

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

MOTION NO. 22-546

AUTHORIZING A MEMORANDUM OF UNDERSTANDING BETWEEN NORTH
SOUND REGION PARTICIPATING LOCAL GOVERNMENTS AND NORTH SOUND
BEHAVIORAL HEALTH ADMINISTRATIVE SERVICES ORGANIZATION

WHEREAS, the opioid epidemic is a public health, safety and economic crisis impacting all communities within Snohomish County resulting in a significant loss of life, productivity, and economic damages to the County; and

WHEREAS, on September 7, 2022, Snohomish County Council authorized the County Executive to join in the State of Washington's settlement with McKesson Corp., Cardinal Health Inc., and AmerisourceBergen Drug Corp as a participating local government pursuant to the One WA MOU; and

WHEREAS, as a Participating Local Government, Snohomish County is also a participant in the "Allocation Agreement Governing the Allocation of Funds Paid by the Settling Opioid Distributors in Washington State" with initial funds from this settlement distributed directly to Snohomish County in 2022; and

WHEREAS, the Snohomish County participates with Whatcom, Skagit, Island and San Juan Counties in the North Sound regional service area (NSBH-ASO) established under RCW 74.09.870 and all five counties and certain cities within those five counties are Participating Local Governments pursuant to the One WA MOU and the Allocation Agreement; and

WHEREAS, the five counties wish to form a special subcommittee of the NSBH-ASO for the purposes of overseeing the use of Opioid Funds allocated to the participating local governments consistent with the approved purposes set forth in the One WA MOU and the Allocation Agreement; and

WHEREAS, the NSBH-ASO will provide an annual budget and accounting for actual costs and will be reimbursed for those costs in proportion to the amount of funds received by each local government up to 10% held in a reserve and available to NSBH-ASO on a reimbursement basis.

NOW, THEREFORE ON MOTION, the Snohomish County Council authorizes the County Executive and/or legal counsel to execute a Memorandum of Understanding Between North Sound Region Participating Local Governments and North Sound Behavioral Health Administrative Services Organization consistent with the attached MOU.

PASSED this 14th day of December, 2022.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Council Chair

ATTEST:



Asst. Clerk of the Council

MEMORANDUM OF UNDERSTANDING BETWEEN
NORTH SOUND REGION PARTICIPATING LOCAL GOVERNMENTS
AND
NORTH SOUND BEHAVIORAL HEALTH ADMINISTRATIVE SERVICES
ORGANIZATION

This Agreement is made between the North Sound Region “Participating Local Governments” as defined by the “One Washington Memorandum of Understanding Between Washington Municipalities” (One WA MOU), attached hereto as Exhibit A and fully incorporated herein, and the North Sound Behavioral Health Administrative Services Organization (NSBH-ASO), (collectively “Parties”), for the purpose of establishing the Opioid Abatement Council (OAC) required by the One WA MOU. The Parties to this Agreement mutually agree to the terms contained herein.

RECITALS

- A. Whatcom, Skagit, Island, San Juan, and Snohomish Counties are Participating Local Governments pursuant to the One WA MOU, as are the following cities within those counties:

Bellingham, Ferndale, and Lynden (Whatcom County)

Anacortes, Burlington, Mount Vernon, and Sedro Woolley (Skagit County)

Oak Harbor (Island County)

Arlington, Bothell, Edmonds, Everett, Lake Stevens, Lynnwood, Marysville, Mill Creek, Monroe, Mountlake Terrace, Mukilteo, and Snohomish (Snohomish County)

All of the above-listed municipalities shall be collectively referred to as “Participating Local Governments.”

- B. All of the Participating Local Governments are also participants in the “Allocation Agreement Governing the Allocation of Funds Paid by the Settling Opioid Distributors in Washington State” (Allocation Agreement), attached hereto as Exhibit B and fully incorporated herein. It is anticipated that the initial funds from this settlement will be distributed directly to the Participating Local Governments prior to the end of 2022.
- C. The Participating Local Governments further anticipate receipt of additional funds resulting from settlements with opioid pharmaceutical supply chain participants. Funds allocated to all of the Participating Local Governments pursuant to the One WA MOU shall be collectively referred to herein as “Opioid Funds.” This agreement will apply to all Opioid Funds received pursuant to the Allocation Agreement and as a result of future settlements as defined in the One WA MOU.

- D. The NSBH-ASO administers behavioral health services and programs under chapters 71.24 and 71.05 RCW within the North Sound regional service area established under RCW 74.09.870.
- E. The parties seek to designate a special subcommittee of the NSBH-ASO as the North Sound Opioid Abatement Council pursuant to Section C.4.h of the One WA MOU and pursuant to Section 15 of the Allocation Agreement for the purposes of overseeing the use of Opioid Funds allocated to the aforementioned Participating Local Governments consistent with the Approved Purposes set forth in the One WA MOU and consistent with the purposes set forth in Section 8 of the Allocation Agreement.
- F. This Agreement is made to carry out the One WA MOU and related settlement documents.
- G. This Agreement does not contemplate a joint budget.
- H. This Agreement does not contemplate the joint acquisition of property by the parties. At termination, each party will remain the sole owner of its own property.

