

WISCONSIN STATE-LOCAL GOVERNMENT MEMORANDUM OF UNDERSTANDING

WHEREAS, the State of Wisconsin (“State”), its communities, and their people have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities that engage in or have engaged in the manufacture, marketing, promotion, distribution or dispensing of an opioid analgesic, including but not limited to those persons or entities identified as Defendants in the matter captioned *In re: Opioid Litigation*, MDL 2804 pending in the United States District Court for the Northern District of Ohio (“Litigation”);

WHEREAS, certain Wisconsin local governments identified on the attached Exhibit A (“Local Governments”), through their counsel, and the State of Wisconsin, through its Attorney General, are separately engaged in investigations, litigation, and settlement discussions seeking to hold the Defendants in the Litigation accountable for the damage caused by their misfeasance, nonfeasance and malfeasance;

WHEREAS, the State of Wisconsin and the Local Governments share a common desire to abate and alleviate the impacts of the misfeasance, nonfeasance and malfeasance described above throughout the State of Wisconsin and in its local communities;

WHEREAS, the settlement discussions with McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation, Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. (“Settling Defendants”) resulted in tentative agreements as to settlement terms (“Settlement Agreements”) pending agreement from the State of Wisconsin, the Local Governments and other parties involved in the Litigation;

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

WHEREAS, while the Local Governments and the State recognize that the sums which may be available from the aforementioned Settlement Agreements will likely be insufficient to fully abate the public health crisis caused by the Opioid epidemic, they share a common interest in dedicating the most resources possible to the abatement effort;

WHEREAS, the State of Wisconsin enacted Wis. Stat. § 165.12 which provides for an allocation of opioid settlement proceeds; and

WHEREAS, the State and the Local Governments intend this Memorandum of Understanding (“MOU”) to effectuate the terms of the Settlement Agreements in a manner consistent with Wis. Stat. § 165.12(2).

NOW, THEREFORE, the State and the Local Governments, enter into this MOU upon the terms described herein.

A. Settlement Proceeds

1. As used in this MOU, the term “Opioid Settlement Proceeds” shall mean all funds allocated by a Settlement Agreement to the State or Local Governments for purposes of opioid remediation activities, as well as any repayment of those funds and any interest or investment earnings that may accrue as those funds are temporarily held before being expended on opioid remediation strategies. “Opioid Settlement Proceeds” do ***not*** include the “additional restitution,” reimbursement of the United States Government, or separate funds identified in the Settlement Agreements as payment of the Parties’ litigation fees, expenses, and/or costs.
2. The Settlement Administrator shall directly distribute the Opioid Settlement Proceeds to the State and to Local Governments in such proportions and for such uses as set forth in this MOU.
3. Opioid Settlement Proceeds shall be allocated as follows: (i) 30% to the State of Wisconsin (“State Share”); and (ii) 70% to Local Governments (“LG Share”). Opioid Settlement Proceeds shall not be considered funds of the State or any Local Government unless and until such time as each annual distribution is made.
4. 100% of the “Additional Restitution Amount” identified in both Settlement Agreements shall be paid to the State and deposited with the Department of Health Services.
5. Except for Opioid Settlement Funds expended in payment of attorney fees as provided in Wis. Stat. § 165.12(6), all Opioid Settlement Proceeds, regardless of allocation, and the entire “Additional Restitution Amount,” shall, consistent with Wis. Stat. § 165.12(3) and (4), be utilized only for purposes identified as approved uses for abatement in the Settlement Agreements.
6. If any portion of the LG Share is used for the payment of owed attorney fees as authorized under Wis. Stat. § 165.12(6), the Local Governments shall report to the Attorney General and the Joint Committee on Finance the amount of the payment(s) and provide the contract(s) under which the attorney fees are purportedly owed.

Notwithstanding any limitations or characterization of funds herein to the contrary, any payments for attorneys’ fees and expenses may only be paid for out of the owing Local Governments’ share.

7. The LG Share shall be paid to each Local Government by the Settlement Administrator based on the allocation created and agreed to by the Local Governments which assigns

each Local Government a percentage share of the LG Share, less any applicable attorney fees as authorized under Wis. Stat. § 165.12(6) and referenced above.

