



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Public Health
County Executive
Office
Department No.: 041 and 012
For Agenda Of: June 18, 2024
Placement: Departmental
Estimated Time: 60 minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority and 4/5 Vote

TO: Board of Supervisors

FROM: Department Director
Mona Miyasato, County Executive Officer
County Executive Office
Mouhanad Hammami, Director
Public Health Department

DocuSigned by:

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Contact Info: Mouhanad Hammami, Director
Public Health Department (805) 681-5115
Tanja Heitman, Assistant County Executive Officer
County Executive Office (805) 568-3400

SUBJECT: Opioid Unified Response in Santa Barbara County "OUR SBC"

County Counsel Concurrence:

As to form: Yes

Auditor-Controller Concurrence:

As to form: Yes

Other Concurrence: CEO Budget

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Receive and file a report on the Opioid Unified Response in Santa Barbara County ("OUR SBC") strategic priorities and provide initial direction for utilizing the Opioid Settlement Funds in Santa Barbara County;
- b) Approve funding recommendations for FYs 2023-24 and 2024-25 as detailed in Attachment A;

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- c) Approve the City of Santa Barbara's one-time request for \$79,675.26 in Opioid Settlement Funds, which represents the City's direct allocation of funds from the Janssen settlement, subject to a purchase order agreement specifying certain requirements and approved uses of funds;
- d) Approve Budget Revision Request (BRR 0009764) for FY 2023-24 opioid settlement funding to the Sheriff's Office in the amount of \$437,900 for allocation towards medication assisted therapy (MAT) pharmaceuticals and MAT program staff costs at Santa Barbara County Jail (Attachment F) (4/5 vote);
- e) Delegate the Public Health Department, in coordination with the County Executive Office, as the lead department in managing receipt and distribution of opioids settlement funds, including the establishment of a new special revenue fund where funds will be deposited, and the annual submission of required reporting to the Department of Health Care Services (DHCS) starting FY 2024-25, subject to the Board's authority to rescind this delegated authority at any time (4/5 vote);
- f) Provide other direction, as appropriate; and
- g) Determine that the recommended actions are not a project within the meaning of the California Environmental Quality Act (CEQA) pursuant to section 15378(b)(5) of the CEQA Guidelines, since the recommended actions are an organizational or administrative activity of the government that will not result in direct or indirect physical change in the environment.

Summary Text:

This item is on the Agenda for the Board of Supervisors to receive and file a report on the County's recommendations for use of the Opioid Settlement Funds as explored through the Opioid Unified Response (OUR SBC) team. The Opioid Settlements are the result of County-initiated litigation against distributors and manufacturers of prescription opioids to recover the County's damages from opioid drug misuse caused by the deceptive marketing and sale of prescription opioids, and to obtain other remedies to mitigate the problem going forward. The Opioid Settlement Funds must be expended on approved opioid abatement activities as set forth in the various settlement agreements and bankruptcy plans.

The proposed priorities for the best use of these funds include programs and expenditures designed to provide support for opioid remediation including prevention, treatment and harm reduction. Based on the settlements' high impact activities, staff recommends the following general priority areas:

- Expanding Prevention
- Strengthening Treatment and Harm Reduction Programs, and
- Supporting Data Collection.

For the current and next fiscal year, based on these priority areas, staff is proposing the following specific recommendations:

- Community Partner Grants of \$500,000 to community-based organizations for activities that align with the general priority areas (to be allocated through a Request for Proposal process)
- Expansion of the sobering center operated by Behavioral Wellness
- Expansion of recovery residences (sober living) beds operated by Behavioral Wellness
- Homeless outreach and engagement services provided by Community Services Department; and

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- In-custody Medication Assisted Treatment (MAT) expansion.

These recommendations are for the current and next fiscal year, although some are proposed to be ongoing. Other recommended uses may be proposed in future years based on other needs and available funding.

Additionally, the item seeks the Board's approval regarding a recent request from the City of Santa Barbara to reallocate \$79,675.26 in opioid settlement funds to the City on a one-time basis. Due to an oversight, the City did not claim the funds as required, and the funds came to the County. The County would take on the reporting obligations for the City's use of these funds for this one year and require certain information from the City to ensure compliance.

