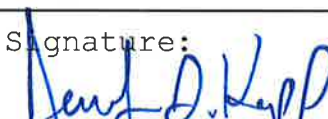


KENOSHA COUNTY

BOARD OF SUPERVISORS

RESOLUTION NO.

Subject: Resolution Accepting Monsanto Settlement Funds, Establishing Fund for Improvement Projects and Approving Expenditures	
Original <input checked="" type="checkbox"/> Corrected <input type="checkbox"/> 2nd Correction <input type="checkbox"/> Resubmitted <input type="checkbox"/>	
Date Submitted: March 4, 2024	Date Resubmitted:
Submitted By: Jennifer J. Kopp, First Assistant Corporation Counsel	
Fiscal Note Attached <input checked="" type="checkbox"/>	Legal Note Attached <input type="checkbox"/>
Prepared By: Jennifer J. Kopp, First Assistant Corporation Counsel	Signature: 

WHEREAS, a number of communities across the country filed a class action lawsuit against Monsanto Company, Solutia Inc. and Pharmacia LLC (hereinafter referred to as "Monsanto"), in the United States District Court of the Central District of California, *City of Long Beach et. al, v. Monsanto Company*, No. 2:16-CV003493 (the "Class Action Lawsuit"); and

WHEREAS, these communities claimed the defendants produced a class of polychlorinated biphenyls (PCBs) between 1930 and 1977 that led to environmental contamination; and

WHEREAS, Monsanto and the litigation plaintiffs agreed to a settlement in the amount of \$550,000,000 representing four (4) different allocations of settlement dollars that vary based on the amount of damages sustained from Monsanto PCBs, with each fund having a specific formula for calculation of payments: (1) the Monitoring Fund, which intends to pay for PCB sampling and/or other mitigation efforts; (2) the TMDL (Total Maximum Daily Load) Fund, which intends to compensate plaintiffs for restitution and remediation efforts, including mitigation of contaminated property, stormwater and/or stormwater systems; (3) the Sediment Fund, which intends to compensate plaintiffs for specific sites that have sedimentary contamination from PCBs; and (4) Special Needs Funds, which are broken down for various litigation costs of the plaintiffs that initiated the lawsuit and other litigation costs (the "Settlement"); and

WHEREAS, a number of Wisconsin counties and municipalities were not required to opt into the Class Action Lawsuit to participate in the Settlement, rather if a county or municipality met the requirements for the "class" participants, they received notice and were added to the Class Action Lawsuit unless the county or municipality specifically objected; and

WHEREAS, Kenosha County was one of the municipalities identified in Wisconsin as a "class participant." Kenosha County received a payment from the Settlement in the amount of \$969,080 from the TMDL funds; and

WHEREAS, the waterways identified in the Class Action Lawsuit in Kenosha County are in the Lake Michigan Basin and the Mississippi River Basin, but Kenosha County is not aware of and has not been informed of any specific PCB contamination issues in these waterways; and

WHEREAS, the Settlement funds are intended to promote remediation efforts and maintain compliance with the TMDL, which is the calculation of the maximum amount of pollutants that an impaired waterbody can receive on a daily basis and still meet water quality standards, but the receiving municipalities in the Class Action Lawsuit have discretion in how to use these funds for these broadly stated purposes; and

WHEREAS, the Kenosha County Administration (the "Administration") and the Public Works Department (the "Department") believe that remediation and mitigation efforts may be necessary in the future to meet and maintain water quality standards, address contamination issues and other environmental effects from the PCBs; and

WHEREAS, the Administration and the Department propose using the funds to address, monitor and mitigate, among other things, current and future environmental hazards caused by PCBs in Kenosha County. The Administration and the Department would also like to comply with daily TMDL limits, monitor and address contamination, stabilization and erosion in waterways and lakes and obtain cleanup and remediation for contaminated sites through the County as they become known. In addition, the Administration and the Department desire to support projects that improve water quality going into Kenosha County waterways and lakes through groundwater, surface water and/or base flow. There may be other specific environmental or stormwater quality projects, including but not limited to those set forth on Exhibit A; and

WHEREAS, the Administration and the Department have identified three specific projects involving contamination issues, which it may

use the funds for in 2024, including demolition costs for Hillside Hardware, environmental studies and demolition costs for Roosevelt Auto Body and dealing with the Poerio Park Area (the "orange ooze"). The estimated costs associated with these projects are \$431,300. A breakdown of the projects and anticipated costs associated with these projects are set forth on Exhibit B. Kenosha County has already spent considerable time and resources exploring remediation and use for these projects, including discussions with the City of Kenosha on partnering to address these site problems. Remediation and use of these sites will enhance quality of life for Kenosha County citizens; and

WHEREAS, certain expenditures in remediation are required by the Wisconsin DNR (WIDNR), such as Phase I or Phase II environmental testing and efficiency is heightened when these tests are done promptly and in conjunction with partners such as the WIDNR and other municipalities; and

WHEREAS, the Administration recommends placing the Settlement Funds in a separate, interest bearing account with the interest generated being kept separate from the general fund for use on separate environmental or contamination issues.

