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COUNTY OF LOS ANGELES

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Chief Executive Officer

Fesia A. Davenport

"To Enrich Lives Through Effective and Caring Service"

August 08, 2023

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVE FUNDING ALLOCATIONS RELATED TO RECENT NATIONAL OPIOID SETTLEMENTS, DELEGATE AUTHORITY TO CHANGE PERCENTAGE ALLOCATIONS AND/OR AMOUNTS, IMPLEMENT FUTURE PHASES OF SPENDING PLAN FUNDING, AMEND ALLOWABLE USES AND INVOLVED DEPARTMENTS, AND EXECUTE AGREEMENTS WITH CITIES WITHIN THE COUNTY OF LOS ANGELES TO ACCEPT ADDITIONAL OPIOID SETTLEMENT FUNDS
(ALL DISTRICTS AFFECTED) (3-VOTES)**

SUBJECT

The Chief Executive Office (CEO) recommends that the Board of Supervisors (Board) approve the spending plans for funds from national settlements with opioid manufacturer Janssen Pharmaceuticals/Johnson and Johnson (J&J Settlement) and with McKesson, AmerisourceBergen and Cardinal Health (Distributors Settlement), delegate authority to the Chief Executive Officer to amend spending plans with advance notice to the Board, and delegate authority to the Department of Public Health (DPH) to execute agreements with cities within the County of Los Angeles (County) to accept their settlement allocations.

IT IS RECOMMENDED THAT THE BOARD:

1. Approve the recommended spending plan (Enclosure) authorizing the utilization of approximately \$5.5 million in annual funding under the J&J Settlement for the next three Fiscal Years (FY) beginning in FY 2023-24; and approximately \$11.1 million in annual funding under the Distributors' Settlement for the next five FYs beginning in FY 2023-24.
2. Delegate authority to the Chief Executive Officer, or her designee, to adjust the spending plan amounts, departmental recipients, and/or allowable uses, for all opioid settlements, based on needs

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

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CELIA ZAVALA
EXECUTIVE OFFICER

and/or available funding, in consultation with the involved departments and with advance notice to the Board.

3. Delegate authority to Director of the Department of Health Services (DHS), the Director of DPH, the County Fire Chief and the County Medical-Examiner, or their respective designees, to enter into new contracts, amend or terminate such contracts and/or amend existing contracts, to implement opioid settlement-related programming, at an amount not to exceed the respective department's opioid settlement funding allocation for the J&J Phase 1 Spending Plan beginning in FY 2023-24 through FY 2025-26 and the Distributors' Phase 1 Spending Plan beginning in FY 2023-24 through FY 2027-28 provided the agreements are approved as to form by County Counsel.

4. Delegate authority to future departmental recipients of opioid settlement funding, or their respective designees, to establish new contracts, including sole source, amend or terminate such contracts and/or amend existing contracts, to implement opioid settlement-related programming, at an amount not to exceed the respective department's opioid settlement funding allocation, for up to a five-year term through FY 2027-28 provided the agreements are approved as to form by County Counsel.

5. Delegate authority to the Director of DPH, or her designee, to contractually accept funding from cities that initially accepted their settlement-related allotted funding but later decide to transfer their funding to the County to provide opioid settlement-related programming on behalf of those cities, with prior notice to the Board and CEO.

6. Direct DPH, in consultation with the involved departments, to provide an annual report to the Board describing the impact of the programs funded by the spending plan.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On July 21, 2021, a \$26.0 billion offer to settle was made by opioid manufacturer J&J and the Distributors to resolve their liabilities in over 3,000 opioid crisis-related lawsuits nationwide. The two settlements were finalized, and it is estimated that California will receive approximately \$2.05 billion from the J&J and Distributors Settlements over the next 18 years. The State of California Department of Health Care Services (DHCS) will oversee and administer the settlement funds that are received as follows: 15 percent allocated to the State of California and used for future opioid remediation activities, 70 percent allocated to the Participating Subdivisions (i.e., counties and cities) and used for opioid remediation activities, and 15 percent allocated to the Plaintiff Subdivisions that are Initial Participating Subdivisions (which includes the County). DHCS will also oversee all activities funded by the settlements including, but not limited to, designating additional high-impact abatement activities (HIAA), conducting related stakeholder engagement, monitoring the California participating subdivisions for compliance, and preparing annual reports.

