



CITY OF CARSON

Legislation Text

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Report to Mayor and City Council

Tuesday, September 04, 2018

Discussion

SUBJECT:

CONSIDER APPROVAL OF RESOLUTIONS TO ISSUE COMMERCIAL CANNABIS OPERATION PERMIT NO. 02-18 (17505 S. MAIN STREET) AND COMMERCIAL CANNABIS OPERATION PERMIT NO. 04-18 (2403 E. 223RD STREET) BASED ON THE CANNABIS PERMIT COMMITTEE'S RECOMMENDATIONS AND MERIT LIST CRITERIA; SETTING THE INTEREST RATE ON UNPAID CANNABIS TAXES; AND, SETTING THE TAX RATE ON CANNABIS RELATED BUSINESS ACTIVITIES.

I. SUMMARY

The City's Commercial Cannabis Operation Permit Regulatory Program (Program) as contained in Chapter 15 of Article VI of the Carson Municipal Code authorizes no more than four (4) commercial cannabis centers (Permits). A commercial cannabis center may include indoor cultivation, mixed-light cultivation, manufacturing, testing and/or (wholesale) distribution. Applications for Permits were accepted by the City and subject to a ministerial review for adherence to local and state requirements. City's cannabis consultant reviewed the applications, Exhibit No. 1. Five Permit applications were eligible to be sent to the Cannabis Permit Committee (CPC) for review based on specified criteria (Merit List).

The CPC now recommends two applicants should be issued a Permit, Exhibit No. 2. A resolution to approve the CPC's recommendations based on Merit List criteria is provided for consideration, Exhibit No. 3. The City Council upon receipt of CPC recommendations makes the final determination on whether a Permit shall be issued based on Merit List factors. If the City Council upholds the CPC's recommendations, two (2) Permits will be available at a later date.

The Carson voters by a margin of almost 2:1 at the November 6, 2016 General Municipal Election approved taxes on commercial cannabis activities. A resolution to set the interest rate on unpaid cannabis taxes at 5%, to set commercial cannabis operation tax rates at 18% of proceeds and at \$25 per square foot of cultivation, and to secure 4 million dollars over a three year period from individual commercial cannabis centers (four centers maximum) is provided for consideration, Exhibit No. 4. The foregoing amount will be adjusted upwards in the context of a development agreement dependent on the size of,

scope of, and permits under, the operation conducted by a commercial cannabis center.

II. RECOMMENDATION

CONCERNING PERMITS, TAKE ONE of the following actions:

1. ***If*** the City Council determines based on Merit List criteria to approve the Cannabis Permit Committee's recommendation for issuance of two Permits:

- a. ADOPT Resolution No. 18-128, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, APPROVING COMMERCIAL CANNABIS OPERATION PERMIT (CANNABIS CENTER) NO. 02-18 (17505 S. MAIN STREET) AND COMMERCIAL CANNABIS OPERATION PERMIT (CANNABIS CENTER) NO. 04-18 (2403 E. 223RD STREET) BASED ON THE CANNABIS PERMIT COMMITTEE'S RECOMMENDATIONS AND MERIT LIST CRITERIA.

2. ***If*** the City Council determines based on Merit List criteria to disapprove the Cannabis Permit Committee's recommendation for issuance of two Permits, then either:

- a. APPROVE Commercial Cannabis Operation Permit(s) based on specified criteria (Merit List) and ADOPT a resolution memorializing such decision; **or**
- b. DO NOT APPROVE any Commercial Cannabis Operation Permits

CONCERNING TAXES, CONSIDER whether to:

3. ADOPT Resolution No. 18-130, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, SETTING THE INTEREST RATE ON UNPAID CANNABIS TAXES PURSUANT TO SECTION 61340(A) OF CHAPTER 13 OF ARTICLE VI OF THE CARSON MUNICIPAL CODE, AND SETTING THE TAX RATE ON CANNABIS RELATED BUSINESS ACTIVITIES PURSUANT TO SECTIONS 61320 (A-B) OF CHAPTER 13 OF ARTICLE VI OF THE CARSON MUNICIPAL CODE

III. ALTERNATIVES

Do not approve some or all of the above options.

