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TORRANCE COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. R 2023- 07

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**A RESOLUTION AUTHORIZING TORRANCE COUNTY TO ENTER INTO
SETTLEMENT AGREEMENTS WITH ALBERTSONS COMPANIES, CVS
PHARMACY, KROGER, WALMART, ALLERGAN, AND TEVA TO RESOLVE THE
COUNTY’S 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**

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WHEREAS, in 2018, the Board of County Commissioners (Board) of the County of Torrance 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 Norther 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 Albertsons Companies, CVS Pharmacy, Kroger, Walmart, Allergan, and Teva (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 the relevant Settlement Agreements, which can be found at <https://nationalopioidsettlement.com/teva-allergan-settlements/> (Teva and Allergan national settlement) and <https://spaces.hightail.com/receive/vQGR276SxI> (New Mexico-specific settlements for Albertsons, CVS, Kroger, and Walmart) (sometimes, individually, a “Settlement Agreement” and, collectively, the “Settlement Agreements”);

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2 **WHEREAS**, the State of New Mexico Office of the Attorney General has distributed a
3 memorandum dated February 1, 2023, providing additional details surrounding the New Mexico-
4 specific settlements with Albertsons Companies, CVS Pharmacy, Kroger and Walmart, a copy of
5 which has been made available to the County;
6

7 **WHEREAS**, copies of the Settlement Agreements as well as summaries of the main terms
8 of the Settlement Agreements, the deadlines for submitting the Participation Agreements to the
9 Settlement Agreements, and the estimated timelines for settlement payments have been made
10 available to the County;
11

12 **WHEREAS**, the State of New Mexico (“the State”), acting through its Attorney General,
13 recently informed that the State intended to become a Settling State under the Settlement
14 Agreements related to Allergan and Teva;
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16 **WHEREAS**, the State’s participation in the Settlement Agreements related to Allergan
17 and Teva now allows the Local Governments to also participate in those Settlement Agreements;
18

19 **WHEREAS**, the State has informed relevant parties that it has reached settlements in
20 principle with Hikma, Amneal and KVK-Tech, which are also Opioid Defendants;
21

22 **WHEREAS**, if the County elects to become a Participating Subdivision in the Settlement
23 Agreements, it will receive the benefits associated with the Settlement Agreements provided the
24 County (a) approves the Settlement Agreements; (b) executes the Participation Agreements stating
25 the Counties intention to be bound by the Settlement Agreements; and (c) with regard to the
26 Hikma, Amneal and KVK-Tech tentative settlements, the State finalizes and approves the terms
27 of any one or all of the proposed tentative settlements;
28

29 **WHEREAS**, by March 1, 2023, the Local Governments must elect to participate in the
30 Albertson Companies, CVS Pharmacy, Kroger and Walmart Settlement Agreements and execute
31 the Participation Agreements to the Settlement Agreements by that date;
32

33 **WHEREAS**, by on or about April 19, 2023, the Local Governments must elect to
34 participate in the Allergan and Teva Settlement Agreements and execute the Participation
35 Agreements to the Settlement Agreements by that date;
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37 **WHEREAS**, the allocation of settlement proceeds arising from the Settlement Proceeds
38 will occur consistent with the New Mexico Opioid Allocation Agreement (“Allocation MOU”), a
39 copy of which has been made available to the County;
40

41 **WHEREAS**, the County desires to settle its claims against the Settling Defendants
42 identified in this Resolution, provided all conditions precedent to the County’s participation as set
43 forth in this Resolution, and the documents and agreements referenced herein, have been satisfied;
44

1 **WHEREAS**, the County desires to execute the Participation Agreements necessary to
2 participate in the Settlement Agreements and authorize them to be held in escrow, if necessary,
3 until such time as all conditions precedent to the County's participation have been satisfied;
4

5 **WHEREAS**, the County desires to authorize the County Manager to execute any and all
6 documents, including without limitation Participation Agreements, to allow the County to
7 participate in the settlements in principle with Hikma, Amneal and KVK-Tech provided such
8 settlements are finalized; and
9

10 **WHEREAS**, participation in the Settlement Agreements does not affect the County's
11 claims against non-settling Defendants.
12

13 **NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD AS FOLLOWS:**
14

15 1. The Board hereby approves the Settlement Agreements.
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17 2. Janice Barela, County Manager, or her designee is hereby authorized and directed
18 to execute on behalf of the County all documents necessary or property to effectuate the County's
19 participation in the Settlement Agreements. Without limiting the generality of the foregoing,
20 Janice Barela, County Manager, or her designee is hereby authorized to negotiate and execute on
21 behalf of the County the following documents:
22

23 a. the Participation Agreements for each of the Albertsons Companies, CVS
24 Pharmacy, Kroger and Walmart Settlement Agreements;
25

26 b. the Participation Agreement for each of the Allergan and Teva Settlement
27 Agreements;
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29 c. all documents necessary to confirm, update, ratify and approve the
30 Allocation MOU as it relates to the Settlement Agreements;
31

32 d. an Escrow Agreement, if necessary, authorizing the County's Participation
33 Agreements to be held in escrow until such time as all conditions precedent to the County's
34 participation in one, some or all of the Settlement Agreements have been satisfied. The Escrow
35 Agreement shall define the circumstances under which the County Manager may authorize release
36 of the escrowed Participation Agreements by the Escrow Agent; and
37

38 e. the Participation Agreements for each of the Hikma, Amneal and KVK-
39 Tech Settlement Agreements should those settlements be finalized.
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41 **BE IT FURTHER RESOLVED** that all actions heretofore taken by the Board, other
42 County elected officials, County staff, and the Law Firms with respect to the matters contemplated
43 under this Resolution are hereby ratified, confirmed, and approved.

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DONE THIS 22 DAY OF FEBRUARY, 2023.

APPROVED AS TO FORM ONLY:

BOARD OF COUNTY COMMISSIONERS


Michael I. Garcia, County Attorney


Ryan Schwebach, Chair, District 2

Date: 22 Feb 23


Kevin McCall, Vice Chair, District 1

Vacant
VACANT, Member, District 3

ATTEST:


Linda Jaramillo, County Clerk

Date: 2/22/23

