

RESOLUTION 22-35

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH COLLIER COUNTY FOR THE ADMINISTRATION AND MANAGEMENT OF REGIONAL OPIOID SETTLEMENT FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marco Island and all Collier County has suffered harm as a result of the opioid epidemic; and

WHEREAS, The State of Florida filed litigation against various pharmaceutical companies involved in the manufacturing, distribution, and over-prescribing of opioids; and

WHEREAS, settlements have been developed to resolve certain claims under the Opioid Litigation; and

WHEREAS, the Florida Memorandum of Understanding aka the "Florida Plan" sets forth a framework of a unified plan for the proposed allocation and use of opioid settlement proceeds. The Florida Plan, as currently drafted, divides the settlement funds into three funds: (i) the City/County Fund; (ii) the Regional Fund; and (iii) the State Fund; and

WHEREAS, to receive its share of the Regional Fund, Collier County must qualify as a "Qualified County." To qualify as a Qualified County under the Florida Plan, the County must enter into an Agreement with the municipalities that have a population of 10,000 or more – those being the City of Marco Island and the City of Naples; and

WHEREAS, the City of Marco Island recognizes that enabling the County to directly receive and administer Regional Funds to address opioid-related impacts is in the best interest of all persons within the County's geographic boundaries

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

SECTION 1. That the above recitals are true and correct and are incorporated herein.


SECTION 2. That an Interlocal Agreement governing use of Collier County Regional Opioid Settlement Funds between the City of Marco Island and Collier County, a copy of which is hereby attached, is hereby approved.

SECTION 3. That the City Council Chairman is authorized to execute said Interlocal Agreement, and the City Manager is authorized to execute any/all further agreements or documents associated with the City's participation in the Unified Florida Plan and the allocation of Opioid Settlement Fund money.

SECTION 4. This Resolution shall become effective upon passage.

Passed and Adopted by the City Council of the City of Marco Island, Florida this 19th day of September 2022.

ATTEST:



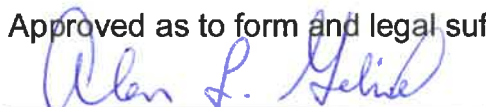
Michael J. Sheffield, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: 

Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:



Alan L. Gabriel, City Attorney

**COLLIER COUNTY INTERLOCAL AGREEMENT GOVERNING USE OF
REGIONAL OPIOID SETTLEMENT FUNDS**

THIS INTERLOCAL AGREEMENT ("Agreement") is made and entered into, by and between Collier County, a political subdivision of the State of Florida, hereinafter referred to as the "County," and the City of Marco Island, a municipal corporation of the State of Florida, hereinafter referred to as the "City."

WHEREAS, a local, state and national crisis arose as a result of the manufacturing, distribution and over-prescribing of opioids, and resulted in opioid abuse, misuse, overdoses, addictions, and death throughout municipalities, counties, states, and the nation and contributed to the public health emergency and crisis commonly referred to as the opioid epidemic; and

WHEREAS, Collier County and the municipalities therein are not immune from this nationwide crisis; and

WHEREAS, the crisis has caused and is causing an undue strain on local government finances to implement programing to combat the opioid epidemic, to mitigate the harmful effects of the opioid epidemic in the community, and to increase educational campaigns to counteract misinformation about the addictive nature and harmful effects of opioids; and

WHEREAS, opioid abuse rose throughout the United States, Florida has been hit especially hard; and

WHEREAS, pharmaceutical companies involved in the supply chain including, but not limited to, distributors, manufacturers, dispensing companies, and marketing agencies contributed to the great harm suffered by the State of Florida and Collier County as a result of the opioid epidemic; and

WHEREAS, as a result of litigation filed by the State of Florida and various local governments against various pharmaceutical companies involved in the supply chain, multiple defendants have begun to negotiate settlements; and

WHEREAS, the Attorney General for the State of Florida (hereinafter "Attorney General") anticipates that Settlement funds will be distributed to the State of Florida over multiple years as part of a global settlement, and not directly to the Cities and Counties; and

WHEREAS, the Attorney General has proposed entering into agreements with local governments within the State of Florida to receive settlement funds. This agreement (hereinafter referred to as the "State MOU"), as currently drafted, divides settlement funds into three portions designated as City/County, Regional, and State funds; and

