

Written materials relating to an item on this agenda that are distributed to the legislative bodies within 72 hours before the item is to be considered at its regularly scheduled meeting will be made available for public inspection at the City Clerk's Office, 300 West Third Street 4th Floor during customary business hours. Agenda reports are also on the City of Oxnard web site at [www.oxnard.org](http://www.oxnard.org).



AGENDA  
OXNARD CITY COUNCIL  
HOUSING AND ECONOMIC DEVELOPMENT COMMITTEE  
Council Chambers, 305 West Third Street  
July 14, 2020  
**Regular Meeting - 4:30 to 5:45 PM**

This meeting is held pursuant to the State Emergency Services Act, the Governor's Emergency Declaration, and Governor's Executive Order N-29-20 to allow members of the City Council or staff to participate via teleconference.

Pursuant to the Ventura County Public Health Official's order and Governor's Executive Order N-33-20, all city buildings are temporarily closed to the public. The public is encouraged to view the meeting from home on the City's website at [Oxnard.org/city-meetings](http://Oxnard.org/city-meetings), Spectrum channel 10, Frontier channel 35, or YouTube at [Youtube.com/oxnardnews](http://Youtube.com/oxnardnews). Video recordings are typically available online immediately following the meeting.

The public may provide comments to the City Council via email at [cityclerk@oxnard.org](mailto:cityclerk@oxnard.org) no later than 2:00 p.m. on the day of the meeting. Please identify the committee name, meeting date, and agenda item in the email Subject line.

A telephone option for public comments is also available at this time due to the State of California "Stay At Home" order. Requests to speak must be submitted no later than 2:00 p.m. on the day of the meeting. Use the form on the city's website to submit your request: [Oxnard.org/city-meetings](http://Oxnard.org/city-meetings), or call the City Clerk's Office at (805) 385-7803, or email your request to [cityclerk@oxnard.org](mailto:cityclerk@oxnard.org).

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

B. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

At this time, the legislative body will consider public comments for a maximum of fifteen minutes. A person may address the legislative body only on matters not appearing on the agenda and within the subject matter jurisdiction of the legislative body. Speaker requests shall be submitted as set forth on the first page of this agenda. Based on the number of speaker requests submitted, the presiding officer may impose time limits per speaker. Typically, speakers are limited to two minutes, but shorter time may be established as deemed necessary. The legislative body cannot enter into a detailed discussion or take action on any items presented during public comments at this time. Such items may only be referred to the City Manager for administrative action or scheduled on a subsequent agenda for discussion.

C. CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the Housing and Economic Development Committee approve the minutes of the June 23, 2020 regular meeting as presented.

Contact: Michelle Ascencion, (805) 385-7805

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 72 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.

**Agenda Item time estimates: (Staff Presentation / Committee Discussion / Public Comment)**

D. REPORTS

1. Community Development Department

SUBJECT: Microenterprise Home Kitchen Operations. (10/10/10)

RECOMMENDATION: That the Housing and Economic Development Committee receive a report on Microenterprise Home Kitchen Operations (MEHKO) and provide direction to City Manager to prepare a letter for the Mayor's signature recommending that the Ventura County Board of Supervisors "opt out" of the MEHKO program.

Contact: Jeffrey Lambert, (805) 385-7882

2. Community Development Department

SUBJECT: Fifth Amendment to Agreement No. 7748-17-FN with HdL Companies for Cannabis Management Services. (10/5/5)

RECOMMENDATION: That the Housing and Economic Development Committee recommend City Council:

1. Approve and authorize the Mayor to execute the Fifth Amendment to Agreement No. 7748-17-FN with Hinderliter, de Llamas and Associates ("HdL") to increase the amount of the Agreement from \$666,350 to \$791,593 which includes Sales Tax and Economic Analysis, Allocation Audit and Recovery, and Cannabis Fiscal Analysis and Taxation Strategies consulting services; and
2. Approve the budget appropriation of \$125,243 for the Fifth Amendment to Agreement No. 7748-17-FN with Hinderliter, de Llamas and Associates, which is recoverable through the Cannabis Business Permit Fee and does not impact fund balance.

Contact: Jeffrey Lambert, (805) 385-7882

E. ITEMS FOR FUTURE AGENDAS

F. ADJOURNMENT

MINUTES  
OXNARD CITY COUNCIL  
HOUSING AND ECONOMIC DEVELOPMENT COMMITTEE  
Regular Meeting  
June 23, 2020

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

At 4:31 p.m., Chair Madrigal called to order the regular meeting of the Oxnard City Council Housing and Economic Development Committee in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Members Gabriela Basua, Tim Flynn, and Chair Oscar Madrigal were present via videoconference.

Staff members present were Ashley Golden, Assistant City Manager; Kenneth Rozell, Chief Assistant City Attorney; Jeffrey Lambert, Community Development Director; Emilio Ramirez, Housing Director; Brenda Lopez, Housing Programs Manager; Ruby Mora, Housing Applications Specialist; Jesus Andrade, Housing Programs Supervisor; Rose Banuelos, Resident Services Coordinator; Letty Ortiz, Housing Choice Voucher Program Specialist; and Michelle Ascencion, City Clerk.

B. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA (None received.)

C. CONSENT AGENDA

City Clerk Department

1. SUBJECT: Approval of Minutes.

RECOMMENDATION: That the Housing and Economic Development Committee approve the minutes of the May 26, 2020 regular meeting as presented.