IV. BACKGROUND

A. PERMITS

The City received six Permit applications. The City reviewed the information contained in the applications to determine whether the applicants met the minimum qualifications for a commercial cannabis center permit. All six Permit applications were deemed compliant with the minimum qualifications for issuance of a commercial cannabis center permit. However, one application failed to pay the required application deposit. Therefore, five applications moved forward for review by the CPC. The CPC was composed of the Director of

Community Development, the Fire Captain, the Finance Director, the City Manager (or appointees), a medical cannabis specialist, a community member, and a representative from the Los Angeles County Public Health Department. Representation from the Los Angeles Sheriff's Department (Police Captain) was invited, however the Department decided to abstain from participating.

Once an application is deemed compliant, then the following process occurs for issuance of a Permit:

- a. CPC reviews applications in accordance with Merit List criteria;
- b. CPC makes recommendations to City Council based on Merit List criteria;
- c. City Council reviews CPC's recommendations at a public meeting;
- d. City Council makes decision on whether a Permit is or is not issued based on Merit List criteria.

Merit List Criteria

Section 15.080(G) of the CMC provides a list of criteria to assist in determining an applicant's adherence to the maintenance and promotion of the health, safety and welfare of the residents and visitors of the City of Carson.

1. Operation plan for the business, including attention to community concerns about the impact of the business.
2. Security plan for the business, including details for the non-diversion of cannabis or cannabis products to illegal uses.
3. Health and safety plan for the business, including enhanced product and operations health and safety (e.g., use of pesticides, sanitation, disposal of waste products).
4. Impact on the environment (e.g., refuse disposal, utility usage).
5. Neighborhood compatibility (e.g., compatibility with surrounding uses).
6. Employment opportunities for City of Carson residents.
7. Economic benefits to the City of Carson.
8. Community benefits to the City of Carson, including but not limited to plans for community engagement and programs.
9. Experience of the operators, managers and employees, including professional backgrounds (e.g., horticulture, chemistry).
10. Capitalization of the business.
11. Educational plans (e.g., youth anti-drug programs).
12. Promotion of equitable business ownership and employment opportunities which decrease disparities for marginalized communities, and address for marginalized communities the disproportionate impact of past criminalization of cannabis activities which are now lawful under state law.

Preliminary Scoring of Written Submittals from Applicants

All of the below applicants passed the ministerial review by the City of being in compliance with City and state cannabis laws. The following six applicants were then reviewed by the City's cannabis consultant HdL Companies, Exhibit No. 1 and the following scoring

summary shows the ranking based on review of initial documents and materials submitted by the Permit applicants.

The City's cannabis consultant's review of documents submitted did not include interviewing applicant principals. The City's cannabis consultant emphasized a critical element of review of otherwise qualified applicants was interviews (which were conducted by the CPC, see below). This advice was based on experience with operators who looked good on paper yet were revealed in interviews to have deficiencies, and vice versa.

Points	Points Possible	Awarded	Percentage	
1.	Eric Son - FOCAL Stra	2300	1934	84.09%
2.	Timothy Kim - Verido	2300	1926	83.74%
3.	Matthew Goodman -	2300	1570	68.26%
4.	Elliot Lewis - EEL Hold	2300	1513	65.78%
5.	Todd Parkin - Califorr	2300	1466	63.74%
6.	Omar Kelly - The Gre	2300	1387	60.30%

Note (1): Supplemental documentation was received which ***is not*** reflected in these preliminary scores and which likely would have positively impacted some of the lower scores.

Note (2): The Green of Lyfe (ranked 6th above) failed to pay the required application deposit and was deemed non-compliant.

Interviews by Cannabis Permit Committee of Applicants

The CPC convened on August 2 and 13, 2018. Detailed minutes of these meetings are provided for review, Exhibit No. 2. Matthew Eaton with HdL Companies provided an overview of what the CPC's responsibilities are and went over the application reviews previously prepared by HdL Companies.

