



**CITY OF SALISBURY
SPECIAL WORK SESSION AGENDA**

JANUARY 24, 2022

5:30 p.m.

Zoom Video Conferencing

Times shown for agenda items are estimates only.

5:30 p.m. Resolution to authorize a settlement participation and release resulting from a national settlement negotiated by and between certain opioid distributors and state and local governments- City Administrator Julia Glanz

All or part of the Council's meetings can be held in Closed Session under the authority of the Maryland Open Meetings Law, Annotated Code of Maryland General Provisions Article § 3-305(b) by vote of the City Council.

Join Zoom Meeting
<https://us02web.zoom.us/j/88186172560>
Meeting ID: 881 8617 2560
Phone: 1.301.715.8592



City of
Salisbury
Jacob R. Day, Mayor

To: City Council

From: Julia Glanz, City Administrator

Subject: Resolution authorizing the Mayor to enter into a Participation and Release form related to a national opioid settlement, and to enter into a State-Subdivision agreement related to a national opioid settlement

Date: January, 20, 2022

The City of Salisbury, along with every other community in America, has been faced with tackling the opioid epidemic. With the recent national opioid lawsuits against Johnson & Johnson, Amerisource Bergen, Cardinal Health, and McKesson, states and local subdivisions have been invited to participate in those settlement agreements. Although the City of Salisbury did not initially sign on to the lawsuit we have the opportunity to receive a share of the settlement funds to put towards our efforts of abating this epidemic.

The resolution before you is twofold. First, it authorizes the Mayor to execute and enter into the attached Participation and Release form on behalf of the City of Salisbury. The City hasn't signed on to any national lawsuits and will release ourselves from ever entering into one in the future. Second, it authorizes the Mayor to execute and enter into the attached State-Subdivision agreement on behalf of the City of Salisbury. By doing so the City of Salisbury will receive an estimated \$285,689.67 directly that can be used toward a portion of past expenses spent on abating this epidemic and future uses. The City is allocated another \$514,241,40 in non-competition grant funds. To tap into these funds, we will have to submit an abatement plan to the State that meets the National settlement guidelines. This funding is contingent upon the number of other jurisdictions in Maryland that sign on to this agreement and is subject to change.

The Maryland Municipal League helped to negotiate the settlement agreement that is before us today. Our team at Cockey, Brennan, and Maloney have been advocating on our behalf throughout this process.

We recommend approving the resolution to allow for the City to continue to abate this epidemic in creative ways with key partners in our community.

Attached you will find the following:

1. National Settlement Participation Form
2. Maryland State Subdivision Agreement
3. Exhibit A Estimate
4. MD Opioid Restitution Fund Bill

Please let me know if you have any questions.

53 in **Exhibit 1**; and 2) execution of and entry into the State-Subdivision Agreement set forth in **Exhibit 2**,
54 both of which exhibits are incorporated as if fully set forth herein.

55
56 **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF**
57 **SALISBURY** as follows:

58
59 **Section 1.** The Mayor is authorized to execute and enter into the attached Participation and
60 Release form, or a version substantially similar thereto, on behalf of the City of Salisbury, Maryland.

61
62 **Section 2.** The Mayor is authorized to execute and enter into the attached State-Subdivision
63 Agreement, or a version substantially similar thereto, on behalf of the City of Salisbury, Maryland.

64
65 **AND, BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF SALISBURY**
66 **AS FOLLOWS:**

67
68 **Section 3.** It is the intention of the Council of the City of Salisbury that each provision this
69 Resolution shall be deemed independent of all other provisions herein.

70
71 **Section 4.** It is further the intention of the Council of the City of Salisbury that if any section,
72 paragraph, subsection, clause or provision of this Resolution shall be adjudged invalid, unconstitutional or
73 otherwise unenforceable under applicable Maryland or federal law, such adjudication shall apply only to
74 the section, paragraph, subsection, clause or provision so adjudged and all other provisions of this
75 Resolution shall remain and shall be deemed valid and enforceable

76
77 **Section 5.** The Recitals set forth hereinabove are incorporated into this section of this Resolution
78 as if such recitals were specifically set forth at length in this Section 5.

79
80
81 **THIS RESOLUTION** was duly passed at a meeting of the Council of the City of Salisbury held
82 on _____, 2022, and is to become effective immediately upon adoption.

83
84
85 ATTEST:

86
87 _____
88 Kimberly R. Nichols, City Clerk

John R. Heath, President
Salisbury City Council

89
90
91 APPROVED BY ME THIS:

92
93 _____ day of _____, 2022

94
95 _____
96 Jacob R. Day, Mayor

97

PARTICIPATION INSTRUCTIONS

Thank you for registering your subdivision on the national settlement website and for considering participating in the proposed Settlement Agreement with McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation (collectively “Settling Distributors”). This virtual envelope contains a Participation Form including a release of claims. The Participation Form in this envelope must be executed, without alteration, and submitted in order for your subdivision to be considered potentially “participating.”

