

DECEMBER 7TH, 2021

The Board of Supervisors of Shelby County, Iowa, met pursuant to law and rules of said board in regular session at 9:00 a.m. in the Shelby County Courthouse with the following members present Darin Haake, Chairperson; Steve Kenkel, Vice-Chairperson; and Supervisor Charles Parkhurst and Taryn Knapp, Clerk.

The Chair asked that any conflict of interest be stated concerning any item on the agenda. No conflicts were stated.

A motion was made by Parkhurst with a second by Kenkel to approve the minutes of November 30th meeting. AYES: Unanimous NAYES: None

A motion was made by Kenkel and seconded by Parkhurst to approve the agenda with no additions. AYES: Unanimous NAYES: None

It was moved by Kenkel, seconded by Parkhurst, to approve the claims of November 30th, 2021 as listed in the claims register. AYES: Unanimous NAYES: None

Darren Goshorn from the Shelby County Fair Board was on hand to apply for tourism upgrades at the Shelby County Fairgrounds. This application, if approved next calendar year, will be in an amount to be determined by the Supervisors next calendar year. A motion was made by Kenkel and seconded by Parkhurst to approve reserving \$70,500.00. AYES: Unanimous NAYES: None

Jason Erickson from Shelby Counties IT provider, ThinkSpace IT gave a quarterly update on IT services.

A motion was made by Kenkel and seconded by Parkhurst to approve the courthouse grounds use application for Roar into Harlan 2022 Season. AYES: Unanimous NAYES: None

Todd Valline, Shelby County Chamber of Commerce gave an update on upcoming projects his organization is involved in. He also went on to inform the public of Santa's upcoming visits to Harlan and surrounding towns.

The Supervisors then approved an employee bonus of \$100.00 to all full-time employees that are covered by Shelby County sponsored Health Insurance. The 100% participation in the basic Wellness plan by employees gives Shelby County a 5% discount on the health insurance rates in fiscal year 2023. Parkhurst made a motion to approve the payment, Kenkel seconded the motion, the motion passed unanimously.

The Shelby County Engineer, Brandon Burmeister presented the following resolution:

RESOLUTION NO. 2021-40

RESOLUTION AWARDING CONTRACT FOR PROJECT NO.

FM-C083(81)--55-83 IN SHELBY COUNTY, IOWA, AND AUTHORIZING SHELBY COUNTY ENGINEER TO EXECUTE CONTRACT

WHEREAS, the Shelby County construction project identified as Project No. FM-C083(81)--55-83 (hereinafter "Project") was let by Iowa DOT on November 16, 2021; and, **WHEREAS**, the Shelby County Board of Supervisors has determined that Denco Highway Construction Corp. of Mingo, Iowa is the responsible bidder submitting the lowest responsive bid (hereinafter "Low Bidder") for Projects; and, **WHEREAS**, the Shelby County Board of Supervisors desires to award the contract for Projects to the above stated Low Bidder; and, **WHEREAS**, construction contracts for projects let through the Iowa DOT must be signed digitally utilizing Doc Express; and, **WHEREAS**, delegating the digital signature process to the Shelby County Engineer will facilitate Projects by reducing the overall turn-around time for execution of the construction

contract. **NOW, THEREFORE, BE IT RESOLVED BY THE SHELBY COUNTY BOARD OF SUPERVISORS:** The contract for Project No. FM-C083(81)--55-83 is awarded to Denco Highway Construction Corp., the Low Bidder and The Shelby County Engineer is authorized to digitally sign the contract documents for Project.

Parkhurst made a motion to approve the Resolution, Kenkel seconded the resolution. Haake, Kenkel and Parkhurst all voted in favor of the motion to pass Resolution 2021-40.

Burmeister then asked the Supervisors to approve acceptance of accept Shelby County project: FM-C083(83)--55-83; HMA Resurfacing with Milling on F-58, from West City Limits of Elk Horn, East 1.495 Miles to Audubon County, plans for letting. Parkhurst made a motion to approve acceptance Kenkel seconded the motion. All three Supervisors voted in favor of the motion.