*It was moved by Member Flynn, seconded by Member Basua, to approve the minutes as presented.*  
VOTE: Basua, Flynn, and Madrigal voted in favor; the motion carried 3-0.

D. REPORTS

Community Development Department

1. SUBJECT: Oxnard Downtown Management District (ODMD): City Appointee to the ODMD Board, Extension of Agreement Between the City and ODMD, and Resolution Approving Levy and Collection of Assessments for Fiscal Year 2020-21 within the Oxnard Downtown Management District (ODMD).

RECOMMENDATION: That the Housing and Economic Development Committee provide recommendation to City Council to:

1. Approve the Mayor's appointment of the City Manager or his designee as the City's representative on the Oxnard Downtown Management District (ODMD);
2. Approve a Fourth Amendment of Agreement No. 4192-07-CD with the Oxnard Downtown Management District, Inc. to extend services to December 31, 2020; and
3. Adopt a resolution ordering the levy and collection of assessments within the Oxnard Downtown Management District (ODMD) for Fiscal Year ("FY") 2020-21.

Chair Madrigal announced that he would be abstaining from this item. The Community Development Director gave a report. Public comments were received from Gary Blum. Discussion ensued among the Committee, staff, and Marco LiMadre of New City America.

*It was moved by Member Basua, seconded by Member Flynn, to approve the recommended action as presented. VOTE: Basua and Flynn voted in favor; Madrigal abstained. The motion carried 2-0-1.*

#### Housing Department

2. SUBJECT: Overview of the Oxnard Housing Authority.  
RECOMMENDATION: That the Housing and Economic Development Committee receive and file a report on the Oxnard Housing Authority's structure, programs, accomplishments, and goals.

The Housing Director, Housing Programs Manager, Housing Applications Specialist, Housing Programs Supervisor, Resident Services Coordinator, and Housing Choice Voucher Program Specialist gave reports. Discussion ensued among the Committee and staff. No formal action was required.

#### E. ITEMS FOR FUTURE AGENDAS

Member Flynn recommended reviewing previous requests for future items.

#### F. ADJOURNMENT

There being no further business on the agenda, and without objection, Chair Madrigal adjourned the meeting at 5:54 p.m.

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MICHELLE ASCENCION, CMC  
City Clerk

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OSCAR MADRIGAL  
Chair



**HOUSING AND ECONOMIC DEVELOPMENT COMMITTEE  
AGENDA REPORT**

**REPORTS  
AGENDA ITEM NO. D.1**

**DATE:** July 14, 2020

**TO:** Housing and Economic Development Committee

**FROM:** Jeffrey Lambert, Community Development Director, (805) 385-7882,  
jeffrey.lambert@oxnard.org

**SUBJECT:** Microenterprise Home Kitchen Operations. (10/10/10)

**RECOMMENDATION**

That the Housing and Economic Development Committee receive a report on Microenterprise Home Kitchen Operations (MEHKO) and provide direction to City Manager to prepare a letter for the Mayor's signature recommending that the Ventura County Board of Supervisors "opt out" of the MEHKO program.

**BACKGROUND**

In 2018, Assembly Bill (AB) 626 established microenterprise home kitchen operations (MEHKO) as a new category of residential retail food facilities. The provisions of AB 626 were later refined in 2019 by AB 377. A MEHKO is defined as a food facility (i.e home-based restaurant) operated by a resident in a private home (an owned or rented, single-family or multi-family dwelling) where food is stored, handled, prepared, and served to consumers.

The intent of the legislation is to "... authorize the use of home kitchens for smallscale, direct food sales by home cooks to consumers, providing appropriate flexibility in food types and appropriate health and sanitation standards." The findings of the legislation also state that "Small-scale, home-cooking operations can create significant economic opportunities for Californians that need them most – often women, immigrants, and people of color" and that "entry into the restaurant business is difficult and expensive." Further, the State finds that the legislation promotes the use of locally sourced foods and legalization of existing operations, while providing additional training for food safety.

MEHKOs may operate within counties where the Board of Supervisors (BOS) has specifically passed an ordinance to 'opt-in' to the program. Pursuant to AB 377, if a county authorizes the permitting of MEHKO, all cities and the unincorporated areas within that county, regardless of any existing city ordinance or prohibition of MEHKOs, cannot opt-out of the County's MEHKO permitting program. The Ventura County BOS has not taken action on this issue, and no ordinance is currently in effect in Ventura County that would allow a MEHKO to be permitted. The BOS will be considering whether to opt into the program at a future meeting. In anticipation of this discussion, County staff has requested input from the Ventura County cities in order to reflect local feedback in their report to the Board. Two Ventura County cities have considered a position regarding the County's consideration to opt in or opt out of the MEHKO process. Both the City of Moorpark and the City of Thousand Oaks Councils have taken a position to ask the County to opt out of the

MEHKO program.

## **DISCUSSION**

The purpose of this report is to provide the issues for consideration by the City of Oxnard in preparation for providing testimony to the County Board of Supervisors when they consider the MEHKO issue later this year. The MEHKO legislation does include some limited operational standards:

1. Food facility operated by a resident in a private home;
2. Food must be prepared, cooked and served on the same day;
3. Food can only be consumed on-site, picked up, or delivered;
4. Direct sales only;
5. Limited to no more than 30 meals per day or 60 meals per week;
6. No more than \$50,000 in gross annual sales;
7. No more than one employee;
8. Must have a permit to operate from the Environmental Health Department (EHD);
9. One scheduled routine inspection per year allowed; and
10. Additional inspections allowed for response to a complaint.

