

THE BOARD OF COUNTY COMMISSIONERS OF  
SANTA FE COUNTY  
RESOLUTION NO. 123

A RESOLUTION

**AUTHORIZING SANTA FE COUNTY TO ENTER INTO SETTLEMENT AGREEMENTS WITH MCKESSON CORPORATION, CARDINAL HEALTH, INC., AMERISOURCEBERGEN CORPORATION, JOHNSON & JOHNSON, JANSSEN PHARMACEUTICALS, INC., ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC., AND JANSSEN PHARMACEUTICA, INC. TO RESOLVE THE COUNTY'S PENDING LITIGATION CONSOLIDATED AND CURRENTLY PENDING IN THE NORTHERN DISTRICT OF OHIO, IN RE: OPIOID LITIGATION, MDL 2804, AND AUTHORIZING THE COUNTY MANAGER TO EXECUTE ON BEHALF OF THE COUNTY ALL DOCUMENTS NECESSARY OR PROPER TO EFFECTUATE THE COUNTY'S PARTICIPATION IN THE SETTLEMENT AGREEMENTS**

**WHEREAS**, in 2018, the Board of County Commissioners (Board) of the County of Santa Fe (County) authorized the County to enter into an engagement agreement with Crueger Dickinson LLC, Simmons Hanly Conroy LLC, von Briesen & Roper, s.c., and Kelly Durham and Pittard, LLP (the "Law Firms") to pursue litigation against certain manufacturers, distributors, and retailers of opioid pharmaceuticals (the "Opioid Defendants") in an effort to hold the Opioid Defendants financially responsible for the impact of the opioid epidemic on the County and for resources necessary to remediate the opioid epidemic;

**WHEREAS**, on behalf of the County, the Law Firms filed a lawsuit against the Opioid Defendants, consolidated and currently pending in the Northern District of Ohio, *In Re: Opioid Litigation*, MDL 2804 (the "Litigation"), and have been litigating against the Opioid Defendants since that time;

**WHEREAS**, negotiations have been ongoing to settle claims against several of the Opioid Defendants, specifically McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation (the "Distributors") and Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. ("Janssen") (the Distributors and Janssen are collectively referred to as the "Settling Defendants");

**WHEREAS**, negotiations with the Settling Defendants have resulted in proposed nationwide settlements to state and local government involved in the Litigation;

**WHEREAS**, copies of the proposed terms of that nationwide settlement have been set forth in the Distributor Settlement Agreement and the Janssen Settlement Agreement (sometimes, individually, a "Settlement Agreement" and, collectively, the "Settlement Agreements");

**WHEREAS**, copies of the Settlement Agreements as well as summaries of the main terms of the Settlement Agreements, the deadlines for submitting the Participation Agreements to the Settlement Agreements, the MDL Court's Order setting deadlines for any County who declines to enter into the Settlement Agreements, and the estimated timelines for settlement payments have been provided to the County;

SFC CLERK RECORDED 12/15/2021

**WHEREAS**, the State of New Mexico (“the State”), acting through its Attorney General, recently informed New Mexico local governments who are eligible to recover from the Distributor Settlement Agreement so long as the State is a Settling State under the Distributor Settlement Agreement (“Local Governments”) that the State intended to become a Settling State under the Distributor Settlement Agreement;

**WHEREAS**, the State’s participation in the Distributor Settlement Agreement now allows the Local Governments to also participate in the Distributor Settlement Agreement;

**WHEREAS**, it is possible that the State may in the future decide to become a Settling State under the Janssen Settlement Agreement;

**WHEREAS**, if the County elects to become a Participating Subdivision in the Settlement Agreements, it will receive the benefits associated with the Settlement Agreements provided the County (a) approves the Settlement Agreements; (b) executes the Participation Agreement stating the Counties intention to be bound by the Settlement Agreements; and, with regard to the Janssen Settlement Agreement only, (c) the State decides to become a Settling State in the Janssen Settlement Agreement;

**WHEREAS**, the Local Governments must elect to participate in the Distributor Settlement Agreement (and the Janssen Settlement Agreement, if the State subsequently decides to be a Settling State under the Janssen Settlement Agreement) and execute the Participation Agreement(s) to the Settlement Agreement(s) by that date;

**WHEREAS**, it is anticipated that a memorandum of understanding detailing how the New Mexico portion of the proceeds of the Settlement Agreements will be allocated as between the State and Local Governments (“Allocation MOU”) will be reached in the coming weeks;

**WHEREAS**, the County desires to settle its claims against the Settling Defendants, contingent upon an acceptable Allocation MOU being achieved and, with regard to the Janssen Settlement Agreement only, the State deciding to be a Settling State in the Janssen Settlement Agreement;

**WHEREAS**, the County desires to execute the Participation Agreements necessary to participate in the Settlement Agreements and authorize them to be held in escrow until the time an acceptable Allocation MOU is achieved and, with regard to the Janssen Settlement Agreement only, the State decides to be a Settling State in the Janssen Settlement Agreement;

**WHEREAS**, participation in the Settlement Agreements does not affect the County’s claims against non-settling Defendants.

**NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD AS FOLLOWS:**

1. The Board hereby approves the Settlement Agreements.
2. The County Manager is authorized and directed to execute on behalf of the County all documents necessary or property to effectuate the County’s participation in the Settlement Agreements. Without limiting the generality of the foregoing, the County Manager is authorized to negotiate and execute on behalf of the County the following documents:
  - a. the Participation Agreement to the Distributor Settlement Agreement, to be held in escrow until an Allocation MOU is achieved;

b. the Participation Agreement to the Janssen Settlement Agreement, to be held in escrow until the State decides to be a Settling State under the Janssen Settlement Agreement and an Allocation MOU is achieved;

c. an Escrow Agreement authorizing the County's Participation Agreements to be held in escrow until such time as an acceptable Allocation MOU has been achieved and, with respect to Janssen only, the State decides to be a Settling State in the Janssen Settlement Agreement. The Escrow Agreement shall define the circumstances under which the County Manager may authorize release of the escrowed Participation Agreements by the Escrow Agent; and

d. an Allocation MOU acceptable to the County Manager setting forth how proceeds under the Settlement Agreement will be allocated between the State and Local Governments.

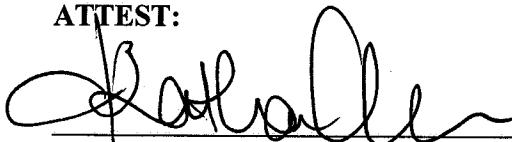
**BE IT FURTHER RESOLVED** that all actions heretofore taken by the Board, other County elected officials, County staff, and the Law Firms with respect to the matters contemplated under this Resolution are hereby ratified, confirmed, and approved.

**PASSED, APPROVED, AND ADOPTED** this 14<sup>th</sup> day of December, 2021.


**THE BOARD OF COUNTY  
COMMISSIONERS OF THE COUNTY OF  
SANTA FE**

  
Henry P. Roybal, Chair

**ATTEST:**

  
Katharine E. Clark, County Clerk

**APPROVED AS TO FORM:**

  
Gregory S. Shaffer, County Attorney




SFC CLERK RECORDED 12/15/2021

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

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I Hereby Certify That This Instrument Was Filed for  
Record On The 15TH Day Of December, 2021 at 08:56:53 AM  
And Was Duly Recorded as Instrument # **1974496**  
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office  
Katharine E. Clark

Deputy  County Clerk, Santa Fe, NM

