iowa Opioid Allocation Memorandum of Understanding (“Allocation MOU”), which is an agreement between all of the entities who are signatories to the Allocation MOU; and

WHEREAS, a copy of the Allocation MOU and the Exhibits to that MOU have been provided with this resolution and are available for public review at the City Clerk’s office; and



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WHEREAS, the Allocation MOU generally divides Iowa Opioid Funds by giving 50% to the State and 50% to Participating Local Governments distributed to counties with potential county suballocation by to a city by agreement all to be expended only for Opioid Related Expenditures as provided in the settlement and MOU documents; and

WHEREAS, upon electing to become a Participating Subdivision in the Settlement Agreements, the City will receive benefits from maximum payment to Polk County associated with the Settlement Agreement and the Allocation MOU, provided the City (a) executes the Participation Agreements stating the City's intention to be bound by the Settlement Agreements; (b) approves the Allocation MOU; and (c) executes and files the above documents; and

WHEREAS, the intent of this resolution is to authorize the City to elect to participate in the Settlement Agreements by executing the participation agreement forms and to approve and enter into the Allocation MOU ;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA, as follows:

The City Council hereby approves and authorizes the City of Des Moines, Iowa to elect to participate in the Settlements in exchange for the consideration set forth in the Settlement Agreements, Allocation MOU and all exhibits thereto, including taking the following measures:

1. Approval of the City's election to participate in the Distributor Settlement and release of claims and authorization of the Mayor to execute on behalf of the City the Subdivision Distributor Settlement Participation Form on file in the Office of the City Clerk and any and all documents ancillary thereto.
2. Approval of the City's election to participate in the Janssen Settlement and release of claims and authorization of the Mayor to execute on behalf of the City the Subdivision Janssen Settlement Participation Form on file in the Office of the City Clerk and any and all documents ancillary thereto.
3. Approval of the Allocation MOU and exhibits thereto on file in the Office of the City Clerk and authorization of the Mayor to execute on behalf of the City the Allocation MOU.
4. The City Manager is directed to complete any ancillary acts, including filing these documents, as is necessary to effectuate the City's participation.



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Moved by Gray to adopt.

APPROVED AS TO FORM:

Judy K. Parks-Kruse
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL.

CERTIFICATE
I, P. Kay Cmelik, City Clerk of said City, hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED
J. M. Franklin Cownie Mayor

P. Kay Cmelik City Clerk