



Cover Memorandum/Staff Report

File #: 21-1375

Agenda Date: 12/7/2021

Item #: 6.C.

TO: Mayor and Commissioners
FROM: Lynn Gelin, City Attorney
DATE: December 7, 2021

APPROVAL OF ALLOCATION AGREEMENT AND PARTICIPATION AGREEMENT RELATED TO IN
RE: NATIONAL PRESCRIPTION OPIOID LITIGATION

Recommended Action:

Motion to approve of Allocation Agreement and Participation Agreement in the matter of In Re: National Prescription Opioid Litigation

Background:

This agenda item relates to the City's ongoing opioid litigation, *In re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio).

Allocation Agreement

The City previously passed Resolution 134-21, approving a Memorandum of Understanding ("MOU") with the State of Florida to fairly apportion settlement funds between the State and its local governments. The MOU has been reduced to a formal agreement in the attached Florida Opioid Allocation and Statewide Response Agreement ("Agreement"). While the Agreement is largely consistent with the MOU, the Agreement distinguishes between the 15% direct city/county allocation and the state and regional allocation such that any claw back would not apply to the local direct payments. The Agreement also confirms the State is continuing to seek an agreement from the federal government to limit or reduce its right to claw back funds. In addition, the Agreement contains provisions relating to the efficient and effective use of the funds by way of program requirements, along with reporting and auditing requirements which apply as a matter of law. Importantly, by executing the Participation Agreement (discussed further below), the City is accepting the terms of this Agreement.

Participation Agreements (Releases)

Two Participation Agreements have been included as backup to this agenda item. One is applicable to the Distributors (McKesson Corporation, Cardinal Health, Inc., and Amerisource Bergen Corporation) and the other applies to Janssen. Execution of these Releases serves to release all opioid claims against the Settling Defendants. To participate in these national settlements, the Releases must be executed.

It should be noted that the City's election to participate is specifically conditioned on participation by Litigating Subdivisions and Litigating Special Districts representing 95% or more of the population of Litigating Subdivisions and Litigating Special Districts in the State of Florida. If the combined

population of the Litigating Subdivisions and Litigating Special Districts in the State of Florida that participate is less than 95% of the population (combined) of the Litigating Subdivisions and Litigating Special Districts in the State of Florida, the Election and Release shall be deemed void and no claims shall be released.

City Attorney Review:

Approved as to form and sufficiency

Funding Source/Financial Impact:

N/A

Timing of Request:

The City's outside counsel has requested that the Allocation and Participation Agreements be considered by the Commission by December 7, 2021.