The sign-on period for subdivisions ends on January 2, 2022. On or after that date, the states (in consultation with the subdivisions) and the Settling Distributors will determine whether the subdivision participation rate is sufficient for the settlement to move forward. If the deal moves forward, your release will become effective. If it does not, it will not.

As a reminder, if you have not already started your review of the settlement documentation, detailed information about the Settlements may be found at: <https://nationalopioidsettlement.com/>. This national settlement website also includes links to information about how the Settlements are being implemented in your state and how settlement funds will be allocated within your state, including information about, and links to, any applicable allocation agreement or legislation. This website will be supplemented as additional documents are created. If you have questions, please contact your counsel (if you have counsel on opioids matters) or Brian Edmunds at the Maryland Attorney General’s Office at 410-576-6578 or bedmunds@oag.state.md.us.

Settlement Participation Form

Governmental Entity: Salisbury city	State: MD
Authorized Signatory:	
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 July 21, 2021 (“Distributor Settlement”), and acting through the undersigned authorized official, hereby elects to participate in the Distributor Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Distributor Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Distributor Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Distributor Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Distributor Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Distributor Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Distributor Settlement.
7. The Governmental Entity has the right to enforce the Distributor Settlement as provided therein.



8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Distributor Settlement, including but not limited to all provisions of Part XI, 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 Released Entity in any forum whatsoever. The releases provided for in the Distributor Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities 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 Distributor Settlement shall be a complete bar to any Released Claim.

9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Distributor Settlement.

10. In connection with the releases provided for in the Distributor Settlement, each 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 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 each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, 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 Entities' decision to participate in the Distributor Settlement.

11. Nothing herein is intended to modify in any way the terms of the Distributor Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Distributor Settlement in any respect, the Distributor Settlement controls.



I swear under penalty of perjury that I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____



PARTICIPATION INSTRUCTIONS

Thank you for registering your subdivision on the national settlement website and for considering participating in the proposed Settlement Agreement with Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. (collectively “Janssen”). This virtual envelope contains a Participation Form including a release of claims. The Participation Form in this envelope must be executed, without alteration, and submitted in order for your subdivision to be considered potentially “participating.”

The sign-on period for subdivisions ends on January 2, 2022. On or after that date, the states (in consultation with the subdivisions) and the Settling Distributors will determine whether the subdivision participation rate is sufficient for the settlement to move forward. If the deal moves forward, your release will become effective. If it does not, it will not.

As a reminder, if you have not already started your review of the settlement documentation, detailed information about the Settlements may be found at: <https://nationalopioidsettlement.com/>. This national settlement website also includes links to information about how the Settlements are being implemented in your state and how settlement funds will be allocated within your state, including information about, and links to, any applicable allocation agreement or legislation. This website will be supplemented as additional documents are created. If you have questions, please contact your counsel (if you have counsel on opioids matters) or Brian Edmunds at the Maryland Attorney General’s Office at 410-576-6578 or bedmunds@oag.state.md.us.

Settlement Participation Form

Governmental Entity: Salisbury city	State: MD
Authorized Signatory:	
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 July 21, 2021 (“Janssen Settlement”), and acting through the undersigned authorized official, hereby elects to participate in the Janssen Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Janssen Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Janssen Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Janssen Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Janssen Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Janssen Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Janssen Settlement.
7. The Governmental Entity has the right to enforce the Janssen Settlement as provided therein.



8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Janssen Settlement, including but not limited to all provisions of Section IV (Release), 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 Released Entity in any forum whatsoever. The releases provided for in the Janssen Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities 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 Janssen Settlement shall be a complete bar to any Released Claim.

9. In connection with the releases provided for in the Janssen Settlement, each 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 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 each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, 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 Entities' decision to participate in the Janssen Settlement.

10. Nothing herein is intended to modify in any way the terms of the Janssen Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Janssen Settlement in any respect, the Janssen Settlement controls.



I swear under penalty of perjury that I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____



**STATE-SUBDIVISION AGREEMENT
BETWEEN THE STATE OF MARYLAND AND LOCAL GOVERNMENTS
ON PROCEEDS RELATING TO THE SETTLEMENT OF OPIOIDS LITIGATION**

Introduction.....2

Statement of Agreement.....3

Section I Definitions.....3

Section II General Terms.....5

Section III Use of Settlement Proceeds.....6

Section IV Deposit, Distribution, and Allocation of Settlement Payments.....6

Section V Calculation of Subdivision Allocation Percentages.....9

Section VI Audit of Settlement Proceeds and Enforcement..... 9

Signature Pages

Exhibits

Introduction

WHEREAS, the State of Maryland, its local governments, and its people have been harmed by an epidemic of opioid addiction and overdose deaths, as well as by the myriad costs to the health, economic well-being, and welfare of all Maryland residents caused by the epidemic; and