Finally, this item asks the Board to delegate the Public Health Department as the lead department in managing the receipt, distribution, and management of opioids funds, and submitting required annual reporting to the Department of Health Care Services (DHCS), in close coordination with the County Executive Office.

Discussion:

Community Engagement, Gaps, and Establishing Priorities for Use of Funds

In mid-2023, the Public Health Director was tasked with coordinating the efforts of utilizing the Opioid Settlement Fund in mitigating opioid use and its consequences in Santa Barbara County. A core team was established comprised of several County departments: Behavioral Wellness, Public Health, Sheriff's Office, Probation, Social Services, and the County Executive Office (OUR SBC team) to set a strategy for the use of the settlement funds. The OUR SBC team also considered feedback from community organizations, existing coalitions and other stakeholders to identify areas of need and efforts that can benefit from these Opioid Settlement Funds. The OUR SBC team presented at several coalitions and community partners' meetings and solicited ideas for potential use of settlement funds. The team also conducted a survey gauging existing resources and solicited potential ideas for projects. In November 2023, the OUR SBC team conducted a focus group needs assessment that identified gaps and needs, target population, which was comprised of the following community partners: Aegis Treatment Center, Council on Alcoholism & Drug Abuse (CADA), Good Samaritan Shelter, Lompoc Valley Medical Center, Recover, and CenCal Health.

In order to understand ongoing efforts to prevent opioid overdoses in the County, a voluntary survey was shared with County Departments and community partners. Of 33 responses to the survey, most focused on overdose prevention (N=23), followed equally by treatment (N=18) and harm reduction (N=18). Together these programs serve an estimated 11,306 clients (may not be unique). It should be noted that this survey was voluntary and does not represent all overdose prevention efforts in the County.

Following the survey, a focus group was convened to understand unmet opioid-related needs in the County. Participants included County Departments (Behavioral Wellness, Executive Office Probation, Public Defender, Public Health, Sheriff's Office) and six community partners. The main findings included the need for additional providers prescribing Medication-Assisted Treatment (MAT), residential treatment, coordination of care via case management/navigation, bilingual and culturally informed treatment, and training for providers at all levels.

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Based on the community engagement process, OUR SBC team created a list of priorities that are aligned with the High Impact Abatement Activities defined in the settlement agreements. Central to each priority the goals would include racial equity, focus on homelessness, and community empowerment.

The OUR SBC team's recommended priority areas that align with the requirements of the settlement agreements are as follows:

1. Expanding Prevention: Prevention is a critical component necessary as an evidence-based practice that is proven to be effective. Funded activities can include public awareness media campaigns, youth education, addressing prescribing practices by providers and strengthening community coalitions.

2. Strengthening Treatment and Harm Reduction Programs: Treatment and Harm Reduction services are necessary tools within the continuum of care because MAT combined with behavioral interventions is proven as an effective practice that can support adolescents and young adults to achieve sobriety and engage in long-term recovery. Additionally, harm reduction programs such as Naloxone distribution and needle exchange program have been instrumental in reducing death by overdose and can be used as educational and counseling tools as well. Funded activities can include MAT training and education in primary care providers, increasing capacity of County clinics and Behavioral Wellness infrastructure to offer treatment, increasing MAT capacity in the Sheriff's Office correctional facilities, ensuring warm hand offs to treatment, and eliminating barriers to treatment such as transportation, access and health coverage. Harm reduction activities can include expansion of Naloxone distribution in schools and homeless shelters, training for first responders and others involved in harm reduction as well as providing testing strips.

3. Supporting Data Collection: Data collection will provide better data sharing between hospitals, providers and public health and behavioral health departments. In addition to utilizing data targeting efforts and geographic areas with higher need. Funded activities can include coordinating opioid misuse data collection efforts, establishing a central data hub for data reporting and interpretation and sharing data across providers.

