

RESOLUTION NO. 2017-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS 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 APPROVED MARIJUANA FACILITIES IN THE CITY

WHEREAS, the City of Desert Hot Springs (“City”) is a charter city organized pursuant to Article XI of the California Constitution; and

WHEREAS, on November 5, 1996, California voters passed Proposition 215, which decriminalized the cultivation and use of marijuana by seriously ill individuals upon a physician’s recommendation; and

WHEREAS, Proposition 215, which was codified as Section 11362.5 of the California Health and Safety Code was enacted to “ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of marijuana,” and to “ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction”; and

WHEREAS, On January 1, 2004, Senate Bill No. 420, the Medical Marijuana Program Act became law and was codified in Sections 11362.7 to 11362.83 of the California Health and Safety Code; and

WHEREAS, the Department of Justice of the State of California in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use (“2008 Attorney General Guidelines”) opined that neither Proposition 215, nor the Medical Marijuana Program Act conflict with Federal Controlled Substances Act, since “California did not ‘legalize’ medical marijuana, but instead exercised the state’s reserved powers to not punish certain marijuana offenses under state law when a physician has recommended its use to treat a serious medical condition; and

WHEREAS, in *City of Riverside v Inland Empire Patients Health & Wellness Ctr., Inc.* (2013) 56 Cal. 4th 729, the California Supreme Court ruled unanimously that the Compassionate Use Act and the Medical Marijuana Program Act allow for local police power, which is derived from the California Constitution Art XI, Section 7, which includes broad authority to determine, for purposes of public health, safety, and welfare, the appropriate uses of land within a local jurisdiction's borders; and

WHEREAS, the City Council enacted reasonable regulations pertaining to medical marijuana medical marijuana facilities to ensure that qualified patients and their caregivers were afforded safe and convenient access to medical marijuana, while at the same time ensuring that such uses do not conflict with the General Plan, are not inconsistent with surrounding uses, and not detrimental to the public health, safety and welfare; and

WHEREAS, the City Council adopted Ordinance No. 552 to permit the operation of medical marijuana facilities which include medical marijuana dispensaries and medical

marijuana cultivation facilities provided they are operated pursuant to the provisions of the Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5), the Medical Marijuana Program Act (California Health and Safety Code Sections 11362.7 through 11362.83), the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008, and any other state laws pertaining to cultivating and dispensing medical marijuana; and

WHEREAS, the Governor signed into law the Medical Cannabis Regulation and Safety Act in 2015, which established a licensing and regulatory framework for the cultivation, manufacture, transport, storage, distribution, and sale of medical cannabis in California; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as it has been set forth in California Business and Profession Code Sections 19300 – 19360, defines “manufacturing site” to mean the premises that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, defines “manufacturer” to mean a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, or medical cannabis products either directly or indirectly, or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages, or repackages medical cannabis, or medical cannabis products or labels or relabels its container; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, defines “manufactured cannabis” to mean raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that the State Department of Public Health shall administer the provisions related to and associated with the manufacturing of medical cannabis; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that the State Department of Public Health shall also have the authority to create, issue, renew, discipline, suspend, or revoke licenses for the manufacturing of medical cannabis and medical cannabis products and to collect fees in connection with activities it regulates; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that an applicant seeking a manufacturing license must provide evidence of the legal right to occupy and use the proposed location and provide a statement from the owner of real property or their agent where the manufacturing of commercial medical cannabis activities will occur, as proof to demonstrate the landowner has acknowledged and consented to permit manufacturing activities to be conducted on the property by the tenant applicant; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that for applicants seeking

