



Legislation Text

File #: 24-1409, **Version:** 1

Resolution to Approve the City's Participation in the Settlement of the National Prescription Opiate Litigation Against Kroger Co.

The purpose of this Resolution is to approve the City's participation in the settlement of the national prescription opioid litigation against Kroger Co. and to authorize the City Administrator, or his designee, to execute the settlement documents necessary to participate in the settlement.

In 2021, nationwide settlements were reached to resolve all opioids litigation brought by states and local political subdivisions against the three largest pharmaceutical distributors-McKesson, Cardinal Health, and AmerisourceBergen ("Distributors")-and against manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson. These "2021 National Settlements" have been finalized. The City participated in these settlements and has begun receiving payments.

In late 2022 and 2023, the State and the City of Ann Arbor participated in the national settlement against three pharmacy chains-CVS, Walgreens, and Walmart-and two additional manufacturers-Allergan and Teva. The City has begun receiving payments from these settlements as well.

A proposed nationwide settlement agreement ("Settlement") has now been reached that would resolve the legal claims of states and local political subdivisions against regional supermarket pharmacy Kroger Co. related to alleged misconduct related to opioids. The Settlement requires Kroger Co. to pay over a billion dollars to abate the opioid epidemic. Of this amount, approximately \$1.2 billion will be used by participating states and subdivisions to remediate and abate the impacts of the opioid crisis. Depending on participation by states and subdivisions, the Settlement requires payments over eleven years after its effective date. The Settlement also contains injunctive relief governing opioid dispensing practices and requires Kroger Co. to implement safeguards to prevent diversion of prescription opioids. The specific dollar amount allocated to the City of Ann Arbor for this settlement has not yet been disclosed.

Under all of the national settlements, at least 85% of the funds going directly to participating states and subdivisions must be used for abatement of the opioid epidemic, with the overwhelming bulk of the proceeds restricted to funding future abatement efforts by state and local governments.

Budget/Fiscal Impact: There is no cost to the City. The purpose of this resolution is to enable the City to receive settlement funds.

Prepared by: Michelle Landis, Senior Assistant City Attorney

Reviewed by: Marti Praschan, Chief Financial Officer

Approved by: Milton Dohoney Jr., City Administrator

Whereas, A proposed nationwide settlement agreement ("Settlement") has now been reached that would resolve the legal claims of states and local political subdivisions against regional supermarket pharmacy Kroger Co. related to alleged misconduct related to opioids;

Whereas, The Settlement requires Kroger Co. to pay over a billion dollars to abate the opioid

epidemic. Of this amount, approximately \$1.2 billion will be used by participating states and subdivisions to remediate and abate the impacts of the opioid crisis;

Whereas, The Settlement also contains injunctive relief governing opioid dispensing practices and requires Kroger Co. to implement safeguards to prevent diversion of prescription opioids;

Whereas, The City is an eligible subdivision of the State of Michigan to participate in the Kroger Co. National Opioid Settlement;

Whereas, The Plaintiffs Executive Committee and the Michigan Attorney General are encouraging all municipalities to join in the settlement agreement;

Whereas, Opting into the settlement increases the funds received by the local agencies and the State; and

Whereas, The deadline for entering the settlement is August 12, 2024 and taking no action prior to that date effectively means the City would opt out of the settlement;

RESOLVED, That City Council approve the City's participation in the settlement of the national prescription opiate litigation against Kroger Co.;

RESOLVED, That the City Administrator, or his designee, be authorized and directed to execute all necessary settlement documents; and

RESOLVED, That the City Administrator and City Attorney be authorized to take all necessary actions to implement this resolution.