

December 21, 2021

The Winnebago County Board of Supervisors met in session at 9:00 A.M. December 21, 2021 adjourned from December 14, 2021.

Present: Supervisors Smith, Durby, and Jensvold

Absent:

The meeting is held today via You Tube and a conference call. This is due to COVID-19 and heightened public health risks.

On a motion by Smith and seconded by Jensvold the Supervisors moved to approve the Minutes for the December 14, 2021 Board Meeting and the Agenda for December 21, 2021. All voted aye. Motion carried.

The website for information for Covid-19 for Winnebago County is www.winnebagoountyiowa.gov. Julie Sorenson, Public Health gave a Covid-19 update. While gathering information on a motion by Durby and seconded by Jensvold the Supervisors moved to table the mandate letter. All voted aye. Motion carried.

On a motion by Durby and seconded by Jensvold the Supervisors moved to go into closed session to discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation” pursuant to Iowa Code section 21.5(1)(c). On a roll call vote. Durby – Aye, Jensvold – Aye, Smith – Aye. Motion carried. On a motion by Jensvold and seconded by Smith the Supervisors moved to return to open session. All voted aye. Motion carried.

On a motion by Jensvold and seconded by Smith the Supervisors moved to approve the Resolution for the settlement. All voted aye. Motion carried.

RESOLUTION NO. 12-21-2021-01-02

Authorizing Winnebago County 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, previously, the County Board of Supervisors authorized Winnebago 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 Terry Durby, Chair of the Board of Supervisors, 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 Winnebago County Board of Supervisors this 21st day of December, 2021.



Terry Durby, Board Chair

ATTEST:



Karla Weiss, County Auditor

On a motion by Durby and seconded by Jensvold the Supervisors moved to approve the final documents for the former LEC. All voted aye. Motion carried.

On a motion by Durby and seconded by Jensvold the Supervisors moved to approve the Resolution for the Transfer of Real Estate for the former LEC. All voted aye. Motion carried.

RESOLUTION NO. 12-21-2021-01-01

A RESOLUTION APPROVING THE TRANSFER OF REAL ESTATE LOCATED AT 216 SOUTH CLARK STREET, FOREST CITY, WINNEBAGO COUNTY, IOWA, TO IRISH HOSPITAL APARTMENTS, LLC, AND RELATED DOCUMENTS

WHEREAS, the County is owner of certain real property located at 216 South Clark Street, Forest City, Winnebago County, Iowa, described as follows:

East 88 feet of North 5 feet 6 inches of alley running through Block 63, Original Plat of Forest City, Winnebago County, Iowa,

AND

East 22 feet of Lot 2, Block 63, Forest City, Winnebago County, Iowa

AND

Lot 1, Block 63, Forest City, Winnebago County, Iowa.

And,

WHEREAS, the County wishes to transfer to Irish Hospital Apartments, LLC, the above-described property in Forest City, Winnebago County, Iowa; and

WHEREAS the Board of Supervisors is required to publish notice and hold a public hearing prior to officially transferring the property by resolution of the Board; and

WHEREAS the Board caused a notice to be published for a hearing on the transfer of said property, said hearing to be held the 14th day of December, 2021, at 9:30 o'clock A.M., at the Winnebago County Courthouse, 126 S. Clark Street, Forest City, Iowa; and

WHEREAS a notice of hearing was published on December 8, 2021, and;

WHEREAS a public hearing was held on December 14, 2021.

BE IT RESOLVED BY WINNEBAGO COUNTY, IOWA, THAT:

1. Winnebago County, Iowa, will transfer the property herein described above to Irish Hospital Apartments, LLC pursuant to the terms of the Amended Economic Development Agreement; and
2. Winnebago County, Iowa, will execute the Amended Economic Development Agreement, Lease, Promissory Note, and Mortgage associated with the transfer; and
3. The Chairman of the Board of Supervisors and the Auditor are hereby authorized to execute any documents necessary to effectuate this transaction according to the provisions of this resolution.

PASSED AND APPROVED on December 21, 2021.



Terry Durby, Chairman

ATTEST:



Karla Weiss, Auditor

Scott Meinders, Engineer and Ethan Schutter, Maintenance Superintendent discussed Secondary Road matters including stockpiling rock.

On a motion by Durby and seconded by Smith the Supervisors moved to approve the Resolution to purchase a loader. All voted aye. Motion carried.

RESOLUTION NO. 12-21-21-20-001

APPROVING THE PURCHASE OF EQUIPMENT FOR THE SECONDARY ROAD DEPARTMENT.