WHEREAS, certain pharmaceutical manufacturers, distributors, and dispensers have engaged in unlawful conduct related to the manufacture, marketing, promotion, distribution, and dispensing of opioids that has caused these harms; and

WHEREAS, the State and many of its local governments have engaged in investigations, litigation, and settlement negotiations involving certain manufacturers and distributors seeking to hold them accountable for their unlawful conduct and to obtain funds to be used to abate the epidemic; and

WHEREAS, the settlement negotiations with Johnson & Johnson, Amerisource Bergen, Cardinal Health, and McKesson have resulted in national settlements that invite participation by States and their local subdivisions, according to the terms of the agreements; and

WHEREAS, the State and its local governments recognize that their share of the settlement proceeds will not be sufficient to abate the widespread harm of the epidemic, but that the funds will enable them to increase significantly the reach and effectiveness of their ongoing abatement efforts; and

WHEREAS, the State and its local governments recognize that obtaining their full share of the settlement proceeds is contingent upon full participation in the national settlements by the State and all its qualifying subdivisions; and

WHEREAS, this State-Subdivision Agreement will facilitate compliance with the National Settlement Agreements on the part of the State and its local governments; and

WHEREAS, the National Settlement Agreements set default intrastate allocation formulas unless the State and its local governments enter state-specific State-Subdivision Agreements regarding the allocation and distribution of their shares of settlement proceeds; and

WHEREAS, distribution of the settlement proceeds may also be governed by Section 7-331 of the State Finance and Procurement Article Section, in the absence of a State-Subdivision Agreement; and

WHEREAS, to maximize recovery from the national settlements for the benefit of the residents of Maryland, it is necessary and appropriate to reach agreement among the State and its local governments as to the allocation and distribution of their shares of the settlement funds,

The Parties hereto agree as follows:

STATEMENT OF AGREEMENT

Section I Definitions

All terms used in this State-Subdivision Agreement shall have the meanings defined by the National Settlement Agreement or defined below unless explicitly stated otherwise. The following additional terms are defined for purposes of this State-Subdivision Agreement:

- (a) "Abatement Plan" shall mean a plan created by any Subdivision or Consortium for the expenditure of Settlement Proceeds through Targeted Abatement Grants for Permitted Uses.
- (b) "*Additional Restitution Payments*" shall mean the portion of the "Additional Restitution Amount" under the National Settlement Agreement that is allocated to the State of Maryland.
- (c) "*Agreement*" shall mean this State-Subdivision Agreement.
- (d) "*Consortium*" shall mean any group of Subdivisions that wishes to pool resources with one or more other Subdivisions for purposes of coordinated Future Opioid Remediation through Permitted Uses. There shall be no requirement that any Subdivision participate in a Consortium, but voluntary coordination among subdivisions, especially where economies of scale would be fostered by such coordination, is strongly encouraged. The Secretary shall assist in the development of an Abatement Plan created by Subdivisions for any consortium.
- (e) "*Consortium Abatement Fund*" shall mean a special fund voluntarily created by a Consortium and its participating Subdivisions for any Consortium formed under this Agreement to receive Settlement Proceeds or other funding.
- (f) "*County*" shall mean any county of the State and shall include Baltimore City.
- (g) "*Executive Director*" shall mean the Executive Director of the Opioid Operational Command Center.
- (h) "*Permitted Use*" shall mean any use permitted by the National Settlement Agreement and Section 7-331(f) of the State Finance and Procurement Article, as amended from time to time. Except as specifically provided otherwise by this Agreement, Permitted Uses shall be limited to Future Opioid Remediation.
- (i) "*Qualifying Exhibit G Subdivision*" shall mean a subdivision listed on Exhibit G of the National Settlement Agreement that is not a Special District.
- (j) "*Qualifying Non-Litigating Subdivision*" shall mean a Subdivision other than a Qualifying Exhibit G Subdivision or Special District that has established a Local Abatement Fund in accordance with the requirements of this Agreement.

- (k) *“Qualifying Charter County”* shall mean Baltimore City and Anne Arundel, Baltimore, Frederick, Harford, Howard, Montgomery, and Prince George’s Counties.
- (l) *“Local Abatement Fund”* shall mean a separate, special revenue fund created by a Subdivision receiving funds under Section IV of this Agreement.
- (m) *“Municipal Subdivision”* shall mean any incorporated city or town in Maryland other than Baltimore City.
- (n) *“National Settlement Agreement”* shall mean the [Janssen Settlement Agreement/ Distributors Settlement Agreement] of [Date], which shall be incorporated in a consent order incorporating the National Settlement Agreement and this State-Subdivision Agreement.
- (o) *“Opioid Operational Command Center”* shall mean the entity established by Governor Hogan’s Executive Order 01.01.2017.01 to oversee the State’s response to the opioid crisis and to build upon community-based strategies by increasing collaboration between state and local public health, human services, education, and public safety entities.
- (p) *“Opioid Restitution Fund”* shall mean the Opioid Restitution Fund established by State Finance and Procurement Article Section 7-331(a), as amended from time to time.
- (q) *“Parties”* shall mean the State of Maryland and the Subdivisions joining this agreement.
- (r) *“Secretary”* shall mean the Secretary of Health.
- (s) *“Settlement Payments”* shall mean settlement payments made to the State or its Subdivisions pursuant to the National Settlement Agreement.
- (t) *“Settlement Proceeds”* shall mean the amounts of Settlement Payments allocated or distributed to the State or to a Subdivision under this Agreement.
- (u) *“State”* shall mean the government of the State of Maryland, without inclusion of Subdivision governments.
- (v) *“Targeted Abatement Subfund”* shall mean a subfund of the Opioid Restitution Fund created for the purpose of holding and distributing payments received pursuant to the National Settlement Agreement for Targeted Abatement Spending.