Since one of the intents of the MEHKO legislation was to limit local control, it specifically includes several key limitations on local authority:

1. A MEHKO shall be considered a residence for all purposes of State Uniform Building Standards Code and Local building and fire codes;
2. Use of a residence for the purpose of a MEHKO shall not constitute a change in occupancy; and
3. A city or county shall not impose any restriction on MEHKOs related to land use, parking, and other zoning standards, as well as requirements of the retail food code related to hand-washing facilities, plan review, exhaust hoods, and other commercial kitchen standards.

In essence, MEHKOs are considered a residential use with no local control. The law designates the local health agency as the enforcement agency with jurisdiction over food facilities for the permitting and enforcement of MEHKOs. A permit from the health agency is required to operate. The Ventura County Environmental Health Division (VCEHD) provides permitting and other health services related to food facilities, and therefore, VCEHD would be the sole permitting authority of MEHKO if the program is adopted within Ventura County.

## **ANALYSIS**

There are two perspectives from which to view the MEHKO proposal. One, if Ventura County adopts this program, the City will have no way of controlling businesses within our boundaries nor any way to add specific performance standards or conditions to limit the potential impact these businesses may have on our residential neighborhoods. Second, access to food preparation and to customers with limited up front capitalization may be just the policy that allows struggling Oxnard families to succeed. The ability to operate a MEHKO could provide a much needed financial boost to families. However, the potential for neighborhood disruption and lack of local control seems to outweigh the undetermined potential economic benefit to the Oxnard community. Staff is recommending that the City request that the County "opt out" of the MEHKO program for the following reasons:

### **Local Control**

The State regulations continue to limit local control, both from an inclusive "opt in" by the County and eliminating the City's ability to regulate the use. The City would not be able to require a Home Occupation Permit (HOP) as currently required by City Code. Therefore our HOP standards could not be imposed, which causes an unfair business advantage and potentially creating negative residential impacts. Our HOP standards establish hours of operation, limiting visitors to the home, off-site parking, and storage of materials. These safeguards are non-enforceable under the current MEHKO legislation, in favor of a "one-size fits all" approach to statewide regulation. A relevant frame of reference is the City's Home Occupancy Operating Standards described in Attachment 1 to this report.

### **Neighborhood Impacts**

MEHKOs introduce traditionally commercial uses into residential areas. While local interest in a MEHKO program is unknown at this time, the use could result in significant impacts to sanitation, traffic congestion, parking, and building and fire safety. As an example, residential plumbing systems may not be sufficient to accommodate unfiltered commercial food waste and grease discharged by the proposed uses (up to 30 meals per day or 60 meals per week). Residential communities may also be unduly impacted by commercial traffic, loading, and parking impacts associated with MEHKOs.

### **Enforcement**

Inspections would be done by the County with no reporting or unaccountably to the City for the operations. Examples of MEHKO standards that would be difficult to enforce include determining if food is being prepared and served on the same day and the number of meals served on a single day or week.

### **Exemption of Building Standards**

The law's exemption from building and fire safety requirements also present potential life safety risks, as fire alarm and suppression systems, exhaust systems, and existing requirements will not apply. Exempting Uniform Building Standards, as MEKHO does, would potentially exempt home businesses from disability standards, making such locations inaccessible to many residents. In addition, commercial cooking equipment is installed pursuant to specific safety standards meant for commercial purposes. By exempting commercial installation standards, Uniform Building Standards, and fire codes, unregulated installation of equipment creates a potential hazard to persons and properties. Residential cooking equipment is not meant for commercial purposes.

### **Entrepreneurship**

The City's economic development partner The Economic Development Collaborative (EDC) recently completed a report "Enabling Ventura County's Entrepreneurial Eco-System 2018." This report highlights several key strategies, one specifically is relevant to this discussion. In short, the report explains:

*"Every new restaurant, every corporate spin-off, every startup dream nurtured in a community college classroom or retirement seminar is part of the ecosystem. The capacities of people in the region to do real work are like the DNA of the ecosystem. The ability to combine and recombine those productive capacities into new goods and services—including ones that are new to the region or new to a neighborhood, even if not new to the world—is the essence of the entrepreneurial process."*

One of seven strategies in this report is "Increasing the accessibility of commercial kitchen space." This would "unleash scalability for local cottage industries with commercial kitchens and build on local partnerships with food systems, restaurateurs, cities, etcetera." As this report highlights, food and food systems are key strengths of Ventura County and in particular of the City of Oxnard.

**Conclusion**

Although adding MEHKOs could enhance this focused area, the uncertain interest and the potential for neighborhood nuisance on balance do not justify the City’s support for this program at this time. The City could support other initiatives such as the pursuit of a shared commercial kitchen to serve food entrepreneurs. For the reasons stated above staff recommends the City recommend that the Ventura County Board of Supervisors "opt out" of the MEHKO program.

**STRATEGIC PRIORITIES**

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

Goal 1. Improve community safety and quality of life through a combination of prevention, intervention, and suppression efforts that address crime and underlying issues.

Goal 3. Strengthen neighborhood development, and connect City, community and culture.

Objective 3a. Create a renewed focus on establishing a positive outlook and orientation of our City, neighborhoods and overall community.

**FINANCIAL IMPACT**

As this agenda item seeks Housing and Economic Development Committee recommendation in formulating the City’s position on the MEHKO proposal, no direct financial impacts are expected. However, if the County adopts the MEHKO program, the City could experience an increase in complaints to Code Enforcement.

