

"Placerville, a unique historical past forging into a golden future."

City Manager's Report
May 22, 2018 City Council Meeting
Prepared by: Cleve Morris, City Manager
Item #: 12.4



Subject: Adopt a Resolution Authorizing the City Manager to enter into an agreement with HdL Companies to Provide Subject Matter Expertise and Technical Support, Develop a Cannabis Regulatory Ordinance, Establish Cost Recovery Fees, Create a Cannabis Tax Measure and Conduct Compliance & Financial Audits for the City of Placerville for a not to exceed cost of \$29,500.

Purpose: To contract for assistance in preparing a business regulation ordinance and tax measure ordinance to allow certain Cannabis Activities in the City of Placerville.

Background: On December 8, 2015, the City adopted an ordinance prohibiting cultivation, dispensaries and deliveries of Medical Marijuana (Ordinance 1677). On October 10, 2017, the City Council adopted a resolution extending an Urgency Ordinance of the City of Placerville Regulating Cultivation and Prohibiting the Manufacture, Processing, Laboratory Testing, Labeling, Storing, Wholesale and Retail Distribution of Nonmedical Marijuana in the City of Placerville Pursuant to Government Code Section 65858(a). At that time, the State had still not finalized laws to regulate adult use marijuana. The Council requested that this be reviewed once those regulations had been adopted. The State adopted emergency regulations in the interim and has now published, but not adopted, proposed regulations.

On April 11, 2018, the Council held a special workshop to receive presentations and review the law pertaining to cannabis regulation. At the conclusion of that workshop, another workshop was scheduled for May 30, 2018. At that meeting staff plans to present different options for Council to consider that could allow Adults Use and Medical Marijuana businesses in the City of Placerville. Part of the discussion will include the potential for a tax measure to offset the potential impacts of allowing these businesses. The tax measure must be part of a general election. In order to present the tax measure on the November election, it must be submitted to the County by July 11, 2018. Staff is concerned that with our current workload, it may be difficult to meet that timeline. For this reason, we solicited a proposal from HdL Companies to assist with the process to prepare a Business Regulation Ordinance, and a Tax Measure.

Discussion: The attached proposal was submitted by HdL. The City has a history working with HdL on our Sales Tax reporting. The proposal includes the following Scope of Services:

1. Provide Subject Matter Expertise & Technical Support.
 Deliverables: Business Regulation Ordinance
2. Application Development and Support
 Deliverables:
 - a. Develop Business Application and Submittal Requirements

- b. Initial Screening and recommendation of applicants including background checks
 - c. Final Recommendations to City
3. Assistance and Support of City Interview Panel
 4. Final Selection and Presentation to Council
Deliverables: Staff Report and Presentation to Council.
 5. Cost Recovery and Fee Analysis
Deliverables: Recommended fees for Cannabis Businesses.
 6. Develop Tax Strategy and Ballot Measure
Deliverables: Tax Ordinance and documents to submit to County Electorate for 2018 November Election.
 7. Regulatory Compliance Reviews and Audits (Optional Service)
Deliverables:
 - a. Three Compliance Inspections Annually
 - b. One Financial Audit Annually

Costs for the above services are as follows:

Objective 1:	\$9,750
Objective 2:	\$7,500
Objective 3:	\$4,000
Objective 4:	\$2,000
Objective 5:	\$4,250
Objective 6:	<u>\$2,000</u>
Total	\$29,500

Objective 7 : \$8,000 per business per year.

All proposed costs will be recovered through the business licensing process. No up-front cost will be required of the City. The costs will be recovered as part of the application fee for the new businesses. The cost of the compliance inspection and audit will be part of the fee recovery that is adopted by the City.

As noted above, another public workshop is scheduled for May 29, 2018. A flyer was distributed as part of the May utility bill noticing this workshop. It is our hope to obtain as much public input as possible prior to moving forward. It is possible that as a result of input at the next public workshop, Council may decide not to move forward with the legalization of marijuana businesses. However, due to the tight timelines to meet the tax measure requirements, staff feels it is important to move forward at this time in anticipation of Council direction. The contract with HdL would state that if no businesses are allowed within the City, then no fee would be owed. HdL will do a limited amount of work until after the workshop and further direction given by Council at the June 12, 2018 Council Meeting. They will primarily only work on the Tax Measure prior to that date.

Staff also looked at a second option to provide these services. For several years the City has used the Law Firm of Meyers- Nave to assist with various services, primarily related to

assessment districts and tax measures. The City approached Meyers-Nave on this issue to see if they would be willing to work with us on this issue and would they provide a similar payment program. They have partially responded in that they would work with us and they have worked with several other jurisdictions in this area on Cannabis programs. They proposed the following:

1. Their proposed rates would be slightly higher than in our current contract: \$400/hr. for principals, \$325/hr. for associates.
2. Second, they asked for a little more certainty about when payment would be made. So, for example, if we decide not to put the tax on the November 2018 ballot, or if the Council puts it on the ballot but it fails to get the necessary votes to be approved, Meyers-Nave still would be paid no later than December 31, 2018. If the tax does get the requisite voter approval, then they would be paid no later than April 1, 2019. In this case, the payment could be paid by applicant fees. Another option that could be used is to require the applicant to propose a community benefit as part of the application/selection process. This has been done in other jurisdictions and resulted in the applicant paying a percentage of its gross receipts to be used as a community benefit. This could take the place of the tax, or until the tax passes. In addition, if the tax measure fails, this could continue in place of the tax. By having an ordinance that is not tax dependent, the City would be able to process applications and receive application fees to offset the costs associated with preparing the ordinances and the selection process. These dates may be somewhat negotiable, but the fact that they would eventually get paid is not.
3. Meyers-Nave has estimated the cost to perform these functions at \$25,000. This does not include the Annual Inspections and Audit as these functions would.

The current interim ordinance that was continued by resolution on October 28, 2017, will expire on October 27, 2018. This is the last extension of the ordinance that is allowed. Therefore, we must either permanently adopt the ordinance prohibiting all Cannabis activities that are not allowed by right by State Law, or we can adopt a new ordinance regulating Cannabis business in the City. In order to make these deadlines, the second reading and adoption of either of these ordinances would need to occur on or prior to your September 25, 2018 Council Meeting. This factor also creates an urgency to this issue.

Staff recommends we proceed with the contract with HdL in order to ensure that we can meet these deadlines.

- Options:**
1. Authorize the City Manager to enter into the agreement as recommended.
 2. Direct the City Manager to negotiate different terms to the proposal.
 3. Direct staff to negotiate a contract with Meyers-Nave to provide the service.
 4. Delay any action until after the workshop on May 29, 2018.
 5. Take no Action at this time.

Cost: Cost of the agreement is \$29,500.

Budget Impact: None, All costs will be recovered as part of the Business License Process.

Recommendation: Adopt a Resolution Authorizing the City Manager to enter into an agreement with HdL Companies to Provide Subject Matter Expertise and Technical Support,

Develop a Cannabis Regulatory Ordinance, Establish Cost Recovery Fees, Create a Cannabis Tax Measure and Conduct Compliance & Financial Audits for the City of Placerville for a not to exceed cost of \$29,500.

A handwritten signature in blue ink, reading "M. Cleve Morris", is positioned above a horizontal line.

M. Cleve Morris, City Manager

Attachments:

- 1. Resolution*
- 2. HdL Proposal*