

RESOLUTION NO. 2024-31(R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, JOINING WITH THE STATE OF TEXAS AND POLITICAL SUBDIVISIONS OF THE STATE AS A PARTY IN THE GLOBAL OPIOID SETTLEMENT AGREEMENTS REGARDING OPIOID USE AND DISTRIBUTION IN *IN RE: TEXAS OPIOID LITIGATION*, MDL NO. 2018-63587, IN THE 152ND DISTRICT COURT OF HARRIS COUNTY, TEXAS, AND OTHER LITIGATION; OPTING INTO THE KROGER GLOBAL SETTLEMENT AGREEMENT DATED AS OF MARCH 22, 2024; AUTHORIZING THE CITY MANAGER TO EXECUTE SETTLEMENT PARTICIPATION DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the people of the State of Texas and its communities, including the City of Wylie, Texas (“City”), have been harmed through the national and statewide epidemic caused by the sale, use and distribution of opioids within the State of Texas; and

WHEREAS, the City has been provided information indicating that certain drug companies and their corporate affiliates, parents, subsidiaries and such other defendants as may be added to the litigation (collectively, “Defendants”) have engaged in fraudulent and reckless marketing as well as fraudulent distribution of opioids that have resulted in addictions and overdoses; and

WHEREAS, these actions have resulted in the death of many Texans and has resulted in the devastation of families and communities across the State; and

WHEREAS, the City and other local governments have been on the front lines of the opioid crisis, resulting in significant financial costs related to healthcare services, social services, law enforcement and the criminal justice systems; and

WHEREAS, on May 13, 2020, the State of Texas and a negotiation group for Texas political subdivisions entered into an agreement titled Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet (the “Texas Term Sheet”), approving the allocation of any and all opioid settlement funds within the State of Texas. The City previously adopted and approved the Texas Term Sheet, which is available at <https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2021/Global%20Opioid%20Settlement%20Files/Settlement%20Allocation%20Term%20Sheet.pdf>; and

WHEREAS, the State of Texas has recommended that the City Council of the City of Wylie, Texas (“City Council”), opt into and participate in a settlement with The Kroger Co., as set forth in that certain Kroger Global Settlement Agreement dated as of March 22, 2024; and

WHEREAS, participating in the settlement increases the State of Texas’ opportunity to maximize its share of opioid settlement funds and will provide a method to ensure that needed resources reach communities once all negotiations are finalized; and

WHEREAS, the City Council finds and determines that it is in the best interest of the health, safety and welfare of the City to participate in the settlement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: City Manager Authorization. The City Council hereby authorizes the City Manager to execute the Subdivision Settlement Participation Form, attached hereto as Exhibit 1, in accordance with the provisions set forth in the previously adopted Texas Term Sheet, and further authorizes the City Manager to take any additional actions necessary to implement the intent of this Resolution.

SECTION 3: Effective Date. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, on this 10th day of December, 2024.

Matthew Porter, Mayor

**ATTESTED TO AND
CORRECTLY RECORDED BY:**

Stephanie Storm, City Secretary

Exhibit 1
TEXAS SETTLEMENT SUBDIVISION PARTICIPATION AND RELEASE FORM

Political Subdivision:	Texas
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("Texas Political Subdivision"), in order to obtain and in consideration for the benefits provided to the Texas Political Subdivision pursuant to the Kroger Texas Settlement Agreement and Full Release of All Claims dated October 30, 2024 ("Kroger Texas Settlement"), and acting through the undersigned authorized official, hereby elects to participate in the Kroger Texas Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Texas Political Subdivision above is aware of and has reviewed the Kroger Settlement Agreement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Texas Political Subdivision elects to participate in the Kroger Texas Settlement and become a Participating Texas Political Subdivision as provided therein.
2. The Texas Political Subdivision shall immediately cease any and all litigation activities as to the Released Entities and Released Claims and, within 14 days of executing this Participation and Release Form, its counsel shall work with Kroger's counsel to dismiss with prejudice any Released Claims that it has filed.
3. The Texas Political Subdivision agrees to the terms of the Kroger Texas Settlement pertaining to Texas Political Subdivisions as provided therein.
4. By agreeing to the terms of the Kroger Texas Settlement and becoming a Releasor, the Texas Political Subdivision is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date of the Release.
5. The Texas Political Subdivision agrees to use any monies it received through the Kroger Texas Settlement solely for the purposes provided therein.

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6. The Texas Political Subdivision submits to the exclusive jurisdiction and authority of the Texas Consolidated Litigation Court as defined in the Kroger Texas Settlement. For the avoidance of doubt, nothing contained in this Participation and Release Form, or the Kroger Texas Settlement, constitutes consent to jurisdiction, express or implied, over the Texas Political Subdivision or its selected counsel to the jurisdiction of any other court (including without limitation MDL 2804, the MDL 2804 Fee Panel, the MDL 2804 Enforcement Committee, or the Court in which any Texas Consent Judgment is filed) for any purpose whatsoever.
7. The Texas Political Subdivision, as a Participating Texas Subdivision, has the right to enforce the Kroger Texas Settlement in the Texas Consolidated Litigation Court as provided therein.
8. The Texas Political Subdivision, as a Participating Texas Subdivision, hereby becomes a Releasor for all purposes in the Kroger Texas Settlement, including but not limited to all provisions of Section V (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Texas Political Subdivision hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entities in any forum whatsoever. The releases provided for in the Kroger Texas Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entity the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Texas Political Subdivision to release claims. The Kroger Texas Settlement shall be a complete bar to any Released Claim.
9. The Texas Political Subdivision hereby takes on all rights and obligations of a Participating Texas Subdivision as set forth in the Kroger Texas Settlement.
10. In connection with the releases provided for in the Kroger Texas Settlement, each Texas Political Subdivision expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Texas Political Subdivision hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Kroger Texas Settlement.

11. The Texas Political Subdivision acknowledges, agrees, and understands that the Maximum Texas Settlement Amount to be paid under the Kroger Texas Settlement for the benefit of the Participating Texas Political Subdivision, is less than or equal to the amount, in the aggregate, of the Alleged Harms allegedly suffered by the governmental entity, constitutes restitution and remediation for damage or harm allegedly caused by Kroger in order to restore, in whole or part, the governmental entity to the same position or condition that it would be in had it not suffered the Alleged Harms; and constitutes restitution and remediation for damage or harm allegedly caused by the potential violation of a law and/or is an amount paid to come into compliance with the law.
12. Nothing herein is intended to modify in any way the terms of the Kroger Texas Settlement Agreement, to which the Texas Political Subdivision hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Kroger Texas Settlement, the Kroger Texas Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Texas Political Subdivision.

Signature: _____
Name: _____
Title: _____
Date: _____