

ENROLLED ORDINANCE 177-67

APPROVE OPIOID BANKRUPTCY ALLOCATION AGREEMENTS

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, certain Opioid Defendants subsequently filed for bankruptcy, including *In re: Mallinckrodt PLC, et al.*, (Bankr. D. Del. No. 20-12522 (JTD)), *In re: Purdue Pharma L.P., et al.*, (Bankr. S.D.N.Y. No. 19-23649(RDD)), and *In re: Endo International plc, et al.*, (Bankr. S.D.N.Y. No. 22-22549 (JLG)), and these bankruptcies and any other Opioid Defendant bankruptcies filed, are expected to result in bankruptcy court orders that include National Opioid Abatement Trust ("NOAT") Agreements and Trust Distribution Procedures ("TDP"); and

WHEREAS, the NOAT TDPs provide, among other things, that a State and its local governments may enter into a Statewide Abatement Agreement ("SAA") that, according to the terms of the respective TDP, creates an agreed-upon allocation for the NOAT Funds, as defined in the NOAT Agreement, dedicated to the State; and

WHEREAS, the State of Wisconsin and its Local Governments have reached such an SAA with respect these bankruptcy funds (the "Opioid Bankruptcy MOU") that is consistent with the allocation previously agreed to among the parties for other settlements arising out of the Litigation; and

WHEREAS, Corporation Counsel, upon consultation with the County Executive and Board Chair, has executed the Opioid Bankruptcy MOU, subject to the ratification and approval of the full County Board; and

WHEREAS, a copy of the Opioid Bankruptcy MOU is on file in the Office of Corporation Counsel and has been shared with the Board in closed session.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Wisconsin State-Local Government Opioid Bankruptcy Memorandum of Understanding (the "Opioid Bankruptcy MOU") on file in the Office of Corporation Counsel and shared with the Board in closed session is in all respects hereby approved and ratified.

BE IT FURTHER ORDAINED that Corporation Counsel or his designee is hereby authorized to take all actions necessary to participate in the Opioid Bankruptcy MOU with respect to the allocation of bankruptcy proceeds from Opioid Defendants among the Wisconsin litigating local government entities and the State of Wisconsin, including the further negotiation and execution of any necessary escrow agreement or other agreement necessary for receipt and disbursement of the bankruptcy proceeds.

BE IT FURTHER ORDAINED that Corporation Counsel is hereby expressly authorized to negotiate and execute any other Statewide Abatement Agreement substantially in the same form as the Opioid Bankruptcy MOU and related agreements for any future Opioid Defendant bankruptcies provided that the agreed upon allocation is materially consistent with that in the Opioid Bankruptcy MOU and prior settlements.

APPROVE OPIOID BANKRUPTCY ALLOCATION AGREEMENTS

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

Date: 11/28/2022, 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: 11/28/2022, Paul Farrow  
Paul Farrow, County Executive

**VOTE RESULTS**

22 YES


0 NO

0 ABSTAIN

3 ABSEN

**Ordinance 177-O-073**

Ordinance 177-O-073: Approve Opioid Bankruptcy Allocation Agreements

 **Passed By Majority Vote**

D1 - Foti	AYE	D10 - Thieme	AYE	D19 - Enriquez	AYE
D2 - Weil	AYE	D11 - Howard	AYE	D20 - Schellinger	AYE
D3 - Morris	ABSENT	D12 - Wolff	AYE	D21 - Gaughan	AYE
D4 - Batzko	AYE	D13 - Decker	AYE	D22 - Vacant	ABSEN
D5 - Grant	AYE	D14 - Mommaerts	AYE	D23 - Hammitt	AYE
D6 - Walz	AYE	D15 - Kolb	AYE	D24 - Bangs	AYE
D7 - LaFontain	AYE	D16 - Crowley	AYE	D25 - Johnson	AYE
D8 - Michalski	ABSENT	D17 - Meier	AYE		
D9 - Heinrich	AYE	D18 - Nelson	AYE		