

**DEPARTMENT:** County Counsel

**BY:** Steven W. Dahlem

**PHONE:** 966-3222

**RECOMMENDED ACTION AND JUSTIFICATION:**

Resolution amending the Professional Services Agreement with Abbott and Kindermann, LLP, and authorizing Chairman to sign the First Amendment to Professional Services Agreement increasing the amount of the compensation to a total not to exceed \$61,284.

Abbott and Kindermann, LLP, has been representing Mariposa County in a legal action filed by Theresa Castaldi in the Mariposa County Superior Court. The current Agreement has a fee limit of \$40,000. The attached Amendment provides for a higher fee limit to allow Abbott and Kindermann, LLP, to provide legal services through the conclusion of this suit.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**

On November 3, 2009, the Board of Supervisors denied Appeal No. 2009-138 filed by Ms. Castaldi, thereby upholding the Planning Director's denial of Building Permit No. 27628 for the proposed construction of a 957 square foot structure entitled "Agritourism bathroom". As a result Ms. Castaldi filed a Petition for Writ of Mandate in the Mariposa Superior Court alleging that denial of the building permit violated Mariposa County Code. At trial on November 19, 2010, the Court dismissed the petition on the grounds that Ms. Castaldi was not beneficially interested in the litigation, as required by the Code of Civil Procedure in that the property at issue was foreclosed on and transferred to Citi Bank.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Financial Impact? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Current FY Cost: \$61,284	Annual Recurring Cost: \$
Budgeted In Current FY? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially Funded		
Amount in Budget: \$ <del>160000</del>		List Attachments, number pages consecutively
Additional Funding Needed: \$ <del>0</del>		Amendment to Professional Services Agreement
Source:		Professional Services Agreement
Internal Transfer _____		_____
Unanticipated Revenue _____ 4/5's vote		_____
Transfer Between Funds _____ 4/5's vote		_____
Contingency _____ 4/5's vote		_____
<input type="checkbox"/> General <input type="checkbox"/> Other		_____

**CLERK'S USE ONLY:**

Res. No.: 10-579 Ord. No. \_\_\_\_\_  
Vote - Ayes: 4 Noes: Turpin  
Absent: \_\_\_\_\_  
 Approved  
 Minute Order Attached  No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: \_\_\_\_\_  
Attest: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California  
By: \_\_\_\_\_

**COUNTY ADMINISTRATIVE OFFICER:**

Requested Action Recommended  
 No Opinion  
Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CAO: 



# COUNTY of MARIPOSA

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JANET BIBBY

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DISTRICT V  
DISTRICT I  
DISTRICT II  
DISTRICT III



## MARIPOSA COUNTY BOARD OF SUPERVISORS

### MINUTE ORDER

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TO: STEVEN W. DAHLEM, County Counsel  
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*  
SUBJECT: Consider Items Removed from the Consent Agenda  
RES. 10-579

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on December 21, 2010

#### ACTION AND VOTE:

10 Consider Items Removed from the Consent Agenda  
Item 102 - Supervisor Turpin expressed concern relative to the funding of this type of agreement coming out of the General Fund stating that we need to stay within the limits of the set budget. He also expressed concern that the work may have been completed and that this should have been brought before the Board earlier and he can not support this item. Chair Cann and Steve Dahlem, County Counsel, responded to questions and provided input on options for future similar agreements. (M)Allen, (S)Aborn, Res. 10-579 was adopted approving the first amendment to an agreement with Abbott and Kindermann, LLP/Ayes: Aborn, Bibby, Cann, Allen. Abstain: Turpin.

CA-102 **County Counsel**  
Approve First Amendment to Agreement with Abbott and Kindermann, LLP, Representing Mariposa County in Legal Action Filed by Theresa Castaldi Increasing the Not to Exceed Amount to \$61,284, and Authorize the Board of Supervisors Chair to Sign the Amendment; Res. 10-579

Cc: Bill Davis, Auditor  
File