

RESOLUTION NO. 2022-17

Authorizing Union 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 Union County Board of Commissioners 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 on of the Opioid Epidemic on the County and resources necessary to combat the opioid epidemic;

WHEREAS, on behalf of the County, the Law Firms filed a lawsuit against the Opioid Defendants and have been litigating against the Opioid Defendants since that time;

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

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

WHEREAS, copies of the proposed terms of that nationwide settlement have been set forth in the Distributors Master Settlement Agreement and the J&J Master Settlement Agreement (collectively "Settlement Agreements");

WHEREAS, copies of the Settlement Agreements as well as summary 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;

WHEREAS, the 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;

WHEREAS, the State of New Mexico (“the State”) recently informed New Mexico local governments who are eligible to recover from the Settlement so long as the State of New Mexico is a Participating State in the Settlements (“Local Governments”) that the State of New Mexico intended to become a Participating State in the Settlements with several of the Settling Defendants;

WHEREAS, the State’s participation in the Settlements now allows the Local Governments to also participate in the Settlements;

WHEREAS, the Local Governments must elect to participate in the Settlements by January 2, 2022 and execute the Participation Agreements to the Settlements by that date;

WHEREAS, it is anticipated that a memorandum of understanding detailing how the New Mexico portion of the proceeds of the Settlements 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 pending the execution of an acceptable Allocation MOU;

WHEREAS, the County desires to execute the Participation Agreements necessary to execute the Settlements and authorizes them to be held in escrow until the time an acceptable Allocation MOU is reached;

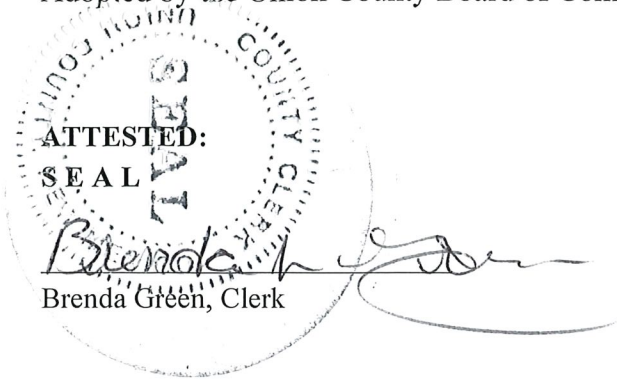
WHEREAS, participation in these Settlements does not affect the County’s claims against non-settling Defendants;

NOW, THEREFORE, BE IT RESOLVED: the Union County Board of Commissioners hereby approves and authorizes the County Manager to settle and release the County’s claims against the Settling Defendants upon the achievement of an acceptable Allocation MOU by taking the following measures:

1. The execution of the Participation Agreement to the Distributors Settlement Agreement to be held in escrow until an Allocation MOU is achieved.
2. The execution of the Participation Agreement to the Janssen Settlement Agreement to be held in escrow until an Allocation MOU is achieved.
2. The execution of an Escrow Agreement authorizing the County’s Settlement Participation Agreements to be held in escrow until such time as an acceptable Allocation MOU has been achieved.
3. Execution of an acceptable Allocation MOU setting forth how Settlement proceeds will be allocated between the State of New Mexico and the New Mexico Local Governments.
4. Ability to authorize release of the escrowed Participation Agreements by the Escrow Agent upon the achievement of an acceptable Allocation MOU.

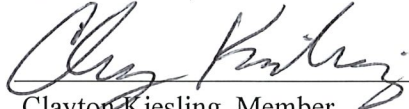
BE IT FURTHER RESOLVED that all actions heretofore taken by the Board of Commissioners of Union County and other appropriate public officers and agents of the County with respect to the matters contemplated under this Resolution are hereby ratified, confirmed and approved.

Adopted by the Union County Board of Commissioners this 14th day of December, 2021.



UNION COUNTY COMMISSION:


Justin Bennett, Chairman


Clayton Kiesling, Member


Walter Hall, Member