

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill B. Keimach, Town Manager
Andrew J. McGuire, Town Attorney

DATE: December 2, 2021

DEPARTMENT: Town Attorney's Office
Andrew McGuire, 602-257-7664

AGENDA TITLE:

Discussion and Action on the Janssen Settlement Agreement, waiving future claims against Janssen Pharmaceuticals (Johnson & Johnson) related to the national opioid epidemic, in order to participate in a national settlement.

Discussion and Action on the Distributors Settlement Agreement, waiving future claims against certain opioid distributors (McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation) related to the national opioid epidemic, in order to participate in a national settlement.

RECOMMENDATION:

Approve the Janssen Settlement Agreement, and authorize the Mayor or Town Manager to execute the Settlement Participation Form.

Approve the Distributors Settlement Agreement, and authorize the Mayor or Town Manager to execute the Settlement Participation Form.

SUMMARY STATEMENT:

The Opioid Epidemic led to national litigation against certain members of the prescription opioid supply chain, including the opioid manufacturer Janssen Pharmaceuticals (Johnson & Johnson) and three major opioid distributors (McKesson, AmerisourceBergen, and Cardinal, collectively the "Distributors"). This litigation has been resolved through two national settlements, one with Janssen and one with the Distributors. Funds from these settlements will be distributed to counties, cities, and towns pursuant to statewide distribution agreements; in Arizona, this will be done through the "One Arizona Distribution of Opioid Settlement Funds Agreement" (the "One Arizona Agreement"). The Town previously approved and authorized the execution of the One Arizona Agreement, on October 14, 2021.

After executing the One Arizona Agreement, the Town was registered to receive the Settlement Agreements with Janssen and the Distributors. These Settlement Agreements were received on November 30, 2021, and must be executed by January 2, 2022.

It is too soon to know the exact level of funding Paradise Valley will receive, because the final numbers will depend on the level of participation by political subdivisions. Arizona is expecting roughly \$549 Million from these settlements, and 56% of that will be distributed to Arizona counties, cities, and towns pursuant to the One Arizona Agreement.

Maricopa County can expect 57.93% of the allocation to Arizona counties, cities, and towns, and Paradise Valley can expect .34% of that Maricopa County share. This money will not come lump-sum, and the use of funds is restricted to opioid abuse education, treatment, prevention, and emergency response. The Attorney General has advised that distributions to counties, cities, and towns may begin by July of 2022.

In order to receive funding, the Town must approve each Settlement Agreement by executing a Settlement Participation Form. By executing these forms, the Town will forever waive any and all claims against the Distributors and Janssen related to their roles in the opioid epidemic, regardless of any additional information that may be discovered in the future. In exchange, the Town will receive Settlement payments pursuant to the One Arizona Agreement.

In addition to these Settlement payments, the Distributor Settlement Agreement require the Distributors 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 diversion.
- Prohibit shipping of and report suspicious opioid orders.
- Prohibit sales staff from influencing decisions related to identifying suspicious opioid orders.
- Require senior corporate officials to engage in regular oversight of anti-diversion efforts.

In addition to these Settlement payments, the Janssen Settlement Agreement requires Janssen to:

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

BUDGETARY IMPACT:

1. The total distribution to Paradise Valley could be as high as approximately \$600,000.
2. The level of the actual distribution will depend on the final number of participants in all agreements. Low participation by cities and towns in Maricopa County could

reduce the total allocation to Maricopa County governments; similarly, low participation by Arizona counties, cities, and towns could reduce the total allocation to Arizona.

3. The Janssen Settlement is scheduled for distribution over approximately 9 years, and the Distributors Settlement is scheduled for distribution over approximately 17 years.
4. The distributions should be somewhat front-loaded; however, there is no way to reliably predict the timing or exact amounts of payments at this time.
5. The use of funds will be heavily restricted, likely to be spent on improving responses to people in crisis through a partnership, contract or other means.

ATTACHMENTS:

- A. Staff Report
- B. One Arizona Distribution of Opioid Settlement Funds Agreement
- C. Janssen Settlement Agreement
- D. Distributors Settlement Agreement
- E. Janssen Settlement Participation Form
- F. Distributors Settlement Participation Form