



## Legislation Text

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**File #:** 2020-1124, **Version:** 1

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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, 565-2421; Barbie Robinson, 565-7876

**Vote Requirement:** Majority

**Supervisorial District(s):** Countywide

**Title:**

Legal Services Agreements

**Recommended Action:**

- A) Authorize 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.
- B) 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 July 1, 2020 through June 30, 2022 in amounts not-to-exceed \$50,000 in year one and \$70,000 in year 2.

**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 2020-2021 and 2021-2022. 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 July 1, 2020 through June 30, 2022 and a not to exceed amount of \$120,000. In addition, County Counsel is asking the Board for authority to amend the legal services agreement that ended June 30, 2020 to add \$12,342 to the not to exceed amount to cover work related to COVID-19 privacy issues performed by Foley & Lardner under that agreement.

**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 Compliance Officer Wendy Sanders. 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 Inter-departmental 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 three 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 2020-2021 and 2021-2022. Therefore, County Counsel is asking the Board for authority to execute a legal services agreement with a term of July 1, 2020 through June 30, 2022 and a not to exceed amount of \$120,000 (\$50,000 in year 1 and \$70,000 in year 2). In addition, County Counsel is asking the Board for authority to amend the legal services agreement that ended June 30, 2020 to add \$12,342 to the not-to-exceed amount to cover work related to COVID-19 privacy issues performed by Foley & Lardner under that agreement.

#### **Prior Board Actions:**

On February 25, 2020 the Board authorized Sonoma County Counsel to execute the fourth 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 \$100,000, resulting in a new not-to-exceed amount of \$240,000 through June 30, 2020.

#### **FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 20-21 Adopted</b>	<b>FY 21-22 Projected</b>	<b>FY 22-23 Projected</b>
Budgeted Expenses	62,342	70,000	
Additional Appropriation Requested			
<b>Total Expenditures</b>	<b>62,342</b>	<b>70,000</b>	<b>0</b>
<b>Funding Sources</b>			

General Fund/WA GF			
State/Federal			
Fees/Other	62,342	70,000	
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>	<b>62,342</b>	<b>70,000</b>	<b>0</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. Sufficient appropriations are included in the FY 20-21 Budget for both agreements. Appropriations will be requested in the FY 21-22 Budget.

<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 Amendment

Attachment 2 - Legal Services Agreement

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

None