*Prepared by: Jeffrey Lambert, Community Development Director, Rosie Ornelas, Economic Development Manager, Scott Kolwitz, Planning Manager*

**ATTACHMENTS**

- 1. MEHKO FAQs
- 2. Home Operating Standards
- 3. MEHKO Presentation

**Microenterprise Home Kitchen Operations (MEHKO)  
Frequently Asked Questions**

1.) Will MEHKOs be allowed in both the Coastal Zone and Inland Zones?

Answer: Yes, there are no geographic limitations.

2.) Will MEHKOs be allowed in multi-family residential and ADUs or limited to single family homes?

Answer: It is anticipated MEHKOs would be allowed in all residential units (including multi-family). Only signs and noise limitations would apply.

3.) Can the County or the City introduce a separation requirement between MEHKOs to not overwhelm residential neighborhoods?

Answer: No. The County can not impose separation restrictions.

4.) Can the County or the City identify a maximum number of customers that can be at the property at any one time (5 to 10 was suggested as a "normal" residential size gathering)?  
Require a reservation to limit lines out the door?

Answer: No. The County cannot limit the number of customers.

5.) Will any parking standards apply to MEHKOs?

Answer: No. Only residential parking standards apply.

6.) Will grease interceptors be required for “restaurant” like uses or will this only be at the discretion of the Building Official? Will Environmental Health be reviewing MEHKOs?

Answer: Environmental Health will review and determine if further improvements are necessary to comply with MEHKO regulations

7.) Will signage be allowed?

Answer: Signage is not allowed.

## Home Occupancy Operating Standards

Should the County adopt a MEHKO ordinance, the City will not be able to adopt any specific standards or regulations to implement this ordinance. As MEHKOs are to be subject to the same type of standards which regulate residences, it is relevant to offer the following operational standards patterned on the City of Oxnard's Home Occupation Operating Standards (Oxnard City Code Section 16-403) for the County to consider. Although it is not possible for the County to impose these standards should they opt-in to this program, if future legislation allows these improved operational standards, the City could reconsider its position:

- The operation of a MEHKO shall not alter the appearance of the dwelling unit by the use of colors, materials, lighting, signs or exterior alterations not compatible with the surrounding area. No structural alterations shall be permitted within the dwelling to separate any area used for a home occupation from the principal dwelling space.
- A MEHKO permit shall only be approved for a resident of the subject property. No area used for a home occupation shall be subleased or rented to another party.
- There shall be no on- or off-site advertising that identifies the MEHKO by street address, except as may be required by State law, Ventura County or by city business licensing requirements.
- The MEHKO shall be conducted indoors and confined completely within a dwelling or accessory building. The area used for a MEHKO shall not exceed 25% of the gross area of one floor of the dwelling or accessory building.
- Use of a garage for MEHKO purposes shall not interfere with the permanent maintenance of off-street parking spaces, including required garage spaces.
- Activities conducted by and equipment or material used in the MEHKO shall not change the fire safety or occupancy classifications of the dwelling or accessory building, or use utility or solid waste services in amounts greater than normally provided for the residential use.
- The applicant for a permit for a MEHKO that is to be conducted on rental property shall submit the property owner's written authorization for the proposed use prior to the issuance of a MEHKO.
- The MEHKO shall not involve the interior or exterior use or storage of material or mechanical equipment which is not part of a normal household or hobby use.
- MEHKOs shall be conducted only between the hours of 7:00 a.m. and 9:00 p.m.
- The MEHKO shall not create more noise, light, vibration, smoke, odor, humidity, heat, cold, glare, dust or dirt, electrical interference, pedestrian activity, vehicular traffic, or television or radio interference, than is customary in the residential area in which the MEHKO is located.
- Deliveries to a MEHKO shall not involve types of vehicles or more frequent deliveries than are customary for a residential area.
- The applicant is responsible for complying with all city, county, State and federal requirements including business license requirements and local zoning laws.
- Payment of the business license tax is not an endorsement of the business or verification of competency or reliability.

# Microenterprise Home Kitchen Operations (MEHKOs)

Ventura County Environmental Health  
Resource Management Agency  
Environmental Health Division

City of Oxnard  
Community Development Department

Jeffrey Lambert, Community Development Director  
Community Development Department

Housing and Economic Development Committee  
July 14, 2020



## Ventura County Environmental Health

### MEHKO Contacts:

Betty Huff, Program Manager  
Consumer Food Protection Program  
Environmental Health Division

[Betty.huff@ventura.org](mailto:Betty.huff@ventura.org) or (805) 654-2814

Charles Genkel, Director  
Environmental Health Division

[Charles.Genkel@ventura.org](mailto:Charles.Genkel@ventura.org) or (805) 654-2818



- AB 626 & AB 377 - Assemblyman Edwardo Garcia
- Allows for small-scale (restaurant), direct food sales to consumers from home-based food facilities.
  - Can be operated from single or multi-family homes, owned or rented.
  - An “opt-in” by the Board of Supervisors automatically opts-in all cities within the county.
- Intent: “... authorize the use of home kitchens for small scale, direct food sales by home cooks to consumers, providing appropriate flexibility in food types and appropriate health and sanitation standards.”

3

## Intent of Legislation

- Decriminalized and limited local regulation of home kitchen operation.
- Promote entrepreneurship and economic empowerment among low income and marginalized communities.
- Home cooked meals can improve access to healthy food.
- Creates regulation for food handling and safety.
- Permitted cottage food operations are limited to non-perishable food – MEHKOs allow for perishable “restaurant style” food.
- Limited scale of sales can provide stepping stone to restaurant ownership.

