



County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY COUNSEL

File #: 19-857

Board Meeting Date: 9/17/2019

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors
From: John C. Beiers, County Counsel
Subject: Amendment with Athene Law LLP to provide outside legal services

RECOMMENDATION:

Adopt a resolution authorizing an amendment to the agreement with Athene Law LLP increasing the amount payable by \$50,000 to an amount not to exceed \$150,000 with no change to agreement term.

BACKGROUND:

In 2018, the County Counsel's Office entered into an agreement with Athene Law LLP (Athene) to provide outside legal services in support of the County Health System. Athene provides legal services to the County with particular focus on complex matters related to appeals of multiple years of Medi-Cal cost reports for the San Mateo Medical Center (SMMC) and the County's operation of skilled nursing facility beds on its hospital license. The agreement (Agreement) is for the term July 1, 2018, through June 30, 2021, and authorized up to \$100,000 in expenditures for these legal services.

DISCUSSION:

Over the past several years SMMC has seen a substantial reduction in the Medi-Cal reimbursement rate for its skilled nursing beds located at SMMC and at Burlingame Skilled Nursing (formerly Burlingame Long Term Care), as a result of Department of Health Care Services (DHCS) audits. Currently, the audits for FY14, FY15, FY16, and FY17 are under various stages of appeal. Because of the complexity of issues raised in the formal hearing for FY14, the hearing extended longer than anticipated. While discussions are ongoing concerning possible settlement of most or all of the audit years currently under appeal, in the meantime, the matters continue to be litigated. In light of the level of complexity of audit issues and the multiplicity of matters, this office seeks to amend the agreement to increase the amount payable by \$50,000, to a total amount not to exceed \$150,000. Given the complex nature of the issues referred to Athene and the firm's familiarity with the County Health System and its programs and clients, that firm is uniquely able to efficiently provide the services described in the agreement.

The resolution contains the County's standard provision allowing amendments by the department

head of the County's fiscal obligations by a maximum of \$25,000 (in aggregate).

Approval of this resolution contributes to the Shared Vision 2025 outcome of a Healthy Community by enabling the County Counsel's Office to provide a continuity of services to the Health System.

FISCAL IMPACT:

The value of the amendment is \$50,000. Sufficient appropriations have been included in the County Counsel's FY 2019-20 Approved Recommended Budget.