Section II General Terms

- (a) This State-Subdivision Agreement shall be dated January 21, 2022 and shall be effective on that date for all purposes under the National Settlement Agreement. Subdivisions that return Subdivision Settlement Participation Forms under the National Settlement Agreement shall be deemed to consent to this Agreement.

- (b) This State-Subdivision Agreement shall be subject to the requirements of the National Settlement Agreement, as well as applicable law, and unless explicitly provided otherwise, the National Settlement Agreement governs over any inconsistent provision of this State-Subdivision Agreement. The Parties shall also commit jointly to effectuate the goals of this Agreement through legislation amending State Finance and Procurement Article Section 7-331 to conform with this Agreement's distribution requirements.
- (b) This Agreement shall not create rights in any Non-Participating Subdivision to Settlement Proceeds of any kind, provided that the State may, consistent with the National Settlement Agreement, establish programs using Settlement Proceeds that benefit the residents of any Non-Participating Subdivision.
- (c) This Agreement shall apply to Settlement Payments under the National Settlement Agreement and shall not apply to funding from any other source, *provided that* nothing in this Agreement shall prohibit the State or any of its Subdivisions from voluntarily supplementing Settlement Proceeds from the National Settlement Agreement with funding derived from any other authorized source.
- (d) Any power conferred by this Agreement upon the Secretary may be delegated by the Governor to the Executive Director or a similar official created by future executive order.
- (e) If the National Settlement Agreement to which this State-Subdivision Agreement applies fails to go forward, this State-Subdivision Agreement shall be void and create no rights or duties among the Parties hereto with respect to that National Settlement Agreement. To the extent a National Settlement Agreement to which this State-Subdivision Agreement applies goes forward, this State-Subdivision Agreement will go forward with respect to that National Settlement Agreement.
- (f) This State-Subdivision Agreement shall create no rights in third parties, including parties to the National Settlement Agreement who are not also Parties to this State-Subdivision Agreement.
- (g) Within 60 days of the date of this Agreement, each Subdivision receiving payments under the National Settlement Agreement and this Agreement shall establish a Local Abatement Fund consistent with State law for the purpose of receiving and spending direct payments made to local subdivisions by the Settlement Administrator to Qualifying Exhibit G Subdivisions under the National Settlement Agreement and this Agreement.

- (h) The State shall maintain in the Opioids Restitution Fund a Targeted Abatement Subfund for the purpose of spending money received by the State under the National Settlement Agreement for Targeted Abatement Grants to Subdivisions of the State.

Section III Use Of Settlement Proceeds

- (a) Except as provided under subsection (b), all expenditures of Settlement Proceeds by the State or its subdivisions shall be for Permitted Uses that serve the purpose of Future Opioid Remediation as set forth in the National Settlement Agreement.
- (b) Notwithstanding subsection A, any Subdivision receiving settlement proceeds pursuant to Section IV(a)(3) of this Agreement may use up to 15 percent to pay for past Opioid Remediation consistent with Permitted Uses, subject to the accounting requirements of the National Settlement Agreement and the provisions of Section VI(a) of this Agreement.
- (c) The Secretary shall have the discretion to supplement grants to Qualifying Exhibit G Subdivisions for Permitted Uses with additional funding derived from Settlement Proceeds whose expenditure is committed to the discretion of the Secretary by this Agreement, or from any other authorized source provided in the budget or by appropriation; *provided that* the Subdivision’s use of Settlement Proceeds and other funds is consistent with State policies and any statewide abatement plan adopted by the Secretary for the purpose of coordinated future opioid remediation.

