



## SUMMARY REPORT

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**Agenda Date:** 12/6/2022

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**To:** Board of Supervisors of Sonoma County

**Department or Agency Name(s):** Sonoma County Counsel; Department of Health Services

**Staff Name and Phone Number:** Robert Pittman, 707-565-2421; Tina Rivera, 707-565-7876

**Vote Requirement:** Majority

**Supervisory District(s):** Countywide

**Title:**

Legal Services Agreement

**Recommended Action:**

Authorize Sonoma County Counsel to execute a legal services agreement with the law firm of Foley & Lardner LLP for outside counsel assistance regarding health care compliance and privacy for the period October 25, 2022 through June 30, 2025 in an amount not-to-exceed \$70,000 per year and a total not-to-exceed amount of \$210,000; and to make non-substantive changes to the agreement prior to execution.

**Executive Summary:**

In November 2017 County Counsel engaged the law firm of Foley & Lardner LLP to meet the growing demand of the Department of Health Services in the area of health care compliance, including privacy. Both County Counsel and the Director of Health Services would like to continue this engagement during fiscal years 2022-2023, 2023-2024, and 2024-2025. Foley & Lardner has been successfully working alongside County Counsel in advising the Department on compliance matters. Foley & Lardner has also provided invaluable privacy expertise to the Privacy Officer and County Counsel on the information sharing necessary to the success of the ACCESS Initiative. To continue this work, County Counsel is asking the Board for authority to execute a legal services agreement with a term of October 25, 2022 through June 30, 2025 and a not to exceed amount of \$210,000.

**Discussion:**

In November 2017, County Counsel engaged the law firm of Foley & Lardner LLP to meet the growing demand of the Department of Health Services in the area of health care compliance, including privacy. Foley & Lardner was selected from a pool of four law firms specializing in health law. All four firms submitted proposals and were interviewed by County Counsel and the Director of Health Services. Foley & Lardner was selected due in part to 1) its prior successful representation of the County in audits by the Department of Health Care Services in 2002 and 2013; 2) its expertise in the regulatory requirements of the Medi-Cal program in which the County participates as a managed care plan; 3) its experience working with other counties on health care compliance, including privacy; 4) its reputation as a national leader in health care law; and 5) the location of its senior health care partner in San Francisco.

Working in collaboration with County Counsel, Foley & Lardner has been an invaluable member of Health Services' health care compliance and privacy teams. As this Board knows, Health Services has been working to ensure its health care compliance program satisfies the federal standards for a program that is effective at preventing, detecting, and correcting fraud, waste and abuse. These standards are also incorporated into the

County's contract with the State to administer Medi-Cal eligible specialty mental health services. The work is being conducted under the leadership of the Interim Compliance Officer Masha McCarthy. The Health Services' Privacy Officer, Ken Tasseff, is likewise making improvements in how Health Services protects against the unlawful disclosure of protected health information, and Foley & Lardner's knowledge of the federal and state laws that establish these protections has been helpful. Foley & Lardner has also been helpful in the development of privacy policies and procedures for the ACCESS Initiative and the work of the Interdepartmental Multi-Disciplinary Team, allowing the Safety Net Departments to legally share information necessary to improve the outcomes and well-being for the most vulnerable populations.

One of County Counsel's and Health Services' goals in engaging Foley & Lardner is to build County Counsel's competency in the legal field of health care compliance so that County Counsel eventually can meet Health Services' need for legal advice in this high-risk area. While the services of an outside law firm will likely be necessary should the County become the subject of a regulatory enforcement action by the state or federal government, the day-to-day advisory work is ideally performed in-house by County Counsel. Over the last five years this partnership has been successful. County Counsel's knowledge in this area has increased exponentially as a result of working side by side with lawyers from Foley & Lardner.

Both County Counsel and the Director of Health Services would like to continue this engagement during fiscal years 2022-2023, 2023-2024, and 2024-2025. Therefore, County Counsel is asking the Board for authority to execute a legal services agreement with a term of October 25, 2022 through June 30, 2025 and a not to exceed amount of \$210,000.

**Prior Board Actions:**

On January 5, 2021 the Board A) authorized Sonoma County Counsel to execute the fifth amendment to a legal services agreement with the law firm of Foley & Lardner LLP for outside counsel assistance regarding health care compliance and privacy, increasing the amount by \$12,342, resulting in a new not to-exceed amount of \$252,342 for the period November 14, 2017 through June 30, 2020 and B) authorized Sonoma County Counsel to execute a legal services agreement with the law firm of Foley & Lardner LLP for outside counsel assistance regarding health care compliance and privacy for the period July 1, 2020 through June 30, 2022 in amounts not-to-exceed \$50,000 in year one and \$70,000 in year 2.

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 22-23 Adopted</b>	<b>FY 23-24 Projected</b>	<b>FY 24-25 Projected</b>
Budgeted Expenses	\$70,000	\$70,000	\$70,000
Additional Appropriation Requested			
<b>Total Expenditures</b>	<b>\$70,000</b>	<b>\$70,000</b>	<b>\$70,000</b>
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other	\$70,000	\$70,000	\$70,000
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>	<b>\$70,000</b>	<b>\$70,000</b>	<b>\$70,000</b>

**Narrative Explanation of Fiscal Impacts:**

Foley & Lardner's services will be requested by the County on an as-needed basis and funding will be provided by the programs served such as Administration (Compliance, Privacy), Public Health (for example: Environmental Health, Disease Control, Animal Services, etc.), and Behavioral Health Division (for example: Crisis Stabilization, Mobile Support Teams, Psychiatric Health Facility, etc.). Sufficient appropriations financed from various funding sources such as 1991 Health Realignment, 1991 Mental Health Realignment, Mental Health Services Act, and other funding as appropriate are included in the Health Services FY 22-23 Budget for the agreement. Appropriations will be requested in the Health Services FY 23-24 and FY 24-25 Budgets.

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Attachment 1 - Legal Services Agreement

**Related Items "On File" with the Clerk of the Board:**

None