## MEHKO Limited Operational Standards

- Food facility operated by a resident in a private home.
- Food must be prepared, cooked and served on the same day.
- Food can only be consumed on-site, picked up, or delivered.
- Direct sales only.
- Limited to no more than 30 meals per day or 60 meals per week.
- No more than \$50,000 in gross annual sales.
- No more than one employee.
- Must have a permit to operate from the Environmental Health Department (EHD).
- One scheduled routine inspection per year allowed.
- Additional inspections allowed for response to a complaint.

5

## Planning and Building and Exemptions

- A MEHKO shall be considered a residence for all purposes of State Uniform Building Standards Code and Local building and fire codes.
- Use of a residence for the purpose of a MEHKO shall not constitute a change in occupancy.
- For zoning purposes, a city or county shall not impose any restriction on MEHKO in a residential dwelling.

# Potential Concerns & Impacts

- Local Control
  - No local standards can be applied
- Neighborhood Impacts
  - Traffic, Parking, Loading, Noise
- Enforcement
  - One planned inspection per year
- Exemption from Building Standards
  - Fire hazards, existing requirements, safety risks
  - Exemptions from Retail Food Code
    - Handwashing requirements
    - Plan review process
    - Exhaust hood ventilation

7



14

8

“Enabling Ventura County’s Entrepreneurial Ecosystem 2018.”

- One of seven strategies in this report is “Increasing the accessibility of commercial kitchen space.”
- This would “unleash scalability for local cottage industries with commercial kitchens” and build on local partnerships with food systems, restaurateurs, cities, etc.”
- As this report highlights, food and food systems are key strengths of Ventura County and in particular of the City of Oxnard.

9

## Recommendation

That the Housing and Economic Development Committee receive a report on Microenterprise Home Kitchen Operations (MEHKO) and provide direction to City Manager to prepare a letter for the Mayor's signature recommending that the Ventura County Board of Supervisors "opt out" of the MEHKO program



# Discussion



**HOUSING AND ECONOMIC DEVELOPMENT COMMITTEE  
AGENDA REPORT**

**REPORTS  
AGENDA ITEM NO. D.2**

**DATE:** July 14, 2020

**TO:** Housing and Economic Development Committee

**FROM:** Jeffrey Lambert, Community Development Director, (805) 385-7882,  
jeffrey.lambert@oxnard.org

**SUBJECT:** Fifth Amendment to Agreement No. 7748-17-FN with HdL Companies for Cannabis Management Services. (10/5/5)

**RECOMMENDATION**

That the Housing and Economic Development Committee recommend City Council:

1. Approve and authorize the Mayor to execute the Fifth Amendment to Agreement No. 7748-17-FN with Hinderliter, de Llamas and Associates (“HdL”) to increase the amount of the Agreement from \$666,350 to \$791,593 which includes Sales Tax and Economic Analysis, Allocation Audit and Recovery, and Cannabis Fiscal Analysis and Taxation Strategies consulting services; and
2. Approve the budget appropriation of \$125,243 for the Fifth Amendment to Agreement No. 7748-17-FN with Hinderliter, de Llamas and Associates, which is recoverable through the Cannabis Business Permit Fee and does not impact fund balance.

**BACKGROUND**

HdL was created in 1983 by a former finance director, to help cities get the details of their tax revenue, including assisting with the analysis of the tax reports. Currently HdL provides property tax, sales tax, Transient Occupancy Tax (TOT) audits, Business License audits and software systems, and Cannabis Management Programs. HdL's Cannabis Management Program includes former professional government cannabis policy experts with extensive knowledge related to cannabis. These experts assist local government agencies to implement and manage effective cannabis regulation and taxation options. HdL has been retained by over 400 cities, counties, and special agencies in the State to assist in the development of cannabis related approaches unique to the specific jurisdiction. For cannabis related work, HdL experts work closely with law enforcement, the California Department of Consumer Affairs, the state legislature and other state agencies along with the League of California Cities to resolve local government issues related to the Cannabis Industry. HdL knows the best practices and lessons learned from Colorado and various jurisdictions in California because their experts have helped develop these policies and continue to play a leadership role in the implementation of these programs. HdL has worked with a number of other cities in Ventura County.

Since 1999, HdL has been providing sales tax, property tax and business tax auditing, allocation audit recovery services, and economic analysis services to the city. On April 26, 2018 the City Council approved a Second Amendment to retain HdL to conduct cannabis fiscal analysis and taxation strategies. On January 4, 2019, the contract with HdL was amended by a Third Amendment to authorize allow the firm to view sales tax

information from the State on behalf of the Finance Department. On July 2, 2019, City Council approved the Fourth Amendment to Agreement No. 7748-17-FN for Cannabis Management Services and the appropriation of \$115,100 to cover the cost of the amendment.

## **DISCUSSION**

The Council's July 2019 amendment (Fourth Amendment), was for HdL's assistance with cannabis evaluation and permitting. Over the past year, HdL has assisted in the cannabis permitting process through:

- Application review and screening
- Preparation of competitive evaluations and ranking reports
- Staff assistance and subject matter expertise (SME)

The Fourth Amendment included an assumption that 30 applications would be reviewed through the above process; this assumption was inclusive of all types of cannabis operations. Through the City's cannabis manufacturing and distribution solicitation the City received 11 applications; no testing applications were received and the cultivation window has not yet opened. Through a competitive process, the City has selected five cannabis manufacturers and 3 distributors. Through the City's retail cannabis application window, the City received 50 retail cannabis applications; the window closed on May 22, 2020 for retail cannabis applications.

