REPORT TO THE CITY COUNCIL

DATE: May 2, 2017

TITLE: Resolution Authorizing Fingerprinting for Federal Criminal Background Checks for the Marijuana Industry

Prepared by: Dale Mondary, Chief of Police

RECOMMENDATION
Adopt a Resolution of the City Council authorizing fingerprinting for federal criminal background checks and authorizing the Police Department to access the FBI fingerprint data base for employment purpose of the marijuana industry.

BACKGROUND
Currently the City requires that all employees of a marijuana dispensary, cultivation or processing operation submit their fingerprints, via live scan, for a background check for employment.

Applicant Live Scan is a system for the electronic submission of applicant fingerprints and the subsequent automated background check and response. Live scan technology replaces the process of recording an individual's fingerprint patterns manually through a rolling process using ink and a standard 8" x 8" fingerprint card. Fingerprints can be digitalized through an electronic process (Live Scan), enabling the electronic transfer of the fingerprint image data, in combination with personal descriptor information, to central computers at the Department of Justice (DOJ). This transfer of information takes place in a matter of seconds, instead of the days required to send hard copy fingerprint cards through the U.S. mail. The applicant visits an Applicant Live Scan satellite location where the fingerprint images and related data are electronically transmitted to the DOJ. The recent, rapid expansion of the number of applicant live scan devices has resulted in an ever increasing volume of applicants availing themselves of live scan technology.

After successful electronic capture of the fingerprint images and the accompanying data, the information is electronically transmitted to the DOJ. Once the fingerprints and data are received by the DOJ, they are electronically processed by the DOJ Global Transaction Controller (GTC). Most live scan submissions that have no data or quality errors and do not result in possible criminal history matches are processed automatically and are responded to electronically. Live scan transmissions requiring analysis of a criminal record are electronically sent to the Applicant Response Unit for analysis and dissemination. The DOJ will also coordinate other electronic processes resulting from the automated submissions of fingerprints, including forwarding the fingerprints to the Federal Bureau of Investigation (FBI), (if required).

DISCUSSION
Currently the FBI *will not* process requests for employment purposes for the marijuana industry as marijuana is still illegal under federal law and regulated through the Controlled Substances Act (21 U.S.C. § 811). As a result when the Police Department conducts Live Scan checks on applicants the results are only from California DOJ. An applicant could have a felony conviction in another state that would prohibit their employment in the industry but the Police Department would not have access to that information.

In 2015 the United States Congress passed a budget amendment that prohibits Federal Justice Department funds from being used to prevent states from implementing medical cannabis laws. The amendment will expire September 30, 2016. Several federal agencies have issued guidelines and other policy memorandums in an effort to manage the emerging issues with

marijuana. The FBI has notified the California DOJ that they will allow access to their national data base for the marijuana industry employment if the local governing body passes a resolution specifically authorizing access to summary criminal history information.

Passing this resolution would allow the Police Department to conduct a more comprehensive criminal history check of all prospective employees of the marijuana industry, strengthening the employee pool and maintaining safety and security at these critical businesses.

FISCAL IMPACT
There is no fiscal impact as a result of this action.

EXHIBITS:
1) Department of Justice - Federal Fingerprinting Information
2) Resolution