WHEREAS, it is anticipated that the State MOU will set forth the amount and manner of distribution of City/County and Regional Settlement funds within Florida, the requirements to receive and manage Regional funds, and the purposes for which Regional funds may be

used. The current draft of the State MOU is attached hereto as Exhibit A, and Resolution 2021-136 approving in concept the State MOU by Collier County is attached as Exhibit B; and

WHEREAS, the parties recognize that local control over settlement funds is in the best interest of all persons within the geographic boundaries of Collier County and ensures that settlement funds are available and used to address opioid-related impacts within Collier County and the parties are committed to the County qualifying as a "Qualified County" and thereby receiving Regional funds pursuant to the State MOU; and

WHEREAS, the State MOU requires that in order for Collier County to become a Qualified County eligible to receive Regional Funding, there must be an interlocal agreement among Collier County and Municipalities, as defined in the MOU, with combined population exceeding 50% of the total population of the Municipalities within Collier County, with the term "Municipalities" being defined for the purpose in this Agreement as those municipalities with a population of 10,000 or more as required by the State MOU; or with population less than 10,000 who were party plaintiffs; population for purposes of the MOU is determined by specific Census data; and

WHEREAS, historically, government-funded programming geared toward abating the opioid crisis has been data driven based upon community impacts without regard to governmental jurisdictional boundaries; and

WHEREAS, the parties recognize that it is in the best interest of the County and the Cities to enter into this interlocal agreement to ensure Collier County is a "Qualified County" to receive Regional Funding pursuant to the State MOU;

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration, the parties agree as follows:

Section 1: Definitions:

- A. Unless otherwise defined herein, all defined terms in the State MOU are incorporated herein and shall have the same meanings as in the State MOU.
- B. "Collier County Regional Funding" shall mean the amount of the Regional Funding paid to Collier County in its role as a Qualified County.

Section 2: Conditions Precedent:

This Agreement shall become effective on the Commencement Date set forth in Section 4, so long as the following conditions precedent have been satisfied:

- A. Collier County being determined by the State of Florida to qualify as a "Qualified County" to receive and disburse Regional Fund monies under the Allocation Agreement;
- B. Execution of this Agreement by the County and the governing bodies of the

- municipalities as required by the State MOU to enable Collier County to become a Qualified County and directly receive Collier County Regional Funding; and
- C. Execution of all documents necessary to effectuate the State MOU in its final form; and
 - D. Filing of this Agreement with the Clerk of the Circuit Court for Collier County as required by Florida Statutes, Section 163.01.

Section 3: Execution:

This Interlocal Agreement may be executed in counterparts by the parties hereto.

Section 4: Term:

The term of this Agreement and the obligations hereunder commences upon the satisfaction of all conditions precedent, runs concurrently with the State MOU, and will continue until one (1) year after the expenditure of all Collier County Regional Funding, unless otherwise terminated in accordance with the provisions of the State MOU. Obligations under this Agreement which by their nature should survive, including, but not limited to any and all obligations relating to record retention, audit, and indemnification will remain in effect after termination or expiration of this Agreement.

Section 5: Use of Settlement Proceeds:

- A. Collier County Regional Funding will be used in accordance with the requirements of the State MOU.
- B. Collier County Regional Funding may be used to enhance current programs or develop new programs. However, Collier County Regional Funding is not intended to supplant current funding sources or general funds.

Section 6: Administrative Costs:

The County is responsible for administering the "Regional Funds" remitted pursuant to the State MOU and, therefore County staff will provide support services including but not limited to legal services, as well as contract management, program monitoring, and reporting required by the State MOU. Accordingly, the County and City agree that the County is entitled to the maximum allowable administrative fee pursuant to the State MOU. The administrative fee will be deducted annually from the amount of available Collier County Regional Funds, and the remaining Collier County Regional Funds will be spent as provided in the State MOU and as provided herein. The City shall receive no more than its pro rata share of Collier County Regional Funding, based on the Negotiation Class Metrics provided for in the State MOU.

Section 7: Local Government Spending and Reporting Requirements:

To the extent that the local governmental entity receives Collier County Regional Funds

directly from the County, any local governmental entity so receiving funds must spend such funds for Approved Purposes and must timely satisfy all reporting requirements of the MOU. Failure to comply with this provision may disqualify the local governmental entity from further direct receipt of Collier County Regional Funds. Collier County, in its role as Qualified County receiving Regional Funds that are appropriated for use by another local governmental entity, is merely a "pass-through" vehicle for such funds, and the responsibility to spend Regional Funds received on eligible programs and expenses is that of the receiving local government and not Collier County, Florida.