WHEREAS, the Board of Supervisors received a quotation from Zeigler Cat of Mason City, Iowa for one loader; and

WHEREAS, the purchase will require a budget amendment to utilize past auction revenue; and

WHEREAS, the loader would be received and paid for before July 1, 2022; and

NOW THEREFORE BE IT RESOLVED by the Winnebago County Board of Supervisors, that the County Engineer be authorized to accept quotations as follows:

<u>Item</u>	<u>Vendor</u>	<u>Amount</u>
#664 – 2021 Cat 908M Compact Wheel Loader	Zeigler Cat	\$102,382.36
Less Trade		
#639 – 1994 Case 580SK Backhoe		<u>(\$15,000.00)</u>
Net Balance Due		\$87,382.36

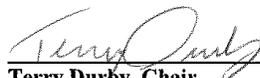
Passed and approved this 21st day of December, 2021.

RECOMMENDED:



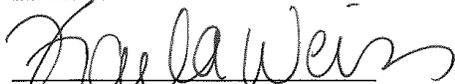
Scott Meinders, County Engineer

**BOARD OF SUPERVISORS OF
WINNEBAGO COUNTY, IOWA**



Terry Durby, Chair

ATTEST:



Karla Weiss, County Auditor

On a motion by Smith and seconded by Jensvold the Supervisors moved to approve the Resolution to purchase a mini excavator. All voted aye. Motion carried.

RESOLUTION NO. 12-21-21-20-002

APPROVING THE PURCHASE OF EQUIPMENT FOR THE SECONDARY ROAD DEPARTMENT.

WHEREAS, the Board of Supervisors received a quotation from Ziegler of Mason City, Iowa for one 305E2H2 Mini Excavator; and

WHEREAS, the purchase will require a budget amendment to utilize past auction revenue; and

WHEREAS, the mini excavator would be received and paid for before July 1, 2022; and

NOW THEREFORE BE IT RESOLVED by the Winnebago County Board of Supervisors, that the County Engineer be authorized to accept quotations as follows:

<u>Item</u>	<u>Vendor</u>	<u>Amount</u>
#665 – 2022 Cat 305E2H2 Mini Excavator	Ziegler	\$72,973.49

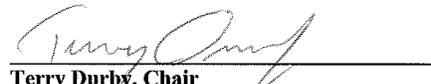
Passed and approved this 21th day of December, 2021.

RECOMMENDED:



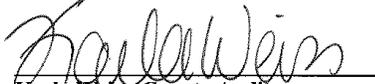
Scott Meinders, County Engineer

**BOARD OF SUPERVISORS OF
WINNEBAGO COUNTY, IOWA**



Terry Durby, Chair

ATTEST:



Karla Weiss, County Auditor

Kris Oswald, Drainage Clerk discussed drainage matters.

The following claims were approved and ordered to be paid:

A-1 Portables	Services	\$95.00
Advanced Door Systems	Supplies	\$38.00
Ag Vantage FS Inc	Fuel	\$6,299.63
AH Hermel Co	Supplies	\$708.13
Ahlers & Cooney PC	Services	\$118.00
Alliant Energy	Utilities	\$577.28
Amazon Capital Services	Supplies	\$27.99
Arnie's Pump Service Inc	Services	\$185.80
AT&T Mobility	Telephone	\$330.16
Austin Office Products	Supplies	\$331.85
Barney Ruitter	Meeting	\$25.00
Beth Clouse	Reimbursement	\$4,055.09
Bison Graphics	Advertising	\$344.25
Black Hills Energy	Utilities	\$3,086.21
BMC Aggregates LLC	Material	\$36,159.81
Bob Barker Co	Supplies	\$279.12
Bomgaars	Supplies	\$221.37
Byron Carlson MD	Medical Examiner Fee	\$400.00
Century Ag Inc	Repairs	\$2,428.79
CH McGuiness Co Inc	Services	\$380.75
Charm-Tex Inc	Supplies	\$27.90
Cintas Corporation	Services	\$453.54
City of Buffalo Center	Utilities	\$35.13
CNA Surety	Services	\$255.00
Counsel	Services	\$27.31
Croell Inc	Materials	\$5,242.50
Crysteel Truck Equipment	Parts	\$170.74
Culligan	Supplies	\$22.75
Dale Rayhons	Medical Examiner Fee	\$200.00
David Peterson	Meeting	\$46.84
Delta Dental	Services	\$2,133.36
DH Hydraulics	Supplies	\$369.71
DMC Wear Parts LLC	Parts	\$1,617.40
Eddy's Glass And Door	Supplies	\$6.00
Farmers Coop Assn	Fuel	\$2,861.43
Farus Contracting LLC	Rent	\$400.00
Fastenal	Supplies	\$813.31
Five Star Cooperative	Fuel	\$175.16
Force America Inc	Parts	\$112.17
Forest City Vet Clinic	Supplies	\$56.28
G & H Motor Parts	Supplies	\$64.05
Hancock Co Memorial Hospital	Services	\$648.72
Hanson LP Gas LLC	LP	\$1,632.31
Hawkeye Communication	Supplies	\$731.00
Health Partners	Health Ins	\$115,827.44
Heartland Power	Utilities	\$915.73