The settlement funds must be used for specific purposes including the requirement that the County spend 50 percent of the abatement funds on HIAA, as defined by the State. These HIAA include: a) substance use disorder (SUD) treatment, infrastructure, and facilities; b) diversion of people with SUD from the justice system (i.e., training, restorative justice, and harm reduction); c) addressing needs of people of color and vulnerable populations, including people experiencing homelessness,

who are disproportionately impacted by SUD; and/or d) youth drug-addiction prevention programs. The other 50 percent of abatement funds may be spent on any of the HIAA listed above, or on a variety of opioid treatment activities including: a) naloxone distribution, education, and training to healthcare providers and first responders; b) opioid-related treatment and prevention programs, including for pregnant and post-partum women, media campaigns, syringe service programs, and others; c) providing comprehensive wrap-around services to individuals in recovery, including housing, transportation, job placement/training, and childcare, as well as hiring additional social workers or other behavioral health workers to facilitate the expanded activities described above; d) providing evidence-based treatment and recovery support for those with Opioid Use Disorder (OUD) transitioning out of the criminal justice system and to fund treatment to inmates with OUD. The subdivision funds can be utilized to pay for opioid abatement activities and administration of opioid-related activities, as well as to repay opioid-related litigation fees and expenses.

Recommendation 1 will result in the approval of the recommended spending plan in the Enclosure authorizing approximately \$5.5 million in annual funding under the J&J Settlement for the next three FYs beginning in FY 2023-24 (Phase I of III of J&J spending plan); and approximately \$11.1 million in annual funding under the Distributors Settlement for the next five FYs beginning in FY 2023-24 (Phase I of IV of Distributors spending plan). Given the anticipated timeframe for payment of the nine years for J&J Settlement and 18 years for the Distributors Settlement, the CEO is recommending that the spending plan be approved in phases, with re-evaluation over time to determine if realignments are needed. The approval of the allocations in the Enclosure represent Phase I funding, beginning in FY 2023-24, as follows:

- Phase I – J&J Settlement (3-Year Plan includes FY 2023-24, FY 2024-25 and FY 2025-26).
- Phase I – Distributors Settlement (5-Year Plan includes FY 2023-24, FY 2024-25, FY 2025-26, FY 2026-27 and FY 2027-28).

Recommendation 2 will delegate authority to the Chief Executive Officer to change departmental recipients, allowable uses, and/or spending plan amounts, for all settlements and phases based on needs and/or available funding, in consultation with the involved departments and with advance notice to the Board. This flexibility is needed to ensure timely spending of the funds given the established reversion periods as further described below.

Recommendations 3 and 4 will delegate authority to the departments listed in the attached spending plan, including the Director of DHS, the Director of DPH, the County Fire Chief and the County Medical Examiner, or their respective designees, as well as future departmental recipients of funding, or their respective designees, to establish new contracts, amend or terminate such contracts and/or amend existing contracts, to implement programming at an amount not to exceed the respective department's opioid settlement through FY 2027-28. This authority is needed to deploy resources and streamline services to get funding into the community as quickly as possible while being mindful of reversion deadlines.

Recommendation 5 will delegate authority to the Director of DPH to accept funding from cities that initially decided to accept their allotted funding and eventually decided to transfer their allocation of funding to the County to provide opioid settlement-related programming, with advance notice to the Board and CEO. Under the current provisions of the settlements, cities in the County can directly opt to receive an allocation of funding or forego their allocation, with this decision point occurring on an annual basis. Depending on the timing of that decision by cities, there are instances where cities may opt to receive their funding and later decide to forego funding. This delegated authority will allow DPH to establish contracts with cities to accept any funding that cities want to transfer to the County, after having initially received funding. This may be a rare occurrence; however, this

authority will help streamline the process of receiving funding from cities, which may occur at various times throughout the year and with little advance notice. The amounts allocated to cities thus far have been relatively small and once transferred to the County, will not directly support services in the city forgoing funds. Any funding received by cities would be allocated to DPH to expand existing DPH Board-approved spending plans in support of countywide activities.

Recommendation 6 will direct DPH to provide an annual report to the Board evaluating the impact of the programs funded by the spending plan. DPH will work with the funded departments to determine what data elements can be collected to assess the impact of programming/program evaluation and will access funding on an annual basis from the Balancing Fund (described more fully below) to fund the data collection activities required each year. DPH will work with the funded departments to determine the costs associated with data collection activities and funding will be allocated through the budget process for Board consideration and approval. Additionally, funded departments will provide semi-annual or quarterly verbal updates to the Board's policy and budget deputies on program development as requested by Board offices.

