

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
Barbara Parker
City Attorney

(510) 238-3601
FAX: (510) 238-6500
TDD: (510) 839-6451

July 30, 2024

HONORABLE CITY COUNCIL
Oakland, California

Subject: In re National Prescription Opiate Litigation
MDL Master Docket No. 1:17-MD-2804
City Attorney File No. X04526

President Fortunato Bas and Members of the City Council:

Pursuant to Section 401 of the Charter, the City Attorney has prepared and requests your approval of a resolution authorizing the City Attorney to release the City's potential claims against Kroger Co. and its subsidiaries ("Kroger"), in exchange for full participation in the national Kroger Settlement Agreement and the California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds—Kroger Settlement (collectively, "Kroger Settlement").

The opportunity to join this settlement arose due to litigation the City Attorney joined some years ago. In May 2014, the Santa Clara County Counsel's Office and the Orange County District Attorney's Office filed the first lawsuit in the nation brought by government entities against major opioid manufacturers ("Manufacturers") for the companies' roles in creating and perpetuating the opioid crisis. In 2018, Oakland and Los Angeles County, in the name of the People of the State of California, joined that lawsuit. The *People v. Purdue Pharma et al.* case was filed, litigated, and tried in state court (specifically, in Orange County Superior Court).

The national Kroger Settlement Agreement arose from the federal litigation by innumerable state and local governments across the country, challenging the conduct of a wide variety of opioid industry actors for the role they played in the opioid crisis. Separate from any state court proceedings, those cases were consolidated into a single "Multi-District Litigation" ("MDL"). Although Oakland did not sue Kroger, Oakland is nonetheless eligible to fully join the Kroger Settlement receiving the same benefits as local governments who *did* sue Kroger. This is due to the City Attorney's participation in the state court litigation and to the recognition by sister local governments of the *People v. Purdue et al.* entities' role in shedding light on the practices of this industry and holding them to account.

Participation in the Kroger Settlement Agreement requires the City of Oakland to: (1) release all of its legal claims, including *unfiled* claims, against Kroger; and (2) agree to the specific terms of the California State Allocation Agreement, which include ordinary provisions regarding the use, budgeting, and accountability for the settlement funds. Because the Oakland City Attorney sued opioid defendants, Oakland is eligible to participate as a litigating entity and to therefore receive the maximum settlement amounts available to the City. Oakland has until August 12, 2024 to decide whether to sign on as a participating subdivision. After that date, the eligible states and Kroger will have the opportunity to decide whether to proceed with the settlement.

The Council authorized settlement of this case in Closed Session on Thursday, July 18, 2024 (moved by Councilmember Ramachandran and seconded by Councilmember Reid - 6 Ayes, 2 Excused – Councilmember Jenkins and Councilmember Fife).

Respectfully submitted,

A handwritten signature in black ink that reads "Barbara J. Parker". The signature is written in a cursive, flowing style.

BARBARA J. PARKER
City Attorney

Assigned Attorney:
Malia McPherson