



Kenneth W. Jenkins
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

May 6, 2025

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue
White Plains, NY 10601

Re: An Act authorizing the County of Westchester to settle the claims against Costco Wholesale Corporation in an adversary proceeding filed in the Supreme Court of the State of New York, Westchester County, titled *The County of Westchester v. Purdue Pharma, et al.*, Index No. 51606/2018, transferred to the coordinated proceeding before Judge Garguilo in the Supreme Court of the State of New York, Suffolk County and then transferred to the Supreme Court of the State of New York, Westchester County

Dear Honorable Members of the Board:

Attached for your review is proposed legislation that, if enacted, would authorize the County of Westchester to enter a settlement and general release agreement fully resolving the claims against Costco Wholesale Corporation ("Costco") in an adversary proceeding filed in the Supreme Court of the State of New York, Westchester County, titled *The County of Westchester v. Purdue Pharma, et al.*, Index No. 51606/2018, transferred to the coordinated proceeding in the Supreme Court of the State of New York, Suffolk County and then transferred to the Supreme Court of the State of New York, Westchester County (the "Instant Proceeding").

The Instant Proceeding

On February 6, 2018, the County commenced an action against opioid manufacturers, distributors and dispensers in the Supreme Court of the State of New York, County of Westchester. The Complaint asserted several causes of action, such as deceptive marketing, false advertising, public nuisance, misrepresentation, fraud, negligence, and unjust enrichment and conspiracy, alleging that each of the Defendants contributed to the opioid epidemic that Westchester County has been battling and will continue to battle for the foreseeable future. The causes of action against the various Defendants are based on claims that they contributed to the opioid epidemic by violating state and federal statutes related to the manufacturing, distribution

and sale of opioids, all of which contributed to a public health crisis. Since the litigation's inception in 2018, many of the County's claims against the Defendants have been resolved through settlement.

Terms of the Proposed Settlement

Defendant Costco was added as a Defendant in April 2023. Costco has offered to settle the claims against it related to opioid use and misuse, including those brought by the County. Pursuant to an allocation formula, if the County participates in the settlement, the County will be paid a lump-sum payment of approximately \$200,000. There are no requirements or limitations on how these funds can be used and there are no reporting requirements. There is a Confidentiality provision, in which the County must agree that it will not directly or indirectly issue any press release or the like regarding this Settlement and its terms.

In order to become a party to the Settlement Agreement, Westchester County has to do the following:

1. Sign (or give Napoli Shkolnik permission to sign on Westchester County's behalf) Exhibit "B" to the Costco Master Settlement Agreement (Settling Subdivision Participation and Release Form), attached as Exhibit "A" hereto;

Recommendation of Westchester County Attorney's Office

Litigation concerning the opioid epidemic has been pending for over seven years. Westchester County has suffered tremendous losses and continues to suffer the effects of the epidemic and will for the foreseeable future. The funds it will receive in this settlement will help offset some of those costs and can be used for future abatement purposes. The County Attorney recommends accepting this settlement, as opposed to assuming the risks and burdens of litigating against this Defendant individually.

I respectfully request authority from this Board pursuant to Section 158.11 of the Westchester County Charter to settle the above-referenced matter. I therefore recommend passage of the accompanying Act.

Very truly yours,

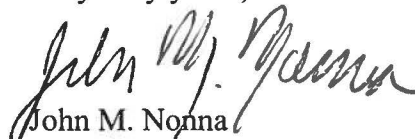

John M. Nonna
County Attorney

EXHIBIT A

Exhibit B

Costco Wholesale Corporation Settling Subdivision Participation and Release Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("*Settling Subdivision*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Master Settlement Agreement dated _____, 2025 ("*Costco Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Costco Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Costco Settlement, understands that all terms in this Settling Subdivision Participation and Release Form have the meanings defined therein, and agrees that by executing this Settling Subdivision Participation and Release Form, the Governmental Entity elects to participate in the Costco Settlement and become a Settling Subdivision as provided therein.
2. The Governmental Entity through its counsel shall promptly move to dismiss with prejudice any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Costco Settlement pertaining to Settling Subdivision as defined therein.
4. By agreeing to the terms of the Costco Settlement and becoming a Releasor, the Governmental Entity is entitled to monetary payments.
5. The Governmental Entity, as a Settling Subdivision, hereby becomes a Releasor for all purposes in the Costco Settlement, 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

Subject to Federal Rule of Evidence 408 and State Equivalents

Released Entity in any forum whatsoever. The releases provided for in the Costco 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 Costco Settlement shall be a complete bar to any Released Claim.

6. Nothing herein is intended to modify in any way the terms of the Costco Settlement, to which Governmental Entity hereby agrees. To the extent this Settling Subdivision Participation and Release Form is interpreted differently from the Costco Settlement in any respect, the Costco Settlement controls.

