



City of San Marcos

City Council Regular Meeting

December 15, 2021



Consent Agenda

Item 1

Consider approval of a resolution authorizing the City Manager to execute necessary documents allowing the City to opt in to a class action lawsuit with the Attorney General of Texas and other entities against multiple opioid manufacturers.



Opioids Crisis Update

- In 2020, drug overdose deaths **rose nearly 30%** in the United States to a **record high** of 93,000.
- In Texas, **drug overdose deaths also increased by 31.9%**, driven primarily by opioid overdose deaths.
- The opioid overdose death increase was driven by fentanyl and other synthetic opioids.



Opioids Settlements

- On July 23, 2021, Attorney General Paxton announced global settlements had been reached with the three major opioid distributors McKesson, Cardinal Health, and Amerisource Bergen (ABDC), and opioid manufacturer Johnson & Johnson (J&J).
 - Both settlements are a combined historic \$26 billion.
 - The distributors' settlement is for \$21 billion.
 - J&J's settlement is for \$5 billion.
 - The settlements include injunctive relief that changes the industry.



Opioids Settlements

- Texas could receive as much as **\$1.17 billion** from the **distributors** and **\$268 million** from **J&J** for **almost \$1.5 billion**, most of which is targeted for opioid abatement.
 - The actual amount Texas receives will depend upon the participation of cities, counties, and other political subdivisions in the state.
 - Texas has 30 days to decide to join both settlements.
 - San Marcos share of the settlement is approximately \$325,000



Opioids Settlements

- Mechanics of the Monetary Settlement:
 - Texas's overall allocation is 6.29% of the Global Amount – potentially almost \$1.5 billion over 18 years from:
 - Distributors - \$1.17 billion over 18 years.
 - J&J - over \$268 million over 9 years.
 - Annual payments are split into base and incentive payments as follows:
 - Distributors - 55% base, 45% incentive
 - J&J - 45% base, 55% incentive
 - All incentive payments deal with preventing future litigation by subdivisions and incentivizing subdivision sign on.



Goal: Bring the Most Money to Texas

- There are a combination of approaches that Texas could take to maximize funds with the participation of litigating subdivisions and nonlitigating subdivisions.
- This can be obtained by getting releases for past and future claims from all litigating subdivisions and special districts, all general-purpose subdivisions over 10,000 population, and covered special districts.
- Texas has 375 litigating subdivisions:
 - 110 Counties.
 - 252 Cities.
 - 10 Hospital Districts.
 - 3 School Districts.
- Texas has 406 general purpose subdivisions with a population of over 10,000.
- Currently, the best option for Texas to maximize incentive funds is through a partnership with political subdivisions, where a large percentage agree to release claims.



How Settlement Dollars Flow into Texas

- By signing on to the Settlement and executing a release, you increase the funds coming into Texas and will be entitled to a portion of the funds that Texas receives.
 - Texas and Participating Subdivisions alike get direct payments under the settlement.
 - Cities and Counties will also get funding for abatement programs from the Opioid Council.
- Question: If my county signs up and executes a release, how do I get dollars to my county?
- Answer: SB 1827 (87R) and the Texas Term Sheet



Opioid Lawsuits Timeline (1 of 3)

- In **September 2017**, Attorney General Paxton and a **bipartisan coalition of 40 other states** served investigative subpoenas and additional requests on eight companies that manufacture or distribute highly addictive opioids to evaluate whether manufacturers and distributors engaged in unlawful practices in the marketing, sale, and distribution of opioids.
- **May 15, 2018**, Texas filed a **lawsuit against Purdue Pharma** for violating state laws against deceptive trade practices and misrepresenting the risk of addiction to patients and doctors.
- On **September 4, 2019**, Attorney General Paxton announced that a **civil Medicaid fraud lawsuit** had been filed against pharmaceutical manufacturer **Johnson & Johnson** for misrepresentations made to the Texas Medicaid program about their dangerous opioid drug, Duragesic.
- Purdue Pharma files for Chapter 11 Bankruptcy in **September 2019**.



Opioid Lawsuits Timeline (2 of 3)

- In **February 2020**, Attorney General Paxton announced a global settlement framework between state attorneys general, local subdivisions, and Mallinckrodt (MKN). MKN is currently the largest generic opioid manufacturer in the United States. In the agreement, MKN agreed to pay **\$1.6 billion in cash** to a trust that will cover the costs of opioid addiction treatment and related efforts, with the potential for increased payment to the trust.
- On **May 13, 2020**, Attorney General Paxton reached a bipartisan agreement with Texas Counties and Cities in preparation for settlement with opioid defendants: **McKesson, Cardinal Health, ABDC, and Johnson & Johnson**. Texas is one of the lead states currently negotiating financial settlements with the nation's largest companies in the opioid supply chain.



Opioid Lawsuits Timeline (3 of 3)

- In **February 2021**, Attorney General Paxton and 46 states entered into a settlement with McKinsey, a consulting firm that assisted Purdue and others with their marketing of prescription opioids, for **\$583 million and injunctive relief**. The funds are earmarked to remediate the harms caused by the opioid epidemic and to recover the costs incurred in investigating and pursuing these claims.
- On **July 23, 2021**, Attorney General Paxton announced the global settlement had been reached with opioid defendants **McKesson, Cardinal Health, ABDC, and Johnson & Johnson**.



Next Steps

- To join the Settlement, Subdivisions need to:
 - Sign on the to settlement and execute releases; and
 - Execute the Texas Term Sheet.
- The deadline to sign on is approximately 120 days after the state sign-on period, estimated January 2, 2022.