



# CITY COUNCIL AGENDA STATEMENT



March 26, 2019

File ID: 19-0177

## **TITLE**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING AN AGREEMENT WITH HDL COMPANIES TO PROVIDE COMMERCIAL CANNABIS APPLICATION REVIEW SERVICES; WAIVING CITY'S CONSULTANT SELECTION PROCESS IN CONNECTION WITH SAME; APPROPRIATING \$539,500 OUT OF THE GENERAL FUND, NON-DEPARTMENTAL, TO FUND THE AGREEMENT; AND AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE THE FORMAL CONTRACT WITH HDL COMPANIES ON BEHALF OF THE CITY.

## **RECOMMENDED ACTION**

Council adopt the resolution.

## **SUMMARY**

In March 2018, the Chula Vista City Council approved the adoption of an ordinance permitting, licensing, and regulating cannabis businesses in the City of Chula Vista. This resolution is for the retaining of HdL Companies to provide cannabis management services for the City of Chula Vista. The services provided are to include a comprehensive process for cannabis application reviews, merit-based ranking and scoring, and applicant interviews as requested by the City. The request for waiver of the City's standard consultant selection process is based upon HdL's extensive and unique expertise in this area, experience with the City, and timing considerations.

## **ENVIRONMENTAL REVIEW**

The Development Services Director has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" in accordance with Section 15378(b)(5) of the State CEQA Guidelines because it involves only acceptance of the Quarterly Investment Report; therefore it is an organizational or administrative activity of government that will not result in a direct or indirect physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

Not Applicable.

## DISCUSSION

The Adult Use of Marijuana Act (AUMA), adopted by the voters of the State of California in November 2016, decriminalized non-medicinal cannabis and established a regulatory system for non-medicinal cannabis businesses in California. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), enacted by the California Legislature in June 2017, establish a comprehensive set of laws regulating both individual and commercial medicinal and non-medicinal cannabis activity throughout the State of California. Under California law, local jurisdictions are authorized to either permit or prohibit the operation of cannabis businesses within their boundaries.

On March 6, 2018, the Chula Vista City Council approved adoption of an ordinance permitting, licensing, and regulating cannabis businesses in the City of Chula Vista. Chula Vista Municipal Code Chapter 5.19 details the licensing, operating, and compliance regulations and guidelines for those businesses. As the City of Chula Vista moves forward to permit, license, and fully regulate commercial cannabis activities within the City, it is seeking to retain HdL Companies for assistance in this process.

HdL Companies has over 30 years of experience providing revenue enhancement and consulting services to local governments in California. In addition, they have provided consulting and management services to numerous government agencies in the cannabis application review, ranking and scoring, and applicant interview processes. The City is seeking assistance from HdL Companies to review and score cannabis business applications, to conduct applicant interviews, and to compile a final report, with scores and merit-based ranking to inform the final selection process. The agreement with HdL Companies encompasses the following tasks.

1. Application Reviews and Initial Rankings;
2. Preparation and Interview Panel;
3. Preparation of Final Report;
4. Provide Subject Matter Expertise & Technical Support;
5. Contingency for Additional Reviews and Interviews;
6. Regulatory Compliance Reviews and Financial Audits.

The proposed services are broken down into specific line items in the cost table below.

Scope of Service Objectives	Estimated Cost
Objective 1: Provide review, scoring and merit-based ranking for all commercial cannabis business application	\$2,500 per applicant
Objective 2: Design and prepare interview process, provide support for interview panel, and conduct applicant interviews (2 HdL staff)	\$1,000 per applicant
Objective 3: Compile all scores and prepare final report to the City.	\$2,000
Objective 4: Provide up to 40 hours of subject matter expertise and technical assistance, to be used as needed.	\$10,000
Objective 5: Provide a contingency for up to 15 additional application reviews and applicant interviews, if needed.	Priced as above, per applicant
<b>ESTIMATE OF COSTS</b>	
Application Reviews (assumes 136 applications)	\$340,000
Applicant Interviews (assumes 136 applicant interviews)	\$136,000
Contingency (15 additional applications and interviews)	\$52,500
Fixed Costs	\$11,000
<b>ESTIMATE OF TOTAL COSTS</b>	<b>Not to Exceed \$539,500</b>

HdL Companies has also proposed a scope of work for compliance review and financial audit services for when cannabis businesses have been issued licenses. Such services are not included in the proposed agreement before council at this time and staff would come back to council before any contact for such services would be awarded.

#### Waiver of Consultant Selection Process

For contract of this size and type, City’s standard procurement practices would normally require a formal solicitation and competitive selection process. However, under CVMC Section 2.56.070.B, “The City Council may waive the competitive bidding requirements if determined by resolution of the City Council that the competitive bidding requirements as applied to that contract are impractical, impossible or that City interest would be materially better served by applying a different purchasing procedure approved by the Purchasing Agent as being consistent with good purchasing practices”. HdL’s extensive and unique experience with Cannabis administration and more specifically cannabis application review and scoring makes them uniquely qualified to provide these services for the City. Not only has HdL been an ongoing consultant for the City aspects of the cannabis ordinance and rules and regulations development. Finance staff has reviewed the rates and schedules proposed for the services and believe that they are reasonable in comparison to other agencies and the level of effort and expertise involved in order to deliver the required services. With applications pending, there are also timing considerations. For these reasons staff’s recommendation is that the City Council waive the standard bidding requirements for this contract as being impractical and find that hiring HdL Companies on the terms proposed is in the best interest of the City.

#### Delegating of Authority to the City Manager

A final detailed scope of work, and the terms of the proposed agreement have not yet been memorialized in the City’s standard contract. Accordingly, this item also requests that City Council authorize and direct the

City Manager to implement City Council approval by negotiating final terms for and executing a contract consistent with the terms presented, in a final form approved by the City Attorney.

**DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

**CURRENT-YEAR FISCAL IMPACT**

The cannabis application fees paid by prospective applicants will be utilized to pay for the application review services provided by HdL Companies. Such fees should be adequate to offset the contract costs. Accordingly, there is no current fiscal impact.

**ONGOING FISCAL IMPACT**

There is no ongoing fiscal impact.

*Staff Contact: David Bilby, Director of Finance/Treasurer, Finance Department*