



# AGENDA ITEM SUMMARY

City Council

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## STAFF

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Rupa Venkatesh, Assistant City Manager

## SUBJECT

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**Resolution 2024-096 Approving Participation in the Settlement with An Additional Opioid Defendant, Kroger, and a Related Waiver of Claims.**

## EXECUTIVE SUMMARY

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The purpose of this item is to consider a resolution to allow the City to participate in the Colorado Opioids Settlement with Kroger by granting approval to sign an additional participation agreement and waiver of claims for opioid-related damages. This is in follow-up to prior approvals of settlements with multiple other opioid defendants, negotiated through national settlement efforts coordinated through the State of Colorado.

## STAFF RECOMMENDATION

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Staff recommends adoption of the Resolution.

## BACKGROUND / DISCUSSION

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Through extensive negotiations, local governments and the Colorado Attorney General's Office negotiated a Memorandum of Understanding (MOU) to govern how opioid settlement funds will be allocated in Colorado, to maximize recovery from the variety of lawsuits filed by the state and local governments across the nation along with the Subdivision Settlement Participation Forms.

To date, Colorado is on track to receive over \$787 million in opioid settlement funds, including \$70 million from the proposed Kroger settlement. However, the amount the State recovers from the settlements is determined in part by the rate of participation of local governments, including both cities and counties, in the settlement agreement.

More information about the State of Colorado settlements and framework for distribution and use of the settlement funds can be found at: <https://coag.gov/opioids/> .

- The Colorado framework allocates to participating local governments 20% of the total settlement funds.
- The framework allocates 60% of the settlement funds to 19 regional opioid abatement councils to be distributed for eligible projects.
  - Larimer County is one of the regions that receives and then distributes the regional funds.

- The Larimer County Regional Opioid Abatement Council has received applications for and allocated approximately \$5.5 million for 2022-2024.
  - The City has designated Beth Yonce, Social Sustainability Director, to serve as its representative on the Council.
  - More on the Larimer County Regional Opioid Abatement Council can be found at: <https://www.larimer.gov/bocc/regional-opioid-abatement-council#/list/> .
- The framework allocates 10% of the settlement proceeds to an Infrastructure Fund that is allocated by the Colorado Opioid Abatement Council.
  - The framework allocates 10% of the settlement proceeds to the State of Colorado, managed by the Colorado Department of Law.

In 2021, Council adopted Resolution 2021-113, approving participation in the Colorado Opioids Settlement and authorizing execution of related agreements. In 2022, Council adopted Resolution 2022-055, authorizing the execution of an intergovernmental agreement (IGA) regarding regional opioid settlement implementation and designating a representative to the Larimer Regional Opioid Council.

Most recently, on March 21, 2023, Council adopted Resolution 2023-028, authorizing the execution of participation agreements and waivers of claims for the City to participating in the additional settlements negotiated on behalf of the State of Colorado and participating local governments with opioid defendants *Teva, Allergan, Walmart, CVS and Walgreens*.

An additional settlement has been negotiated with Kroger and the City may participate in the settlement and receive settlement payments by executing the Participation Form with the Kroger defendant, including an associated waiver of claims. The City desires to participate in this additional settlement to increase recoveries across Colorado governments.

### **CITY FINANCIAL IMPACTS**

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By approving the settlements from this additional defendant (Koger) the City and the Larimer County region stand to receive an undetermined amount over a period of eleven years. The State will not know the full amount to be received by the State and allocated until all communities that choose to participate have formalized their participation. The total amount over the eleven-year period of the settlement with Kroger nationwide is \$1.2 billion and the total amount the State of Colorado is expected to receive from Kroger is around \$70 million.

### **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None.

### **PUBLIC OUTREACH**

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None.

### **ATTACHMENTS**

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1. Resolution for Consideration
2. Resolution Exhibit A