**RESOLUTION NO. \_\_\_\_\_\_\_\_\_\_\_\_\_**

*Authorizing \_\_\_\_\_\_\_ County to Enter Into the Settlement Agreements with McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation, Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceuitca, Inc., Agree to the Terms of the MOU Allocating Settlement Proceeds, and Authorize Entry Into the MOU with the Attorney General*

**WHEREAS**, in 2018, the County Board of Commissioners authorized the County to enter into an engagement agreement with Crueger Dickinson LLC, Simmons Hanly Conroy LLC, von Briesen & Roper, s.c., and Chadwick and Associates, PLLC (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 Pharmaceuitca, 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 with this Resolution;

**WHEREAS**, the Settlement Agreements provide, among other things, for the payment of a certain sum to settling government entities in Idaho including to the State of Idaho and Participating Subdivisions upon occurrence of certain events as defined in the Settlement Agreements (“Idaho Opioid Funds”);

**WHEREAS**, the Law Firms have engaged in extensive discussions with counsel for other Participating Subdivisions and the State Attorney General’s Office (“AGO”) as to how the Idaho Opioid Funds will be allocated, which has resulted in the proposed Allocation MOU, which is an agreement between all of the entities identified in the Allocation MOU;

**WHEREAS,** a copy of the Allocation MOU has been provided with this Resolution;

**WHEREAS,** the Allocation MOU divides the Idaho Opioid Funds with forty percent (40%) to the State (“State Share”); forty percent (40%) to the Participating Local Governments (“LG Share”); and twenty percent (20%) to the Participating Health Districts (“HD Share”);

**WHEREAS,** the Allocation MOU contains an Exhibit A containing an allocation of the LG Share among the Idaho Local Governments setting forth the percentage of the LG Share allocated to each Participating Local Government;

**WHEREAS**, the County, by this Resolution, shall establish an account for the receipt of the proceeds of the Settlement Agreements consistent with the terms of this Resolution (“the Opioid Abatement Account”);

**WHEREAS**, the County’s Opioid Abatement Account 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 Allocation MOU provides that a fund be created from 10% of the LG Share and an optional additional 2.5% of the LG Share (a total of 12.5% of the LG Share) to compensate outside attorneys for Participating Local Governments (the “Idaho Attorney Fee Back Stop Fund”) in the event those attorneys do not recover an amount equal to a 15% contingent fee at the attorney fee funds established under the National Settlement Agreements and Future Resolutions and the Common Benefit Fund (“National Attorneys’ Fees Fund”);

**WHEREAS,** outside counsel retained by Litigating Participating Local Governments may only apply to the Idaho Attorney Fee Back-Stop Fund for a deficiency, meaning the difference between what their fee agreements would entitle them to minus what they have already collected from attorney fee funds established under the National Settlement Agreements and Future Resolutions and the Common Benefit Fund. For the avoidance of doubt, collectively, outside counsel for Litigating Participating Local Governments are limited to being paid, at most, and assuming adequate funds are available under the National Settlement Agreements, Future Resolutions, the Common Benefit Fund and the Idaho Attorney Fee Back-Stop Fund, attorney’s fees totaling fifteen percent (15%) of the LG Share;

**WHEREAS**, the County, by this Resolution, agrees to the creation of the Idaho State Backstop Fund in the amount of 12.5% of the LG Share in order to fund a state-level “backstop” for payment of the fees, costs, and disbursements of the Law Firms;

**WHEREAS,** any funds remaining in the Idaho Attorney Fee Back-Stop Fund in excess of the amounts needed to cover the deficiency in attorney’s fees shall revert back to the LG Share and shall be allocated to the Participating Local Government in the percentages set for 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 provided the County (a) approves the Settlement Agreements; (b) executes the Participation Agreement stating the Counties intention to be bound by the Settlement Agreements; (3) approves the Allocation MOU; (4) executes the Sign On Form to 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 Sign On Form.

**NOW, THEREFORE, BE IT RESOLVED:** the County Board of Commissioners hereby approves and authorizes INSERT PERSON 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 Sign On Form.

**BE IT FURTHER RESOLVED:** the County hereby establishes an account separate and distinct from the County’s general fund which shall be titled “Opioid Abatement Account.” All proceeds from the Settlement Agreements not otherwise directed to the Idaho State Backstop Account Fund shall be deposited in the Opioid Abatement Account in accordance with the Allocation MOU.

**BE IT FURTHER RESOLVED:** the County hereby authorizes an amount equal to 12.5% of the LG Share to be deposited in the Idaho State Backstop Account Fund.

**BE IT FURTHER RESOLVED** that all actions heretofore taken by the Board of Commissioners 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 [NAME] County Board of Commissioners this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2021.

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Board Chair

ATTEST:

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County Clerk