

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: September 25, 2017

CAO File No. 0220-05294-0002

Council District: All

Council File No. 14-0366-S14

To: The Mayor
The Council

From: Richard H. Llewellyn, Jr., Interim City Administrative Officer

Reference: Council File No. 14-0366-S14

Subject: **SUPPLEMENTAL REPORT ON CANNABIS BUSINESS FEES AND INTERIM POSITION AUTHORITY TO IMPLEMENT CANNABIS REGULATIONS WITHIN THE CITY**

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Authorize the Controller to transfer appropriations totaling \$250,000 within the Department of Cannabis Fund No. 100/13, from Account 001010, Salaries General, to Fund No. 100/13, Account 003040, Contractual Services, for the provision of professional services related to the implementation of the Accela Civic Platform;
2. Authorize by resolution the following four positions within the Office of Finance for a term of October 1, 2017 to June 30, 2018 to support the coordination of tax audits and other functions related to regulating cannabis businesses within the City of Los Angeles (City), subject to position allocation by the Board of Civil Service Commissioners (CSC) and pay grade determination by the Office of the City Administrative Officer (CAO), Employee Relations Division (ERD):

<u>No.</u>	<u>Class Code</u>	<u>Class Title</u>
4	1514-2	Tax Auditor II

3. Authorize by resolution the following position within the Department of Cannabis Regulation (DCR) for a term of October 1, 2017 to June 30, 2018 to support the administration and implementation of technology solutions related to the application, licensing, renewal, revocation processes for cannabis businesses and other functions related to regulating cannabis businesses within the City, subject to position allocation by the CSC and pay grade determination by the CAO, ERD:

<u>No.</u>	<u>Class Code</u>	<u>Class Title</u>
1	1431-3	Programmer Analyst III

4. Authorize by resolution the following four positions within the Office of the City Attorney (City Attorney) for a term of October 1, 2017 to June 30, 2018 to support: 1) the DCR; 2) the establishment of rules and regulations to implement local and State law pertaining to cannabis use within the City; 3) the environmental review of cannabis business license applications; and, 4) other functions related to regulating licensed cannabis businesses within the City, subject to position allocation by the CSC and pay grade determination by the CAO, ERD:

<u>No.</u>	<u>Class Code</u>	<u>Class Title</u>
1	0598	Assistant City Attorney
1	0596	Deputy City Attorney III
1	0595	Deputy City Attorney II
1	0580	Legal Secretary

5. Request the City Attorney, with the assistance of the CAO, to prepare and present the necessary ordinances to effectuate the following fees:
- a. Cannabis Business Tax Audit Fee: \$3,502
 - b. Cannabis Business Application Fee: \$8,748
 - c. Cannabis Business Plan Review Fee: \$7,532
6. Request the City Attorney, with the assistance of the CAO, to prepare and present an ordinance establishing a seven percent Cannabis Systems Development Fee that shall be applied to all Cannabis Business fees to defray the systems development and technology costs associated with purchasing, implementing, and maintaining systems that support the regulation of cannabis businesses within the City;
7. Request the City Attorney, with the assistance of the CAO, to prepare and present an ordinance establishing the Cannabis Regulation Special Revenue Fund for the receipt, retention, and disbursement of fees relating to the regulation of cannabis businesses within the City;
8. Instruct the Information Technology Agency, with the assistance of the DCR and the CAO, to create a Cannabis Department website and update existing City websites to: 1) make cannabis business applications available to the public in one easy to find location; 2) provide information and links to direct applicants to the Accela platform; 3) provide a place to post Public Hearing dates for specific applications; 4) provide up to date information to the public; 5) make all cannabis related business in the City transparent; and 6) direct cannabis related inquiries to the new Department's website; and,
9. Authorize the General Manager of DCR, or designee, to prepare Controller instructions and/or make any technical adjustments consistent with Council and Mayor action on this report, subject to approval of the CAO, and authorize and instruct the Controller to implement those instructions.

SUMMARY

On August 14, 2017, our Office released a report recommending interim position authority for four positions within the Office of Finance (Finance), one position within the Information Technology Agency (ITA), six positions within the Office of the City Attorney (City Attorney), 66 positions within the Police Department (LAPD), 13 positions within the Fire Department (LAFD), fees to offset the City's costs to administer application, licensing, renewal, and revocation processes for cannabis businesses, and fines to offset the City's enforcement costs.

On August 16, 2017, Ms. Catherine A. Packer was appointed Executive Director of the Department of Cannabis Regulation (DCR). After many discussions with Ms. Packer, it was agreed that resources recommended for various departments that are not involved with the administration of the application processes for Proposition (Prop) D cannabis businesses would be withdrawn. The DCR, with the assistance of impacted departments, will report back with recommendations regarding rules and regulations to administer the application, licensing, renewal, and revocation processes for licensed cannabis businesses. Our Office, with the assistance of the DCR and impacted departments, will report back with a staffing plan and associated fees for inspections, clearances, renewals, and any other fees associated with the regulation of licensed cannabis businesses or cannabis businesses seeking licensure.

