

# CITY OF WILDOMAR CITY COUNCIL AGENDA

6:30 P.M. – SPECIAL MEETING

MAY 2, 2017  
Council Chambers  
23873 Clinton Keith Road



Timothy Walker, Mayor, District 3  
Ben J. Benoit, Mayor Pro Tem, District 1  
Bridgette Moore, Council Member, District 4  
Dustin Nigg, Council Member, District 2  
Marsha Swanson, Council Member, District 5

Gary Nordquist  
City Manager

Thomas D. Jex  
City Attorney

**PLEASE TURN ALL DEVICES TO VIBRATE/MUTE/OFF FOR THE DURATION OF THE MEETING. YOUR COOPERATION IS APPRECIATED.**

**CALL TO ORDER – SPECIAL SESSION - 6:30 P.M.**

**ROLL CALL**

**FLAG SALUTE**

**PUBLIC COMMENTS**

**GENERAL BUSINESS**

**1.1 Strategy Directions for Possible Amendments to City’s Marijuana Regulations Following Proposition 64**

**RECOMMENDATION:** Staff recommends that the City Council discuss and provide strategic direction to staff on actions relating to amendments to the City’s marijuana regulations following the adoption of Proposition 64.

**1.2 City Hall Facility Lease- Eighth Amendment**

**RECOMMENDATION:** Staff recommends that the City Council approve and authorize the City Manager to sign the proposed Eighth Amendment to the City Hall Facility Lease.

**ADJOURN THE CITY COUNCIL**

If requested, the agenda and backup materials will be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans With Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

Any person that requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting, may request such modification, accommodation, aid or service by contacting the City Clerk either in person or by phone at 951/677-7751, no later than 10:00 a.m. on the day preceding the scheduled meeting.

I, Debbie A. Lee, Wildomar City Clerk, do certify that on April 27, 2017, by 5:00 p.m., a true and correct copy of this agenda was posted at the three designated posting locations:

Wildomar City Hall, 23873 Clinton Keith Road;  
U.S. Post Office, 21392 Palomar Street;  
Wildomar Library, 34303 Mission Trail Blvd.

  
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Debbie A. Lee, CMC, City Clerk

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #1.1**  
**GENERAL BUSINESS**  
**Meeting Date: May 2, 2017**

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**TO:** Mayor and City Council Members

**FROM:** Gary Nordquist, City Manager

**SUBJECT:** Strategy Directions for Possible Amendments to City's Marijuana Regulations Following Proposition 64

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council discuss and provide strategic direction to staff on actions relating to amendments to the City's marijuana regulations following the adoption of Proposition 64.

**BACKGROUND:**

At the March 29, 2017 City Council meeting, staff presentations and community testimony was heard in response to the following information that was provided that evening.

On October 9, 2015, Governor Brown signed Assembly Bills 243 and 266 and Senate Bill 643. Taken together, the three bills create the Medical Cannabis Regulation and Safety Act ("MCRSA")<sup>1</sup>, a comprehensive state regulatory and licensing system governing the cultivation, testing, and distribution of medical marijuana, as well as physician recommendations for medical marijuana. MCRSA is intended to govern all commercial cannabis activities, which are defined as "cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product." Under MCRSA, all medical marijuana businesses, or commercial cannabis activities, must have both a state license and local permit, license, or other authorization in order to operate lawfully within California. (Bus. & Prof. Code § 19320(a).)

On November 8, 2016, California voters approved Proposition 64, known as the "Control, Regulate and Tax Adult Use of Marijuana Act" (the "AUMA") which allows individuals to possess, use, and cultivate recreational marijuana in certain amounts. An individual may possess up to 28.5 grams of non-concentrated marijuana or 8 grams of marijuana in a concentrated form (e.g., marijuana edibles). In addition, an individual

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<sup>1</sup> Senate Bill 837, signed by Governor Brown on June 27, 2016, changed the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act.

may cultivate up to six marijuana plants at his or her private residence provided that no more than six plants are being cultivated on the property at one time. The AUMA also establishes a regulatory system for commercial businesses that is very similar to the medical marijuana regulatory system under MCRSA. Under the AUMA, recreational marijuana cultivators, manufacturers, distributors, retailers, and testing laboratories may operate lawfully if they obtain a state license and comply with local ordinances.

