

ENROLLED ORDINANCE 179-31

APPROVE SETTLEMENT AGREEMENT WITH THE KROGER CO. AND APPROVE
ADDENDUM TWO TO WISCONSIN LOCAL GOVERNMENT ALLOCATION MOU

WHEREAS, in February 2018 the Waukesha County Board adopted Enrolled Resolution 172-004 authorizing the Waukesha County Corporation Counsel to, at his discretion, select outside counsel and commence a lawsuit on behalf of the County, against any pharmaceutical company, wholesale distributor, manufacturer and/or other entity or individual that engaged in practices that contributed to the opioid epidemic within Waukesha County; and

WHEREAS, national and local counsel was retained and a lawsuit was filed on behalf of the County against certain manufactures, distributors, and retailers of opioid pharmaceuticals (the “Opioid Defendants”) in an effort to hold the Opioid Defendants financially responsible for the County’s expenditure of money and resources to combat the opioid epidemic; and

WHEREAS, similar lawsuits were filed by seventy other counties in Wisconsin as well as thousands of various other units of government across the state and country and were coordinated in multidistrict litigation in the Northern District of Ohio captioned *In re: Opioid Litigation*, MDL 2804 (the “Litigation”); and

WHEREAS, settlement discussions with The Kroger Co. (the “Settling Defendant”) have resulted in tentative agreement as to settlement terms (“Settlement Agreement”) pending agreement from the County and other plaintiffs involved in the Litigation; and

WHEREAS, a copy of the Settlement Agreement with the Settling Defendant representing the terms of the tentative settlement agreement with the Settling Defendant is publicly available at <https://nationalopioidsettlement.com/wp-content/uploads/2024/05/Kroger-Multistate-Settlement-Agreement-Circulated-to-States-March-25-2024.pdf> and has been discussed with the Board in closed session; and

WHEREAS, the Settlement Agreement provides, among other things, for the payment of certain sums to Participating Subdivisions (as defined in the Settlement Agreement) upon the occurrence of certain events detailed in the Settlement Agreement; and

WHEREAS, in order to become a Participating Subdivision and participate in the benefits of the Settlement Agreement it is necessary that the County (a) approves the Settlement Agreement and (b) approves Addendum Two to the Wisconsin Local Government MOU which allocates proceeds from the Settlement Agreement among the various Wisconsin Participating Subdivisions in the same manner as previous opioid settlements in the Litigation; and that the Legislature’s Joint Committee on Finance approves the terms of the Settlement Agreement; and

WHEREAS, a draft of Addendum Two to the Wisconsin Local Government MOU is on file in the Corporation Counsel’s office pending approval by the County Board and has been shared with the Board in closed session.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Settlement Agreement with The Kroger Co. (the “Settlement Agreement”) is in all respects hereby approved.

BE IT FURTHER ORDAINED that Corporation Counsel or his designee is hereby authorized to take all actions necessary to participate in the Settlement Agreement and to finalize and implement Addendum Two to the Wisconsin Local Government MOU with respect to the allocation of settlement proceeds among the Wisconsin litigating local government entities in substantially the same form as on file with the Corporation Counsel's office and shared with the Board, including the further negotiation and execution of any escrow agreement for receipt and disbursement of the proceeds of the Settlement Agreement and the payment of attorneys' fees or any other documents necessary to implement the Settlement Agreement.

BE IT FURTHER ORDAINED that all proceeds from the Settlement Agreement shall be deposited in the account previously established for the proceeds from prior settlements in the Litigation and administered and disbursed in a manner consistent with Wis. Stat. § 165.12(4), the Settlement Agreement and this Ordinance.

APPROVE SETTLEMENT AGREEMENT WITH THE KROGER CO. AND APPROVE ADDENDUM TWO
TO WISCONSIN LOCAL GOVERNMENT ALLOCATION MOU

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County,
Wisconsin, was presented to the County Executive on:

Date: 7/29/2024, Margaret Wartman
Margaret Wartman, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County,
Wisconsin, is hereby:

Approved: X

Vetoed: _____

Date: 7/29/24, Paul Farrow
Paul Farrow, County Executive

VOTE RESULTS

24 YES 0 NO 0 ABSTAIN 1 ABSENT

Ordinance 179-O-031

Ordinance 179-O-031: Approve Settlement Agreement with the Kroger Co. and Approve Addendum Two to Wisconsin Local Government Allocation MOU

 **Passed By Majority Vote**

D1 - Styza	AYE	D10 - Thieme	AYE	D19 - Enriquez	AYE
D2 - Euclide	AYE	D11 - Howard	AYE	D20 - Schellinger	AYE
D3 - Morris	AYE	D12 - Wolff	AYE	D21 - Gaughan	AYE
D4 - Batzko	AYE	D13 - Leisemann	AYE	D22 - Szpara	AYE
D5 - Grant	ABSENT	D14 - Mommaerts	AYE	D23 - Hammitt	M AYE
D6 - Walz	AYE	D15 - Kolb	AYE	D24 - Bangs	AYE
D7 - LaFontain	S AYE	D16 - Crowley	AYE	D25 - Johnson	AYE
D8 - Koremenos	AYE	D17 - Meier	AYE		
D9 - Heinrich	AYE	D18 - Nelson	AYE		

4th Meeting, 179th Year of the County Board of Supervisors - July 23 2024 08:01:59 PM
July 23, 2024