Mr. Eaton informed the CPC that some concerns not fully addressed in the written submittals could be addressed in the required development agreement which each applicant issued a Permit will be required to enter into with the City.

A. Cannabis Permit Committee Recommendations

Out of five (5) presentations, the CPC voted in the affirmative for issuance of a Permit to the following two applications based on sufficient response to Merit List criteria within the applications, application reviews (prepared by HdL Companies), and presentation information.

1. Focal Strategic Investments, LLC (Eric Son) - Commercial Cannabis Operation Permit No. 02-18 (17505 S. Main St.)

Mr. Son stated it is their intent to apply for the cultivation and manufacturing licenses; noted these licenses will not permit them to sell directly to the consumer, but it will allow them to

distribute their product to the businesses that have distribution licenses; and pointed out that since Carson is not allowing any dispensaries, there should not be any negative impact to the City.

The applicant stated they do have a security plan for their employees, a transportation and product/cash security plan, noting that because the federal government has not legalized cannabis, there is no banking system in place. He stated they will have no less than 3 security guards around the clock in their facility; and that they will have an alarm and full video surveillance system.

The applicant stated they have a hazardous materials, personal protection, fire protection and first aid plans in place; and he advised that they will start off with a heavily invested hydroponics system which will create a more environmentally friendly atmosphere because they won't need to use pesticides or have an abundance of waste disposals. He added they will also need a lot of electricity for their operations; and that they will fully monitor their electricity coming into the facility and will try to keep their energy usage at a minimal level.

Applicant stated that they will install a complete 10-ton commercial HVAC air purification system which will be more than enough to control the odors; explained that because this will be a new building, it will be built for adequate noise control and safety standards within this industry.

Regarding neighborhood compatibility, applicant expressed his belief there will be no direct impact to any nearby businesses. The applicant stated they will hire 50 percent of their employees from Carson and nearby cities and pay living wages. Applicant stated employees' living wages will benefit area businesses from employees spending in the community; and noted that approximately \$100,000-\$150,000 per month will be paid to Carson in tax revenues.

The applicant stated that once these companies are fully in place, alcohol usage should decrease and so will drunk driving; and stated that sales tax revenues will benefit the City. He stated this new facility will increase the value of the buildings/real estate in the area; that they will retain the services of Carson-based businesses for security, janitorial, etc.; and that they want to give back some of their profits to Carson, donating not just materially/monetarily, but also working with the local medical industry providing medical information about the health benefits of cannabis.

The applicant stated that each one of the owners has operated successful businesses, though none yet in the cannabis industry; advised that each of them has invested money into multiple/different cannabis businesses in the United States and Canada and learned from those operations; and that they feel confident with their knowledge to move forward with their own cannabis companies. He added they have full knowledge of how this business operates and know what the crucial parts of this business are to make it a successful operation. He added that the most important part of this business is to have a master grower capable of growing cannabis and an extraction manager who can take on the extraction from the cannabis; and advised that they have a few growers and a few extraction managers currently under contract. He added that they do not yet have fully

negotiated contracts with the growers and extraction managers because they need to obtain the necessary licenses.

The applicant stated that the three of them -- himself, Timothy Young Kim and Jun "JY" Yoon -- have provided the capital needed for Focal Strategic Investments which will be enough to construct the project and operate it for 6 months. The applicant reiterated there are no outside investors for this business; and he expressed his belief they will have an optimum management team with this limited partnership.

The applicant stated they will reimburse each employee \$1,500 per year for continuing education related to the cannabis industry.