Specific Funding Recommendations for remainder of FY 2023-24 and FY 2024-25 (see Attachment A)

For this fiscal year and next, in order to ensure best uses of these funds, the following uses are proposed:

1. Community Partner Grants: This activity will set aside one-time funds (\$500,000) to be allocated to community partner agencies through a Request for Proposals (RFP) process. Public Health would oversee these grants and coordinate with the agencies to receive all needed program expenditure details for annual reporting to DHCS. A review panel consisting of both County departments and community partners will be created to score submitted proposals. The review panel will evaluate proposals based on criteria that factor strategic priorities, needs and the impact of the proposal. The Public Health Director will present recommended projects to the Board for approval through budget revisions or the County's annual budget process, as applicable. Once funding for the projects are approved, staff will enter into agreements with awardees through the County's normal contracting processes. As shown in Attachment A, \$500,000 in one-time funds are recommended to be set aside for allocation to successful proposals. Funding would be provided in the form of grants to identified community partners following the RFP process.

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Staff expects the RFP to be developed by August 2024 with proposals tentatively received by Fall 2024.

2. *Expansion of the Sobering Center (Behavioral Wellness)*: This activity will expand the capacity of the South County Sobering Center to serve those in need for addiction treatment. One-time funding of \$300,000 is recommended to relocate and expand the current center, increasing the number of beds from 7 to 10 through the purchase and construction of a modular structure that includes crisis stabilization and crisis services. The Sobering Center reduces unnecessary hospitalizations, incarcerations and inpatient stays by providing a safe space for individuals.

3. *Expansion of Behavioral Wellness Recovery Residences (Sober Living) Beds*: This activity will provide the County with an additional 12 contracted recovery residence beds over a period of three years for a recommended funding amount of \$600,000. Currently, the Department of Behavioral Wellness has funding for 12 recovery residence beds county-wide and 100% of those currently in recovery residence beds report opioids as their drug of choice. Individuals who have the opportunity to receive the support in recovery residence programs are likely to successfully complete treatment programs and many transition to long-term housing after completing their initial 90 days.

4. *Homeless Outreach and Engagement Support Team*: This activity will provide half year of funding for FY 24/25 (\$375,000) and ongoing funding (\$750,000) beginning FY 25/26 for an agreement with Good Samaritan Shelter to provide homeless outreach services. The contracted housing support and outreach team will ensure that individuals residing in homeless encampments utilize available housing opportunities and receive medical and mental health services. This program is currently funded by American Plan Rescue Act (ARPA) and without these additional revenues to sustain the team it is anticipated to end on December 31, 2024.

5. *In Custody Medication Assisted Treatment (MAT) Expansion*: This activity will build on the current MAT program at the Sheriff Office's correctional facilities including all those in custody who qualify for treatment. It will also improve successful recovery for program participants by providing long-acting injectable medication to those reentering the community as an alternative to currently prescribed oral medications. Funds requested for this initiative will cover the cost of the medications and staffing for FY 23-24 and FY 24-25 and will be partially offset in the future through reimbursement anticipated from CalAIM Justice Initiative. MAT staffing costs in the current fiscal year proposed to be covered through opioid settlement funds include two Wellpath-contracted positions: Substance Use Disorder (SUD) Counselor and MAT Counselor. FY 24-25 staffing costs are proposed to include an additional SUD Counselor (for a total of 3 positions supported through opioid settlement funds in FY 24-25 and ongoing). Funding for this need in the amount of \$437,900 for FY 23-24 and \$600,000 ongoing for FY 24-25 (until jail Medi-Cal billing associated with CalAIM becomes available for some portion) is recommended.

In addition to the above-described recommended funding priorities, staff recommend dedicating opioid funding (amount to be determined) as grant match to state or federal funding opportunities for treatment and housing beds. For example, the County has an opportunity to submit a grant application for Behavioral Health Continuum Infrastructure Project (BHCIP) funding through Proposition 1 with applications due this fall utilizing opioid settlement funds as a match source for allowable projects.

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These funds will be useful in supporting the County and community prevention efforts, but they are not sufficient to meet all the needs that the opioid crisis poses. Collaboration between existing coalitions and coordination between County departments, the Sheriff's Office and community partners will continue to be a primary focus and be utilized to leverage all funding opportunities.