Our initial report assumed the LAPD would support the DCR in regulating licensed cannabis businesses until the background, security review, and inspection functions could be functionally transferred to the DCR. The DCR will immediately assume these responsibilities and the LAPD will not be responsible for inspecting licensed cannabis businesses. Responsibilities under the purview of the DCR include, but are not limited to the following:

- Reviewing applications for cannabis businesses;
- Conducting criminal background checks on applicants for cannabis business licenses;
- Reviewing and approving security plans and security camera system(s); and,
- Conducting inspections of cannabis businesses.

Additionally, our initial report assumed 35 of the 66 LAPD positions would investigate criminal complaints involving illegal marijuana sales, cultivation, and other activities relating to the illegal marijuana market. The LAPD, with the assistance of the DCR, will report back on an enforcement model for illegal marijuana businesses structured around a centralized unit in the Gang and Narcotics Division (GND) and additional teams in the four geographic bureaus. The LAPD will submit a 2018-19 budget request for additional positions and overtime funding to investigate criminal complaints involving illegal marijuana sales, cultivation, and other activities relating to the illegal marijuana market.

The recommendations included in this report will: 1) establish interim position authority for City departments involved in the administration of application processes for Prop D cannabis businesses; 2) establish fees for special services tied to these processes; 3) establish a systems development fee to defray the systems development and technology costs associated with the regulation of cannabis businesses; and, 4) establish a special revenue fund for the receipt, retention, and disbursement of fees relating to the regulation of cannabis businesses.

FEE ANALYSIS

Our Office recommends establishing a cannabis business tax audit fee, a cannabis business application fee, and a cannabis business plan review fee to recover the costs associated with providing special services to Prop D cannabis businesses seeking licensure. Our Office developed the recommended fees utilizing a cost-based analytical approach to calculate the full cost of providing special services to Prop D cannabis businesses. This approach follows best management practices to ensure fees are fair, equitable, and represent the estimated and reasonable costs of services, as required by the Government Code. The methodology employed was a "bottom up" approach to cost analysis, where time spent per unit of fee activity is determined for each position within the DCR and associated departments. The times are totaled and then used in calculating all applicable City costs, which include: direct salaries and benefits, operating services and supplies, department and divisional overhead, and citywide overhead costs.

Additionally, our Office recommends a seven percent Cannabis Systems Development Fee that shall be applied to all cannabis business fees to defray a portion of the systems development and technology costs associated with purchasing, implementing, and maintaining systems that support the regulation of licensed cannabis businesses within the City.

As outlined in the table below, a Prop D compliant cannabis business seeking local authorization to apply for a State license would initially pay \$21,166 in fees. Additional fees are yet to be determined (TBD) and will be due prior to the issuance of a local license. Our Office, with the assistance of the DCR and impacted departments, will report back on establishing fees for inspections, clearances, renewals, and any other fees associated with the regulation of licensed cannabis businesses or cannabis businesses seeking licensure. Fines for code violations and non-compliance will also be included in the report back.

Fee Name	Fee Amount	Systems Fee	Total
Cannabis Business Tax Audit Fee	\$ 3,502	\$ 245	\$ 3,747
Cannabis Business Application Fee	8,748	612	9,360
Cannabis Business Plan Review Fee	7,532	527	8,059
Cannabis Business Security Inspection Fee	TBD	TBD	TBD
Cannabis Business Fire Inspection Fee	TBD	TBD	TBD
Cannabis Business Administrative Fee	TBD	TBD	TBD
Cannabis Business Account Maintenance Fee	TBD	TBD	TBD
Cannabis Business Annual Renewal Fee	TBD	TBD	TBD
	\$ 19,782	\$ 1,384	\$ 21,166

Fine Name	Fine Amount
Cannabis Business Code Violation Fine (Minor and Major)	TBD
Cannabis Business Non-Compliance Fine (Minor and Major)	TBD

CANNABIS REGULATION SPECIAL REVENUE FUND

Our Office recommends establishing a Cannabis Regulation Special Revenue Fund (Fund) for the deposit of fees paid by cannabis business applicants. The Fund would be utilized for the receipt, retention, and disbursement of fees relating to the regulation of cannabis businesses within the City and would be administered by the City Clerk of behalf of the DCR. Creation of the Fund will ensure that all fees and expenditures related to the regulation of cannabis businesses within the City are transparent, self-contained, tracked, and maintained at full-cost recovery.

FISCAL IMPACT STATEMENT

There is no anticipated General Fund impact. Adoption of the fees included in this report will support the recommended positions and the Department of Cannabis Regulation on an on-going basis. Our Office anticipates that the timing of fee collection will coincide with resource deployment. If necessary, gap funding will be addressed in the Mid-Year Financial Status Report. The recommendations included in this report are consistent with the City's Financial Policies as on-going expenditures will be fully supported by on-going revenues.

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