2. California Green (Todd Parkin) - Commercial Cannabis Operation Permit No. 04-18 (2403 E. 223rd St.)

Mr. Parkin stated it is their intent to apply for the manufacturing, testing, and distribution licenses. He further stated that he has an extensive background in finance business operations, having worked in the regulated business industries his entire career. He explained that this industry is eminently consolidate-able; that they plan to fund a shared services center in Carson with the consolidation of incumbent and start-up cannabis-related businesses under one roof that are looking to be in this business for the long term. He added that some of those businesses would include distribution, manufacturing, backend testing, but added there would only be one manufacturing license. He explained this 150,000 to 200,000 s.f. integrated facility they recently entered into an agreement to purchase at 2403 E. 223rd Street will be divided up for multiple tenants and services; that some tenants will have equity positions and some of them will have revenue positions; and expressed his belief that what they are starting in Carson will be an example for other cities to emulate. He explained this integrated center allows them to share capital costs and make state-of-the-art manufacturing.

Kenny Morrison, co-principal, highlighted his experience in this industry since going main stream in 2006; stated that he has branded 28 cannabis products, such as baked goods, concentrates, etc.; and he expressed his belief that cannabis will soon surpass current raw commodities trades/sales, noting that Fortune 500 companies are starting to get into the cannabis business. Mr. Morrison stated this company can provide sustained, long-term revenue which will financially benefit Carson.

Concerning operational plan, the applicant stated they have a cannabis application pending for manufacturing; that they have a supplement license for edibles; expressed his belief that as cannabis becomes a less regulated industry nationwide, most businesses will import the cannabis; and noted that Carson is in the perfect port location and has easy access to the freeways and rail stations.

Regarding employment opportunity, they stated they are submitting their initial Development Agreement (DA) next week; and advised that the DA includes strategic goals, their building development plan, and a guarantee of funding. He stated that this facility will bring in hundreds of jobs and a good tax base for Carson.

Kenny Morrison has 10-plus years in this industry; he is president and founder of California Cannabis Manufacturing Association; that he has helped write cannabis legislation in California; and that he is the impetus behind the successful Venice Cookie Co., which opened in 2008.

As regards funding, applicant stated that he has facilitated over \$900 million of debt and equity in the highly regulated broadcast industry; and expressed his belief this venture will be able to bring in the institutional money/financing that will be needed.

Mr. Parkin was originally ranked 5th in the Merit List Scoring (prepared by HdL Companies) as shown above. The application review including the supplemental information (provided after preparation of the Merit List Scoring) and compelling presentation resulted in the CPC's affirmative recommendation.

The CPC did not support issuance of a Permit to the following applications based on lack of response to Merit List criteria within the applications, application reviews (prepared by HdL Companies), and presentation information.

3. Veridon Investments (Timothy Kim) - Commercial Cannabis Operation Permit 03-18 (20400 S. Main St.)

During discussion, the CPC expressed concern about project feasibility including funding. The applicant explained that the capital raised for this venture was going to be returned to the investors due to the complexity, cost and potentially long duration to obtain land use entitlement for the proposed project site (157 acre former landfill). At time of CPC meeting, the applicant's acquisition of the proposed property site was speculative and there was lack of specificity in regard to negotiations with this City owned property.

4. Rose Gold Extracts (Matthew Goodman) - Commercial Cannabis Operation Permit No. 01-18 (20432-20432 S. Santa Fe Ave.)

The applicant attempted to address some of the Merit List Criteria such as security, operations, community involvement, and health and safety plan, impact on the environment, and employment opportunities. However, CPC determined during his presentation he did not provide sufficient details and information. In addition, the applicant failed to disclose specific or projected economic benefits to the City. In addition, staff requested additional information from the applicant to supplement the original application. However, the applicant declined this opportunity.

5. EEL Holdings (Elliot Lewis) - Commercial Cannabis Operation Permit No. 06-18 (17050-17100 S. Margay Ave.)

During discussion, CPC expressed concern that the applicant was not prepared to present the proposal because (admittedly) they did not put forth a concerted effort due to the unknown tax rate. In addition, the applicant stated in the interview that they submitted their application last minute. Additionally, the CPC had concern about the lack of specificity even after the City re-opened/extended the submittal deadline in an effort to garner more information from the applicant.