Section IV Deposit, Distribution, And Allocation of Settlement Payments

- (a) Consistent with the National Settlement Agreement and Section 7-331 of the State Finance and Procurement Article, the Settlement Fund Administrator shall allocate and distribute Settlement Payments to the State and its Subdivisions under the National Settlement Agreement as follows:
 - (1) **State Allocation.** The Settlement Fund Administrator shall allocate all Additional Restitution Payments, and 15 percent of all Annual Payments, to the State Fund for distribution to the State. Such payments shall be deposited in the Opioid Restitution Fund and expended on Permitted Uses as determined by the State.
 - (2) **Targeted Abatement Subfund.** The Settlement Fund Administrator shall allocate 60 percent of all Annual Payments to the Abatement Accounts Fund established by the National Settlement Agreement for distribution to the State. Such payments shall be deposited in the Targeted Abatement Subfund and expended for Permitted Uses as follows:

(A) **State Discretionary Abatement Fund.** 25 percent of the 60 percent (15 percent of all Annual Payments) for Permitted Uses as determined by the Secretary to best serve the purpose of Future Opioid Remediation in the State, *provided that* the Secretary shall establish a program that enables Qualifying Non-Litigating Subdivisions to apply for grants and may, in the Secretary's discretion, make grants from this amount to participating Qualifying Non-Litigating Subdivisions. In determining whether to make a grant under this subsection, the Secretary may consider: (i) whether a grant is consistent with the overall needs for abatement in the community and in Maryland; (ii) the experience of the Subdivision in providing programs for opioids remediation and for the public health generally; (iii) the feasibility of the program to be funded by the grant; (iv) the consistency of the program with State policy and its level of integration with State and County programs for abatement and the discussions required by Section IV(b) of this Agreement; and (v) other needs for Future Opioids Remediation across the State; *provided that*, nothing in this subsection shall require the Secretary to make any grant or restrict the Secretary's discretion in utilizing funds deposited under this Subsection IV(a)(2)(A) as the Secretary believes will best serve the needs of Maryland residents and communities for opioids remediation. A Qualifying Non-Litigating Subdivision that does not apply for a grant in any given year may apply in future years, but only for Settlement Payments applicable to the years in which the Subdivision applies.

(B) **Targeted Abatement Grants.** 75 percent of the 60 percent (45 percent of all Annual Payments) for non-competitive Targeted Abatement Grants to Qualifying Exhibit G Subdivisions for Permitted Uses in accordance with each Subdivision's Subdivision Allocation Percentage as calculated pursuant to Section V of this Agreement. These non-competitive grants shall be made: (i) to the Local Abatement Funds of participating Qualifying Charter Counties within 30 days of the later of the deposit of Annual Payments in the Targeted Abatement Subfund or a Qualifying Charter County's establishment of a Local Abatement Fund pursuant to this Agreement; (ii) to other participating Qualifying Exhibit G Subdivisions upon the Secretary's approval of a grant application demonstrating that a Local Abatement Fund for deposit of Settlement Proceeds has been established, that the Settlement Proceeds will be used under a Local Abatement Plan that ensures the use of funds for Future Opioids Remediation through a Permitted Use, and that the Qualifying Exhibit G Subdivision has the capability of carrying out the specific program for which the grant is to be made. A grant application under this subparagraph (ii) that meets these requirements must be approved by the Secretary. A Subdivision receiving a grant under this subparagraph (ii) must renew it every five years. The Settlement Proceeds of any

Qualifying Exhibit G Municipal Subdivision that does not apply for a grant shall revert to the County in which the Subdivision is located.

(3) **Local Allocation.** The Settlement Fund Administrator shall allocate 25 percent of all Annual Payments to the Subdivision Fund for distribution directly to the Local Abatement Funds established by participating Qualifying Exhibit G Subdivisions in accordance with each subdivision's Subdivision Allocation Percentage as calculated pursuant to Section V of this Agreement, *provided that* no more than 60 percent of these local allocation funds (15 percent of all Base Payments and Incentive Payments overall) may be used for purposes other than Future Opioid Remediation.

(b) It is the intention of this Agreement to promote, as much as reasonably practicable, the efficient, effective, and consistent pursuit of coordinated statewide Future Opioid Remediation policies and programs at all levels of government. To that end, each year, no later than 180 days before an Annual Payment is due, the Secretary shall provide non-binding recommendations for County and Municipal Subdivision expenditure of Settlement Proceeds that, in the Secretary's judgment, will serve an efficient and effective program of Future Opioid Remediation across Maryland. Following the Secretary's recommendations, and no later than 120 days before an Annual Payment is due, a County receiving Settlement Proceeds under this Agreement shall meet with representatives from the Municipal Subdivisions that are located within the County and that receive Settlement Proceeds under this Agreement, plus any other Municipal Subdivisions that express interest in a meeting and are located within the County, together with the Secretary or the Secretary's designee, to discuss their respective plans for the use of Settlement Proceeds. The County and the Municipal Subdivisions within it, with the participation of the Secretary or the Secretary's designee, are encouraged to further engage in discussions as reasonably necessary to foster appropriate coordination. In the event of disagreement, the ultimate use of specific Settlement Proceeds shall be determined by the Subdivision that has been granted them in a manner consistent with the other provisions of this Agreement and applicable law.

