Legislation Text

File #: 21-898, **Version:** 1

PRESENTER:
Valeria M. Acevedo, City Attorney

SUBJECT:
A resolution of the City Council of the City of New Braunfels, Texas approving and adopting the Texas Term Sheet and authorizing the city manager to execute all related documents, including the Subdivision Settlement Participation and Release Forms.

DEPARTMENT: City Attorney's Office

COUNCIL DISTRICTS IMPACTED: Citywide

BACKGROUND INFORMATION:
In 2020, drug overdose deaths rose nearly 30% in the United States to a record high of 93,000. Specifically, opioid deaths reached a record high of 69,000. In Texas, drug overdose deaths also increased by 31.9%, driven primarily by opioid overdose deaths. The opioid overdose deaths increase was driven by fentanyl and other synthetic opioids.

On May 13, 2020, Texas, along with a broad, bipartisan coalition of states and subdivisions, reached two final agreements with four companies to resolve legal claims against for their role in the opioid crisis. One agreement is with opioid manufacturer Johnson & Johnson. The other settlement agreement includes three major pharmaceutical distributors: AmerisourceBergen, Cardinal Health, and McKesson. Texas is one of the lead states currently negotiating financial settlements with the nation's largest companies in the opioid supply chain.

ISSUE:
The City of New Braunfels must decide if it will participate in this proposed settlement with these four companies. The Texas Term Sheet, which must be approved and adopted by all participating entities, provides all 254 counties with the opportunity for funding for education, prevention, and treatment of opioid abuse. The 87th Texas Legislature passed Senate Bill 1827 which codified the Texas Term Sheet and established the Texas Opioid Council to ensure that the funds recovered by Texas are allocated fairly and spent to remediate the opioid crisis in Texas, using efficient and cost-effective methods that are directed to the hardest hit regions in Texas while also ensuring that all Texans benefit from prevention and recovery efforts. If the City decides to participate in this settlement agreement, it must adopt the Texas Term Sheet that is Exhibit A to the attached resolution and it must authorize the city manager to execute related documents, including the settlement participation form, the Texas Term Sheet and release forms.

FISCAL IMPACT:

The City of New Braunfels could receive approximately $307,313 over a multi-year period. In addition, the City will have access to apply for grant funding for past and future expenses related to the prevention, detection, abatement, and treatment of opioid abuse. This includes costs incurred by the New Braunfels Police Dept. and Fire Department.

As part of the settlement agreement, 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, and from 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 participation by a maximum number of political subdivisions. The actual amount that Texas receives will depend upon the participation of cities, counties, and other political subdivisions in the state.

Based on the Texas Term Sheet, 85% of the funds under the settlement will be deposited into the Opioids Abatement Trust Fund, with 15% going directly to subdivisions and 70% going to abatement programs.

RECOMMENDATION:
The City Attorney recommends joining this settlement. The deadline to sign on is January 2, 2022.

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