Other Recommended Actions

Staff are also requesting the Board approve the City of Santa Barbara's request to reallocate \$79,656.26, representing the amount of the City's direct allocation of funds from the Janssen settlement. Due to an oversight by the City of Santa Barbara to claim those funds at the time (refer to Attachment E Letter from City of Santa Barbara dated April 22, 2024), the funds were ultimately reallocated to the County. As a result, the County of Santa Barbara will be the responsible party to report on the City's uses of the funds to DHCS. To ensure the successful coordination in reporting on these funds to the state, the County will execute a Memorandum of Understanding (MOU) with the City to receive all necessary information for the annual report. Staff will return in FY 2024-25 with budget revision and execute an MOU and create a purchase agreement with City of Santa Barbara as directed by the Board.

Additionally, the County Executive Office is recommending that the Opioid Settlement Funds be managed within the Public Health Department under a new special revenue fund. The needed accounting structure will adhere to guidance provided by the Auditor-Controller Office. An estimated \$50,000 is recommended for an ongoing allocation to Public Health to aid the department in overseeing administration of the funds and the required annual reporting to DHCS (Attachment A). Pursuant to the National Opioid Settlement Agreements, qualifying expenditures may include reasonable related administrative expenses incurred in administering the distributions for opioid remediation uses identified in Exhibit E and, as applicable, California's High Impact Abatement Activities (HIAA).

Background:

In response to the national opioid overdose crisis in the United States that has had a devastating impact on public health and the overall well-being of Americans, including residents of Santa Barbara County, the Board of Supervisors' directed the Office of County Counsel, with the assistance of outside counsel Keller Rohrback L.L.P., to initiate litigation against distributors and manufacturers of prescription opioids to recover the County's damages from opioid drug misuse caused by the deceptive marketing and sale of prescription opioids, and to obtain other remedies to mitigate the problem going forward. The lawsuit was filed on February 15, 2019 and incorporated into the opioid Multi-District Litigation (MDL) in the Northern District of Ohio. The lawsuit alleges that defendants created a public nuisance and violated California's Unfair Competition and the False Advertising laws by distributing large volumes of opioids in Santa Barbara County despite knowledge of the growing epidemic caused by opioid misuse, and by failing to prevent and report suspicious opioid orders as required by State and Federal law.

The Board previously approved partial settlement of the litigation against various defendants including Amerisource Bergen Corporation; Cardinal Health; McKesson Corporation; Janssen Pharmaceuticals, doing business as Johnson & Johnson ("Janssen"); CVS Health Corporation and CVS Pharmacy, Inc. ("CVS"); Walgreens Co. ("Walgreens"); Walmart Inc. ("Walmart"); Allergan Finance LLC (f/k/a Actavis, Inc., f/k/a Watson Pharmaceuticals, Inc.) and Allergan Limited (f/k/a Allergan plc, f/k/a Actavis plc) ("Allergan"); and Teva Pharmaceutical Industries Ltd., Teva Pharmaceuticals USA, Inc., the Actavis Generic Entities, and Anda Inc. ("Teva") (hereafter collectively referred to as "Settling Defendants").

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Additionally, the County is pursuing funds through the bankruptcy claims process for other defendants including Mallinckrodt plc, Endo Health Solutions, Insys, Purdue Pharma et al, and Rite Aid Corporation.

Distributors, Janssen, and Mallinckrodt Settlements

On December 14, 2021, the Board of Supervisors adopted a Resolution to partially settle the lawsuit with opioid manufacturers and distributors Amerisource Bergen Corporation, Cardinal Health, Inc., McKesson Corporation (“Distributors”) and Janssen. Through those settlements, the County’s projected payments are estimated to be \$21,438,941 from the Distributor and Janssen settlements.

In addition to the Distributors and Janssen settlements, on July 12, 2022, the Board authorized the County to enter into a Statewide Allocation Agreement with the State of California for local control of funds distributed from opioid defendant Mallinckrodt plc’s bankruptcy. Mallinckrodt bankruptcy funds must be expended on approved opioid remediation and abatement strategies (refer to Attachment B – Schedule A and B of the Mallinckrodt bankruptcy plan). In total, the County is projected to receive approximately \$791,000 from Mallinckrodt with approximately \$235,000 received as of June 2024 and anticipated \$556,000 over the upcoming six years thru FY 2029-30.