Henry Adkins & Son Inc	Services	\$10,540.00
Hy-Vee Inc	Jail Food	\$4,105.08
ICAP	Services	\$125,566.00
IDALS	TB & Bangs	\$990.56
Iowa Secretary of State	Notary Fee	\$30.00
IP Pathways	Services	\$909.45
ISAC	Education	\$210.00
ISCIA	Education	\$150.00
IT Savvy LLC	Services	\$193.00
John Deere Financial	Lease Payment	\$4,725.00
Karla Weiss	Mileage	\$24.65
Kaylee Schuermann	Mileage	\$59.28
KC Nielsen Ltd	Parts	\$17.05
Kevin Pederson	Mileage	\$39.52
KIOW	Advertising	\$389.58
Kossuth Co Veterans	Services	\$526.37
Kunz Engineering Inc	Supplies	\$228.11
Kwik Trip Inc	Fuel	\$3,272.41
Lake Mills Lumber Co	Supplies	\$132.00
Lake Mills PT	Services	\$225.00
Language Line Services	Services	\$15.40
Larson Electric & Supply Inc	Supplies	\$4,198.06
Legal Shield	Services	\$226.25
Lyles Sales & Service	Repairs	\$91.31
Marco Inc	Services	\$134.14
Mark Johnson	Rent	\$425.00
MDS Records Management	Services	\$40.00
Medline Industries Inc	Supplies	\$384.42
Melissa Michaelis	Mileage	\$358.24
Menards	Supplies	\$322.61
Mid-America Publishing Corp	Advertising	\$154.37
Midwest Wheel & Equip Co	Parts	\$547.45
Murra Hardware	Parts	\$17.98
Nationwide	Services	\$100.00
Nuway - K&H Coop	Fuel	\$12,358.27
Office Depot	Supplies	\$52.03
Office Elements	Supplies	\$49.71
Paul Ascherman, PhD	Services	\$280.00
Peterson Sanitation Inc	Services	\$57.00
Police Legal Sciences Inc	Services	\$480.00
Reliance Standard Life Ins Co	Services	\$1,709.27
Ricoh USA Inc	Services	\$295.87
Ron Kvale	Mileage	\$37.44
Schneider Corporation	Services	\$2,475.00
Schumacher Elevator Co	Services	\$243.22
Shred-It USA	Services	\$51.52
Shropshire Lumber Inc	Supplies	\$633.07
Singelstad Hardware	Supplies	\$75.19
Sirchie Fingerprint Labs	Supplies	\$54.06
Staples Credit Plan	Supplies	\$14.19
State Hygienic Laboratory	Services	\$13.50
Thrifty White	Supplies	\$78.02

Tyler Technologies	Services	\$4,093.00
UMB Bank	Services	\$500.00
US Cellular	Telephone	\$45.00
Verizon Wireless	Telephone	\$131.58
Visa	Supplies	\$446.25
Wade Thompson Trucking	Services	\$612.38
Waste Mgmt Corporate Services	Services	\$592.88
Waytek Inc	Parts	\$393.44
WCTA	Telephone	\$1,049.15
Wilson Dental	Services	\$237.00
Windstream	Telephone	\$123.84
Winnebago Co Fair Assn	Transfer	\$731.76
Ziegler Inc	Supplies	\$103.28
NSB Bank	Loan Payment	\$133,128.03

On a motion by Jensvold and seconded by Smith the Supervisors moved to approve the payroll claims. All voted aye. Motion carried.

The following Manure Management plan was received by the Auditor's office: Eagle 15 #71616 in Winnebago County, Iowa.

The session was adjourned until 9:00 A.M. December 28, 2021.

Terry Durby, Chairperson

Attest: _____
Karla Weiss, Auditor