



**RESOLUTION**

STATE OF TEXAS

COUNTY OF HOPKINS

BE IT REMEMBERED, at a regular meeting of the Commissioners Court of Hopkins County, Texas, held on the, 8th day of February, 2021, on motion made by County Judge Newsom Commissioner of ~~Precinct~~ \_\_\_\_\_ and seconded by Mickey Barker Commissioner of Precinct 1, the following Resolution was adopted:

WHEREAS, Hopkins County obtained 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/or reckless marketing and/or distribution of opioids that have resulted in addictions and overdoses; and

WHEREAS, these actions, conduct and misconduct have resulted in significant financial costs to the County; and

WHEREAS, on May 13, 2020, the State of Texas, through the Office of the Attorney General, and a negotiation group for Texas political subdivisions entered into an Agreement entitled Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet (hereafter, the Texas Term Sheet) approving the allocation of any and all opioid settlement funds within the State of Texas. The Texas Term Sheet is attached hereto as Exhibit "1"; and

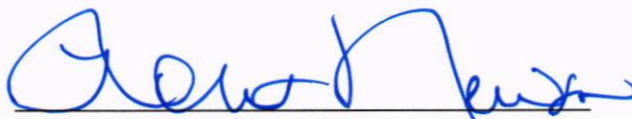
WHEREAS, Special Counsel and the State of Texas have recommended that the Hopkins County Commissioners Court support the adoption and approval of the Texas Term Sheet in its entirety.

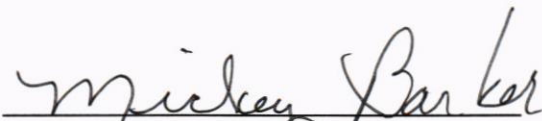
NOW, THEREFORE, BE IT RESOLVED that we, the Commissioners Court of Hopkins County:

1. Support the adoption and approval the Texas Term Sheet in its entirety; and
2. Finds as follows:
  - a. There is a substantial need for repayment of opioid-related expenditures and payment to abate opioid-related harms in and about Hopkins County; and

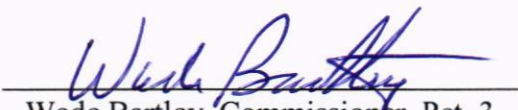
b. The County Commissioners Court supports in its entirety the STATE OF TEXAS AND TEXAS POLITICAL SUBDIVISIONS' OPIOID ABATEMENT FUND COUNCIL AND SETTLEMENT ALLOCATION TERM SHEET. The County Commissioners Court understands that the purpose of this Texas Term Sheet is to permit collaboration between the State of Texas and Political Subdivisions to explore and potentially effectuate resolution of the Opioid Litigation against Pharmaceutical Supply Chain Participants as defined therein. We also understand that an additional purpose is to create an effective means of distributing any potential settlement funds obtained under this Texas Term Sheet between the State of Texas and Political Subdivisions in a manner and means that would promote an effective and meaningful use of the funds in abating the opioid epidemic in this County and throughout Texas.

DONE IN OPEN COURT on this the 8th day of February, 2021.

  
Robert Newsom, Hopkins County Judge

  
Mickey Barker, Commissioner, Pct. 1

  
Greg Anglin, Commissioner, Pct. 2

  
Wade Bartley, Commissioner, Pct. 3

  
Joe Price, Commissioner, Pct. 4

### **TEXAS OPIOID TERM SHEET: FREQUENTLY ASKED QUESTIONS**

1. Is it necessary that the County pass a resolution to adopt the Texas Term Sheet?

Answer: Yes. A resolution is necessary in order to further obligate the State to share with the County a percentage of settlement proceeds paid to the State by opioid drug companies that enter into a global settlement with the States, or settlement proceeds issued as a global settlement in any bankruptcy.

2. Does adopting the Texas Term Sheet obligate this County to accept a proposed settlement in opioid litigation?

Answer: No. However, adopting the Texas Term Sheet obligates the State to share proceeds with the County IF the County chooses to accept its allocated portion of any proposed settlement and Regional funds to be used for abatement purposes.

3. How do we know that adopting the Texas Term Sheet does not obligate the County to accept any particular opioid settlement?

Answer: the Texas Term Sheet states so expressly.

4. In the Texas Term Sheet, how were the percentages of opioid money that the State of Texas and this County will receive from a settlement determined?

Answer: The allocation was done in two parts:

- a. First, the State Attorneys General have collectively determined the percentage of any global settlement that will be distributed to participating States and territories by criteria they devised and applied based upon the economic burden to States from the opioid crisis, shipments of opioids and other criteria generally used by States in national settlements. The percentage agreed by the Attorneys General and Territories is that 6.5710766534% of any global settlement will go to the State of Texas;
- b. Second, the Texas Term Sheet allocation to subdivisions was developed by the leading opioid economist in America, Dr. Christopher Ruhm at the University of Virginia. Exhibits B and C show calculations of the damage allocations to health care regions and municipal units (cities and counties) in Texas, resulting from any settlement that results in money allocated to the State of Texas and its localities. For example purposes only, Dr. Ruhm

computed the allocations under the scenario where the total settlement for Texas is \$1 billion, with municipal units receiving 15%, the 20 healthcare regions receiving 70 percent (\$700 million), of which up to \$7 million will be reserved for administrative costs. The remaining 15% (\$150 million) are assumed to go directly to the State for its 15% share.

