

REQUEST FOR BOARD ACTION
HENDERSON COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: June 6, 2021

SUBJECT: Memorandum of Agreement on Potential Opioid Settlement

PRESENTER: Charles Russell Burrell

ATTACHMENT(S): Resolution of Adoption
Memorandum of Agreement
Henderson County signature page

The Court hearing certain of the opioid-related national class action lawsuits (Defendants are opioid distributors – Johnson & Johnson, AmerisourceBergen, Cardinal Health and McKesson – with the litigation taking place in Cleveland, Ohio) is reported to be (possibly) nearing a resolution of these cases. The North Carolina Attorney General’s Office and the North Carolina Association of County Commissioners have negotiated a Memorandum of Agreement (“MOA”), which governs how North Carolina would use the proceeds of any future national settlement or bankruptcy resolution with the listed drug distributors. These potential settlements and resolutions could bring as much as \$850 million to North Carolina over an 18-year period to support state and local efforts to address the epidemic. To maximize funds flowing to North Carolina communities on the front lines of the opioid epidemic, the agreement would direct settlement funds as follows:

- 80 percent to local governments, including all 100 counties and 17 municipalities (all NC municipalities with populations in excess of 30,000).
- 15 percent to the state, which the General Assembly would appropriate to address the epidemic.
- An additional five percent to an incentive fund to encourage counties and large- and medium-size municipalities to sign on to the agreement.

Note that the MOA has no input into whether the matter is actually settled or not.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Approval of the Memorandum of Agreement.

If the Board is so inclined, the following motion is suggested:

I move that the Board approve the



Henderson County
North Carolina

Before the Board of Commissioners

**A RESOLUTION BY THE COUNTY OF HENDERSON APPROVING THE
MEMORANDUM OF AGREEMENT (MOA) BETWEEN THE STATE OF NORTH
CAROLINA AND LOCAL GOVERNMENTS ON PROCEEDS RELATING TO THE
SETTLEMENT OF OPIOID LITIGATION**

BOARD OF COMMISSIONERS ENACTMENT 2021-_____

WHEREAS, as of 2019, the opioid epidemic had taken the lives of more than 16,500 North Carolinians, torn families apart, and ravaged communities from the mountains to the coast; and

WHEREAS, the COVID-19 pandemic has compounded the opioid crisis, increasing levels of drug misuse, addiction, and overdose death; and

WHEREAS, the Centers for Disease Control and Prevention estimates the total “economic burden” of prescription opioid misuse alone in the United States is \$78.5 billion a year, including the costs of healthcare, lost productivity, addiction treatment, and criminal justice involvement; and

WHEREAS, Henderson County and its residents have suffered from an opioid epidemic to the extent that in 2018, 44 opioid pills were prescribed for every adult and child residing in the County, and the County consequentially suffered opioid overdoses and overdose-caused deaths; and

WHEREAS, representatives of North Carolina governments, the North Carolina Association of County Commissioners, and the North Carolina Department of Justice have negotiated and prepared a Memorandum of Agreement (MOA) to provide for the equitable distribution of any proceeds from a settlement of national opioid litigation to the State of North Carolina and to individual local governments; and

WHEREAS, Local Governments and the State of North Carolina anticipate a settlement in the national opioid litigation to be forthcoming; and

WHEREAS, by signing onto the MOA, the state and local governments maximize North Carolina’s share of opioid settlement funds to ensure the needed resources reach communities, once a negotiation is finalized, as quickly, effectively, and directly as possible; and

WHEREAS, it is advantageous to all North Carolinians for local governments, including Henderson County and its citizens, to sign onto the MOA and demonstrate solidarity in response to the opioid epidemic, and to maximize the share of opioid settlement funds received both in the state and this county to help abate the harm; and

WHEREAS, the MOA directs substantial resources over multiple years to local governments on the front lines of the opioid epidemic while ensuring that these resources are used in

an effective way to address the crisis.

NOW, THEREFORE BE IT RESOLVED, Henderson County hereby approves the Memorandum of Agreement Between the State of North Carolina and Local Governments on Proceeds Relating to the Settlement of Opioid Litigation, and any subsequent settlement funds that may come into North Carolina as a result of the opioid crisis. Furthermore, presuming the anticipated settlement is reached, Henderson County authorizes the County Manager and County Attorney to take such measures as necessary to comply with the terms of the MOA and receive any settlement funds, including executing any documents related to the allocation of opioid settlement funds and settlement of lawsuits related to this matter. Be it further resolved copies of this resolution and the signed MOA be sent to opioiddocs@ncdoj.gov as well as forwarded to the North Carolina Association of County Commissioners at communications@ncacc.org.

Adopted this the 6th day of June, 2021.

WILLIAM LAPSLEY, Chair
Henderson County Board of Commissioners

ATTEST:

DENISA A. LAUFFER
Clerk to the Board

(SEAL)

**MEMORANDUM OF AGREEMENT
BETWEEN THE STATE OF NORTH CAROLINA AND LOCAL GOVERNMENTS
ON PROCEEDS RELATING TO THE SETTLEMENT OF OPIOID LITIGATION**

IN WITNESS WHEREOF, the parties, through their duly authorized officers, have executed this Memorandum of Agreement under seal as of the date hereof.

SIGNATURE PAGE FOR HENDERSON COUNTY

County Government

HENDERSON COUNTY

By: _____
Name: William Lapsley
Title: Board of Commissioners Chair
Date: June 6, 2021