



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Mary Ann Mason, County Counsel  
Date: October 12, 2021

Subject: CONSENT TO WAIVE CONFLICT OF FOLEY & LARDNER LLP

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE County Counsel or her designee to consent to potential conflicts of interest that arise from Foley & Lardner LLP (Foley) providing legal services to the West Contra Costa Healthcare District (District) in connection with a proposed refunding of the District's Series 2018 and Series 2019 bonds while continuing to represent the Piper Sandler & Co. (Piper), the party proposed to act as the underwriter or placement in the proposed refunding.

**FISCAL IMPACT:**

There is no fiscal impact.

**BACKGROUND:**

Foley & Lardner LLP (Foley) has been asked by the County's Health Services Department to represent the West Contra Costa Healthcare District (District) in a proposed refunding of the District's Series 2018 and Series 2019 bonds. Foley has been asked to provide general oversight of the proposed refunding. If the proposed refunding goes forward, the District will be served by Quint and Thimmig in the role of bond counsel and by Jennings, Strouss & Salmon in the role of disclosure counsel. The firm of G.L. Hicks Financial, LLC will

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY  
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD  
COMMITTEE

Action of Board On: **10/12/2021** ☒ 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: October 12, 2021

Monica Nino, County Administrator and Clerk of the  
Board of Supervisors

Contact: Kathleen M. Andrus, Deputy  
County Counsel, (925) 655-2200

By: Stacey M. Boyd, Deputy

serve the District

## BACKGROUND: (CONT'D)

in the role of municipal advisor.

If the proposed refunding proceeds, the District is considering engaging the investment banking firm of Piper Sandler & Co. (Piper) to act as either underwriter (i.e., to purchase or arrange for the purchase of the new bonds) or as placement agent (i.e., to identify potential institutional investors and negotiate the sale of the new bonds). If Piper serves as underwriter, the District and Piper will enter into a bond purchase agreement. If Piper serves as placement agent, the District and Piper will enter into a placement agreement.

Foley has an ongoing professional relationship with both the County and Piper. Foley primarily provides specialized legal services to the County's Health Services Department. At the same time, Foley advises Piper on various finance matters, all unrelated to Foley's proposed representation of the District in the proposed refunding.

Attached is a letter from Foley that requests that the County consent to Foley's representation of the District in the refunding while it continues to represent Piper in unrelated financial matters. The letter identifies and addresses the relevant requirements of the California Rules of Professional Conduct, which are set forth in Rule 1.7 of the Rules of Professional Conduct.

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 represent the County in the refunding while continuing to represent Piper in unrelated financial matters.

## ATTACHMENTS

Conflict Waiver