AGREEMENT

1. The foregoing Recitals A through H are true and correct and are incorporated herein by reference as if fully set forth herein.
2. The Participating Local Governments hereby designate a special subcommittee of the NSBH-ASO as the North Sound Opioid Abatement Council pursuant to Section C.4.h of the One WA MOU and pursuant to Section 15 of the Allocation Agreement to oversee allocation, distribution, expenditures, and dispute resolution of Opioid Funds allocated to the Participating Local Governments consistent with the Approved Purposes set forth in the One WA MOU and Allocation Agreement and consistent with the purposes set forth in Section 8 of the Allocation Agreement (collectively “Approved Purposes”).
3. The OAC shall be composed of one representative of each participating county and one city representative per county. The participating cities within each county shall choose one individual to represent all of the cities within that county.
4. It is anticipated that the Participating Local Governments will directly receive the Opioid Funds and will maintain full discretion over the use and distribution of their allocation of Opioid Funds, provided the funds are used solely for Approved Purposes. Reasonable administrative costs for a Participating Local Government to administer its allocation of Opioid Funds shall not exceed actual costs or 10% of the Participating Local Government’s allocation of Opioid Funds, whichever is less. If the OAC receives any of the Opioid Funds, it will immediately transfer those funds to the Participating Local Governments consistent with the Allocation Agreement.

5. If a participating city elects not to retain its settlement allocation, its allocation will be re-allocated to the county within which it is located. Upon receipt of the Opioid Funds, a city that elects to transfer those funds to its county may do so and the county will have full discretion over the use and distribution of those Opioid Funds, provided the funds are used solely for Approved Purposes.

6. Pursuant to section C.4.b of the One WA MOU, ten percent (10%) of Opioid Funds received by all of the Participating Local Governments will be reserved, on an annual basis, for administrative costs related to the OAC's responsibilities established by this agreement. NSBH-ASO will provide an annual budget and accounting for actual costs and will be reimbursed for those costs in proportion to the amount of funds received by each local government.

7. Opioid Funds will be subject to mechanisms for auditing and reporting to provide public accountability and transparency. All records related to the receipt and expenditure of Opioid Funds shall be maintained for no less than five (5) years and such records shall be available for review by the Parties to this Agreement, government oversight authorities, and the public. Each party shall be responsible for its own compliance with the Washington Public Records Act, chapter 42.56 RCW (as may be amended). This Agreement, once executed, will be a "public record" subject to production to a third party if it is requested under Chapter 42.56 RCW.

8. The OAC subcommittee of NSBH-ASO will be responsible for the following actions with respect to Opioid Funds:

- a. Monitor distribution of Opioid Funds to programs and services within the North Sound regional service area for Approved Purposes.
- b. Developing and maintaining a centralized public dashboard or other repository for the publication of expenditure data for expenditures of Opioid Funds by the Participating Local Governments, which it shall update at least annually.
- c. If necessary, require and collect additional outcome-related data to evaluate the use of Opioid Funds, and all Participating Local Governments shall comply with such requirements. Prior to establishing these requirements, evaluation and reporting tools will be developed in partnership with Participating Local Governments, unless already stipulated by the One WA MOU.
- d. Hearing complaints by Participating Local Governments regarding alleged failure to (1) use Opioid Funds for Approved Purposes or (2) comply with reporting requirements.

9. If any Party to this Agreement believes another Party violated the terms of this Agreement, the WA One MOU, and/or the Allocation Agreement, the aggrieved Party may seek judicial enforcement of the terms of this Agreement, the WA One MOU, and/or the Allocation Agreement. The Parties hereby stipulate that venue of any action shall be in accordance with

RCW 4.12.080. Prior to filing any such action, the alleging Party shall first provide the alleged offending Party notice of the alleged violation(s) and a reasonable opportunity to cure the alleged violation(s). In such an enforcement action, any alleging Party or alleged offending Party may be represented by their respective public entity in accordance with Washington law.

10. Nothing in this MOU shall be interpreted to waive the right of any Party to seek judicial relief for conduct occurring outside the scope of this Agreement that violates any Washington law. In such an action, the alleged offending Party may be represented by their respective public entities in accordance with Washington law. In the event of a conflict, any Party may seek outside representation to defend itself against such an action.

11. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the grounds that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

12. No changes or additions to this Agreement shall be valid or binding on any Party unless such changes or additions are in writing and executed by all Parties.

13. Each Party represents that all procedures necessary to authorize such Party's execution of this Agreement have been performed and that the person signing for such Party has been authorized to execute this Agreement.

Approved this 14th day of December, 2022