

CITY OF YUBA CITY  
STAFF REPORT

**Date:** July 5, 2022  
**To:** Honorable Mayor & Members of the City Council  
**From:** Finance/IT Department  
**Presentation By:** Spencer Morrison, Finance Director

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**Summary**

**Subject:** National Opioid Settlement Payment Election  
**Recommendation:** Adopt a Resolution authorizing the City Manager to opt out of direct payment per the California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds for both the Janssen and Distributor Settlements  
**Fiscal Impact:** The initial figure for the Distributors Settlement is \$40,522.70 with the Janssen settlement amount remaining unknown

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**Purpose:**

To opt out of the National Opioid Settlement payment, deferring funds to County of Sutter

**Council's Strategic Goal:**

Fiscal Responsibility

**Background:**

Various states, counties, and cities have been in litigation with the McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation. (collectively, the "Distributors") and Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. (collectively, the "Manufacturer") (for purposes of this report, the Distributors and Manufacturer are collectively referred to as the "Settling Defendants"). The litigation concerns the distribution and manufacture of opioids that have contributed to the opioid addiction epidemic in the United States. Two tentative settlements have been reached with the Distributors and Manufacturers, respectively ("National Opioids Settlements").

Yuba City declared its participation by Resolution on December 21, 2021. Staff discussed with City Council at this time the potential that restrictions placed on the use of any funds received would be more in line with current County of Sutter operations and deferring funds to the County may be the best option.

**Analysis:**

The actual amount for the City is dependent on a number of variables, including, but not limited to, the number of California cities and counties participating, whether or not cities later sue the Settling Defendants, and certain actions that may be taken by the State of California. Further, the City's share of the potential amount is determined using three factors: (1) Opioid use disorder; (2) Opioid deaths; and (3) Opioid dosage. If the City participates, the funds will automatically be allocated to the County unless the City opts to receive the funds directly; however, there are certain reporting and tracking requirements if the City receives the funds directly (see below).

By participating in the National Opioid Settlements, the City would be agreeing to a very broad release of opioid-related claims in the lawsuit against the Settling Defendants, which includes both known and unknown claims. However, not participating and litigating on its own means that the City is required to comply with very strict deadlines with respect to litigation.

The National Opioids Settlements will allow for a range of approved abatement uses, which includes a range of intervention, treatment, education, and recovery services. However, the uses of funds are restricted to the abatement uses identified in the settlements. There are also significant public reporting and tracking requirements on the expenditures for such funds, which may make County receipt and expenditure of such funds more desirable. For example, the settlement with the Manufacturer would require the following reporting and tracking:

- Preparation of annual written reports regarding the use of the funds. This report must include a certification that all funds received has been used in compliance with the Manufacturer settlement agreements. This report must be in a form that is approved by the California Department of Health Care Services ("DHCS").
- The City would be required to track all deposits and expenditures.
- For funds not used for a permitted purpose must be identified and included in the annual report (including any attorneys' fees, investigation costs, or litigation costs). This information must also be reported to the Manufacturer and the settlement fund administrator.

In terms of enforcement, if DHCS believes that the use of settlement funds is inconsistent with the requirements, it must meet and confer with subdivision (i.e., the City), and if not resolved, DHCS may perform an audit. If the issue is not resolved, DHCS can bring a motion or action in court to resolve the concern or to enforce the terms of the settlement agreement/state-allocation agreement. There are also time limits on expenditure where money not expended or encumbered within five years of receipt must be transferred to the State. However, these requirements only apply to the City if it elects to receive direct distribution and does not apply if the funds go to the County.

### **Fiscal Impact:**

The initial figure for the Distributors Settlement is \$40,522.70 with the Janssen settlement amount remaining unknown.

### **Alternatives:**

1. Direct the City Manager to opt into the payments from the settlements.
2. Choose not to act and the funds will automatically be directed to the County of Sutter.

### **Recommendation:**

Adopt a Resolution authorizing the City Manager to opt out of direct payment per the California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds for both the Janssen and Distributor Settlements.

**Attachments:**

1. Resolution

Prepared By:  
Spencer Morrison  
Finance Director

Submitted By:  
Diana Langley  
City Manager

## ATTACHMENT 1

**RESOLUTION NO. \_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY  
TO AUTHORIZE THE CITY MANAGER TO OPT OUT OF DIRECT PAYMENTS  
IN THE NATIONAL OPIOID SETTLEMENTS**

WHEREAS, City Council passed a Resolution on December 21, 2021 to declare its participation in a national litigation with opioid distributors and manufacturers (Defendants);

WHEREAS, negotiations with the national opioid settlement Defendants have resulted in proposed nationwide settlements of state and local government claims to settle litigation;

WHEREAS, settlement funds are restricted to abatement uses, including a range of intervention, treatment, education, and recovery services and require significant public reporting;

WHEREAS, the County of Sutter has staffing and processes in place to most effectively implement the programs related to the use of settlement funds, as well as the required reporting;

WHEREAS, the City may opt out of receiving settlement funds which automatically diverts the funds to the County of Sutter;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Yuba City hereby authorize the City Manager to opt out of direct payment per the California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds for both the Janssen and Distributor Settlements.

The foregoing Resolution was duly and regularly introduced, passed, and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on the 1<sup>st</sup> day of March, 2022.

AYES:

NOES:

ABSENT:

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Dave Shaw, Mayor

ATTEST:

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Ciara Wakefield, Deputy City Clerk

Approved as to form  
Counsel for Yuba City:

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Shannon Chaffin, Esq.  
Aleshire & Wynder, LLP