The AUMA does not limit local police power authority over commercial marijuana business and land uses. Cities may prohibit such businesses completely if they so choose. With regard to private cultivation, however, there is one important limitation on local police power. Cities may ban private outdoor marijuana cultivation, but they may not completely ban private indoor cultivation of six marijuana plants or less. The AUMA provides that private indoor cultivation of six marijuana plants or less is lawful under both state and local law and is only subject to “reasonable” local regulations.

Wildomar Municipal Code section 17.12.040 currently prohibits all medical marijuana dispensaries in the City, but the Municipal Code does not address recreational marijuana business in express terms. On December 14, 2016 and on January 11, 2017, the City Council adopted and extended an interim urgency ordinance establishing a moratorium pertaining to private marijuana cultivation and non-medical facilities pursuant to Government Code section 65858. The interim urgency ordinance is effective until December 12, 2017 and may be extended for one additional year. It contains the following temporary restrictions:

1. All commercial non-medical marijuana businesses that require a license under Proposition 64 will be prohibited while the interim urgency ordinance is in effect. This temporary prohibition will apply to recreational marijuana cultivation, manufacturing, distribution, testing, and retail sales.

2. All private marijuana cultivation will be prohibited except that an individual may cultivate no more than six living marijuana plants inside his or her private residence, or inside an accessory structure to his or her private residence located upon the grounds of that private residence that is fully enclosed and secured against unauthorized entry, provided that the owner of the property provides written consent expressly allowing the marijuana cultivation to occur, the person conducting the marijuana cultivation complies with all applicable Building Code requirements set forth in Chapter 16 of this code, there is no use of gas products (CO<sub>2</sub>, butane, propane, natural gas, etc.) on the property for purposes of marijuana cultivation, and the marijuana cultivation complies with Health and Safety Code section 11362.2(a)(3). Health and Safety Code section 11362.2(a)(3) provides that no more than six marijuana plants may be cultivated at or upon the grounds of a private residence at one time.

3. Non-medical marijuana business, including nonprofit businesses, are prohibited from delivering marijuana to people in the City.

## **DISCUSSION:**

At this time Staff is seeking specific direction from the City Council before taking action on this matter. As there are many approaches to implementing amendments to the City's current regulation, the administrative goal is to address the needs of the community and implement policy directives in the most efficient and effective manner. Staff has explored several options and prior to embarking on numerous paths with a variety of costs, staff has focused on the following two:

*1. Implementing a program to accommodate some or all of the provisions set forth in Proposition 64 would entail the following considerations:*

- **Community Assessment/Survey & Potential Tax Revenue**
  - First step – Conduct Community survey to determine how much support is there for marijuana dispensaries, cultivation, manufacturing, testing labs etc. – with or without a tax.
    - Tax consultant to analyze and explain realistic tax revenue possibilities
  - Second step--Prepare tax language for ballot if surveys show likely success and sufficient tax revenue
    - If General Tax (50% + 1) then must be November 2018
    - If Special Tax (66.67%) then can be any time, prefer November 2017
      - Ballot language to Registrar by August 11, 2017 (*adopt ordinance or resolution ordering an election on tax measure at least 88 days before election at a public hearing*)
  - Successful Ballot Measure will require:
    - Develop ordinance allowing some marijuana businesses / cultivation
    - Conduct Council special meetings to determine regulation details
    - Planning Commission and City Council hearings to adopt
    - City Attorney –Reviews and Research
    - Staff Impacts and Changes
    - CEQA Consultant and Study
    - Issue Permits... 2019 or 2020 depending on ballot election date.

*2. Defer Actions Until Later Date – Adopt an ordinance that marijuana businesses / cultivation are not an allowable land use and possible amendments to be*

reviewed again after a specified date.

- Provide a date in the ordinance that City Council will revisit the issue by a specific date.
- Provides the opportunity for best practices to be developed by other agencies and minimizes costs.
- State regulations and process will be in place and federal enforcement practices will be known.
- Low cost estimate for the following activities to develop an ordinance not allowing marijuana businesses and cultivation to the extent possible.
  - City Attorney
  - City Staff
  - Planning Commission and City Council Public Hearing

Staff will provide a presentation of these two options at the City Council meeting and will have staff and resources available to facilitate the discussion, review and directives.

Submitted by:  
Gary Nordquist  
City Manager

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #1.2**  
**GENERAL BUSINESS**  
**Meeting Date: May 2, 2017**

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**TO:** Mayor and City Council Members

**FROM:** Gary Nordquist, City Manager

**SUBJECT:** City Hall Facility Lease- Eighth Amendment

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council approve and authorize the City Manager to sign the proposed Eighth Amendment to the City Hall Facility Lease.