B. TAXES

At the November 6, 2016 General Municipal Election, Carson voters by a margin of almost 2:1 approved a tax on commercial cannabis operations (Measure KK). The cannabis tax is codified in Chapter 13 of Article VI of the Carson Municipal Code (CMC), and provides for both the imposition of a maximum tax of 18% of proceeds (total revenue) of commercial operations conducting retail sales, wholesale distribution, cultivation, manufacture, transportation, or testing of cannabis, as well as the imposition of an annual maximum tax of twenty-five dollars (\$25) per square foot of space utilized as cannabis cultivation area.

Section 61340(A) of Chapter 13 of Article VI of the CMC provides that any person who fails or refuses to pay City cannabis taxes shall pay “interest on the unpaid Tax calculated from the due date of the Tax at a rate established by resolution of the City Council” and “interest on the unpaid penalties calculated at the rate established by resolution of the City Council.” A resolution is provided to set this interest rate at 5%. The City Council, however, may determine to set a different rate.

The ballot label question presented to voters for Measure KK estimated that tax revenues to the City from cannabis business activities would range from \$500,000 to \$3,500,000 annually. The Los Angeles County area Consumer Price Index average (i.e., inflation) from the passage of Measure KK through mid-2018 has averaged approximately 3.3% and thus by 2019 estimated commercial cannabis tax revenues based on analysis from the Measure KK ballot label are from approximately \$530,000 to \$3,725,000 annually.

Chapter 15 of Article VI of the Carson Municipal Code provides that only four commercial cannabis centers will be authorized within the City. Based on the Measure KK ballot label question tax revenue estimates, each of the four commercial cannabis centers annually are expected to generate up to approximately \$1,000,000 in tax revenue for the City during each cannabis center’s first year of operations. Reasonably each commercial cannabis center in its second year of operation can be expected to generate \$1,250,000 in tax revenue for the City, and reasonably each commercial cannabis center in its third year of operation can be expected to generate \$1,750,000 in revenue for the City, totaling \$4,000,000 in total tax revenue to the City from each commercial cannabis center by the end of the third year of operation.

Cannabis businesses are largely cash operations. It is recommended the City seek assurances the taxed cannabis business entities remit the full amount of expected tax returns to the City. A solution is to provide an amount of expected revenues from each commercial cannabis center based on the estimates of expected cannabis tax revenue provided by the ballot label question for Measure KK.

Section 61320(B) of Chapter 13 of Article VI of the CMC provides that the City Council “may establish exemptions, incentives, or other reductions, and penalties and interest charges or determinations of tax due for failure to pay the tax in a timely manner.”

A resolution is provided to set the tax on proceeds (total revenue) of commercial operations conducting wholesale distribution, cultivation, manufacture, transportation, or testing of

cannabis at 18%, to set the tax per square foot of space utilized as cannabis cultivation area at \$25 (with CPI adjustment), and to secure from each commercial cannabis center \$1,000,000 in tax revenue in the first year of operation, \$1,250,000 in tax revenue the second year of operation, and \$1,750,000 in tax revenue in the third year of operation, and CPI adjustments thereafter, Exhibit No. 4. The foregoing amounts will be adjusted upwards in the context of a development agreement dependent on the size of, scope of, and permits under, the operation conducted by a commercial cannabis center.

V. FISCAL IMPACT

Cannabis tax revenue to the City from each commercial cannabis center is estimated to be up to \$1,000,000 in the first year of operation, \$1,250,000 in the second year of operation, and \$1,750,000 in the third year of operation. The foregoing amounts will be adjusted upwards in the context of a development agreement dependent on the size of, scope of, and permits under, the operation conducted by a commercial cannabis center.

VI. EXHIBITS

1. Application Reviews (prepared by HdL Companies) (pgs. 10-35)
2. Cannabis Permit Committee Minutes Dated August 2, 2018 and August 13, 2018 (pgs. 36-46)
3. Resolution No. 18-128, Approving CCOP NO. 02-18 and CCOP NO. 04-18 (pgs. 47-53)
4. Resolution No. 18-130, Interest Rate And Tax Rate (pgs. 54-57)

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