

RESOLUTION NO. _____

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
TO AUTHORIZE PARTICIPATION IN NATIONWIDE OPIOIDS
SETTLEMENTS**

WHEREAS, the State of California, through its Attorney General and certain cities and counties governments, is engaged in litigation seeking to hold certain opioid pharmaceutical supply chain participants accountable for the damage caused by their misfeasance, nonfeasance, and malfeasance; and

WHEREAS, the State of California and the cities and counties therein share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance, and malfeasance through the State of California; and

WHEREAS, on July 21, 2021, the California Attorney General, along with representatives from 55 other states, commonwealths, and U.S. territories, finalized the terms of a proposed settlement with three pharmaceutical distributors, McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation, to address the impacts of opioid-related substance use disorder on state and local governments (“the Distributor Settlement”), available at [https://nationalopioidsettlement.com/wp-content/uploads/2021/11/Final-Distributor-Settlement-Agreement-10.22.2021-Exhibit-Updates .pdf](https://nationalopioidsettlement.com/wp-content/uploads/2021/11/Final-Distributor-Settlement-Agreement-10.22.2021-Exhibit-Updates.pdf); and

WHEREAS, on July 21, 2021, the California Attorney General and other state, commonwealth, and territorial representatives finalized the terms of a separate proposed settlement with means Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. arising to address the impacts of opioids manufactured by the defendants (“the Janssen Settlement”), available at <https://nationalopioidsettlement.com/wp-content/uploads/2021/11/Janssen-agreement-20211105.pdf>; and

WHEREAS, the Distributor and Janssen Settlements provide that the settling states, commonwealths, and territories shall receive a combined total of up to \$26 billion to alleviate the impacts of opioids-related substance use disorder; and

WHEREAS, each of the Distributor and Janssen Settlements provides that there may be an intrastate allocation of settlement proceeds in each settling state, commonwealth, and territory to allocate the proceeds among state and local jurisdictions; and

WHEREAS, following negotiations between state and local government representatives, the California Attorney General and the local government representatives agreed to a Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds – Distributor Settlement (“Distribution Allocation Agreement”), attached hereto as Exhibit A, which allocates proceeds of the proposed Distributor Settlement to cities and counties; and

WHEREAS, the California Attorney General and the local government representatives further agreed to a Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds – Janssen Settlement (“Janssen Allocation Agreement”), attached hereto as Exhibit B, which allocates proceeds of the proposed Janssen Settlement to cities and counties; and

WHEREAS, the City of Cupertino must affirmatively elect to participate in Distributor and Janssen Settlements to receive the allocation of settlement proceeds set forth in the Distributor and Janssen Allocations Agreements, and in doing so thereby releases its claims against the settling defendants.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby authorizes the City Attorney to complete and execute the Settlement Participation Forms to authorize the City of Cupertino’s participation in the Distributor and Janssen Settlements, and to take such further actions as necessary to ensure that the City receives settlement proceeds allocated to it under the Distributor and Janssen Allocations Agreements.

BE IT FURTHER RESOLVED that this Resolution is not a project under the requirements of the California Environmental Quality Act, together with related State CEQA Guidelines (collectively, “CEQA”) because it has no potential for resulting in physical change in the environment. In the event that this Resolution is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a

significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the proposed action would have no or only a de minimis effect on the environment. The foregoing determination is made by the City Council in its independent judgment.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 7th day of December, 2021, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

<p>SIGNED:</p> _____ Darcy Paul, Mayor City of Cupertino	 _____ Date
<p>ATTEST:</p> _____ Kirsten Squarcia, City Clerk	 _____ Date