R-22- 46

**RESOLUTION NO. _____**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A SETTLEMENT PARTICIPATION FORM RELATED TO THE NATIONWIDE OPIOID CLASS ACTION LITIGATION; AND FOR OTHER PURPOSES.**

WHEREAS, on January 8, 2018, the North Little Rock City Council ("the City Council") adopted Resolution No. 9341, approving and ratifying the City's engagement in litigation as a member of the Municipal League Defense Program ("MLDP") against the entities and people responsible for the opioid epidemic in the United States of America and the State of Arkansas; and

WHEREAS, on October 25, 2021, the City Council adopted Resolution No. 10131 authorizing the Mayor to execute Settlement Participation Forms regarding litigation against McKesson, Cardinal Health, and AmerisourceBergen ("Distributors"), and Janssen Pharmaceuticals, Inc. and its parent Company Johnson & Johnson ("Janssen") at the recommendation of the Arkansas Municipal League; and

WHEREAS, on January 31, 2022, the Arkansas Municipal League recommended the largest cities and towns in the State of Arkansas participate in another settlement related to the opioid epidemic ("Endo Settlement") (see email from Arkansas Municipal League General Counsel John Wilkerson attached hereto as Exhibit A); and

WHEREAS, it is in the best interest of the City and its residents to authorize the Mayor to execute the Settlement Participation Form attached hereto as Exhibit B.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the Mayor is hereby authorized to execute the Settlement Participation Form (substantially similar to Exhibit B) to participate in the nationwide settlement agreements in the pending nationwide opioid class action litigation.

SECTION 2: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED: APPROVED:

_____ _____

Mayor Terry C. Hartwick

SPONSOR:

Terry C. Hartwick by AF

Mayor Terry C. Hartwick

ATTEST:

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/kt

FILED 10:05 A.M. ___ P.M.

By A. Fields

DATE 02.22.2022

**Diane Whitbey, City Clerk and Collector**
**North Little Rock, Arkansas**

RECEIVED BY S Usser

## Trevino, Kim

**To:** Fields, Amy
**Subject:** RE: Another Opioid Settlement Form to Sign ($9.75 million coming to the State in April)

**From:** John Wilkerson <jwilkerson@arml.org>
**Sent:** Tuesday, February 15, 2022 9:06 AM
**To:** Fields, Amy <AFields@nlr.ar.gov>
**Subject:** FW: Another Opioid Settlement Form to Sign ($9.75 million coming to the State in April)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I should've copied you on this original email.

Thank you,

John

**From:** John Wilkerson
**Sent:** Monday, January 31, 2022 1:48 PM
**To:** John Wilkerson <jwilkerson@arml.org>
**Cc:** Mark Hayes <mhayes@arml.org>; Sheila Boyd <sboyd@arml.org>; Larra Bender <LBender@arml.org>; Lanny Richmond <lrichmond@arml.org>; F. Jerome Tapley <jtapley@CoryWatson.com>; Colin Jorgensen <cjorgensen@arcounties.org>
**Subject:** Another Opioid Settlement Form to Sign ($9.75 million coming to the State in April)

Good afternoon,

Well, we're not done signing opioid settlement forms – and that's a good thing! More settlement forms means more settlement dollars are making their way to Arkansas for our collective fight against the opioid crisis.

This round of settlement dollars are coming from the "Endo Settlement", one of the pharmaceutical companies the cities, towns, and counties of Arkansas have brought suit against. The tentative settlement will be for approximately $9.5 million. And, just like the "Distributor Settlement" and the "Janssen Settlement", cities will need to sign a settlement form – this time it's called "Exhibit C". But, unlike the other settlements, only the largest cities in Arkansas will need to sign. Your city is one of those cities.