As of June 2024, the County has received \$4,294,211 from the Distributors, Janssen, and Mallinckrodt defendants and anticipates receiving an additional \$17,935,730 over the upcoming 15 years through FY 2038-29. In total, the County will receive an estimated \$22,229,941 for these three defendants.

CVS, Walgreens, Walmart, Allergen, Teva

On April 4, 2023, the Board adopted a Resolution to partially settle the lawsuit with CVS, Walgreens, Walmart, Allergen, and Teva. The County anticipates receiving between \$7.4 million to \$18.4 million in payments over 15 years under these settlements (referred to as the “New National Opioid Settlements”). The County has not yet received its first payment. Similar to the Distributors, Janssen, and Mallinckrodt funds, use of these funds can only be used on approved abatement activities set forth in Exhibit E. Timing of the payments is unknown at this time.

Oversight of Settlement Agreements and Status of Opioid Settlement Payments

Through Statewide Allocation Agreements, the State of California has agreed to remit 70% of the funds it receives from Settling Defendants to local jurisdictions to be used on approved future opioid remediation and high impact abatement activities and to remit an additional 15% of the funds to local jurisdictions that initiated litigation for approved abatement activities and to cover the fees and costs of that litigation. BrownGreer is the administrator of the Opioid Settlement Funds. The California Department of Health Care Services (DHCS) is the oversight and monitoring entity for use of the funds. On January 4, 2024, DHCS issued a Behavioral Health Information Notice (BHIN) 24-002 (Attachment D) for Counties to follow for guidance on accounting and reporting of expenditures including administration of settlement funds. The County must prepare and file annual reports to DHCS and the National Settlement Administrator on the use of funds it receives, which may be audited by DHCS, subject to a five-year statute of limitations from the date on which the expenditure of the funds is reported. The County must expend or encumber the National Settlement funds within 5 years of receipt, or 7 years for capital outlay

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projects, otherwise the funds will be transferred back to the State. DHCS also provides guidance and technical assistance to participating subdivisions on use of the funds.

As of the date of this report, the County has received \$4,294,211 in Opioid Settlement Funds inclusive of Mallinckrodt bankruptcy funds and subdivision funds. These funds must be spent on approved opioid abatement activities for future opioid remediation listed in Exhibit E of the National Opioid Settlement Agreements (Attachment C) and Schedule A and B of the Mallinckrodt bankruptcy plan (Attachment B). Activities can be focused on prevention, intervention, harm reduction, treatment, and recovery services in the County.

At least 50% of the funds must be spent on “High Impact Abatement Activities” as identified by the State and set forth in the California State Subdivision Agreements. High Impact Abatement Activities are 1) provision of matching funds or operating costs for substance use disorder (SUD) facilities within the Behavioral Health Continuum Infrastructure Program, 2) creation of new or expanded SUD infrastructure, 3) activities addressing the needs of communities of color or vulnerable populations including sheltered and unsheltered populations, 4) diversion of people with SUD from the justice system into treatment, 5) interventions to prevent drug addiction for vulnerable use, and 5) purchase of naloxone for local entities distribution and reversal efforts.

The County has received Subdivision Funds in the amount of \$529,000. These funds will be used to pay for past opioid related expenses, such as contingency counsel, Keller Rohrbach’s attorney fees and costs. Future Subdivision Fund distributions are being directed to Keller Rohrbach pursuant to Backstop Agreements approved by the Board of Supervisors on December 14, 2021 and April 4, 2023. The County’s contingency fee agreement with Keller Rohrbach allows for a 17% contingency fee. However, the U.S. District Court Judge overseeing the opioid MDL declined to presume that private counsel contingency fee agreements of more than 15% would be considered “reasonable.” As a result, the National Settlement requires that any outside counsel who seeks recovery through the National Settlement Attorney Fee Fund and Cost Fund, must also agree to cap their contingency fees to 15%. If there are not sufficient funds in the National Settlement Attorney Fee Fund, outside counsel Keller Rohrbach would be eligible to receive additional fees up to the 15% contingency fee limit from the additional settlement funds received by the County as a litigating jurisdiction under the Backstop Agreements. Remaining Subdivision Funds, will be spent on approved future opioid remediation abatement activities.