I have all necessary power and authorization to execute this Settling Subdivision Participation and Release Form on behalf of the Governmental Entity.

Signature:

John M. Mount

Name:

John M. Mount

Title:

County Attorney

Date:

5/5/25

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act which, if enacted by your Board, would authorize the County of Westchester (“County”) to enter a settlement and general release agreement fully resolving the pending claims of the County against Costco Wholesale Corporation (“Costco”), pending in a proceeding filed in the Supreme Court of the State of New York, Westchester County, titled *The County of Westchester v. Purdue Pharma, et al.*, Index No. 51606/2018 (transferred to the coordinated proceeding in the Supreme Court of the State of New York, Suffolk County and then transferred to the Supreme Court of the State of New York, Westchester County) (the “Instant Proceeding”) arising out of the alleged abuse and misuse of opioids.

On February 6, 2018, the County of Westchester commenced an action against opioid manufacturers, distributors and dispensers in the Supreme Court of the State of New York, County of Westchester. The Complaint asserted several causes of action, such as deceptive marketing, false advertising, public nuisance, misrepresentation, fraud, negligence, and unjust enrichment and conspiracy, alleging that each of the Defendants contributed to the opioid epidemic that Westchester County has been battling and will continue to battle for the foreseeable future. The causes of action against the various Defendants are based on claims that they contributed to the opioid epidemic by violating state and federal statutes related to the manufacturing, distribution and sale of opioids, all of which contributed to a public health crisis. Since the litigation’s inception in 2018, many of the County’s claims against the Defendants have been resolved through settlement.

Defendant Costco was added as a Defendant in the Instant Proceeding in April 2023.

Costco has offered to settle the claims against it related to opioid use and misuse including those brought by the County. Pursuant to an allocation formula used in previous national opioid settlements, if the County participates in the settlement, the County will be paid a lump-sum payment of approximately \$200,000. There are no requirements or limitations on how the funds can be used and no reporting requirements. There is a Confidentiality provision, in which the County must agree that it will not directly or indirectly issue any press release or the like regarding this Settlement and its terms.

In order to become a party to the Settlement Agreement, Westchester County has to do the following:

1. Sign (or give Napoli Shkolnik permission to sign on Westchester County's behalf) Exhibit "B" to the Costco Master Settlement Agreement (Settling Subdivision Participation and Release Form), attached as Exhibit "A" hereto;

Your Committee has carefully considered the matter and recommends approval of the annexed Act. The Act, which would authorize the County to enter into the proposed settlement to effectuate the resolution of the lawsuit, is in the best interests of the County.

Your Committee therefore recommends this Honorable Board approve the annexed Act authorizing the County to enter into the proposed settlement of the above-referenced lawsuit. An affirmative vote by a majority of the Board is required to pass this Act.

Dated: White Plains, New York
May 6, 2025

COMMITTEE ON

AN ACT authorizing the County of Westchester to settle the claims against Costco Wholesale Corporation in an adversary proceeding filed in the Supreme Court of the State of New York, Westchester County, titled *The County of Westchester v. Purdue Pharma, et al.*, Index No. 51606/2018, transferred to the coordinated proceeding before Judge Garguilo in the Supreme Court of the State of New York, Suffolk County and then transferred to the Supreme Court of the State of New York, Westchester County (the “Instant Proceeding”) arising out of the alleged abuse and misuse of opioids

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

1. The County of Westchester is hereby authorized to settle its claims against Costco Wholesale Corporation in an adversary proceeding filed in the Supreme Court of the State of New York, Westchester County, titled *The County of Westchester v. Purdue Pharma, et al.*, Index No. 51606/2018, transferred to the coordinated proceeding before Judge Garguilo in the Supreme Court of the State of New York, Suffolk County and then transferred to the Supreme Court of the State of New York, Westchester County arising out of the alleged abuse and misuse of opioids.
2. The County Attorney or his designee is hereby authorized to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purpose hereof.
3. This Act shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Costco Wholesale Opioid Settlement ☐ NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

☒ GENERAL FUND

☐ AIRPORT FUND

☐ SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense

Total Current Year Revenue \$ 200,000

Source of Funds (check one): ☐ Current Appropriations ☐ Transfer of Existing Appropriations

☒ Additional Appropriations

☐ Other (explain)

Identify Accounts: 101-52-1000-9149

Potential Related Operating Budget Expenses: Annual Amount \$ -

Describe:

Potential Related Operating Budget Revenues: Annual Amount \$ 200,000

Describe: Costco Wholesale Corp Opioid Settlement

Anticipated Savings to County and/or Impact on Department Operations:

Current Year:

Next Four Years:

Prepared by: Christina Rampata

Title: Deputy Director

Department: Budget

Date: May 7, 2025

Reviewed By:

Budget Director

Date:

5/7/25