**We (your "opioid litigation team" – Mark, Jerome, Colin, and me) strongly recommend you sign-on to this settlement. You can do so by filling in the information requested and signing the form attached to this email and emailing it back to Larra Bender at lbender@arml.org.**



EXHIBIT
tabbies
A

*Note: "Exhibit C" is nearly identical to the two "Exhibit K" forms you signed for the two previous settlements. Despite its similarity, "Exhibit C" must be signed and sent to the National Opioid Settlement folks in order to finalize the "Endo Settlement".*

As always, if you have any questions, please feel free to email or call me anytime.

All the best,

John

John L. Wilkerson
General Counsel
Arkansas Municipal League

Office: 501.978.6136
Cell: 501.554.6315

**Exhibit C**

**Subdivision Settlement Participation Form**

| Governmental Entity: | State: |
|---|---|
| Authorized Official: | |
| Address 1: | |
| Address 2: | |
| City, State, Zip: | |
| Phone: | |
| Email: | |

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated [INSERT DATE] ("*Endo Settlement*"), and acting through the undersigned authorized official, hereby elects to become a Participating Subdivision under the Endo Settlement, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Endo Settlement, understands that all terms in this Subdivision Settlement Participation Form have the meanings defined therein, and agrees that by signing this Subdivision Settlement Participation Form, the Governmental Entity elects to participate in the Endo Settlement and become a Participating Subdivision as provided therein.

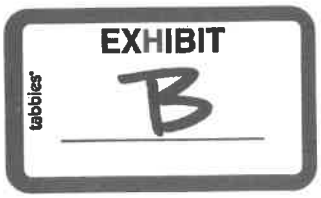
2. The Governmental Entity shall immediately cease any and all litigation activities as to the Releasees and Released Claims and, within 7 days of the Execution Date of this Subdivision Settlement Participation Form, voluntarily dismiss with prejudice any Released Claims that it has filed against any Releasee(s).

3. The Governmental Entity expressly agrees to the terms of the Endo Settlement pertaining to Subdivisions and Releasors as defined therein.

4. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Endo Settlement. By becoming a Participating Subdivision and expressly agreeing to the terms of the Endo Settlement and the releases provided for therein, the Governmental Entity is entitled to the benefits provided therein for Participating Subdivisions, including, if applicable, monetary payments beginning after the Effective Date of the Release.

5. The Governmental Entity agrees not to oppose efforts to enact a legislative Bar as defined in Section A(c)(1) of the Endo Settlement.

6. The Governmental Entity submits to the jurisdiction of the Court (as defined in the Endo Settlement) for purposes limited to the Court's role as provided in, and for resolving disputes to the extent provided in, the Endo Settlement.



7. The Governmental Entity, as a Participating Subdivision, expressly agrees that it is a Releasor for all purposes in the Endo Settlement, including, but not limited to, all provisions of Section D and E, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind, and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Releasee in any forum whatsoever. The releases provided for in the Endo Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Releasees the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release Claims. The Endo Settlement shall be a complete bar to any Released Claim.

8. The Governmental Entity expressly agrees, among other things, that any monetary relief recoverable by or on behalf of such Governmental Entity against all Non-Released Entities and/or other joint tortfeasors arising out of or relating to the Covered Conduct shall be reduced by the greater of (1) Releasees' pro rata share of responsibility, if any, or (2) the amount of consideration paid for release set forth in Section D, in accordance with the Uniform Contribution Among Tortfeasors Act, Ark. Code Ann. § 16-61-201 et seq. and Ark. Code Ann. § 16-61-204(c).

9. In connection with the releases provided for in the Endo Settlement, the Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

   > **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

   A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but the Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date of the Release, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entity's decision to participate in the Endo Settlement.

10. The Governmental Entity agrees that it will not publicly or privately encourage any other Governmental Entity to bring or maintain any Released Claim.

11. Nothing herein is intended to modify in any way the terms of the Endo Settlement, to which the Governmental Entity hereby expressly agrees. To the extent this Subdivision Settlement Participation Form is interpreted differently from the Endo Settlement in any respect, the Endo Settlement controls.

I have all necessary power and authorization to execute this Subdivision Settlement Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____
(the "Execution Date of this Subdivision Settlement Participation Form")