The allocation formula consists of three factors: 1) the number of persons with opioid use disorder (OUD); 2) the number of opioid-involved overdose deaths; and 3) the amount of opioids shipped to the localities.

The overall county share is the average of the three factors, rescaled so that the shares sum to one for the entire state. Dollar allocations are computed as the share multiplied by the total damages awarded to the counties. When computing allocations to the twenty health care regions, the allocation shares are summed across all counties in the region and an analogous procedure is employed to calculate regional allocations.

Municipal Area allocation shares and dollar amounts to counties as a whole (as well as healthcare regions). These allocations will be received by all entities in the county, including both the county and city governments. Dr. Ruhm next separated these totals into the portions to be received by county governments themselves, and those received to be received by the constituent cities. The procedure was used to split the aforementioned overall county allocations between municipal units within them, based upon estimates provided by the Plaintiff's Executive Council (PEC) in the national MDL on the fraction of total local government spending on education, public welfare, hospitals, health, police and fire protection, corrections, housing and community development, judicial and legal services accounted for by the county government and city governments within the county. In the allocation exhibit, municipalities described as "county" refer to county governments. All other entries refer to cities.

In addition, for any county where the sum of the county plus constituent city allocations was either missing or would have totaled less than \$1,000, this amount was raised to \$1,000 (to be divided by the county and constituent cities), with amounts for other municipal areas proportionately reduced such that the total allocation did not exceed \$150 million.

5. Is there any other criteria for allocating monies that would be more favorable to this County than the one applied in the Texas Term Sheet?

Answer: No, Dr. Ruhm's criteria is not only generally accepted among experts in health economics, it is the most favorable to underserved rural populations by factoring in the fact that less populous counties lack the medical examiner and toxicology lab services that more populous counties may have.

6. Is there any foreseeable downside to adopting the Texas Term Sheet?

Answer: None.

7. Are there any other advantages to adopting the Texas Term Sheet besides obligating the State to include the County in opioid settlements, should the County wish to accept that money?

Answer: Yes. The Texas Term Sheet also applies to cities and towns, and therefore, the County does not need to negotiate with or share with those municipalities the opioid settlement money the County receives. Rather, the cities and towns in the County make their own decisions about whether or not to accept settlement money in an independent manner.

8. How do counties and municipalities receive the benefit of the Regional allocations?

Answer: The Texas Opioid Council, comprised of non-political health professionals and opioid-experienced academics, will take recommendations and applications from counties and municipalities for the purposes identified on Exhibit A, a broad list of opioid abatement strategies designed to assist counties and municipalities in managing and deterring the opioid epidemic.

9. Will the counties and municipalities be able to use their 15% share of any settlement funds to Texas in any manner they determine is best for the county or municipality?

Answer: Yes, both the State's 15% share and the county and municipality shares may be used without conditions.

10. How will attorneys' fees and costs be paid?

Answer: In the event a settlement is national in scope, there will be a National Fund arbitration panel that will decide how much in attorneys' fees and expenses various practice groups are entitled to receive. Attorneys' fees for Texas opioid litigation lawyers, collectively, under this proposed Term Sheet, are 9.3925% of the gross settlement the State of Texas receives. In other words, for every \$1B in settlements, the Texas Plaintiff's Steering Committee or individual counsel would petition the National Fund for just over \$90M in fees, plus expenses, to be paid out of that fund. Judge Robert Schaffer, who is the Texas MDL Judge for opioid litigation, would then decide how much each firm within Texas is entitled to receive out of that money or would approve any individual firm's fee and expense allocation, based on their work and, perhaps, their impact. By this agreement, outside counsel is obligating themselves to go to that National Fund first to get paid fees and expenses. If such counsel is not made whole there, the Texas lawyers collectively or by firm can then seek administration by Judge Schaffer to recover the remainder of fees and costs up to, but not to exceed 12.5% from the 15% subdivision bucket. If such counsel are still short of 9.3925% (the amount

of total fees) plus costs, such counsel can then turn to the abatement bucket for an amount up to, but not to exceed, 8.75% of that fund [see Term Sheet at C.1-6]. This stair-stepping that begins with our turning first to the National Fund for fees and expenses should benefit all counties and Municipalities. Counsel would be obligated by the Texas Term Sheet to wait at least 12 months to get paid out of the National Fund before turning to Judge Schaffer for unpaid fees and costs, if any [see Texas Term Sheet at C.6].

11. Is the County obligated by the Texas Term Sheet to accept any settlement it does not like?

Answer: No. The County or a municipality is not obligated by the Texas Term Sheet to accept any settlement it doesn't like. The Texas Term Sheet is an agreement on how to allocate monies in the event the County or municipality accepts settlement proposals [see Term Sheet B.7 and E.5].

12. If I don't adopt the TSS and opt out of this settlement, can the county potentially get more money?

Answer: A County can continue to pursue claims in the tort system, but in practice, there are constraints to consider. Trial settings are difficult to obtain because of the large number of governmental claims on file, and trial settings are difficult to bring to fruition because of the considerable time and large expense involved in litigating the claims, as well as the docket scheduling obstacles created by the Covid-19 epidemic.