



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 01/18/2022

ITEM NO: 10

DATE: January 11, 2022
TO: Mayor and Town Council
FROM: Robert Schultz, Town Attorney
SUBJECT: Cannabis Consultant Services:
a. Authorize the Town Manager to Engage the Services of a Cannabis Consultant to Evaluate the Potential Taxation of Cannabis and Potential Amendments to the Town's Cannabis Ordinance in an Amount not to exceed \$50,000; and,
b. Approve an Expenditure Budget Adjustment in the Amount of \$50,000 from Available Capital/Special Projects Reserve.

RECOMMENDATION:

Staff recommends that the Town Council take the following actions regarding cannabis consulting services:

- a. Authorize the Town Manager to engage the services of a Cannabis Consultant to evaluate the potential taxation of cannabis and potential amendments to the Town's Cannabis Ordinance in an amount not to exceed \$50,000; and,
- b. Approve an expenditure budget adjustment in the amount of \$50,000 from available Capital/Special Projects Reserve.

BACKGROUND:

Medical cannabis use has been legal in California since 1996. On November 9, 2016, adult use of cannabis by persons age 21 or over became legal in California. However, cities still retain full regulatory authority over all commercial cannabis businesses. In June 2017, California enacted the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), which consolidated the State regulatory and licensing framework for medical and adult-use cannabis. The State agencies responsible for regulating commercial cannabis activity adopted regulations addressing commercial cannabis activity. These State regulations affect commercial cannabis activity and include a variety of licensing, operation, and business location requirements.

PREPARED BY: Robert Schultz
Town Attorney

Reviewed by: Town Manager, Assistant Town Manager, and Finance Director

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SUBJECT: Approval to Engage the Services of a Cannabis Consultant Prior to Requesting Direction Related to Steps for Possible Cannabis Tax and Amendments to Town Cannabis Regulations

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BACKGROUND (continued):

On January 1, 2018, the State began issuing State licenses allowing businesses to sell cannabis products for medical use to individuals who are at least 18 and have a valid physician's recommendation, and adult use to adults 21 and over.

With recent State law changes, cities and counties across California are exploring these new regulations and the fiscal tax impact of allowing commercial cannabis operations and facilities. According to local governments' cannabis policy experts HdL Companies, two years ago there were 16,000 cannabis businesses. In California, there are 661 storefront retail licenses in 120 jurisdictions that allow retail. HdL indicates the market demand is for 1,842 retail licenses.

However, the only other cities in Santa Clara County that have, to this point, permitted commercial cannabis businesses are San Jose and Mountain View. The City of San Jose currently has a total of 16 cannabis retail facilities and is evaluating raising the number of allowed cannabis retail stores to 42. The 16 cannabis retail facilities in San Jose are expected to generate \$17.5 million in revenues to the City for Fiscal Year (FY) 2021/22. In Mountain View, the City Council adopted cannabis regulations to permit a maximum of three (3) non-storefront retail cannabis businesses. The FY 2020/21 Mountain View Budget states that "Revenue is projected to increase \$737,000 (13.8%) in FY 2021/22 from the FY 2020/21 unaudited, primarily from the approval of one cannabis permit and the Recology franchise fee. Revenues are projected to increase in the remaining Forecast years as the economy is projected to recover and with the opening of two additional cannabis businesses."

In contrast, the Town has maintained a moratorium or prohibition of commercial cultivation, manufacturing, processing, laboratory testing, labeling, storing, wholesale and retail sales and distribution, and deliveries of cannabis, cannabis products, and all cannabis derivatives in the Town of Los Gatos. The Town currently allows deliveries from dispensatories located outside of the Town, cultivation (of up to six plants), and the transportation, possession, purchase of cannabis legally acquired outside of the Town.

In January 2021, the Town Council directed staff to study potentially allowing and regulating commercial cannabis businesses in Los Gatos and to seek public input on these issues. In response, the Town Attorney held approximately ten public meetings with various community groups and Town Boards/Commissions/Committees to facilitate the discussion and to seek input on whether the Council should consider potential amendments to our cannabis regulations. At these public meetings, the majority of the public expressed an interest in allowing cannabis businesses in Town and were interested in the potential new source of tax revenue but also expressed concerns and uncertainty about allowing cannabis operations and the potential health and safety impacts. In addition, the Town conducted a Survey Monkey poll to solicit input from the public. The results of the survey are set forth in Attachment 1.

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DISCUSSION:

It continues to be staff's position that Town Council should further study and obtain additional public input regarding the potential permitting of some or all of the various uses of cannabis (e.g., retail sale, warehousing/distribution, laboratory testing, manufacturing, and/or commercial cultivation). It is staff's position that the Council would greatly benefit from an expert cannabis consultant to help the Council and public better understand the legal cannabis industry and the implications of allowing licensed cannabis businesses.

For example, based on staff's research, HdL is one of the leading firms offering cannabis regulatory and permitting policy services. The company represents over 175 cities and counties in California for cannabis related services. HdL's Cannabis Management Team of professionals has over 46 years of direct experience establishing and implementing cannabis regulatory and taxation programs, including establishing land use regulations, permit processes, staffing plans, cost recovery fees, fiscal analysis, regulatory compliance, financial audits, and staff training. Based upon staff's review of other cities, the costs of hiring an expert cannabis consultant would be between \$35,000 to \$50,000. Attachment 2 is an example of the draft proposal for a scope of services from a cannabis consultant.

In short, with the recent resignation of the Town Attorney, the Town does not have the in-house capacity or expertise to conduct additional public meetings, prepare a fiscal analysis and tax cost recovery fee study, draft a cannabis regulatory ordinance, and draft cannabis tax ordinance and accompanying ballot measure language. In addition, staff could not find a single small city that did not use cannabis consultants to help with development of regulations. Therefore, the Town would benefit from hiring a cannabis consultant in order to provide the expertise the Town Council and Town staff require to continue to evaluate this issue.

CONCLUSION AND NEXT STEPS:

Staff seeks Town Council authorization to enter into an agreement with a cannabis consultant that would include a scope of services that provides for community meetings, preparation of a fiscal analysis, development of an amended or new cannabis ordinance, development of the application process and cost recovery fees, and development of a cannabis tax ordinance and accompanying ballot measure. If approved, outreach to the Town Finance Commission and other stakeholders would be part of the community engagement process. Once the consultants have completed their work, the Council would consider the package and then vote whether or not to move forward with a ballot measure.

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ALTERNATIVES:

Direct staff to discontinue research and related work on potential regulation and taxation of commercial cannabis.

COORDINATION:

This report was coordinated with the Town Manager's Office.

FISCAL IMPACT:

Cannabis Consultant services will cost approximately \$50,000, requiring the recommended budget adjustment.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Survey
2. Sample Proposal