



Contra
Costa
County

To: Board of Supervisors
From: Sharon L. Anderson, County Counsel
Date: November 3, 2020

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 an acknowledgement that waives any objection to a potential conflict of interest and consenting to Foley & Lardner LLP representing Sutter Health, Sutter Bay Hospitals dba Alta Bates Summit Medical Center, Sutter Bay Hospitals dba Sutter Delta Medical Center, and Sutter Valley Hospitals dba Sutter Solano Medical Center (together, "Sutter Health") in a group Medicare appeal, while continuing to represent the County in other matters, including a provider appeal and arbitration concerning various disputed claims raised by Sutter Health.

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 provider appeal and arbitration concerning various disputed claims raised by Sutter Health.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **11/03/2020** ☒ 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: November 3, 2020

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

By: June McHuen, Deputy

Contact: Kate Andrus,
925-655-2245

cc:

Attached is a letter from Foley. The letter requests that the County acknowledge

BACKGROUND: (CONT'D)

and waive a potential conflict of interest and describes the work Foley does for Sutter Health. The work performed by Foley is in the area of Medicare appeal and is unrelated to the work the firm does for 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 if there is a significant risk the lawyer's representation of the client will be materially limited by the lawyer's responsibilities to or relationship with another client, a former client or a third person, or by the lawyer's own interests. (Rule 1.7(b).)

Even when a significant risk requiring a lawyer to comply with Rule 1.7(b) is not present, a lawyer is prohibited from representing a client without written disclosure of the relationship to the client where the lawyer has, or knows that another lawyer in the lawyer's firm has, a legal, business, financial, professional, or personal relationship with or responsibility to a party or witness in the same matter. (Rule 1.7(c)(1).)

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 Sutter Health and the County.

ATTACHMENTS

Conflict Waiver