Fiscal and Facilities Impacts:

Budgeted: No.

Fiscal Analysis:

As the below table shows, Settlement and Abatement funds totaling \$4,294,211 have been received to-date. Altogether (inclusive of funds received to-date), the County of Santa Barbara is expected to receive \$21.4 million through FY 2038-39 from Amerisource Bergen, Cardinal Health, McKesson, Janssen, and Mallinckrodt defendants based on projections provided by the national settlement funds administrator. Below is a table summarizing the funds received to-date for each of the settlement agreements including the Mallinckrodt bankruptcy. Future Subdivision Fund distributions are being directed to Keller Rohrbach pursuant to Backstop Agreements approved by the Board of Supervisors on December 14, 2021 and April 4, 2023.

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Abatement Funds Received	FY 2022-23	FY 2023-24	Total
Distributors	\$821,229	\$1,772,952	\$2,594,181
Janssen	\$1,054,127	\$411,075	\$1,465,202
Mallinckrodt	\$107,894	\$126,934	\$234,828
*Total Opioid Settlement Funds Received			\$4,294,211

*This amount includes \$528,967.63 in subdivision funds to be used to pay outside counsel contingency fees and costs.

Additionally, the County anticipates receiving between \$7.4 million to \$18.4 million in payments over 15 years under the “New National Opioid Settlements.” At this time, there have not been any payments received.

The recommendations for use total \$437,900 for FY 2023-24 and \$2.5 M for FY 2024-25. Attachment A includes detailed accounting of funding recommendations and overall projections accounting for all pertinent opioid settlement agreements. No funds have been budgeted or expended to-date. Staff are requesting Board approval of Budget Revision Request (BRR 0009764) to budget \$437,900 in settlement funds for the Sheriff’s Office MAT staffing and pharmaceutical costs. Staff will return to Board with budget revisions for the FY 24-25 activities. Ongoing costs for proposed recommendations are anticipated at \$1.4 M in FY 2025-26 and would take up much of the projected, available funding. Ongoing costs includes legal services provided by outside counsel and related fees of \$235,355 per year. Some ongoing funding recommendations may be reduced in future years if other funding sources become available. Staff will provide updates of the use of these funds and the Board may request that staff review and reconsider funding recommendations in the future.

Key Contract Risks:

The County must prepare and file annual reports to DHCS and the National Settlement Administrator on the use of funds it receives, which may be audited by DHCS, subject to a five-year statute of limitations from the date on which the expenditure of the funds is reported. The County must expend or encumber the National Settlement funds within 5 years of receipt, or 7 years for capital outlay projects, otherwise the funds will be transferred back to the State. Funds received from the Mallinckrodt bankruptcy require separate DHCS reporting to ensure funds are expended on approved activities as detailed through Schedules A and B of the bankruptcy plan (Attachment B).

Additionally, the County will be required to report on the City of Santa Barbara’s uses of the \$79,679.26 in the County’s annual report to DHCS. This will require communication and coordination with the City to complete the required report with accuracy. The annual reports to DHCS are due September 30 of each year. The agreement with the City of Santa Barbara for reallocation of the funds will require the City to provide a report on its use of funds in accordance with the National Settlement Agreements and indemnify the County for any misuse of funds.

Staffing Impacts:

At this time, staffing impacts are not yet determined. The program oversight structure by Public Health is anticipated and the staffing analysis will be completed based on DHCS guidance on use of funding for the

required administration. Staff will return to the Board at a future meeting with staffing requests if necessary.

Special Instructions: Request for copy of minute order to be emailed Melissa Beebe at Public Health.

Attachments:

- A. Opioid Settlement Priority Funding Recommendations
- B. Schedule A and B of the Mallinckrodt Bankruptcy Plan
- C. Exhibit E of the National Opioid Settlement Agreements
- D. Behavioral Health Information Notice No 24-002
- E. Letter from City of Santa Barbara (April 22, 2024)
- F. Budget Revision Request (BRR 0009764)

Authored by:

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