The Supervisors then considered Resolution 2021-39 concerning the current opioid litigation. Kenkel made a motion to approve the following resolution;

RESOLUTION NO. 2021-39

Authorizing Shelby County Iowa to Enter into Settlement Agreements with McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation, Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc., Agree to the Terms of the Iowa Opioid Allocation Memorandum of Understanding and Authorize Entry Into that Memorandum of Understanding

WHEREAS, in 2018, the County Board of Supervisors authorized Shelby County (the "County") to enter into an engagement agreement with Crueger Dickinson LLC, Simmons Hanly Conroy LLC and von Briesen & Roper, s.c. (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 on of the Opioid Epidemic on the County and resources necessary to combat the opioid epidemic. **WHEREAS**, on behalf of the County, the Law Firms filed a lawsuit against the Opioid Defendants in 2018 and have been litigating against the Opioid Defendants since that time. **WHEREAS**, negotiations to settle claims against several of the Opioid Defendants, specifically McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation, Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. (the "Settling Defendants") have been ongoing for several years; **WHEREAS**, negotiations with the Settling Defendants have resulted in proposed nationwide settlements of state and local government claims involved in the Litigation; **WHEREAS**, copies of the proposed terms of those proposed nationwide settlements have been set forth in the Distributors Master Settlement Agreement and the J&J Master Settlement Agreement (collectively "Settlement Agreements"); **WHEREAS**, copies of the Settlement Agreements as well as summary of the main terms of the Settlement Agreements, the deadlines for submitting the Participation Agreements to the Settlement Agreements and the MDL Court's Order setting deadlines for any Plaintiff who declines to enter into the Settlement Agreements have been provided to the County prior to the execution of this Resolution; **WHEREAS**, the Settlement Agreements provide, among other things, for the payment of a certain sum to settling government entities in Iowa including to the State of Iowa and Participating Subdivisions, as that term is defined in the Settlement Agreements, upon occurrence of certain events as defined in the Settlement Agreements ("Iowa Opioid Funds"); **WHEREAS**, the Law Firms have engaged in extensive discussions with the State Attorney General's Office ("AGO") as to how the Iowa Opioid Funds will be allocated, which has resulted in the proposed Iowa Opioid Allocation Memorandum of Understanding ("Allocation MOU"), which is an

agreement between all of the entities who are signatories to the Allocation MOU; **WHEREAS**, a copy of the Allocation MOU and the Exhibits to that MOU has been provided with this Resolution; **WHEREAS**, the Allocation MOU divides Iowa Opioid Funds as follows: (i) 50% to the State ("the Iowa Abatement Share") and (ii) 50% to Participating Local Governments ("LG Share"), less fees and costs allocated to the Iowa Backstop Fund as set forth in Section D of the Allocation MOU and in this Resolution ("LG Abatement Share"). **WHEREAS**, the LG Abatement Share shall be distributed in direct payments to the Counties that are Participating Local Governments according to the allocation model developed in connection with the proposed negotiating class in the National Prescription Opiate Litigation (MDL No. 2804) in the amounts set forth on Exhibit 2 to the Allocation MOU ("Direct Distribution Percentage"). The Direct Distribution Percentage will be multiplied by the total LG Abatement Share to arrive at the total allocation to the Participating Local Government (the "Direct Distribution Amount"). **WHEREAS**, 100% of the Iowa Abatement Share and the LG Abatement Share, regardless of allocation, shall be utilized only for Opioid Related Expenditures incurred after the Effective Date of this MOU. The list of approved Opioid Related Expenditures are set forth in Exhibit 1 to this MOU. **WHEREAS** at least 75% of the Iowa Abatement Share and 75% of the LG Abatement Share shall be utilized for only the "Core Strategies" listed in Schedule A of Exhibit 1 to this MOU. **WHEREAS**, every Participating Local Government that receives a Direct Distribution Amount shall create a separate fund on its financial books and records that is designated for the receipt and expenditure of the entity's Direct Distribution Amount, called the "LG Abatement Fund." Funds in an LG Abatement Fund shall not be commingled with any other money or funds of the Participating Local Government. A Participating Local Government may invest LG Abatement Fund funds consistent with the investment of other funds of a Participating Local Government. **WHEREAS**, Funds in a LG Abatement Fund may be expended by a Participating Local Government only for Opioid Related Expenditures. For avoidance of doubt, funds in a LG Abatement Fund may not be expended for costs, disbursements or payments made or incurred prior to the Settlement. **WHEREAS**, each LG Abatement Fund shall be subject to audit in a manner consistent with Code of Iowa §§331.402(2)(i) and 11.6. Any such audit shall be a financial and performance audit to ensure that the LG Abatement Fund disbursements are consistent with the terms of this MOU. If any such audit reveals an expenditure inconsistent with the terms of this MOU, the Participating Local Government shall immediately redirect the funds associated with the inconsistent expenditure to an Opioid Related Expenditure. **WHEREAS**, County has contracted with the Law Firms for representation in the Litigation and the Law Firms have been representing those entities since 2018 and in consideration for the Law Firms' representation, the County entered into a contract with the Law Firms for a 25% contingency fee applied to County's total recovery from any settlement. **WHEREAS**, the Settlement Agreements provide for the payment of attorney's fees and legal expenses owed by States and Participating Local Governments to outside counsel retained for Opioid Litigation. To effectuate this, the Court in the MDL Litigation has established a fund to compensate attorneys representing plaintiffs in the Litigation (the "National Attorney Fee Fund"). **WHEREAS**, the Law Firms intend to make application to the National Attorney Fee Fund. However, because there is still uncertainty regarding what counsel for litigating local governments will recover as compensation for the large volume of work done and the large out of pocket expense of the Litigation, and whereas the Parties to the Allocation MOU desire to fairly compensate outside counsel for the work done on behalf of the Participating Local Governments in Iowa, the Allocation MOU provides that a fund be created from 15 % of the LG Share attributable to the Litigating Local Governments, less any amounts a Litigating Local Government ("Iowa Backstop Fund") **WHEREAS**, the Iowa Backstop Fund is meant to compensate outside counsel for participating local governments only for amounts not recovered at the National Fee Fund attributable to their Iowa clients; **WHEREAS**, to be eligible for the Iowa Backstop Fund, the Law Firms must first seek payment from the National Attorneys' Fees Fund and may not recover amounts attributable to Counsel's representation of the County received at the National Attorneys' Fees Fund from the Iowa