licensure to manufacture medical cannabis or medical cannabis products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority: (1) cultivation, (2) extraction and infusion methods, (3) the transportation process, (4) inventory procedures, (5) quality control procedures, and (6) security protocols; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, defines “licensing authority” as the state agency responsible for the issuance, renewal, or reinstatement of the license, which in the case of manufacturing is the State Department of Public Health; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that protection of the public shall be the highest priority for all licensing authorities and whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that a licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties and may work with local law enforcement agencies on investigations and enforcement actions pertaining to licenses; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that grounds for disciplinary action include, but are not limited to, failure to maintain safe conditions for inspection by a licensing authority; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that a licensing authority may revoke a license when a local agency has notified the licensing authority that a licensee or applicant within its jurisdiction is in violation of state rules and regulations relating to commercial cannabis activities; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that the Act shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that the Act shall not be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that each licensing authority may suspend, revoke, place on probation with terms and conditions, or otherwise discipline licenses issued by the licensing authority and fine a licensee, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that a city may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity with any standards, requirements, and regulations regarding health and safety, testing, security, and worker protections established by the state being the minimum standards for all licensees statewide; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that for facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce the Act and the regulations promulgated by the Bureau of Medical Cannabis Regulation or any licensing authority; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that a city shall assume complete responsibility for any regulatory function relating to those licensees within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that nothing in the Act, or any regulations promulgated thereunder, shall be deemed to limit the authority or remedies of a city, under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that the actions of a licensee, its employees, and its agents that are (1) permitted pursuant to both a state license and a license or permit issued by the local jurisdiction following the requirements of the applicable local ordinances, and (2) conducted in accordance with the requirements of the Act and the regulations promulgated thereunder, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that the actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to both a state license and a local license or permit following the requirements of the applicable local ordinances, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that a qualified patient and a primary caregiver, as defined in Section 11362.7 of the California Health and Safety Code, are exempt from the licensure requirements of the Act; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization and that a licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a local license, permit, or

other authorization from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other authorization; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that local authorities shall notify the Bureau of Medical Cannabis Regulation upon revocation of a local license, permit, or other authorization; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that local jurisdictions retain the power to assess fees and taxes on manufacturing facilities and the business activities of those licensees; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that a manufacturing license shall be valid for only 12 months from the date of issuance, after which they may be renewed on an annual basis; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that if the premises or person is operating a manufacturing facility in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, they may continue its operations until its application for licensure is approved or denied pursuant to the Act only if: (1) a completed application and all required documentation and approvals for licensure are submitted to the licensing authority no later than the deadline established by the licensing authority, and (2) the applicant continues to operate in compliance with all local and state requirements, except possession of a state license pursuant to this chapter; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that in issuing licenses, the licensing authority shall prioritize any premises or person that can demonstrate to the authority's satisfaction that the premises or person was in operation and in good standing with the local jurisdiction by January 1, 2016; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that a person shall not submit an application for a state license unless that person has received a license, permit, or authorization from the local jurisdiction; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that an applicant for any type of state license issued shall: (a) provide documentation issued by the local jurisdiction in which

the proposed business is operating certifying that the applicant is or will be in compliance with all local ordinances and regulations, and (2) provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate; and

WHEREAS, the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, provides that for applicants seeking licensure to manufacture medical cannabis or medical cannabis products, the application shall also include a detailed description of the applicant’s operating procedures for all of the following, as required by the licensing authority: (1) cultivation, (2) extraction and infusion methods, (3) the transportation process, (4) inventory procedures, (5) quality control procedures, and (6) security protocols; and

WHEREAS, the City Council adopted Ordinance No. 585 to allow for manufacturing, testing, and distribution of medical marijuana, in addition to cultivation and dispensing; and

WHEREAS, Chapter 17.180 of the City’s Municipal Code allows existing duly approved medical marijuana cultivation facilities to apply for a minor modification to a duly approved conditional use permit to permit manufacturing without provided that additional manufacturing activities would not result in any additional impact or expansion of the current use or structure(s); and

WHEREAS, Chapter 17.180 of the City’s Municipal Code defines a “medical marijuana manufacturing facility” as a facility where the production of medical marijuana concentrate, and/or the preparation, propagation, or compounding of manufactured medical marijuana, either directly or indirectly or by extraction methods or independently by means of chemical synthesis, or the packaging or repackaging of medical marijuana or medical marijuana products, or the labeling or relabeling of its containers, occurs, provided the facility holds a valid medical marijuana manufacturing facility license, a medical marijuana regulatory permit, a conditional use permit, and a development agreement if applicable, all issued in accordance with the City’s Municipal Code, and provided that the facility will qualify for a valid state license pursuant to the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, when the State begins issuing state licenses to medical marijuana manufacturers; and

WHEREAS, Chapter 17.180 of the City’s Municipal Code provides that medical marijuana manufacturing facilities shall only be located in an Industrial District in the City, subject to the regulations set forth in Chapter 17.180 and any additional regulations as may be promulgated by an ordinance or resolution of the City Council or otherwise pursuant to Chapter 17.180; and