**BACKGROUND/DISCUSSION:**

Recent discussions with the building's landlord have provided the City with opportunity to acquire additional office space in the two suites (210 and 211) being vacated by MP Insurance Solutions. These two suites are located on the second floor just across the hall from the main entrance to the City Hall office. These suites are configured with 4 offices, a conference room, kitchen and reception area. Additionally, all communication wiring is complete and the offices are virtually in turn key condition. The previous tenant, who is moving down the street to The Barn office building, has offered to transfer the existing office furnishings and equipment to the City at a very competitive rate and staff will acquire these items if the lease amendment is approved.

These offices would be used for the Mayor/Council and City management functions which were previously planned to move into the unfinished suite 209. Suite 209 could be converted at minimal cost into a combination conference, training and classroom for city staff and community uses. The terms of the lease for these two additional suites would be the same as the City is paying for the other suites in the building. The current rate is \$1.32 per square foot for rent and estimated \$0.55 per square foot for the shared operating and other common building expenses. The lease of these suites would be effective May 3, 2017, concluding December 2021 with one option to extend the lease 3 additional years. These are the same terms as the existing lease.

**FISCAL IMPACT:**

The addition of 2,582 square feet would increase the month lease expense by \$4,828.34 per month. Operational budget savings could be used for this expense for the remainder of this fiscal year.

**ATTACHMENT:**

Eighth Amendment to the Facility Lease

# Attachment A

## Eighth Amendment To the City Hall Facility Lease

**EIGHTH AMENDMENT TO LEASE**

THIS EIGHTH AMENDMENT TO LEASE (“Eighth Amendment”) is made and entered into as of May 3, 2017 (the “Effective Date”), by and between CFT NV Developments, LLC, a Nevada limited liability company (“Landlord”) and The City of Wildomar, a California municipal corporation (“Tenant”), with reference to the following facts:

A. Naples Plaza Ltd, L.P., a California limited partnership, as predecessor in interest to Landlord, and Tenant entered into that certain Office Building Lease dated July 1, 2008, as amended by that certain First Amendment to Lease dated May 7, 2009, Second Amendment to Lease dated June 2012, Third Amendment to Lease dated June 27, 2013, Fourth Amendment to Lease dated September 3, 2013, Fifth Amendment to Lease dated June 11, 2014, Sixth Amendment to Lease dated December 10, 2014 and Seventh Amendment to Lease dated February 20, 2015 (the “Lease”), with respect to the premises described therein, comprised of approximately Eleven Thousand Four Hundred Fifty (11,450) square feet, more or less, of real property located at Oak Creek Plaza II, with an address of 23873 Clinton Keith Road, Suites 102, 105-107, 201-203, 207 and 209, in the City of Wildomar, County of Riverside, State of California (the “Old Premises”).

B. Tenant now desires to amend the Lease to add Suites 210 and 211, collectively 2,582 square feet (“Additional Space”), to the Old Premises. The Old Premises and the Additional Space yield 14,032 square feet (“Premises”).

C. Landlord and Tenant desire to amend the Lease to provide for the modification of certain terms, all more particularly set forth below.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt whereof and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Scope of Eighth Amendment and Defined Terms. Except as expressly provided in this Eighth Amendment, the Lease shall remain in full force and effect. Except as expressly provided in this Eighth Amendment, the term “Lease” shall mean the Lease as modified by this Eighth Amendment. Capitalized terms used in this Eighth Amendment and not otherwise defined shall have the respective meanings set forth in the Lease.

2. Modifications to Lease. Notwithstanding anything in the Lease to the contrary, the Lease is hereby modified as follows:

a. Premises. Fundamental Lease Provisions, Section 1.4 of the Lease is hereby amended to provide that the following Suites in the Building shall be considered as the Premises:

i. Suite 102	1,279 sq. ft.
ii. Suites 105-107	3,825 sq. ft.
iii. Suites 201-203	3,825 sq. ft.
iv. Suite 207	1,317 sq. ft.
v. Suite 209	1,204 sq. ft.
vi. Suites 210 and 211	<u>2,582</u> sq. ft.
Total Rentable Square Feet	14,032 sq. ft

b. Term. Fundamental Lease Provisions, Section 1.5 of the Lease is hereby amended by adding the following:

“Landlord and Tenant hereby acknowledge that the Extended Term under the Lease expires on December 31, 2021 per the Sixth Amendment and under the same terms and conditions of the Lease.”