NOW, THEREFORE, BE IT RESOLVED, that the Kenosha County Board of Supervisors hereby accepts the Settlement Funds in the amount of \$969,080 and approves placement of these funds in a separate, interest bearing account with the principal and any future interest being kept separate from the general fund; and

BE IT FURTHER RESOLVED, that the Kenosha County Board of Supervisors authorizes the Administration to use a portion of the principal up to the amount of approximately \$431,300 to fund expenditures related to Hillside Hardware, Roosevelt Auto Body and Poerio Park Area as set forth on Exhibit B and approve the budget modification as detailed in the attached budget modification form; and

BE IT FURTHER RESOLVED, that any future projects similar to what is set forth on Exhibit A, pertaining to the use of the principal or interest generated by the Settlement Funds will be addressed in future budgets or come to the Kenosha County Board by way of separate resolution; and

BE IT FURTHER RESOLVED, by the Kenosha County Board of Supervisors, that the County Executive and the Director of Public Works are authorized to execute any contracts, agreements or other documents necessary to carry out the intent of this resolution.

Dated at Kenosha County, Wisconsin, this ____ day of ____, 2024.

Submitted By:

Finance/Administration Committee

Aye

No

Abstain

Terry Rose, Chairman

Dave Geertsen

John Poole

Erin Decker

Tim Stocker

John Franco

Bill Grady

Public Works/Facilities Committee

Aye

No

Abstain

Mark Nordigan, Chairman

Zach Stock

Aaron Karow

Laura Belsky

John O' Day

Brian Thomas

Tim Stocker

EXHIBIT A

Environmental Purposes

- Phase I and Phase II reports
- Site Investigation and Remediation Options Reports/Investigation
- Site Remediation including disposal or soil/insitu treatment costs
- Demolition and asbestos abatement if needed to reach contaminated sources
- Remediation efforts as needed to meet DNR/EPA regulations to get an impacted site to site closure

Stormwater Quality Purposes

- Inspecting outfalls that appear to have contamination issues, tracking any contaminated outfalls to find source and implementing any remediation efforts to reduce/eliminate the contamination source
- Implementing green infrastructure projects to reduce TMDL or TSS loads
- Create, modify, improve or upgrade any stormwater quality basins to increase their TMDL and TSS removal/reduction rates
- Infrastructure improvements needed to meet DNR/EPA regulations in regards to Stormwater quality control
- Streambank and shoreline improvement projects to aid in the protection of property
- Increasing plantings that can aid in mitigating environmental pollution caused by PCBs

Exhibit B**Proposed Use of Monsanto Funds
2024**

Location/Description	Estimated Cost
Hillside Hardware / 4614 52nd Street	
Phase I ESA	4,255.20
Phase II ESA - range \$12,000 - \$15,000	15,000.00
Demo	110,000.00
Roosevelt Auto Body/ 2907 W 63rd Street	
Phase I ESA	5,000.00
Phase II ESA - range \$12,000 - \$15,000	15,000.00
Demo	160,000.00
"Orange Ooze"/ 17th Court to Birch Road	
Phase I ESA	22,000.00
Phase II ESA - range \$50,000 - \$100,000	100,000.00
Total	431,255.20

KENOSHA COUNTY EXPENSE/REVENUE BUDGET MODIFICATION FORM

DOCUMENT #	G/L DATE	4/2/2024
BATCH #	ENTRY DATE	

DEPT/DIVISION: Dept. Of Public Works

PURPOSE OF BUDGET MODIFICATION (REQUIRED):

[illegible][illegible]

COLUMN TOTALS (EXP TOTAL + REV TOTAL)

COLUMN TOTALS (EXP TOTAL + REV TOTAL)

431,300.00

-

SEE BACK OF FORM FOR REQUIRED LEVELS OF APPROVAL FOR BUDGET MODIFICATION.

PREPARED BY: Chris Walton

FINANCE DIRECTOR: _____

Date _____

DIVISION HEAD: _____

Date _____

DEPARTMENT HEAD: _____

Date _____

COUNTY EXECUTIVE: _____

Date _____

Please fill in all columns:

(1) & (2) Account information as required

(3) & (4) Budget change requested

(5) Original budget as adopted by the board

(6) Current budget (original budget w/past mods.)

(7) Actual expenses to date

(8) Budget after requested modifications

(9) Balance available after transfer (col 8 - col 7).