Implementation of Strategic Plan Goals

The recommended action supports Strategy III.3, Pursue Operational Effectiveness, Fiscal Responsibility, and Accountability.

FISCAL IMPACT/FINANCING

DHCS will administer and provide guidance to counties and cities on allowable uses for the opioid settlement funding. DHCS is in the process of outlining policies that will inform oversight compliance and reporting requirements and are currently in a stakeholder comment period seeking input from settlement recipients. To-date, the County has received funding from the J&J and Distributors settlements for Years 1 and 2 totaling \$32.1 million dollars.

Based on the opioid settlement funding received to-date, there appears to be extreme variability related to the year-over-year funding thus far. Some of the variability seems related to the ability cities have to determine whether to receive or forego funding, a determination that cities will make on an annual basis. Additionally, there are holdbacks by the State on certain funding that cannot be anticipated. As such, there is no detailed schedule provided by Opioid Settlement Administrators that outlines the exact amount of funding the County can expect to receive in any given FY. Given that there is no baseline level of funding that the County can expect to receive in a given year, for planning purposes, the County has used the ballpark figures provided. The J&J Settlement will result in approximately \$50.0 million to the County payable over nine years and the Distributors Settlement will result in approximately \$200.0 million payable over 18 years.

Given the variability of funding, CEO recommends the establishment of a Budgetary Balancing and One-Time Uses Fund (Balancing Fund) that equals approximately one years' worth of funding, that will ensure the ability to smooth out receipt of funds in years where there are variances, while also hedging against future unknown expenses. In addition, Balancing Fund resources will be utilized for investments in data collection and program evaluation. Any funds determined not needed to address variability will be programmed for one-time investments that will support various Board-directed priority programming, with advance notice to the Board. CEO will work with DPH to monitor the future collections and should collection of funds smooth out over time, there will be a re-evaluation as to the need to maintain the Balancing Fund. It should be noted that the Balancing Fund will include an earmark for reimbursement of County Counsel's legal costs related to opioid settlement

litigation and other legal expenses if attempts to seek reimbursement by the federal and State administrators are unsuccessful or do not fully reimburse County Counsel costs. To date, County Counsel has incurred approximately \$1.5 million in legal fees and expenses related to opioid litigation.

Settlement funds received by the County will reside in an interest-bearing special revenue fund administered by DPH, with funding transferred to those departments authorized under the spending plan to receive funding, through the budget process. Program costs will be limited to available opioid settlement funding and as such, there is no net County cost impact. DPH will be the primary recipient of opioid settlement funding and will maintain administrative oversight of the special revenue fund, including budgetary changes and responsibility for the annual reporting requirement to the State. The opioid settlement funding is subject to reversion if not spent or encumbered within five years of receipt of funding by the County. DPH, as part of their oversight role, will be responsible to ensure none of the funding is subject to reversion.

The attached spending plan has been reviewed by County Counsel and aligns with all requirements for use.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Pursuant to the County's agreement with the State for receipt of funds from the J&J Settlement and Distributors Settlement, the County must track all deposits and expenditures from the national settlements. The County must prepare written reports for the DHCS at least annually regarding the use of national settlement funds, until those funds are fully expended and for one year thereafter. Reports must include a certification that all funds have been used in compliance with the national settlements. The report will be in a form reasonably determined by DHCS.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The opioid settlements are finite, and each carries its own settlement amount and number of years for phasing payments. However, these funds will allow for meaningful investments to support an array of services, including outreach, education, treatment and will support core one-time investments to mitigate the impacts of the opioid crisis in the County.

The Honorable Board of Supervisors

8/8/2023

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Fesia A. Davenport', with a large, sweeping flourish at the end.

FESIA A. DAVENPORT

Chief Executive Officer

FAD:JMN:MM

MM:EB:RY:yf

Enclosures

c: Executive Office, Board of Supervisors
County Counsel
Health Services
Public Health

OPIOID SETTLEMENT

PROPOSED SPENDING PLAN

JOHNSON & JOHNSON (J&J) SETTLEMENT (\$5.5 MILLION ANNUALLY)**Department of Health Services (DHS)-Office of Diversion and Re-entry, Harm**

Reduction Division: \$1.2 million – Overdose Prevention and Harm Reduction Services – People Experiencing Homelessness (PEH) Focus

Funds will support expansion of overdose prevention and harm reduction services for people experiencing homelessness in partnership with community partners and other Los Angeles County departments. PEH targeted programming are in the following areas: direct services, including distribution of naloxone, fentanyl test strips and other supplies through community providers, hospitals and clinics, access to Medications for Addiction Treatment, referrals for other health services, capacity building and community engagement.

