

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	December 6, 2021
Action Required:	Adoption of Resolutions* (each (1) reading/ no public hearing) *Two separate motions are preferred, one for each resolution
Presenter:	Lisa Robertson, City Attorney
Staff Contacts:	Javier Gomez-Jacome, Deputy City Attorney
Title:	Resolutions to approve the City's participation in the national Opioid Settlement and the Virginia Opioid Abatement Fund

Background:

In an effort to address the opioid crisis across the country multiple municipalities nationwide have been engaged in litigation against a variety of opioid manufacturers, namely McKesson, Cardinal Health, AmerisourceBergen, and Janssen as well as their related corporate entities.

These entities reached a settlement that allows for states and municipalities who opt into the settlement agreements to receive funds, which could total up to USD \$26 billion nationwide, depending on how many states and municipalities participate. Although the City did not participate in the litigation, it is still eligible to receive monies from the settlement.

Under the settlement, the amount of money in total that Virginia, and thus the City, receives is dependent on the number of municipalities that participate.

In addition, the Commonwealth of Virginia has entered into a Memorandum of Understanding (“MOU”) with regard to the settlement that will create the Virginia Opioid Abatement Fund, which will distribute a portion of the funds received to state-wide programs, and which also allocates a certain percentage of funds to individual participating municipalities. Any funds received by the City are required to be directed towards opioid remediation.

The City Manager’s office and City Attorney’s Office believe that it is beneficial for the City to opt into the settlement and the State MOU, as that will provide additional funding for current or future opioid remediation programs.

The terms and conditions of the Virginia MOU and the Virginia Abatement Fund may be accessed online, at: <https://nationalopioidsettlement.com/wp-content/uploads/2021/10/VA-Opioid-Abatement-Fund-and-Settlement-Allocation-MOU1.pdf>. Other documents relating to the national settlement may be viewed at: <https://nationalopioidsettlement.com/>.

Discussion:

Opting into the settlement agreement provides additional funds for opioid remediation programs in the community and would allow those programs to receive additional funding or, depending on

the final amount received, to fully fund those programs and allow the source of funds currently supporting opioid remediation programs to be reinvested into other community programs.

Pros

The City has not undertaken any effort or expense to engage in litigation against opioid manufacturers. Accordingly, any monies received from the settlement are a net gain to the City's balance sheet and will allow the City an additional source of funds to support programs that benefit the community.

Cons

To the extent that there is a drawback, it is that the exact amount that the City will receive is currently undefined. The amount paid to the states, and thus their municipalities, is dependent on how many decide to opt in. Because the deadline for doing so is Jan 2, 2022, with payments expected to begin in April, 2022 at the earliest, budgeting the funds obtained in the first year could prove difficult. (The proposed City budget will be delivered to Council in March 2022, and a final budget must be adopted by Council in April 2022). Opting into the settlement also waives the City's claims against all of the opioid manufacturers named in the settlement agreements and their related entities but as the City has not demonstrated an interest pursuing these claims previously, Staff believes that receiving funds without having to expend any is the preferential approach.

Budgetary Impact:

Net positive. As the City has not expended any funds in pursuing this litigation, all settlement monies received would be a net gain for the City.

Alignment with Council Vision Areas and Strategic Plan: Yes.

City Manager Recommendation: The City Manager recommends approval of the attached Resolutions.

Attachments:

- Resolution to approve the City's participation in the proposed national settlement
- Resolution to approve the City's participation in the Virginia Opioid Abatement and Settlement Allocation

RESOLUTION
APPROVING PARTICIPATION BY THE CITY OF CHARLOTTESVILLE IN THE
PROPOSED SETTLEMENT OF OPIOID-RELATED CLAIMS AGAINST MCKESSON,
CARDINAL HEALTH, AMERISOURCEBERGEN, JANSSEN, AND THEIR
RELATED CORPORATE ENTITIES

WHEREAS, the opioid epidemic that has cost thousands of human lives across the country also impacts the Commonwealth of Virginia and its cities and counties by adversely impacting, amongst other things, the delivery of emergency medical, law enforcement, criminal justice, mental health and substance abuse services, and other services; and

WHEREAS, the Commonwealth of Virginia and its cities and counties have been required and will continue to be required to allocate substantial taxpayer dollars, resources, staff energy and time to address the damage the opioid epidemic has caused and continues to cause the citizens of Virginia; and

WHEREAS, settlement proposals have been negotiated that will cause McKesson, Cardinal Health, AmerisourceBergen, and Janssen to pay up to \$26 billion nationwide to resolve opioid-related claims against them.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville that the City’s participation in the proposed settlement of opioid-related claims against McKesson, Cardinal Health, AmerisourceBergen, Janssen, and their related corporate entities (“settling entities”) is approved, and this Council hereby authorizes and directs the City Attorney to execute, on behalf of the City of Charlottesville and this Council, any and all documents necessary to effectuate the City’s participation in the settlements, including any required release of claims against the settling entities.

I, Kyna Thomas, do hereby certify that the foregoing writing is a true, correct copy of a resolution duly adopted by the City Council of the City of Charlottesville, Virginia, by a vote of ___ to ___, as recorded below, at a regular meeting held on December 06, 2021.

 Clerk of Council, City of Charlottesville

	<u>Aye</u>	<u>No</u>
Mayor Walker	_____	_____
Vice Mayor Magill	_____	_____
Councilor Hill	_____	_____
Councilor Payne	_____	_____
Councilor Snook	_____	_____

RESOLUTION
APPROVING PARTICIPATION BY THE CITY OF CHARLOTTESVILLE IN THE
VIRGINIA OPIOID ABATEMENT FUND AND APPROVING THE CITY’S
EXECUTION OF THE VIRGINIA SETTLEMENT ALLOCATION MEMORANDUM
OF UNDERSTANDING

WHEREAS, the opioid epidemic that has cost thousands of human lives across the country also impacts the Commonwealth of Virginia and its cities and counties by adversely impacting, amongst other things, the delivery of emergency medical, law enforcement, criminal justice, mental health and substance abuse services, and other services; and

WHEREAS, the Commonwealth of Virginia and its cities and counties have been required and will continue to be required to allocate substantial taxpayer dollars, resources, staff energy and time to address the damage the opioid epidemic has caused and continues to cause the citizens of Virginia; and

WHEREAS, in order to advance their common interests, Virginia local governments and the Commonwealth of Virginia, through counsel, have extensively negotiated the terms of a memorandum of understanding relating to the allocation and use of litigation recoveries relating to the opioid epidemic (“Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding” or “MOU”) and the Council’s approval of the MOU will allow the City to participate in and receive proceeds from the opioid settlements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville that the City’s participation in the Commonwealth of Virginia’s Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding is approved, and the City Manager is hereby authorized to execute the MOU on behalf of the City. The City Manager and City Attorney are each hereby authorized by this Council to execute, on behalf of the City of Charlottesville and this Council, any other or additional documents that may be necessary to effectuate the City’s participation in the MOU.

I, Kyna Thomas, do hereby certify that the foregoing writing is a true, correct copy of a resolution duly adopted by the City Council of the City of Charlottesville, Virginia, by a vote of ___ to ___, as recorded below, at a regular meeting held on December 06, 2021.

 Clerk of Council, City of Charlottesville

	<u>Aye</u>	<u>No</u>
Mayor Walker	_____	_____
Vice Mayor Magill	_____	_____
Councilor Hill	_____	_____
Councilor Payne	_____	_____
Councilor Snook	_____	_____