



Contra
Costa
County

To: Board of Supervisors
From: Sharon L. Anderson, County Counsel
Date: July 24, 2018

Subject: CONSENT TO WAIVE CONFLICT OF FOLEY & LARDNER LLP

RECOMMENDATION(S):

APPROVE and AUTHORIZE County Counsel or her designee to execute on behalf of the County two conflict waivers acknowledging potential conflicts of interest and consenting to Foley & Lardner LLP representing two drug manufacturers, Gilead Sciences, Inc. and Bayer Healthcare, LLC, while continuing to represent the County in other matters, including a discount drug pricing program.

FISCAL IMPACT:

There is no fiscal impact.

BACKGROUND:

Foley & Lardner LLP (Foley) provides specialized legal services to the County's Health Services Department in connection with various health care matters. Among other matters, Foley advises the County in connection with a Federal discount drug pricing program that limits prices on drugs purchased by covered entities. The discount drug pricing program impacts

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **07/24/2018** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: July 24, 2018

David Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Kate Andrus, Deputy
County Counsel (335-1824)

By: June McHuen, Deputy

cc:

BACKGROUND: (CONT'D)

both the Contra Costa Health Plan and the Contra Costa Regional Medical Center.

Attached are two letters from Foley. Both request that the County acknowledge and waive a potential conflict of interest. One letter relates to the work Foley does for Gilead Sciences, Inc. (Gilead) and the other relates to the work Foley does for Bayer Healthcare LLC (Bayer). In both cases, the work performed by Foley is in the area of intellectual property and is unrelated to the work the firm does for the County. The letters describe the attorney-client relationships that could affect the firm's representation of the County.

In the absence of the informed written consent of each client, the California Rules of Professional Conduct prohibit an attorney from representing a client in one matter and at the same time representing a second client in a separate matter if the second client's interests in the separate matter are adverse to those of the first client. (Rule 3-310(C)(3).)

Staff for the Health Services Department have advised that they do not object to the potential conflicts and recommend waiver.

CONSEQUENCE OF NEGATIVE ACTION:

Foley would not be able to simultaneously represent Gilead Sciences, Inc., Bayer Healthcare LLC and the County.

ATTACHMENTS

Waiver of Conflict - Bayer Healthcare

Waiver of Conflict - Gilead Sciences