Section V Calculation of Subdivision Allocation Percentages

(a) When Annual Payments are to be granted or distributed to the Qualifying Exhibit G Subdivisions under the National Settlement Agreement or this Agreement, the Secretary shall determine each Qualifying Exhibit G Subdivision's Subdivision Allocation Percentage according to the following formulas:

- (1) for a County, according to a formula that gives: (A) 25 percent weight to the population of the County as of July 1, 2019, according to the Census Bureau's official population estimates; and (B) 75 percent weight to the results of application of the formula used to derive Exhibit G to the National Settlement Agreement. A county's Subdivision Allocation Percentage shall be reduced by the amount of the Subdivision Allocation Percentage, calculated under subsection V(a)(2), of any Municipal Subdivision that is a Qualifying Exhibit G Subdivision within it.
- (2) for a Municipal Subdivision, according to a formula that gives: (A) 25 percent weight to the population of the Municipal Subdivision as of July 1, 2019, according to the Census Bureau's official population estimates; and (B) 75 percent weight to the results of application of the formula used to derive Exhibit G to the National Settlement Agreement.

Section VI. Audit of Settlement Proceeds and Enforcement

- (a) The Secretary shall establish procedures for the audit of Subdivisions receiving Settlement Proceeds under the National Settlement Agreement and this Agreement consistent with the procedures for other grants to Subdivisions administered by the Secretary. The auditing procedures shall ensure that the requirements of the National Settlement Agreement and this Agreement concerning the use of Settlement Proceeds for Permitted Uses and for Opioids Remediation are followed.
- (b) If the Secretary believes that the provisions of the National Settlement Agreement or this Agreement are being violated, the Secretary shall report the violation to the Attorney General who may enforce the Consent Judgment incorporating the National Settlement Agreement and this Agreement against any Subdivision.

**Exhibit A:
Estimated Distributions by Subdivision -- 100% Participation**

County	Qualifying Subdivision	Share of 25% Subdivision Fund (Total: \$120,403,037.92)	Share of 45% Abatement Fund (Total: \$216,725,468.26)	Total Maximum
ASSUMPTIONS: 1) <i>Estimated</i> shares from both Distributors' and J&J settlements, assuming 100% participation by subdivisions; 2) counties with subdivisions that will also receive direct distributions have had their total population discounted by the populations of those subdivisions to avoid double counting FORMULA: 25% of \$ Allocation based on population + 75% of \$ Allocation based on PEC formula				
Allegany	Allegany County, Maryland	\$1,667,944.92	\$3,002,300.85	\$4,670,245.77
Allegany	Cumberland City, Maryland	\$242,946.63	\$437,303.93	\$680,250.56
Allegany	Frostburg City, Maryland	\$59,925.37	\$107,865.67	\$167,791.04
Anne Arundel	Anne Arundel County, Maryland	\$11,344,135.90	\$20,419,444.62	\$31,763,580.52
Anne Arundel	Annapolis City, Maryland	\$413,207.15	\$743,772.87	\$1,156,980.02
Baltimore City	Baltimore City, Maryland	\$21,915,719.43	\$39,448,294.98	\$61,364,014.41
Baltimore County	Baltimore County, Maryland	\$20,153,941.69	\$36,277,095.04	\$56,431,036.73
Calvert	Calvert County, Maryland	\$1,991,145.60	\$3,584,062.08	\$5,575,207.68
Caroline	Caroline County, Maryland	\$695,949.18	\$1,252,708.53	\$1,948,657.72
Carroll	Carroll County, Maryland	\$3,419,321.97	\$6,154,779.54	\$9,574,101.50
Carroll	Westminster City, Maryland	\$132,547.37	\$238,585.27	\$371,132.64
Cecil	Cecil County, Maryland	\$3,816,607.10	\$6,869,892.79	\$10,686,499.89
Cecil	Charlestown, Maryland	\$7,215.09	\$12,987.15	\$20,202.24
Cecil	Elkton Town, Maryland	\$157,617.34	\$283,711.21	\$441,328.55
Cecil	North East Town, Maryland	\$34,383.46	\$61,890.22	\$96,273.68
Cecil	Perryville Town, Maryland	\$38,343.07	\$69,017.52	\$107,360.59
Charles	Charles County, Maryland	\$2,588,488.86	\$4,659,279.94	\$7,247,768.80