c. Rent Commencement. Fundamental Lease Provisions, Section 1.8 of the Lease is hereby amended by adding the following:

“For Suites 210-211, Tenant shall commence paying Minimum Rent and NNN, as set forth herein on the later to occur of (a) May 3, 2017 or (b) Landlord delivering Suites 210-211 to Tenant (“Expanded Premises Rent Commencement Date”).”

d. Minimum Rent. Fundamental Lease Provisions, Section 1.9 of the Lease is hereby amended by adding the following:

<b>Extended Term for all Suites:</b>	<b>Annual Minimum Rent</b>	<b>Monthly Minimum Rent</b>	<b>Minimum Rent Per Rentable Sq. Ft.*</b>
Expanded Premises Rent Commencement Date – December 31, 2017	\$147,365.99 (Adjusted Annual Minimum Rent)	\$18,522.24	\$1.32
January 1, 2018 – December 31, 2018	\$227,823.55	\$18,985.30	\$1.35
January 1, 2019 – December 31, 2019	\$233,519.14	\$19,459.93	\$1.39
January 1, 2020 – December 31, 2020	\$239,357.12	\$19,946.43	\$1.42
January 1, 2021 – December 31, 2021	\$245,341.05	\$20,445.09	\$1.46

\*Minimum Rent Per Rentable Square Foot reflects the annual 2.5% increase based on \$1.32/sq ft and displayed in future years rounded to the nearest \$0.01.

e. Option To Extend. Fundamental Lease Provisions, Section 1.7 of the Lease is hereby amended by adding the following:

“Provided that Tenant is not in default under the Lease, Tenant shall have One (1) Three (3) year option to extend the Extended Term.”

f. Tenant’s Share of Operating Expenses. Fundamental Lease Provisions, Section 1.17 of the Lease is hereby amended by adding the following:

“Notwithstanding anything contrary in the Lease, during the Extended Term of the Lease, Tenant’s Share of the Operating Expenses, which is estimated as of the Effective Date of this Eighth Amendment to be \$0.55 per square foot, shall be based on the total square footage of the Premises as established by this Amendment as set forth in Paragraph 2.a. herein, and subject to adjustments as set forth in Section 6.3.1 of the Lease.”

g. Condition of Premises. Section 2.2 of the Lease is hereby amended by adding the following:

“On the Expanded Premises Rent Commencement Date, Landlord shall deliver physical possession of the Additional Space to Tenant and Tenant shall accept the Additional Space in an “as is” condition.”

3. Right of Offer to Purchase. If at any point during the term of the Lease or extension thereof, Landlord plans to solicit offers to Purchase the Building, or elects to put Building on the market for sale, Landlord will give Tenant fifteen (15) days prior written notice and, if Tenant so desires, entertain Tenant’s written offer to purchase prior to solicitation of or marketing to other potential buyers.

4. Authority. This Eighth Amendment shall be binding upon and inure to the benefit of the parties, their respective heirs, legal representatives, successors and assigns. Each party hereto and the persons signing below warrant that the person signing below on such party’s behalf is authorized to do so and to bind such party to the terms of this Eighth Amendment and that no other signatories are required to make this Eighth Amendment effective and binding on such party.

5. On-going Duties Under the Lease. The parties acknowledge that the Lease remains in full force and effect and reserve their respective rights and affirm their respective obligations therein and as may be modified by this Eighth Amendment. Tenant specifically acknowledges that the monthly Base Rent and other ongoing monetary and non-monetary obligations provided in the Lease, including this Eighth Amendment are in addition to, and Tenant remains obligated to pay, Tenant’s Share of the Operating Expenses and Additional Rent. The parties further acknowledge that this Eighth Amendment amends the Lease but it does not waive or compromise any future claims or causes of action which may accrue under the Lease or otherwise.

6. Counterparts. This Eighth Amendment may be executed in counterparts, and such counterparts together shall constitute but one original of this Eighth Amendment. Each counterpart shall be equally admissible in evidence, and each original shall fully bind each party who has executed it.

**[Signatures on the following page]**

IN WITNESS WHEREOF, the parties hereto have caused this Eighth Amendment to be executed into their name(s) as of the day and year first above written.

**LANDLORD:**

CFT NV DEVELOPMENTS, LLC,  
a Nevada limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_

**TENANT:**

THE CITY OF WILDOMAR,  
a California municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: City Attorney