Backstop Fund; **WHEREAS**, the County, by this Resolution, agrees to the creation of the Iowa Backstop Fund in the amount of 15% of the LG Share attributable to the Litigating Local Governments in order to fund a state-level “backstop” for payment of the fees, costs, and disbursements of the Law Firms; **WHEREAS**, in no event shall the total of the amounts received by the Law Firms at the National Attorney’s Fees Fund related to the County and the amount received at the Iowa Backstop Fund exceed the amount the Law Firms would have been entitled to pursuant their fee contract with the County; **WHEREAS**, the County, by this Resolution, shall establish an account for the receipt of the LG Abatement Share consistent with the terms of this Resolution (“the LG Abatement Fund”); **WHEREAS**, the County’s LG Abatement Fund shall be separate from the County’s general fund, shall not be commingled with any other County funds, and shall be dedicated to funding opioid abatement measures as provided in the Settlement Agreements and the Allocation MOU; **WHEREAS**, the County must comply annually with the reporting requirements in the Allocation MOU; **WHEREAS**, the if the County elects to become a Participating Subdivision in the Settlement Agreements it will receive the benefits associated with the Settlement Agreement and the Allocation MOU, provided the County (a) approves the Settlement Agreements; (b) executes the Participation Agreements stating the County’s intention to be bound by the Settlement Agreements; (3) approves the Allocation MOU; (4) executes the Acknowledgement and Agreement to be Bound to Memorandum of Understanding necessary to execute the Allocation MOU; **WHEREAS**, the intent of this Resolution is to authorize the County to enter into the Settlement Agreements by executing the Participation Agreements and to enter into the Allocation MOU by executing the Acknowledgement and Agreement to be Bound to Memorandum of Understanding necessary to execute the Allocation MOU; **NOW, THEREFORE, BE IT RESOLVED:** the County Board of Supervisors hereby approves and authorizes Mark Maxwell, Shelby County Auditor to settle and release the County’s claims against the Settling Defendants in exchange for the consideration set forth in the Settlement Agreements, Allocation MOU and all exhibits thereto, including taking the following measures: 1. The execution of the Participation Agreement to the Distributors Settlement Agreement and any and all documents ancillary thereto. 2. The execution of the Participation Agreement to the Janssen Settlement Agreement and any and all documents ancillary thereto. 3. The execution of the Allocation MOU by executing the Acknowledgement and Agreement to be Bound to Memorandum of Understanding. **BE IT FURTHER RESOLVED:** the County hereby establishes an account separate and distinct from the County’s general fund which shall be titled “LG Abatement Fund” to receive the LG Abatement Share from the Settlement Agreements. **BE IT FURTHER RESOLVED** that all actions heretofore taken by the Board of Supervisors and other appropriate public officers and agents of the County with respect to the matters contemplated under this Resolution are hereby ratified, confirmed and approved. Adopted by the Shelby County Board of Supervisors this 7th day of December, 2021.

Parkhurst seconded the motion to approve Resolution 2021-39. A vote was held with Kenkel, Parkhurst and Haake all voting in favor of the resolution, no nays were cast.

Consideration was then given to the reappointment of Lonnie Maguire to the Decategorization Board as the representative for Shelby County. Parkhurst made a motion to approve the reappointment, Kenkel seconded the appointment. Parkhurst, Kenkel and Haake all voted in favor of the nomination.

NOTE: These minutes are as recorded by the Clerk to the Board of Supervisors and are subject to Board approval at the next regular meeting.

Darin Haake, Chairperson

ATTEST:

Taryn Knapp
Clerk to the Board of Supervisors