

REPORT TO THE CITY COUNCIL



DATE: May 2, 2017

TITLE: Resolution to Retain Qualified Public Health and Safety Inspector Regarding Marijuana Facilities

Sponsored and Russell Betts, Council Member

Prepared by: Joe McKee, Council Member

Reviewed by: Jennifer Mizrahi, City Attorney

RECOMMENDATION

Adopt a Resolution of the City Council authorizing the City Manager to retain a qualified professional or technician who has the ability, expertise and credentials to assist the City with administering and/or implementing the requirements essential for public health and fire safety regarding proposed approved marijuana facilities in the City.

DISCUSSION

This resolution will authorize the City Manager to retain the services of a qualified professional or technician who has the ability, expertise and credentials to assist the City with administering and/or implementing the requirements essential for public health and safety regarding marijuana cultivation, marijuana manufacturing, and other approved marijuana activities and/or uses. The actions allowed in this Resolution will assist the City with the timely implementation of development, including the generation of badly needed tax revenue, consistent with the City's regulations and all applicable marijuana laws and regulations.

It is our understanding that the County has reservations over inspecting the City's marijuana facilities due to the fact that marijuana remains illegal under federal law and the uncertainty over how the new U.S. Attorney General will enforce the federal law that prohibits the cultivation, possession and sale of marijuana for any purpose. As such, the County has conditioned its consideration of providing such inspection services on the City agreeing to indemnifying, defending and holding the County harmless if the County is sued by a third party or challenged by the federal government for providing inspection services related to the marijuana facilities approved by the City. In light of the County's reservations over the legality of development of marijuana facilities, we do not think it is prudent to enter into a contract with the County (by way of an amendment to the City/County's current fire suppression contract) since state law provides that an illegal activity encompassed within a contract may make the whole contract void.

In addition, we learned that in addition to the uncertainty and complications related to the amending the current fire services contract to include inspections of marijuana facilities in the City, the Medical Cannabis Regulation and Safety Act which was put into effect in 2015, requires the City to assume complete responsibility for any regulatory function relating to City-approved marijuana facilities within the City that would otherwise be performed by the County or any County officer or employee, without liability, cost, or expense to the County.

In light of all of the above, we believe it is both prudent and essential that the City Council authorize the City Manager to immediately retain the services of a qualified professional or technician who has the ability, expertise and credentials to assist the City with administering and/or implementing the requirements essential for public health and safety regarding marijuana cultivation, marijuana manufacturing, and other approved marijuana activities and/or uses. Again, this will assist the City with the timely and efficient implementation of its development, which includes the production and collection of badly needed tax revenue for City services.

FISCAL IMPACT

None, if the City approves an inspection fee to cover the costs of the subject public health and safety inspections.

EXHIBIT

1) Resolution