The July 2019 contact amendment amount is insufficient because it assumed the City would receive 30 cannabis applications and to date the City has received 61 applications. Due to the large number of retail applications (a total of 50), additional time has been spent on background checks, and is anticipated to occur in the future due to application review, merit-based ranking and interviews, and SME/staff support. In addition this contract amendment will include HdL providing site-plan review assistance, including site visits and post-inspection visits as deemed necessary. As part of the cannabis manufacturing and distribution site plan review, operators are required to comply with specific state separation and security standards. Through processing of Development Design Review (DDR) applications for manufacturing and distribution applicants, it has become apparent that assistance by HdL is necessary in evaluating DDR applications because staff is not familiar with the unique state requirements associated with cannabis operators.

## **STRATEGIC PRIORITIES**

This agenda item supports the Economic Development strategy. The purpose of the Economic Development strategy is to develop and enhance Oxnard's business climate, promote the city's fiscal health, and support economic growth in a manner consistent with the city's unique character. This item supports the following goals and objectives:

Goal 1. Create vibrant and economically sustainable commercial, industrial and retail industries throughout the City.

Objective 1a. Focus available resources on a comprehensive effort to promote economic activity in Oxnard, including a marketing program that communicates the City's available resources and assets.

Goal 2. Enhance business development throughout the City.

Objective 2a. Develop a strong citywide economy which attracts investment, increases the tax base, creates

employment opportunities, and generates public revenue.

Objective 3a. Maximize funding sources.

Objective 3b. Set rates and fees to fully recover cost.

## **FINANCIAL IMPACT**

To date, \$160,123 has been collected in Cannabis permit revenue. HdL's costs to date, for services under the Second and Fourth Amendments, total \$88,863. The cost of the Fifth Amendment is \$125,243, bringing the total contract amount to \$791,593. The cost of the amendment is recoverable through the cannabis business selection and land use permitting process, which this amendment with HdL helps establish. A budget appropriation is being requested to appropriate funds to Project #20IN01, Account no. 101-4101-804-8209, to cover the cost of the Fifth Amendment, which will be fully offset with revenue from the cannabis permit fees. It is anticipated that approximately \$183,243 in permit revenue will be collected in FY 2020-2021, which, when combined with the additional permit revenue collected to date, fully covers the cost of the Fifth Amendment. Appropriation of these funds will not impact fund balance.

*Prepared by: Kathleen Mallory, Planning & Sustainability Manager*

## **ATTACHMENTS**

1. Fifth Amendment Agreement No. 7748-17-FN with HdL Companies
2. Budget Appropriation
3. HdL 5th Amendment Presentation

**FIFTH AMENDMENT TO AGREEMENT FOR CONSULTING SERVICES**

This Fifth Amendment (“Fifth Amendment”) to the Agreement for Consulting Services (“Agreement”) is made and entered into in the County of Ventura, State of California, this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the City of Oxnard, a municipal corporation (“City”), and Hinderliter, de Llamas and Associates (“Consultant”). This Fifth Amendment amends the Agreement entered into on January 30, 2017, by City and Consultant. The Agreement previously has been amended on April 27, 2017, by a First Amendment, on April 26, 2018, by a Second Amendment, on January 4, 2019, by a Third Amendment, and on July 2, 2019, by a Fourth Amendment.

City and Consultant agree as follows:

1. Section 1 of the Agreement, Scope of Services, is amended to include the services set forth in Exhibit A-3, attached hereto and incorporated in full herein by this reference.
2. In Section 12 of the agreement the date of “March 1, 2021” is deleted and replaced with “December 31, 2021”.
3. Subsection a of section 14 of the Agreement is amended as follows:
  - a. The figure “\$666,350” is replaced by the figure “\$791,593”.
  - b. Exhibit B-3 is attached hereto and incorporated herein by this reference into the Agreement.
4. As so amended, the Agreement remains in full force and effect.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date first written above.

**CITY OF OXNARD**

**CONSULTANT**

\_\_\_\_\_  
Tim Flynn, Mayor                      Date

\_\_\_\_\_  
Andrew Nickerson, President      Date

ATTEST:

\_\_\_\_\_  
Gary Lott, Chief Operations      Date  
Officer

\_\_\_\_\_  
Michelle Ascencion                  Date  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Stephen M. Fischer                  Date  
City Attorney

<sup>1</sup> The City Council must authorize and the Mayor must sign the amendment if the original contract and all amendments collectively total over \$200,000 annually. The City Manager may authorize and sign the amendment if the original contract and all amendments collectively total over \$100,000 but up to \$200,000 annually. The Purchasing Manager may authorize and sign the amendment if the original contract and all amendments collectively total up to \$100,000 annually. A Buyer may authorize and sign the amendment if the original contract and all amendments collectively total up to \$25,000 annually.

<sup>1</sup> The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company

**FIFTH AMENDMENT TO AGREEMENT FOR CONSULTING SERVICES**

## **EXHIBIT A-3 SCOPE OF SERVICES**

### **Objective 1: Initial Intake and Processing of Applications (Resubmittals)**

Consultant's cost for reviewing applications includes intake processing and an initial screening for completeness. However, 14 of the City's 50 applications are resubmittals, meaning that Consultant has already incurred the time for intake and initial review, and will now have to do so a second time for these 14 applications. Consultant shall charge 1 hour of staff time to conduct this initial intake and processing of these resubmitted applications.

