



Mendocino County

Legislation Text

File #: 21-0166, **Version:** 1

To: Board of Supervisors

From: County Counsel

Meeting Date: January 26, 2021

Department Contact: Christian Curtis

Phone: 234-6885

Item Type: Consent Agenda

Time Allocated for Item: n/a

Agenda Title:

Approval of Retroactive Agreement With Abbott & Kindermann, Inc. in the Amount of \$50,000 to Provide Legal Services Effective January 4, 2021 Through June 30, 2021

Recommended Action/Motion:

Approve retroactive Agreement with Abbott & Kindermann, Inc. in the amount of \$50,000 to provide legal services effective January 4, 2021 through June 30, 2021; and authorize Chair to sign same.

Previous Board/Board Committee Actions:

None.

Summary of Request:

County Counsel is requesting the Board contract with Abbott & Kindermann, Inc. to provide specialized legal services related to the CEQA issues involving the interface between the County's cannabis cultivation permitting system and state approvals by CDFA. CDFA, which is responsible for licensing cannabis cultivation businesses on a state level, has expressed a strong desire to avoid conducting lengthy and duplicative CEQA review on each individual permit application. Instead, CDFA seeks to rely on the prior environmental review conducted by the County. Because the County's cultivation permitting system is ministerial, however, CDFA has indicated that it cannot rely exclusively on that existing documentation to issue state discretionary permits. CDFA has, therefore, requested that the County generate additional documentation in order to allow applicants from Mendocino County to obtain state permits without undergoing a second, redundant round of environmental analysis.

Although this sort of CEQA documentation is common where two agencies both issue discretionary permits, there is less precedent and guidance where an agency issuing a discretionary permit chooses to rely on the environmental review conducted by an agency issuing a prior, ministerial permit. This has led to significant confusion in how best to proceed. An *ad hoc* committee of Supervisors Williams and Haschak has been formed to help navigate this process and agree to a process with CDFA. Recently, however, it has become clear that CDFA's expectation as to the volume and type of new documentation significantly exceeds the County's expectations or capacity. The source of this discrepancy seems to be significant uncertainty as to the legal requirements regarding this particular arrangement.

To allow for more productive conversations with CDFA and to assist the *ad hoc* and Board on making

appropriately informed decisions, County Counsel would like to contract with a recognized CEQA expert with significant experience dealing with state agencies. Abbott & Kindermann, Inc. has the requisite expertise to assist in these matter. The contract is requested to be retroactive in order to allow compensation for preliminary work and meeting with the ad hoc committee. Early engagement of legal services was critical because of the short timeline to resolve this issue prior to the expiration of all provisional state permits at the end of 2021.

Alternative Action/Motion:

Do not approve the Agreement with Abbott & Kindermann, Inc. and provide direction to staff.

Supervisory District: All

vote requirement: Majority

Supplemental Information Available Online At: n/a

Fiscal Details:

source of funding: 1210-862189

current f/y cost: \$50,000

annual recurring cost: n/a

budget clarification: n/a

budgeted in current f/y: No

if no, please describe:

revenue agreement: N/A

Agreement/Resolution/Ordinance Approved by County Counsel: Yes

CEO Liaison: Executive Office

CEO Review: Yes

CEO Comments:

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Executed By: Atlas Pearson, Deputy Clerk I

Date: January 27, 2021

Final Status: **Approved**

Executed Item Type: **Agreement** **Number:** 21-005

Note to Department Number of Original Agreements
Returned to Dept: 0 Original Agreement Delivered to Auditor?
No

