

RESOLUTION NO. 21-65
INTRODUCED BY: Mr. Tadych

A RESOLUTION

AUTHORIZING THE CITY OF BAY VILLAGE TO PARTICIPATE IN THE PROPOSED OPIOID LITIGATION SETTLEMENT PLAN OF CLAIMS AGAINST DISTRIBUTORS OF IN THE SUITS AGAINST AMERISOURCE BERGEN, CARDINAL HEALTH, AND MCKESSON, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Bay Village is among a number of municipalities in Ohio that may be eligible to participate in the settlement of claims brought against manufacturers of prescription opioids, whose products are alleged to have contributed to the national opioid crisis, mass addiction, and overdose deaths, which in turn has had a financial impact on many communities, including in terms of the costs of first responder services; and

WHEREAS, a settlement proposal is being presented to Ohio municipalities on behalf of distributors AmerisourceBergen, Cardinal Health and McKesson (“the Distributors”) for resolution of governmental entity claims in the State of Ohio; and

WHEREAS, under the tiered proposal, the Distributors will pay up to a collective sum of approximately \$829 million to the State of Ohio and its subdivisions over 18 years, earmarked for abatement of the opioid epidemic (intervention, treatment, education, and recovery services etc.) broken down approximately as follows: under the OneOhio agreement, 15% to the State of Ohio; 30% to subdivisions; and 55% to the OneOhio Foundation, to be utilized for the collective benefit of the subdivisions across the state; and

WHEREAS, the total settlement is tiered and may ultimately vary based on the number of municipalities that participate in the settlement proposal; and

WHEREAS, the Law Director and the Finance Director recommend that the City participate in the settlement.

NOW, THEREFORE, be it resolved by the Council of the City of Bay Village, Ohio:

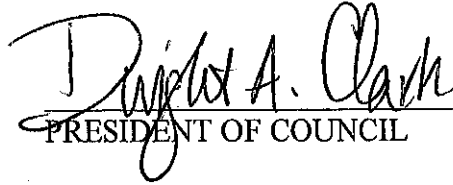
SECTION 1. That the City Council of the City of Bay Village hereby approves in the settlement with the Distributors and OneOhio.

SECTION 2. The Mayor, Finance Director and Law Director are hereby authorized to take all steps necessary to resolve these matters in accordance with the terms of a Participation Agreement to be distributed with the participating communities.

SECTION 3. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this resolution were taken in an open meeting of this Council, and that all deliberations of this Council and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

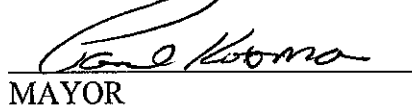
SECTION 4. That this resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason that this resolution is required to be immediately effective in order to give timely notice of our participation in the settlement, wherefore this resolution shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED: August 13, 2021


PRESIDENT OF COUNCIL


CLERK OF COUNCIL

APPROVED: August 13, 2021


MAYOR

080921 jt

OneOhio Subdivision Participation Form

Governmental Entity: City of Bay Village	State: Ohio
Authorized Official:	Paul Koomar, Mayor
Address 1:	350 Dover Center Road
Address 2:	
City, State, Zip:	Bay Village, Ohio 44140
Phone:	440-899-3415
Email:	pkoomar@cityofbayvillage.com

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity consistent with the material terms of the National Settlement Agreement dated July 21, 2021 ("*National Distributor Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the material terms of the National Settlement Agreement Distributor Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the National Distributor Settlement, understands that all terms in this Participation Form have the meanings defined therein, and agrees that by signing this Participation Form, the Governmental Entity elects to participate consistent with the material terms of the National Distributor Settlement and become a Participating Subdivision as provided therein pursuant to the terms of the final OneOhio Memorandum of Understanding dated July 28, 2021.
2. The Governmental Entity's election to participate is specifically conditioned on participation by 95% or more of the Litigating Subdivisions in Ohio. Should less than 95% of the Litigating Subdivisions in Ohio participate, this election shall be deemed void and no claims shall be released.
3. The Governmental Entity shall, prior to the filing of the Consent Judgment, secure the dismissal with prejudice of any Released Claims that it has filed.
4. The Governmental Entity agrees to the material terms of the National Distributor Settlement pertaining to Subdivisions as defined therein.
5. By agreeing to the material terms of the National Distributor Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
6. The Governmental Entity agrees to use any monies it receives through the material terms of the National Distributor Settlement solely for the purposes provided therein.

7. The Governmental Entity submits to the jurisdiction of the Madison County Court of Common Pleas where the Consent Judgment is filed for purposes limited to the court's role as provided in, and for resolving disputes to the extent provided in, the material terms of the National Distributor Settlement Agreement. If the National Distributor Settlement is finalized, the Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in the National Distributor Settlement.
8. The Governmental Entity has the right to enforce the material terms of the National Distributor Settlement as provided therein.
9. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the material terms of the National Distributor Settlement, including, but not limited to, all provisions of Part XI, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the material terms of the National Distributor Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The material terms of National Distributor Settlement shall be a complete bar to any Released Claim.
10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision consistent with the material terms of the National Distributor Settlement.
11. In connection with the releases provided for in the material terms of the National Distributor Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:


General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by

him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the material terms of the National Distributor Settlement.

12. Nothing herein is intended to modify in any way the terms of the material terms of the National Distributor Settlement to which Governmental Entity hereby agrees, with the exception of the requisite Litigating Government participation level. If the National Settlement becomes effective by July 1, 2022 its terms will supersede the terms of the Ohio Settlement Agreement and will control with regard to all provisions except for Dismissal of Claims as set forth in the Ohio Settlement Agreement. If it is not effective by July 1, 2022, the Ohio Specific Distributor Settlement will control. To the extent this Participation Form is interpreted differently from the Ohio Specific Distributor Settlement in any respect, the Ohio Specific Distributor Settlement controls.

I have all necessary power and authorization to execute this Participation Form on behalf of the Governmental Entity and have been afforded the opportunity to review this matter with counsel.

Signature: 
Name: Paul Koomar
Title: Mayor
Date: August 13, 2021

