

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

March 1, 2022

FROM

TOM BUNTON, County Counsel

GEORGINA YOSHIOKA, Department of Behavioral Health

SUBJECT

County-City Allocation Agreement Template re: Use of the City's Local Allocation of Settlement Money from the National Opioid Settlement

RECOMMENDATION(S)

1. Approve County-City Allocation Agreement master template for use of the City's local allocation of settlement money from the National Opioid Settlement, effective for use from March 1, 2022 through February 29, 2040.
2. Authorize the County Chief Financial Officer to execute the County-City Allocation Agreements with any non-substantive changes on behalf of the County, subject to review by County Counsel.

(Presenter: Tom Bunton, County Counsel, 387-5455)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of the template and agreements will not result in the use of Discretionary General Funding (Net County Cost) as the agreements will result in revenue to the County over 18 years. The total amount of expected revenue is unknown at this time as it will depend on the number of cities that participate in the agreement.

BACKGROUND INFORMATION

On November 16, 2021, the Board of Supervisors (Board) approved San Bernardino County's participation in a nationwide settlement with opioid distributors McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation, and opioid manufacturers Johnson & Johnson, Janssen Pharmaceuticals, Inc., and Ortho-McNeil-Janssen Pharmaceuticals, Inc., (all collectively, "Settling Defendants"). On that same date, the Board also authorized the County to enter into a State-Subdivision Agreement ("State Allocation Agreement") with the State of California regarding the distribution and use of the funds from the settlements. Under the terms of the two settlements, cities and towns with populations exceeding 10,000 ("Local Subdivision(s)") are permitted to participate in the settlements even if they had not filed a lawsuit against the Settling Defendants. The settlement with the distributors will be paid over an 18 year period while the settlement with the manufacturers will be paid over nine years.

Under the State Allocation Agreement, a Local Subdivision's share of the settlement money will be distributed by the settlement administrator to the county where the Local Subdivision is

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located unless, at least 60 days prior to a payment date, the Local Subdivision notifies the settlement administrator that it would like a direct distribution of its share of the settlement funds. Several Local Subdivisions in San Bernardino County have indicated that they will not be taking a direct distribution of their share of the settlement money, but have asked that the County enter into an allocation agreement with them to formalize the arrangement and to ensure the funds are used in accordance with the terms of the settlement agreements.

The County Department of Behavioral Health (Behavioral Health) will be overseeing the use of the settlement funds on behalf of the County. Approval of the first recommendation will allow Behavioral Health to utilize the County-City Allocation Agreement template in Attachment A to formalize the arrangement between the County and the Local Subdivision relating to the distribution and use of the Local Subdivision's share of the settlement funds. Under the agreement template, the Local Subdivision agrees that it will not elect to take a direct distribution of its share of the settlement money. In exchange, the County agrees that it will use the Local Subdivision's share of the settlement money for opioid abatement purposes in accordance with the terms of the settlement agreements and State Allocation Agreement and be responsible for all administrative obligations under those agreements. The proposed County-City Allocation Agreement does not impose any obligations on the County beyond what it is already required to do under the terms of the settlement agreements and State Allocation Agreement.

Approval of Recommendation No. 2 will authorize the County Chief Financial Officer, on behalf of the County, to execute the County-City Allocation Agreement with all interested Local Subdivisions within the County.

County Counsel and Behavioral Health recommend that the Board approve the template agreement as it will ensure the flow of additional revenue to the County for use in opioid abatement/remediation activities. Delegation of authority for the County Chief Financial Officer to execute the agreements is requested given that it is unknown when the agreements will be executed by the respective cities and ready for presentation to the Board and due to the estimated start date of April 1, 2022 when the settlement money is expected to start flowing to the County under the settlement agreements.

PROCUREMENT

Not Applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Charles Phan, Deputy County Counsel, 387-5455), on February 22, 2022; Finance (Carl Lofton, Administrative Analyst, 387-5404) on February 22, 2022; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on February 22, 2022.

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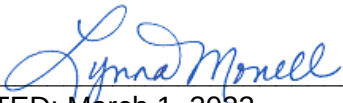
Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Dawn Rowe

Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY _____
DATED: March 1, 2022



cc: File- County Counsel w/attach
LA 03/3/2022