WHEREAS, Chapter 17.180 of the City’s Municipal Code provides that a duly approved medical marijuana cultivation facility, with a duly approved conditional use permit, regulatory permit, and a development agreement, if applicable, may request modification of the approved conditional use permit to operate a medical marijuana manufacturing facility provided the Director of Community Development, or his or her designee, finds that: (A) in no case will there be an impact or change to the following: 1. on-site circulation and parking, loading and landscaping, 2. placement and/or height of walls, fences, and structures, 3. exterior architectural features, including colors, and/or modification of finished materials that do not alter or compromise the previously approved theme, 4. the density or intensity of a development project, 5. size of structure(s) or expansion of use, 6. existing or approved grade elevations, 7. paving, and 8. hours of operation; (B) the medical marijuana cultivation facility is consistent with the goals, objectives, policies and programs of the general plan; (C) the medical marijuana cultivation facility complies with all applicable zoning and other regulations; (D) the medical

marijuana cultivation facility will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity; and (E) the location, design and operation of the medical marijuana cultivation facility will be compatible with existing and planned land uses in the vicinity; and

WHEREAS, Chapter 17.180 of the City's Municipal Code provides that medical marijuana manufacturing facilities which are not operated in an existing and duly approved medical marijuana cultivation facility or which results in any additional impact or expansion of use or structure(s) shall obtain a City-issued conditional use permit and regulatory permit, and a development agreement if the property is raw land; and

WHEREAS, Chapter 17.180 of the City's Municipal Code provides that medical marijuana manufacturing shall be conducted only in the interior of fully enclosed structures, facilities, buildings, or other fully enclosed spaces and that no medical marijuana manufacturing shall be visible from any public right of way; and

WHEREAS, Chapter 17.180 of the City's Municipal Code provides that: (1) manufacturers are limited to certain equipment, methods, solvents, gases and mediums when creating medical marijuana extracts, (2) medical manufacturing facilities with a state license of a Type-6 (non-volatile) or a Type 7 (volatile) classification may be allowed to operate in the City, (3) all other methods of extraction shall be conducted in an environment appropriate to the solvent being used, with consideration to proper ventilation and ignition source controls, (4) all equipment, systems and manufacturing processes must meet or exceed all applicable state and federal requirements and regulations regarding air, water, health and safety, and handling, processing and storage of hazardous materials, solvents, gases and waste; and

WHEREAS, Chapter 17.180 of the City's Municipal Code provides that no manufacturing facility shall commence operations or be issued any form of certificate of occupancy without first obtaining all required fire, environmental, health and safety, planning, and building certificates, permits and approvals required under City's Municipal Code and all other applicable county, state and federal regulations; and

WHEREAS, Chapter 17.180 of the City's Municipal Code provides that as a condition of obtaining a City-issued medical marijuana regulatory permit and conditional use permit, a licensee of a manufacturing facility shall first verify that the licensee employs or contracts with a person who has a PhD in chemical sciences and who shall supervise the design, installation and operation of the facility's systems and manufacturing processes and that such person shall inspect the premises on a quarterly basis and provide an inspection report to the City; and

WHEREAS, California Government Code Section 55603 provides that the board of supervisors of any county may contract with any local agency within the county, and the legislative body of the local agency may contract with the county, for the performance by the county fire warden of functions for the prevention and suppression of fires; and

WHEREAS, California Government Code Section 55603.5 provides that neither the county nor the city shall have the power to abrogate a contract during the term of the contract, but the contractual relationship between the county and the city may, however, be terminated by the voters of either the county or the city; and

WHEREAS, California Government Code Section 55604 provides that when the contract has been made, the county fire warden, his deputies, and assistants may exercise the same powers and duties within the local agency as are conferred upon officers charged with the

duty of preventing and suppressing fires by State and local law within such county or local agency; and

WHEREAS, California Government Code Section 55606 provides that the board of supervisors may contract with the state, through the Department of Forestry and Fire Protection, for the performance by the Director of Forestry and Fire Protection, his or her deputies, and assistants of functions for the prevention or suppression of fires within the county; and

WHEREAS, California Government Code Section 55608 provides that when a contract has been made, the Director of Forestry and Fire Protection or the county fire warden may exercise the same powers and duties within the county for the prevention and suppression of fires which by state or local law is conferred upon those officers; and

WHEREAS, California Government Code Section 55632 provides that the legislative body of any local agency may contract with any other local agency for the furnishing of fire or police protection to such other local agency; and

WHEREAS, the City and the County of Riverside (“County”) entered into “A Cooperative Agreement to Provide Fire Protection, Fire Prevention, Rescue and Medical Emergency Services for the City of Desert Hot Springs” (“Cooperative Agreement”) dated May 17, 2016, pursuant to the authority set forth in Government Code Sections 55600 et seq., wherein the County agrees to provide the City with “fire services” which is described in the Cooperative Agreement specifically as fire protection, disaster preparedness and response, fire prevention, rescue, hazardous materials mitigation, technical rescue response, medical emergency services and public service assists; and

