

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

RESOLUTION NO. 2023- 821

A RESOLUTION

AUTHORIZING SANTA FE COUNTY TO ENTER INTO SETTLEMENT AGREEMENTS WITH TEVA AND ALLERGAN 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, through New Mexico-specific trials and, in addition, in the context of the Litigation overall, negotiations have been ongoing to settle claims against several of the Opioid Defendants, specifically Teva and Allergan (the "Settling Defendants");

WHEREAS, negotiations with the Settling Defendants have resulted in proposed nationwide and New Mexico-specific settlements to state and local governments involved in the Litigation;

WHEREAS, copies of the proposed terms of that nationwide settlement have been set forth in each of the Teva and Allergan Settlement Agreements, which can be found at <https://nationalopioidsettlement.com/teva-allergan-settlements/> (sometimes, individually, a "Settlement Agreement" and, collectively, the "Settlement Agreements");

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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, and the estimated timelines for settlement payments have been made available to the County;

WHEREAS, the State of New Mexico (“the State”), acting through its Attorney General, recently informed that the State intended to become a Settling State under the Settlement Agreements related to Teva and Allergan;

WHEREAS, the State’s participation in the Settlement Agreements related to Teva and Allergan now allows the Local Governments to also participate in those Settlement Agreements;

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; and (b) executes the Participation Agreements stating the Counties intention to be bound by the Settlement Agreements;

WHEREAS, by on or about April 19, 2023, the Local Governments must elect to participate in the Teva and Allergan Settlement Agreements and execute the Participation Agreements to the Settlement Agreements by that date;

WHEREAS, the allocation of settlement proceeds arising from the Settlement Proceeds will occur consistent with the New Mexico Opioid Allocation Agreement (“Allocation MOU”), a copy of which has been made available to the County;

WHEREAS, the County desires to settle its claims against the Settling Defendants identified in this Resolution, provided all conditions precedent to the County’s participation as set forth in this Resolution, and the documents and agreements referenced herein, have been satisfied;

WHEREAS, the County desires to execute the Participation Agreements necessary to participate in the Settlement Agreements and authorize them to be held in escrow, if necessary, until such time as all conditions precedent to the County’s participation have been satisfied;

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 for each of the Allergan and Teva Settlement Agreements;

b. all documents necessary to confirm, update, ratify and approve the Allocation MOU as it relates to the Settlement Agreements; and

c. an Escrow Agreement, if necessary, authorizing the County's Participation Agreements to be held in escrow until such time as all conditions precedent to the County's participation in one, some or all of the Settlement Agreements have been satisfied. The Escrow Agreement shall define the circumstances under which the County Manager may authorize release of the escrowed Participation Agreements by the Escrow Agent.

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 14TH DAY OF MARCH, 2023.

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

By: *Anna C. Hansen*
Anna C. Hansen, Chair

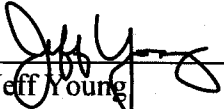
ATTEST:

Katharine E. Clark
Katharine E. Clark
Santa Fe County Clerk



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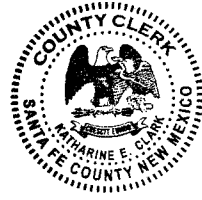
APPROVED AS TO FORM:




Jeff Young
Santa Fe County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
I Hereby Certify That This Instrument Was Filed for
Record On The 16TH Day Of March, 2023 at 11:32:51 AM
And Was Duly Recorded as Instrument # 2008232
Of The Records Of Santa Fe County

BCC RESOLUTIONS
PAGES: 4



Witness My Hand And Seal Of Office
Katharine E. Clark
Deputy  County Clerk, Santa Fe, NM

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