### **Objective 2: Application Reviews, Merit-Based Ranking and Interviews**

Consultant staff will conduct an initial screening of all applications for completeness based upon an objective checklist of required documentation. This initial screening shall allow for some limited discretion in determining whether submitted documents are substantively complete but shall not otherwise consider the quality of the submissions. Applications deemed incomplete will be disqualified and those applicants will not be allowed to submit any supplemental information.

Applications which have been deemed complete will move forward for a full review, including scoring and merit-based ranking. Applicants must provide detailed information on how they plan to meet the required criteria. An applicant's point score shall be based on their demonstrated ability to meet or exceed minimum requirements in each category.

Reviews shall include narrative comments that identify both strengths and weaknesses of each application as well as any deficiencies or areas of concern. Reviews shall be adequately detailed to inform the subsequent interview process but shall not contain any recommendations for approval or denial, other than a numerical score.

Proposed actions described in the applications shall be considered binding conditions of any resulting permit. Failure to meet or comply with any such requirements after a permit has been granted may subject the applicant to penalties and/or revocation proceedings.

Consultant will design and conduct an interview panel for all applicants that receive passing scores. The interview panel shall consist of designated City staff, assisted by a subject-matter expert from HdL serving as facilitator. Interviews shall be one hour long, with a half hour between to allow for reaction, discussion and note taking by the panel. Interviews shall be scheduled for successive days, where possible, with 5 interviews per day.

### **Objective 3: Preparation of Final Report**

Consultant shall compile all scores from both the application review process and the applicant interviews and shall prepare a final report for the City, which shall inform the final determination of which applicants shall be granted permits.

#### **Objective 4: Background Checks**

Consultant is qualified to provide supplemental background checks for principals and employees of cannabis businesses as part of the application process. Consultant’s background checks supplement the State-required Live Scan fingerprint check to identify other factors that local governments may wish to consider before granting discretionary business licenses or permits. These considerations may include other felony offenses, misdemeanor convictions, arrest records, civil judgments, restraining orders, the terrorist screening database, the national sex offender registry, delinquent child support payments, bankruptcies, employment and credit records, and more.

Consultant’s comprehensive background process checks the subject’s name and social security number against over 200 million databases nationwide. Consultant’s search includes up to 5 variations on the subject’s name and will alert if additional aliases are found which might warrant further investigation.

Consultant offers separate rates for owners, principals or managers of cannabis businesses and for regular employees or line staff. Consultant also offers a lower rate for annual renewals after the initial background check has been completed. Consultant’s rates include an HdL-designed employee identification badge with the city logo which meets all State regulatory requirements.

Background Checks	Owner, principal or manager	Employee or line staff
Initial background check	\$300	\$100
Annual renewal	\$100	\$75
Reissue lost or stolen badge	\$10	\$10

Prices valid as of June 17, 2020.  
Prices subject to change without notice.

Consultant provides an online portal for applicants to enter their authorization and application for background checks and submit all necessary documentation. Applicants provide their payment directly to Consultant through the portal, so there is no cost to the City.

#### **Objective 5: Site Plan Evaluations**

Consultant shall conduct a pre-license site plan evaluation of each cannabis business prior to issuance of a certificate of occupancy. Evaluations shall include a site visit to verify all interior and exterior physical site security requirements have been addressed in accordance with the application and all State and local requirements. Site visits shall examine all entrances and exits, limited access areas, locks and alarm systems, access control procedures, surveillance camera locations, safes and cash management procedures, signage, operational protocols and administrative privileges associated with the license type(s) being sought, and

other requirements as necessary. The HdL inspector may be accompanied on the site inspection by representatives from the Police Department and Fire Department, if desired by the City.

The cost for this service includes an initial site-plan evaluation and report, coordination and arrangements with the business and other agencies, 2-hour site visit, post-inspection report, all travel costs and any follow up.

### **Objective 6: Subject Matter Expertise and Technical Assistance**

Consultant shall provide up to 40 hours of general consulting in the form of technical assistance and subject matter expertise to be utilized on an as-needed basis at the City's request. Such assistance may include monitoring of changes to State laws and regulations, understanding of the industry, participation in conference calls, responding to staff inquiries via phone and email, reviewing staff reports to the City Council, assisting with responses to inquiries from the public, or other issues yet to be determined as requested by the City.

### **Additional Services**

This proposal does not include any additional services that are not specifically enumerated herein. The proposal assumes Consultant will not be asked to review any supplemental information provided by applicants, and that Consultant will not be a part of any appeal process. Any such additional reports or documentation that may be requested by the City would be in addition to the costs shown in the table below and shall be billed at Consultant's hourly rate.

The costs and timeline assume that the City will utilize Consultant's standard review and interview process as proposed. Any modifications to this process requested or required by the City may affect the estimated timeline as presented and may be subject to additional charges or modified per-unit rates.

### **Conflicts of Interest and Non-Disclosure**

HdL Companies works solely with public agencies and has no private-sector clients in the cannabis industry. All cannabis business applications will be kept confidential by HdL and will not be shared internally beyond those HdL employees who are required to have access for purposes of conducting reviews or interviews, or for administrative purposes as necessary.