WHEREAS, the Cooperative Agreement includes an Exhibit A that sets forth the organizational structure of the fire services provided to the City and the estimated budget for said services for fiscal years 2016/2017 through 2017/2018; and

WHEREAS, the Cooperative Agreement is not intended to make the County the exclusive provider in fire services for the City since the Cooperative Agreement provides that Exhibit A may be amended in writing by mutual agreement by both parties if the County agrees with the City’s request for an increase or reduction in services; and

WHEREAS, the City has requested that the County increase its services to provide plan check review, inspections, and approval of plans and permits for fire safety for marijuana dispensaries, marijuana manufacturing facilities, marijuana testing facilities, marijuana distribution facilities, and marijuana cultivation facilities to be located in the City; and

WHEREAS, the County has expressed concern that although state law preserves local control of marijuana activities, marijuana remains classified as a Schedule I Drug under the Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq. and any regulatory actions that authorize marijuana, nonmedical and medical, at the state and local level could be found in violation under federal law; and

WHEREAS, the California Civil Code provides that: (a) it is essential to the existence of a contract that there should be “lawful object”; (b) the object of a contract must be lawful when the contract is made; (c) where a contract has but a single object, and such object is unlawful, whether in whole or in part, or wholly impossible of performance, or so vaguely expressed as to be wholly unascertainable, the entire contract is void; (d) where a contract has several distinct objects, of which one at least is lawful, and one at least is unlawful, in whole or in part, the contract is void as to the latter and valid as to the rest; (e) the consideration of a contract must

be lawful; and (f) if any part of a single consideration for one or more objects, or of several considerations for a single object, is unlawful, the entire contract is void; and

WHEREAS, in light of the foregoing provisions of the California Civil Code and given the uncertainty between state and federal law regarding marijuana and the potential public safety and fire hazards that marijuana activities can pose, the County has conditioned its approval of the City's request for an increase in services related to the inspection of marijuana facilities in the City upon the City agreeing that at its own expense, the City shall defend, indemnify, protect and hold harmless the County, its agencies, districts, special districts and departments, elected and appointed officials, employees, agents and representatives for, from and against any and all liabilities, claims, damages, losses, liens, causes of action, suits, awards, judgments and expenses, attorney and/or consultant fees and costs, taxable or otherwise, of any nature, kind or description, of any person or entity, directly or indirectly arising out of, caused by, resulting from, or in any way relating to the County Fire Marshal's, including the County Fire Marshal's employees' and representatives', plan check review, inspections, and approval of plans and permits for marijuana dispensaries, marijuana manufacturing facilities, marijuana testing facilities, marijuana distribution facilities, marijuana cultivation facilities, and any other marijuana related facilities to be located in the City or arising out of, caused by, resulting from, or in any way relating to the technical policies applicable to marijuana cultivation, marijuana manufacturing, and any other marijuana related facilities; and

WHEREAS, in light of the foregoing uncertainty and complications related to the amending the current Cooperative Agreement to increase the County's fire services to include inspections of marijuana facilities in the City and in light of the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360, which provides that the City shall assume complete responsibility for any regulatory function relating to those licensees within the City limits that would otherwise be performed by the County or any County officer or employee, without liability, cost, or expense to the County, the City Council desires 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 fire safety regarding marijuana cultivation, marijuana manufacturing, and other approved marijuana activities and/or uses to assist the City with the implementation of its marijuana program.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, AS FOLLOWS:

Section 1. Recitals

That the above recitals are incorporated herein and are true and correct.

Section 2. Public Health and Safety Inspections of Marijuana Facilities

That the City manager or his/her designee shall be authorized 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 to assist the City with the implementation of its marijuana program, consistent with the Medical Cannabis Regulation and Safety Act, as set forth in California Business and Profession Code Sections 19300 – 19360.

Section 3. Severability

That if any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

Section 4. Repeal of Conflicting Provisions

That all the provisions heretofore adopted by the City Council that are in conflict with the provisions of this Resolution are hereby repealed.

Section 5. Certification

That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

Section 6. Effective Date

That this Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Desert Hot Springs at a regular meeting held on the 2nd day of May, 2017 by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

[SIGNATURES FOLLOW ON THE NEXT PAGE]

ATTEST:

Jerryl Soriano, City Clerk

APPROVED:

Scott Matas, Mayor

APPROVED AS TO FORM:

Jennifer A. Mizrahi, City Attorney