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CITY ATTORNEY

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REPORT RE:

MALLINCKRODT BANKRUPTCY ELECTION

CITY OF LOS ANGELES V. PURDUE PHARMA L.P., ET AL.
CASE NO. 1:18-OP-45601-DAP

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 21-1240

Honorable Members:

On May 3, 2018, the City Attorney's Office filed suit against a number of opioid manufacturers and distributors, alleging public nuisance, RICO violations, and negligence claims. On March 14, 2019, the City Attorney's Office filed an amended complaint, adding additional defendants.

One of the defendants in the City's suit, Mallinckrodt PLC, filed for bankruptcy protection due, in significant part, to the myriad opioid claims filed against it by states and municipalities across the country. On or around February 3, 2022, the U.S. Bankruptcy Court for the District of Delaware confirmed Mallinckrodt's Plan of Reorganization (the "Plan"). The Plan requires the distribution of funds to states and localities and extinguishes state and local government opioid claims.

The California Attorney General estimates that under the Plan, California is estimated to receive between \$70-\$100 million over a period of eight years, depending on Mallinckrodt's future revenues. Pursuant to the Plan's default distribution structure, these funds would be

apportioned between the State and “regions,” throughout the State. The City of Los Angeles would not qualify as a “region,” and thus would not receive a direct allocation of funds.

Our Office, however, along with public attorneys from a number of counties and cities, has reached a tentative agreement with the California Attorney General to deviate from the Plan’s default distribution structure so that the 40% percent of the funds coming into California would go to the State, and 60% would be distributed directly to local governments, including the City, based upon the allocation model set forth in the National Opioids Settlement with Distributors AmerisourceBergen Corporation, Cardinal Health, Inc., and McKesson Corporation. Under that model, the City of Los Angeles is allocated 2.715% of all abatement funds that are distributed to local governments in California.

Assuming California receives \$85 million from Mallinckrodt (i.e., the midpoint of the California Attorney General’s estimate), the City would receive \$1,384,650 over eight years, or \$173,081 per year. These funds must be used for future abatement activities.

As this tentative agreement with the Attorney General represents the only opportunity for the City to receive a direct distribution of funds from the Mallinckrodt Bankruptcy, we recommend that this Honorable Body authorize the City Attorney’s Office to take all actions necessary to vote in favor of the tentative agreement.

If you have any questions regarding this matter, please contact Managing Assistant City Attorney Michael Bostrom at (213) 978-1867. He, or another member of our Office, will be present when this Honorable Body considers this matter.

Sincerely,

MICHAEL N. FEUER, City Attorney

By



MICHAEL J. BOSTROM
Senior Assistant City Attorney

MJB:pj

cc: Honorable Eric Garcetti, Mayor
Matt Szabo, City Administrative Officer
Sharon Tso, Chief Legislative Analyst