**Exhibit A:
Estimated Distributions by Subdivision -- 100% Participation**

County	Qualifying Subdivision	Share of 25% Subdivision Fund (Total: \$120,403,037.92)	Share of 45% Abatement Fund (Total: \$216,725,468.26)	Total Maximum
Dorchester	Dorchester County, Maryland	\$453,447.22	\$816,204.99	\$1,269,652.20
Dorchester	Cambridge City, Maryland	\$78,807.79	\$141,854.02	\$220,661.80
Dorchester	Vienna Town, Maryland	\$1,492.20	\$2,685.96	\$4,178.15
Frederick	Frederick County, Maryland	\$4,089,287.37	\$7,360,717.26	\$11,450,004.63
Frederick	Frederick City, Maryland	\$497,937.52	\$896,287.54	\$1,394,225.07
Garrett	Garrett County, Maryland	\$437,780.15	\$788,004.26	\$1,225,784.41
Garrett	Grantsville Town, Maryland	\$4,013.13	\$7,223.64	\$11,236.77
Garrett	Mountain Lake Park Town, Maryland	\$10,506.54	\$18,911.76	\$29,418.30
Garrett	Oakland Town, Maryland	\$10,782.32	\$19,408.17	\$30,190.49
Harford	Harford County, Maryland	\$5,763,815.54	\$10,374,867.97	\$16,138,683.51
Harford	Aberdeen City, Maryland	\$113,421.17	\$204,158.11	\$317,579.28
Harford	Bel Air Town, Maryland	\$79,491.59	\$143,084.86	\$222,576.45
Harford	Havre De Grace City, Maryland	\$111,153.38	\$200,076.09	\$311,229.47
Howard	Howard County, Maryland	\$4,555,243.23	\$8,199,437.82	\$12,754,681.05
Kent	Kent County, Maryland	\$519,662.47	\$935,392.45	\$1,455,054.92
Montgomery	Montgomery County, Maryland	\$12,193,120.45	\$21,947,616.82	\$34,140,737.27
Montgomery	Gaithersburg City, Maryland	\$360,520.42	\$648,936.76	\$1,009,457.18
Montgomery	Rockville City, Maryland	\$394,136.50	\$709,445.71	\$1,103,582.21
Montgomery	Takoma Park City, Maryland	\$105,913.59	\$190,644.45	\$296,558.04

Exhibit A:
Estimated Distributions by Subdivision -- 100% Participation

County	Qualifying Subdivision	Share of 25% Subdivision Fund (Total: \$120,403,037.92)	Share of 45% Abatement Fund (Total: \$216,725,468.26)	Total Maximum
Prince George's	Prince Georges County, Maryland	\$10,075,953.46	\$18,136,716.22	\$28,212,669.68
Prince George's	Bowie City, Maryland	\$315,750.86	\$568,351.54	\$884,102.39
Prince George's	College Park City, Maryland	\$164,681.30	\$296,426.35	\$461,107.65
Prince George's	Cottage City, Maryland	\$7,939.76	\$14,291.56	\$22,231.32
Prince George's	Forest Heights Town, Maryland	\$13,520.91	\$24,337.64	\$37,858.55
Prince George's	Greenbelt City, Maryland	\$149,035.93	\$268,264.67	\$417,300.59
Prince George's	Hyattsville City, Maryland	\$102,267.60	\$184,081.68	\$286,349.28
Prince George's	Laurel City, Maryland	\$154,751.18	\$278,552.13	\$433,303.31
Prince George's	New Carrollton City, Maryland	\$70,031.51	\$126,056.72	\$196,088.22
Prince George's	North Brentwood Town, Maryland	\$2,633.93	\$4,741.07	\$7,374.99
Prince George's	Seat Pleasant City, Maryland	\$26,237.83	\$47,228.09	\$73,465.92
Prince George's	Upper Marlboro Town, Maryland	\$3,994.47	\$7,190.04	\$11,184.50
Queen Anne's	Queen Annes County, Maryland	\$917,434.01	\$1,651,381.21	\$2,568,815.22
Somerset	Somerset County, Maryland	\$477,472.14	\$859,449.85	\$1,336,921.99
St. Mary's	St Mary's County, Maryland	\$1,800,900.67	\$3,241,621.21	\$5,042,521.89
Talbot	Talbot County, Maryland	\$544,311.42	\$979,760.56	\$1,524,071.98
Talbot	Easton Town, Maryland	\$139,903.25	\$251,825.85	\$391,729.11
Washington	Washington County, Maryland	\$3,304,318.50	\$5,947,773.29	\$9,252,091.79
Washington	Hagerstown City, Maryland	\$364,845.88	\$656,722.59	\$1,021,568.47

Exhibit A:
Estimated Distributions by Subdivision -- 100% Participation

County	Qualifying Subdivision	Share of 25% Subdivision Fund (Total: \$120,403,037.92)	Share of 45% Abatement Fund (Total: \$216,725,468.26)	Total Maximum
Wicomico	Wicomico County, Maryland	\$1,859,422.26	\$3,346,960.07	\$5,206,382.34
Wicomico	Salisbury City, Maryland	\$285,689.67	\$514,241.40	\$799,931.07
Worcester	Worcester County, Maryland	\$1,127,877.15	\$2,030,178.88	\$3,158,056.03
Worcester	Berlin Town, Maryland	\$34,091.54	\$61,364.78	\$95,456.32
TOTALS		\$120,403,037.92	\$216,725,468.26	\$337,128,506.18

By: Delegates _____

Introduced and read first time: _____

Assigned to:

AN ACT concerning

Opioid Restitution Fund

FOR the purpose of providing that an appropriation in the State budget of funds received from a certain opioids settlement shall to be made in accordance with a certain State-Subdivision Agreement agreed upon pursuant to the settlement; directing the Secretary of the Department of Health to establish a grant program in compliance with a certain State-Subdivision Agreement, and generally relating to the Opioid Restitution Fund.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 7–331
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – State Finance and Procurement

§ 7-331. Opioid Restitution Fund

- (a) In this section, "Fund" means the Opioid Restitution Fund.
- (b) There is an Opioid Restitution Fund.
- (c) The purpose of the Fund is to retain the amount of settlement revenues deposited to the Fund in accordance with subsection (e)(1) of this section.
- (d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of this subtitle.
(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.
- (e) The Fund consists of:

(1) all revenues received by the State from any source resulting, directly or indirectly, from any judgment against, or settlement with, opioid manufacturers, opioid research associations, or any other person in the opioid industry relating to any claims made or prosecuted by the State to recover damages for violations of State law; and

(2) the interest earnings of the Fund.

(f) The Fund may be used only to provide funds for:

(1) improving access to medications proven to prevent or reverse an overdose;

(2) supporting peer support specialists and screening, brief intervention, and referral to treatment services for hospitals, correctional facilities, and other high-risk populations;

(3) increasing access to medications that support recovery from substance use disorders;

(4) expanding the Heroin Coordinator Program, including for administrative expenses;

(5) expanding access to crisis beds and residential treatment services;

(6) expanding and establishing safe stations, mobile crisis response systems, and crisis stabilization centers;

(7) supporting the Health Crisis Hotline;

(8) organizing primary and secondary school education campaigns to prevent opioid use, including for administrative expenses;

(9) enforcing the laws regarding opioid prescriptions and sales, including for administrative expenses;

(10) research regarding and training for substance use treatment and overdose prevention, including for administrative expenses; and

(11) supporting and expanding other evidence-based interventions for overdose prevention and substance use treatment.

(g) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any interest earnings of the Fund shall be credited to the Fund.

(h) (1) Expenditures from the Fund may be made only in accordance with the State budget.

(2) FOR SETTLEMENT FUNDS RECEIVED PURSUANT TO THE FINAL DISTRIBUTOR AGREEMENT OF JULY 21, 2021 WITH MCKESSON CORPORATION, AMERISOURCE BERGEN CORPORATION, AND CARDINAL HEALTH, INCORPORATED, AS AMENDED, OR THE JANSSEN SETTLEMENT AGREEMENT OF JULY 21, 2021, AS AMENDED:

i. **THE APPROPRIATIONS IN THE STATE BUDGET SHALL BE MADE IN ACCORDANCE WITH THE ALLOCATION AND DISTRIBUTION OF FUNDS TO THE STATE AND ITS SUBDIVISIONS AGREED UPON IN THE STATE-SUBDIVISION AGREEMENT OF JANUARY 21, 2022, AS AMENDED; AND**

ii. **THE SECRETARY OF THE DEPARTMENT OF HEALTH SHALL ESTABLISH AND ADMINISTER A GRANT PROGRAM FOR DISTRIBUTION TO LOCAL SUBDIVISIONS IN ACCORDANCE WITH THE STATE-SUBDIVISION AGREEMENT OF JANUARY 21, 2022, AS AMENDED.**

(3) FOR PURPOSES OF SUBSECTION (2), THE ATTORNEY GENERAL SHALL BE RESPONSIBLE FOR IDENTIFYING AND DESIGNATING THE CONTROLLING AND CURRENT VERSION OF ANY AGREEMENT OR AMENDMENT THERETO.

(i) (1) Money expended from the Fund for the programs and services described under subsection (f) of this section is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for the programs and services.

(2) Except as specified in subsection (f) of this section, money expended from the Fund may not be used for administrative expenses.

(j) The Governor shall:

(1) develop key goals, key objectives, and key performance indicators relating to substance use treatment and prevention efforts; and

(2) **SUBJECT TO THE MANDATED APPROPRIATIONS SET FORTH IN SECTION (H)(2) OF THIS SECTION**, at least once annually, consult with substance use treatment and prevention stakeholders, including consumers, providers, families, and advocates, to identify recommended appropriations from the Fund; and

(3) report on or before November 1 each year, in accordance with § 2-1257 of the State Government Article, to the General Assembly on:

(i) an accounting of total funds expended from the Fund in the immediately preceding fiscal year, by:

1. use;
2. if applicable, jurisdiction; and
3. budget program and subdivision;

(ii) the performance indicators and progress toward achieving the goals and objectives developed under item (1) of this subsection; and

(iii) **SUBJECT TO THE MANDATED APPROPRIATIONS SET FORTH IN SECTION (H)(2) OF THIS SECTION**, the recommended appropriations from the Fund identified in accordance with item (2) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect on June 1, 2022.