



Legal Department

DATE: February 27, 2024

FROM: Jannelle Combs, City Attorney

ITEM: Endo opioid bankruptcy settlement.

REQUEST:

Consider the request to approve the Endo opioid bankruptcy settlement.

BACKGROUND INFORMATION:

The City is represented by Nachawati Law Group in the multiple opioid settlements. They are advocating that we approve the bankruptcy plan. Endo International is a specialty pharmacy that is global. I found no instance of an actual presence in North Dakota, though it may be possible some number of prescriptions are filled directly for residents in our state. The amount of prescriptions and whether they included opioids for North Dakota is unknown.

In regard to Public Opioid Claimants, as the deal stands, subdivisions would receive a total of \$273 million (which could increase to \$460 million if paid over 8 years). For reference, the distributor settlement amount for this same group was \$19 billion, meaning the amount available to you will be markedly lower than what you've begun to receive to date. That being said, this settlement was developed with an expedited payment time-frame at the forefront as private claim holders and political subdivision's returns have been hamstrung by other Chapter 11 bankruptcy processes to date (Mallinckrodt's eight-year payment plan was derailed by their second bankruptcy filing, which cut off hundreds of millions of dollars and Purdue's multiple appeals having delayed any payment at all).

When we outline the fund amounts potentially available to you, we are referencing distributions you may receive from your State in accordance with the State's opioid abatement programs or as directed by the bankruptcy trustee. As a part of this plan, it was agreed that the States would receive funds and would subsequently make them available to counties, cities, and other political subdivisions for applicable opioid abatement programs. Following the final approval of the plan, our office will provide a subsequent update if additional or different steps are required to receive funds.

The law firm's opinion it is in the best interest of the City to approve the current plan and elect to accept the outlined releases. I concur, as we are a very small entity, with an unknown nexus with this particular entity.

RECOMMENDED CITY COMMISSION ACTION:

Approve Endo opioid bankruptcy settlement.

STAFF CONTACT INFORMATION:

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ATTACHMENTS:

None