8. Nothing in this MOU is intended to alter or change any Local Government's right to pursue its own claim. Rather, the intent of this MOU is to provide a mechanism for the receipt and expenditure of Opioid Settlement Proceeds. Notwithstanding the foregoing, only Local Governments who are Participating Subdivisions under the Settlement Agreements, and who agree to the terms of this MOU may directly receive Opioid Settlement Proceeds.
9. Notwithstanding any limitations or characterization of funds herein to the contrary, any payments for attorney's fees and expenses may be applied only to the LG Share or any Local Government share of the LG Share. The State shall have no responsibility for payment of attorneys' fees or litigation expenses.
10. The parties understand that the United States may claim a portion of the Opioid Settlement Proceeds for Medicaid reimbursement. The parties agree that, to the extent a claim for Medicaid reimbursement is made, the parties shall bear the liability for the reimbursement on a pro rata basis based upon the particular claims made by the United States related to the Medicaid reimbursement. The parties agree to meet, confer, and cooperate in good faith concerning the allocation of any such liability.
11. This MOU may be executed in counterparts. Electronic signatures shall in all respects be considered valid and binding.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereby execute this MOU as of the date set forth below.

ON BEHALF OF THE STATE OF WISCONSIN:

Attorney General Josh Kaul

Date: _____

ON BEHALF OF THE LOCAL GOVERNMENTS:

Adams County
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Ashland County
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Barron County
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Bayfield County
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Brown County
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Buffalo County
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Burnett County
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Calumet County
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Chippewa County
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Clark County
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Columbia County
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Crawford County
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Dane County
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Dodge County
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Door County
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Douglas County
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Superior, City of
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Dunn County
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Eau Claire County
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Florence County
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Fond Du Lac County
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Forest County
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Grant County
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Green Lake County
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Iowa County
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Iron County
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Jefferson County
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Juneau County
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Kenosha County
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Kewaunee County
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La Crosse County
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Lafayette County
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Langlade County
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Manitowoc County
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Marathon County
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Marinette County
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Marquette County
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Menominee County
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Milwaukee County
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Franklin, City of
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Greenfield, City of
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Oak Creek, City of
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South Milwaukee, City of
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West Allis, City of
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Monroe County
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Racine County
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Mount Pleasant, City of
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Union Grove, City of
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Yorkville Town
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Vernon County
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Vilas County
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Walworth County
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Washburn County
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Washington County
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Waukesha County
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Waupaca County
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Waushara County
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Winnebago County
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Wood County
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EXHIBIT A
Litigating Local Governments

Adams County
Ashland County
Barron County
Bayfield County
Brown County
Buffalo County
Burnett County
Calumet County
Chippewa County
Clark County
Columbia County
Crawford County
Dane County
Dodge County
Door County
Douglas County
City of Superior
Dunn County
Eau Claire County
Florence County
Fond Du Lac County
Forest County
Grant County
Green County
Green Lake County
Iowa County
Iron County
Jackson County
Jefferson County

Juneau County
Kenosha County
City of Kenosha
Village of Pleasant Prairie
Kewaunee County
La Crosse County
Lafayette County
Langlade County
Lincoln County
Manitowoc County
Marathon County
Marinette County
City of Marinette
Marquette County
Menominee County
Milwaukee County
City of Cudahy
City of Franklin
City of Greenfield
City of Milwaukee
City of Oak Creek
City of South Milwaukee
City of Wauwatosa
City of West Allis
Monroe County
Oconto County
Oneida County
Outagamie County
Ozaukee County

Pepin County
Pierce County
Portage County
Price County
Racine County
Village of Mount Pleasant
Village of Sturtevant
Village of Union Grove
Town of Yorkville
Richland County
Rock County
Rusk County
Sauk County
Sawyer County
Shawano County
Sheboygan County
St Croix County
Taylor County
Trempealeau County
Vernon County
Vilas County
Walworth County
Washburn County
Washington County
Waukesha County
Waupaca County
Waushara County
Winnebago County
Wood County