

Agenda Report

December 17, 2018

TO: Honorable Mayor and City Council

FROM: Finance Department and Planning & Community Development Department

SUBJECT: AUTHORIZATION TO AMEND CONTRACT 30761 WITH HINDERLITER, DE LLAMAS AND ASSOCIATES TO INCLUDE TRANSACTIONS TAX CONSULTING SERVICES AND AUTHORIZATION TO EXECUTE A NEW CONTRACT WITH HINDERLITER, DE LLAMAS AND ASSOCIATES TO PERFORM THIRD PARTY REVIEW AND SCORING OF COMMERCIAL CANNABIS APPLICATIONS

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the actions proposed are exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15061 (b)(3) as they will not have a potentially significant environmental effect and, therefore, fall under the General Rule exemption;
2. Authorize the City Manager to amend contract 30761 with Hinderliter, de Llamas and Associates for transactions tax revenue consulting services to increase the not-to-exceed annual fixed cost amount for the two optional, one-year extension terms from \$10,200 to \$11,400.
3. Authorize the City Manager to execute a new, separate contract with Hinderliter, de Llamas and Associates for third party review and scoring of commercial cannabis applications as part of the initial cannabis application submittal process, for the not-to-exceed amount of \$250,000.
4. Grant the proposed new contract an exemption from the Competitive Selection Process pursuant to P.M.C. Section 4.08.049(B), contracts for which the City's best interest are served.

BACKGROUND:

Transactions Tax Revenue Consulting Services

On November 7, 2016, the City Council authorized the City Manager to enter into a three-year agreement with Hinderliter, de Llamas and Associates to provide Sales/Use Tax revenue consulting services with the City Manager having the option to extend the contract for two additional, one-year terms. Since that time the vendor has performed per the agreement and is in good standing with the City of Pasadena. The work of a tax consultant is critical to ensuring that taxes are properly allocated to the City and that appeals are filed with the state to recoup dollars that may have been misallocated to the county pool or to another city.

With the passage of Measure I and the pending implementation of the Transactions and Use Tax on April 1, 2019, it is important to authorize the examination of tax records as soon as they become available. The California Department of Tax and Fee Administration (CDTFA) requires the City to designate in writing the entities who are authorized to represent the City in the examination of confidential sales, use and transactions tax records.

The City's out-of-pocket costs for the proposed contract amendment would increase by \$1,200 per year for a total annual amount of \$11,400 as a result of Hinderliter, de Llamas and Associates providing the additional tax consulting services as described herein. While the original contract amount and the proposed amendment would not normally require City Council approval based upon the dollar threshold, the CDTFA requires governing body approval of the contract.

Commercial Cannabis Application Review Consulting Services

Hinderliter, de Llamas and Associates (HdL) is also a leader in cannabis consulting services, providing jurisdictions in California, Colorado and Nevada with support for regulation/ordinance preparation, application process development, application review, cannabis tax administration, and other services related to the commercial cannabis industry. As part of Pasadena's commercial cannabis program, which is scheduled to have the initial application submission window open on January 1, 2019, staff has considered various options for conducting the review of submitted applications and has concluded that the best option for such is to have an independent third party perform the review and scoring of all applications for a commercial cannabis permit. Review by an independent third party would ensure the most objective assessment of the proposals. This approach is being utilized by a number of cities including Modesto, Moreno Valley, El Monte, and Maywood.

HdL has been periodically providing cannabis consulting services to the City since the early crafting of the ordinances that comprised Ballot Measures CC and DD, which respectively allowed a limited number of cannabis retailers, cultivators, and testing labs to operate within the city and levied a business license tax on commercial cannabis

businesses. Given the firm's active involvement with the City's cannabis program, HdL is uniquely qualified for the task of independently reviewing and scoring the cannabis applications submitted during the initial application window. HdL's understanding of the City's application process and overall commercial cannabis program will enhance the firm's ability to deliver the application review services in a timely and cost effective manner. For these reasons the City's best interests would be served by entering into a new, separate contract with Hinderliter, de Llamas and Associates for these services.

HdL has estimated its cost of reviewing each application at \$3,000. Although it cannot be determined exactly how many applications the City will receive in January, an estimate of 60-70 applications has been arrived at. Therefore, staff is of the opinion that a contract with a not-to-exceed amount of \$250,000 would be sufficient to carry out the task of reviewing the cannabis applications. And since a fee study was prepared for the cannabis program and determined that the screening application fee should be set at \$13,654, the costs associated with a new contract for third party review of cannabis applications will be offset by the screening application fee.

COUNCIL POLICY CONSIDERATION:

The proposed actions are consistent with the City Council's strategic planning goal to maintain fiscal responsibility and stability.

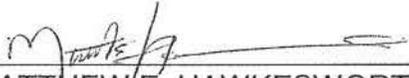
ENVIRONMENTAL ANALYSIS:

The actions proposed herein are not projects subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Section 15060 (c)(2), 15060 (c)(3), and 15378. Since the actions are not projects subject to CEQA, no environmental document is required.

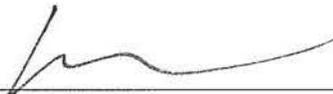
FISCAL IMPACT:

Regarding the amended contract for transactions tax revenue consulting services, sufficient funds have been appropriated for these services in the Fiscal Year 2019 Adopted Operating Budget. Regarding the new contract for commercial cannabis application review consulting services, the contract has a fiscal impact of up to \$250,000. Funds are available in the Fiscal Year 2019 Adopted Operating Budget with contract expenses offset by fees collected through the Commercial Cannabis Application Fee.

Respectfully submitted,



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DAVID M. REYES
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Approved by:



STEVE MERMELL
City Manager