

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE CALIFORNIA AUTHORIZING THE CITY MANAGER TO ENTER INTO THE NATIONAL OPIOID SETTLEMENT AGREEMENT WITH KROGER CO. , AGREE TO THE TERMS OF THE STATE-SUBDIVISION AGREEMENT, AND AUTHORIZE ENTRY INTO THE STATE-SUBDIVISION AGREEMENT WITH THE ATTORNEY GENERAL**

**WHEREAS**, the United States is facing an ongoing public health crisis of opioid abuse, addiction, overdose, and death, forcing the State of California and California counties and cities to spend billions of dollars each year to address the direct consequences of this crisis; and

**WHEREAS**, pending in the U.S. District Court for the Northern District of Ohio is a multidistrict litigation (“MDL”) being pursued by numerous public entity plaintiffs against the manufacturers and distributors of various opioids based on the allegation that the defendants’ unlawful conduct caused the opioid epidemic; and

**WHEREAS** in 2024, a proposed nationwide tentative settlement was reached between the plaintiffs in the MDL and Kroger Co. (“Kroger”); and

**WHEREAS**, Kroeger shall be referred in this Resolution as the “Settling Defendant”; and

**WHEREAS**, as part of the settlements with the Settling Defendant, local subdivisions, including certain cities, that are not plaintiffs in the MDL may participate in the settlements in exchange for a release of the Settling Defendant; and

**WHEREAS**, copies of the proposed terms have been set forth in the Master Settlement Agreements with the Settling Defendant; and

**WHEREAS**, copies of the Master Settlement Agreements have been provided to the City Council with this Resolution in Exhibits A and B; and

**WHEREAS**, the Settlement Agreements provide, among other things, for the payment of a certain sum to settling government entities in California including to the State of California and Participating Subdivisions upon occurrence of certain events as defined in the Settlement Agreements (“California Opioid Funds”); and

**WHEREAS**, California local governments in the MDL have engaged in extensive discussions with the State Attorney General’s Office (“AGO”) as to how the California Opioid Funds will be allocated, which has resulted in the Proposed California State-

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Subdivision Agreements Regarding Distribution and Use of Settlement Funds (“Allocation Agreement”) from the settlements with the Settling Defendant; and

**WHEREAS**, copies of the Allocation Agreement for the settlement with the Settling Defendant have been provided with this Resolution; and

**WHEREAS**, the Allocation Agreement allocate the California Opioid Funds as follows: 15% to the State Fund; 70% to the Abatement Accounts Fund; and 15% to the Subdivision Fund. For the avoidance of doubt, all funds allocated to California from the Settlements shall be combined pursuant to the Allocation Agreement, and 15% of total from each settlement shall be allocated to the State of California (the “State of California Allocation”), 70% to the California Abatement Accounts Fund (“CA Abatement Accounts Fund”), and 15% to the California Subdivision Fund (“CA Subdivision Fund”); and

**WHEREAS**, under the Master Settlement Agreement, certain local subdivisions that did not file a lawsuit against the Settlement Defendant may qualify to participate in the settlements and obtain funds from the Abatement Account Fund; and

**WHEREAS**, the City is eligible to participate in the Settlement and become a CA Participating Subdivision; and

**WHEREAS**, the funds in the CA Abatement Accounts Fund (the 70% allocation) will be allocated based on the allocation model developed in connection with the proposed negotiating class in the National Prescription Opiate Litigation (MDL No. 2804), as adjusted to reflect only those cities and counties that are eligible, based on population or litigation status, to become a CA Participating Subdivision (those above 10,000 in population). The percentage from the CA Abatement Accounts Fund allocated to each CA Participating Subdivision is set forth in Appendix 1 to the Allocation Agreements and provided to the City Council with this Resolution. The City’s share of the CA Abatement Accounts Fund will be a product of the total in the CA Abatement Accounts Fund multiplied by the City’s percentage set forth in Appendix 1 of the Allocation Agreements (the “Local Allocation”); and

**WHEREAS**, a CA Participating Subdivision that is a city will be allocated its Local Allocation share as of the date on which it becomes a Participating Subdivision. The Local Allocation share for a city that is a CA Participating Subdivision will be paid to the county in which the city is located, unless the city elects to take a direct election of the settlement funds, so long as: (a) the county is a CA Participating Subdivision, and (b) the city has not advised the Settlement Fund Administrator that it requests direct payment at least 60 days prior to a Payment Date; and

**WHEREAS**, it the intent of this Resolution is to authorize the City Manager to enter into the Master Settlement Agreement with the Settling Defendant by executing the Participation and the Allocation Agreements by executing the signature pages to those agreements.

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**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AS FOLLOWS:**

**SECTION 1.** The above recitals are true and correct and are incorporated herein by this reference.

**SECTION 2.** The City Manager is authorized to settle and release the City's claims against the Settling Defendant in exchange for the consideration set forth in the Settlement Agreement and Allocation Agreements incorporated herein as Exhibits A and B, including taking the following measures:

1. The execution of the Participation Agreement with the Settling Defendant and any and all documents ancillary thereto.
2. The execution of the Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds with the Settling Defendant by executing the signature pages to those Allocation Agreements.
3. Notify the Settlement Fund Administrator that the City requests a direct payment under the Allocation Agreements at least 60 days prior to the Payment Date in the Settlement Agreements.

**SECTION 3. CEQA.** That the City Council finds this Resolution is not subject to the California Environmental Quality Act (CEQA) in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as in this case, 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 (State CEQA Guidelines, §§ 15060, subd. (c)(2)-(3), 15378.)

**SECTION 4. Severability.** If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Resolution are declared to be severable.

**SECTION 5. Effective Date.** This Resolution shall become effective immediately.

On motion of Council Member \_\_\_\_\_, seconded by \_\_\_\_\_, and by the following roll call vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

the foregoing Resolution was passed and adopted this 23<sup>rd</sup> day of July, 2024.

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**CAREN RAY RUSSOM, MAYOR**

**ATTEST:**

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**JESSICA MATSON, CITY CLERK**

**APPROVED AS TO CONTENT:**

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**MATTHEW DOWNING, CITY MANAGER**

**APPROVED AS TO FORM:**

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**ISAAC ROSEN, CITY ATTORNEY**