**EXHIBIT B-3  
COMPENSATION**

The estimate of total costs for the 50 applications totals \$202,730. The carryover amount of \$77,487.50, the remaining balance on the current contract, has been subtracted, to give a total for the Fifth Amendment of \$125,242.50. These costs would augment and be in addition to the carryover amount from the current contract.

The hours and costs in the table do not include any additional items that are not contemplated by this scope of services. Among these are review of any supplemental materials submitted by applicants, preparation of additional reports or documents, or assistance with appeals. Prices are valid for 90 days from June 17, 2020.

Scope of Service Objectives	Estimated Cost
<b>Objective 1:</b> Intake and initial processing of applications and review for completeness. <sup>1</sup>	\$195 per application
<b>Objective 2:</b> Application reviews, scoring, merit-based ranking, interviews and selection process. <sup>1</sup>	\$3,000 per application
<b>Objective 3:</b> Compile all scores and prepare final report to the City.	\$2,000
<b>Objective 4:</b> Conduct background checks as a part of the application review process. Cost paid directly by applicants.	No cost to City
<b>Objective 5:</b> Conduct pre-license site plan evaluations of each business prior to issuance of a certificate of occupancy.	\$1,600 per business
<b>Objective 6:</b> 40 hours of subject matter expertise and technical assistance to be used by the City on an as-needed basis.	\$10,000
<b>Travel</b> (if and as needed for interviews)	\$600 per day
<b>Estimate of total costs</b>	
<b>Review for completeness</b> (assumes 14 applications at \$195 each)	<b>\$2,730</b>
<b>Reviews/interviews</b> (assumes 50 applications at \$3,000 each)	<b>\$150,000</b>
<b>Prepare final report</b> (flat rate)	<b>\$2,000</b>
<b>Background checks</b> (cost paid directly by applicants)	<b>No cost to City</b>
<b>Site plan evaluations</b> (assumes 20 businesses)	<b>\$32,000</b>
<b>Technical assistance</b> (assumes 40 hours)	<b>\$10,000</b>
<b>Travel</b> (assumes 10 days on site @ 5 interviews per day)	<b>\$6,000</b>
<b>Total</b>	<b>\$202,730.00</b>
<b>Remaining balance on current contract</b>	<b>(\$77,487.50)</b>
<b>FIFTH AMENDMENT TOTAL NOT TO EXCEED</b>	<b>\$125,242.50</b>
<sup>1</sup> Costs may be directly recoverable from each applicant. All other costs would be apportioned among the number of applicants.	

**REQUEST FOR BUDGET APPROPRIATION - FY20-21**

**Department:** Community Development

**Date:** July 28, 2020

**Project/Program**

**Manager:** Kathleen Mallory

**Phone:** 385-8370

**Reason for Appropriation:**

To appropriate funds for cannabis management services per the Fifth Amendment to Agreement #7748-17-FN with Hinderliter, de Llamas & Associates (HdL).

**Accounts and Descriptions**

**AMOUNT**

**Fund: GENERAL FUND (101)**

**Revenues/Transfers In**

**HDL 4th & 5th Amendment-Cannabis (Project #20IN01)**

101-4101-555.73-49 CANNABIS PERMIT FEES 125,243

Sub-total Revenues 125,243

**Expenditures/Transfers Out**

**HDL 4th & 5th Amendment-Cannabis (Project #20IN01)**

101-4101-804.82-09 SVCS-OTHER/PROF CONTRACT 125,243

Sub-total Expenditures 125,243

**Net Change to Fund Balance 0**

**Net Appropriation Change 125,243**

**Approvals**

Department Director \_\_\_\_\_

Chief Financial Officer \_\_\_\_\_

City Manager \_\_\_\_\_

# Fifth Amendment to Agreement No. 7748-17-FN with HdL Companies for Cannabis Management Services

Jeffrey Lambert, Community Development Director  
Kathleen Mallory, Planning & Sustainability Manager

Housing and Economic Development Committee  
July 14, 2020



## Background

- HdL provides sales tax, property tax and business tax auditing, allocation audit recovery services, and economic analysis services to the city.
- In July 2019 City amended the contract (4th Amendment) to add cannabis work to the City HdL contract.
- 4th Amendment provided for \$115,000 for HdL to provide:
  - Cannabis application review and screening
  - Preparation of competitive evaluations and ranking reports
  - Staff assistance and subject matter expertise (SME)

## Background

- 4th Amendment assumed 30 applications
- City currently has 61 applications, inclusive of retail, manufacturing, and distribution
- City selected 5 cannabis manufacturers and 3 distributors through HdL assistance
  - Development Design Review permits currently being processed
- Retail application window closed on May 22, 2020
- Retail applications being evaluated

3

## HdL 5th Contract Amendment

- HdL 5th contract amendment, scope:
  - Increases number of applications reviewed and evaluated
  - Site-plan review assistance, including site visits and post-inspection visits as deemed necessary
  - Background checks, and merit-based ranking and interviews, and subject matter expertise and staff support.

## HdL 5th Contract Amendment

- The cost of the Fifth Amendment is \$125,243, bringing the total contract amount to \$791,593
  - Cost of the amendment is recoverable through the cannabis business selection and land use permitting process
- Anticipating \$183,243 in 2020-2021 permit revenue
  - Which covers HdL expenses associated with this amendment

5

## Recommendation

That the Housing and Economic Development Committee recommend City Council:

1. Approve the Fifth Amendment to Agreement #7748-17-FN to increase the amount of the Agreement from \$666,350 to \$791,593; and
2. Approve the budget appropriation of \$125,243 for the Fifth Amendment



# Discussion