



Legislation Text

File #: 20-464, **Version:** 1

TO: Mayor Bien-Willner and Town Council

FROM: Andrew Miller, Town Attorney

DATE: December 3, 2020

CONTACT:

AGENDA TITLE:

Authorize the Town of Paradise Valley's participation in the One Arizona Opioid Settlement Memorandum of Understanding, a multiparty statewide governmental agreement related to the opioid class action suit against pharmaceutical supply chain participants.

RECOMMENDATION:

Adopt Resolution Number 2020-39.

BACKGROUND:

The Town of Paradise Valley ("Town") received notice on November 3, 2020 from Maricopa County Attorney Allister Adel that Maricopa County and all of the other county attorneys in the State of Arizona ("State") had entered into a memorandum of understanding ("MOU") with the State Attorney General Mark Brnovich, said MOU entitled the "One Arizona Opioid Settlement Memorandum of Understanding." Along with a copy of the MOU, the notice from County Attorney Allister Adel encouraged the Town and other cities and towns in Maricopa County (each a "Local Government") to also join the MOU and become part of the "One Arizona Plan" for settling certain class action litigation related to the opioid crisis (against three "Pharmaceutical Supply Chain" defendants, McKesson, Amerisource Bergen, and Cardinal Health, and one manufacturer of opioids, Johnson & Johnson) as well as signing on to receive access to funds that may be used by a Local Government unit for certain "Approved Purposes" that are aimed at stemming the opioid crisis. The Town received a similar notice on November 8, 2020 from Attorney General Brnovich encouraging all of the cities and Towns in the State to join the MOU; and setting a deadline of December 15, 2020 for the cities and towns to execute the MOU.

Both the initial class action settlement that has been proposed at the national level as well as the "One Arizona Plan" provide incentives for all of the Local Government entities to join the settlements as the lower the Local Government participation level the lesser the settlement amount that would go to Arizona or to the county, cities, and towns in a region (typically a county) that has less than 100% participation. The MOU itself states that it is not binding and that the State and each participating Local Government will still need to execute a future "final acceptance" of a future final opioid settlement plan and that each can still decide to not execute a future final settlement and instead pursue its own separate claim. Although a guarantee of the amount of funds that each Local

Government will receive is unknown some estimates would have the Town receiving close to \$550,000 over an extended multi-year payout period. The amount the Town would actually receive depends on the national settlement actually being in the amount that has been projected (about \$26 billion), the actual number of participating Arizona cities and towns, and whether the participating local government entities will have to pay the attorneys' fees incurred in the national litigation (which could be up to 25% of the local government share).

By signing the MOU, the Town of Paradise Valley will become a signatory to the MOU and express the Town's intent to seek a settlement (or settlements) with one or more of the national class action defendants, including the manufacturers, suppliers, or sellers of opioids; and to share in the settlement proceeds for the stated purposes of abating and alleviating the impacts of the opioid addiction crisis.

It is recommended that the Town Council adopt Resolution No. 2020-39. Mayor Bien-Willner has disclosed that he was previously affiliated with the law firm Keller Rohrback and has verified that during that time, or any other time, he did not receive compensation or a promise of compensation related to any opioid litigation from Keller Rohrback, or anyone else. He was not involved in representing clients in any opioid litigation or involved in the prosecution of those cases and; therefore, does not have a conflict of interest which would prevent him from voting on this item.

ATTACHMENTS:

Resolution No. 2020-39