Section 8: Non-Appropriation:

This Agreement is not a general obligation of the County. It is understood that neither this Agreement nor any representation by any County official, officer or employee creates any obligation to appropriate or make monies available for the purposes of the Agreement. The obligations of the County as to funding required pursuant to the Agreement are limited to an obligation in any given fiscal year to budget and appropriate from Collier County Regional Funds annually which are designated for regional use pursuant to the terms of the State MOU. No liability shall be incurred by the County beyond the monies budgeted and available for the purpose of the Agreement from expected settlement funds. If Regional Funds are not received by the County for any or all of this Agreement for a new fiscal period, the County is not obligated to pay or spend any sums contemplated by this Agreement beyond the portions for which Regional Funds were received and appropriated. The County agrees to promptly notify the Cities in writing of any subsequent non-appropriation, and upon such notice, this Agreement will terminate on the last day of the current fiscal year without penalty to the County and all undistributed funds will be spent for programs previously adopted.

Section 9: Indemnification:

City and the County shall be responsible for their respective employees' acts of negligence when such employees are acting within the scope of their employment and shall only be liable for any damages resulting from said negligence to the extent permitted by Section 768.28, Florida Statutes. Nothing herein shall be construed as a waiver of sovereign immunity, or the provisions of F.S. § 768.28, by either Party. Nothing herein shall be construed as consent by either Party to be sued by third parties for any matter arising out of this Agreement. Collier County, Florida, is not responsible for the failure of City to spend funds for Approved Purposes and in accordance with the allocation of such funds by Collier County in its role as a Qualified County. To the extent allowed by law, City indemnifies and will defend Collier County, Florida, with respect to any legal challenge of any nature related to City's receipt and/or use of settlement funds, including any Regional Funds received by City through and/or from Collier County.

Section 10: Severability:

If any item or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this

Agreement, or the further application of such terms or provision, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

Section 11: Amendments to Agreement:

This Agreement, or amendments hereto, shall be executed on behalf of each participating jurisdiction by its duly authorized representative and pursuant to an appropriate motion, resolution, or ordinance of each participating jurisdiction. This Agreement, or any amendment thereto, shall be deemed adopted upon the date of execution by each authorized representative and filing in the official records of Collier County, Florida.

Section 12: Filing of Agreement:

This Interlocal Agreement shall be filed by the County in the official records of Collier County, Florida, within ten (10) days of its execution by all parties hereto.

Section 13: Governing Law

This Agreement shall be governed by the laws of the State of Florida. All legal actions to enforce the Agreement shall be held in the Twentieth Judicial Circuit in and for Collier County. No remedy conferred in this Agreement is intended to be exclusive of any other remedy, at law or in equity, or by statute or otherwise. No exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

Section 14: Complete Agreement, Modifications to Agreement:

This Agreement sets forth the entire agreement between the parties. There are no promises or understandings other than those stated herein. None of the provisions, terms, or conditions contained in this Agreement may be modified, superseded, or otherwise altered, except by written agreement of the parties.

IN WITNESS WHEREOF, City and the County have signed and sealed this Interlocal Agreement as set forth below.

AS TO THE COUNTY:

Date: _____

ATTEST:
Crystal K. Kinzel, Clerk of Courts

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: _____
 , Deputy Clerk

By: _____
 William L. McDaniel, Jr., Chairman

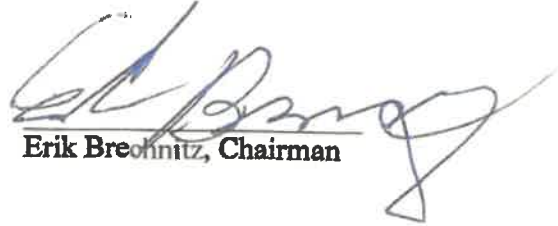
Approved as to form and legality:

Jeffrey A. Klatzkow, County Attorney

AS TO THE CITY OF MARCO ISLAND:

Attest:


Michael J. Sheffield, City Clerk


Erik Brechnitz, Chairman


Alan L. Gabriel, City Attorney