Department of Public Health (DPH): \$2.3 million - Electronic Health Record

Funds enhancements to improve the electronic health record used by DPH-Substance Abuse Prevention and Control (SAPC), called Sage, and supports enhancements needed for data sharing between the specialty substance use disorder (SUD) system and other systems, consistent with the goals under CalAIM.

Fire Department: \$1.0 million - Reimbursement of fire dispatch and paramedic operations; one-time equipment

Funds Fire dispatch, paramedic operations and one-time equipment to respond to opioid-related calls.

Department of Medical Examiner: \$1.0 million - Reimbursement of staffing and equipment needs related to opioid deaths

Funds a variety of staffing and equipment needs related to opioid-related deaths, including death investigations, transport of decedents, post-mortem exams, chemical analyses and notification to prescribing physicians when a patient dies of an opioid overdose.

OPIOID SETTLEMENT

PROPOSED SPENDING PLAN

DISTRIBUTORS SETTLEMENT (\$11.1 MILLION ANNUALLY)

DHS-Office of Diversion and Re-entry, Harm Reduction Division: \$2.261 million – Overdose Prevention and Harm Reduction Services

Funds expansion and increased access to Overdose Prevention, Harm Reduction and other supportive services to improve the health and well-being of people who use drugs and their communities. Funds will support direct services, including distribution of naloxone, fentanyl test strips and other supplies through community providers, hospitals and clinics, access to Medications for Addiction Treatment, referrals for other health services, capacity building and community engagement.

Department of Public Health: \$8.85 million – Various Programs

\$0.500 million – Service Planning Areas (SPA) – Based Coalitions

Fund SPA-based coalitions within SAPC's prevention network to identify needed policy and practice changes that reduce the risks associated with opioid use. Coalitions will also be supported to provide community-based programming that increases education and awareness of the risks and harm associated with opioid prescription misuse through pharmacy engagement, branded educational materials, and community partnerships with school districts, community-based organizations, and other organizations. This expansion supports the abatement and prevention of opioid use disorders, as well as other substance use disorders.

\$2.0 million – Naloxone, Harm Reduction and Other SUD Programming

Fund additional expansion of harm reductions services, which require flexible dollars, as federal dollars have restrictions related to harm reduction services. These funds will support the expansion of DPH-SAPC's Engagement and Overdose Prevention Hubs, which offer a suite of harm reduction services including mobile outreach and engagement, syringe exchange, naloxone, fentanyl test strips, medications for addiction treatment, safer supplies, and referrals to needed physical and behavioral health services.

\$3.0 million – Recovery Bridge Housing

Expand Recovery Bridge Housing beds, defined as peer-supported housing providing a safe interim living environment for patients who are homeless and concurrently participating in outpatient type treatment setting. This expansion supports care for individuals with SUD, particularly priority populations such as people experiencing homelessness and efforts to address the need to expand bed capacity in partnership with the City of Los Angeles.

\$1.0 million – Positive Youth Development

Expansion of Positive Youth Development programming focused on opioid prevention, including but not limited to, expansion of the Student Well-being Centers and establishing peer leadership programs for youth both inside and outside of schools. This expansion supports the abatement and prevention of opioid use disorders, as well as other substance use disorders.

\$2.0 million – Medication for Addiction Treatment (MAT) Expansion and Consultation Line

Funds the expansion of MAT services within the specialty SUD system to improve access to these evidence-based services and enhance treatment outcomes. Funding for the MAT Consultation Line operated by DHS will also serve as an important resource for DPH-SAPC's specialty SUD system to initiate MAT with follow-up prescribing at specialty SUD sites.

\$0.350 million – Administrative Oversight and Reporting

Funds administration of settlement funding which will require coordination amongst many County departments and community stakeholders, to adhere to stringent legal requirements around compliance, financial tracking for reversion deadlines, reimbursement of funds to departments and mandated reporting requirements. Also allows for reimbursement legal costs and other one-time costs.