

# County of Monterey

- c. Support a recommendation that the Board of Supervisors resume quarterly cannabis business tax installments for Fiscal Year 2023-24.
- d. Provide further direction as appropriate.

SUMMARY:

On November 8, 2022, staff presented a formal commercial cannabis business payment plan to the Board of Supervisors (Board). The payment plan was approved, and staff was directed to include all quarters of Fiscal Year (FY) 22-23 within the existing conditional waiver of penalties and interest and extend this period through September 2023 (Attachment A). On December 6, 2022, the Board adopted a resolution (Attachment B) to extend this period. On December 7, 2022, the Board approved a reduction from 25% to 15% of taxes owed and delaying the due date of the down payment required by the payment plan to January 31, 2023.

While this date was effective for Q2 - Q4 of FY 21-22, staff have identified that this due date was not practical for FY 22-23 as the deposit due date was before Q2 installments were due. Staff also believed it would be confusing and complex to incorporate both fiscal years into one payment plan, particularly when considering that operators may modify their canopy through the remainder of FY 22-23. As such, staff proceeded with the implementation of FY 21-22 plans in January 2023.

Staff approved 31 requests for FY 21-22 payment plans and have prepared an overview in Attachment C. Approximately \$1.4m was approved for repayment, where 19 operators timely paid their respective deposits of approximately \$171k. The remaining 12 operators did not timely pay the required deposit and have therefore defaulted on their payment plans, with approximately \$225k of defaulted taxes. Of the remaining 19 operators with current payment plans, 11 made the first monthly payment due on February 1, 2023. As a reminder, operators are permitted to miss up to two monthly payments before their agreements are defaulted.

Considering the early outcomes of FY 21-22 payment plans, it would be important for operators to enter a formal payment plan and make payments towards taxes owed for FY 22-23. While the Resolution approved on December 6, 2022 extended the commercial cannabis cultivation business tax payments to September 30, 2023, staff believes that operators should have the opportunity to repay taxes owed across the same number of months within the FY 21-22 payment plans.

Staff proposes the following changes for the implementation of FY 22-23 payment plans to allow the payment plans to be similar in length of time to pay and only extend payment for the FY 22-23 payment plans not the FY 21-22 payment plans which have been approved:

- Deposit of 15% due March 15<sup>th</sup>.
  - Staff received concern from operators with FY 21-22 payment plans, as the deposits were due on January 31<sup>st</sup> and followed immediately by the first monthly payment due on February 1<sup>st</sup>.
- Extend payment plan to be the same number of months as FY 21-22 payment plans.
  - Payments will be due on 15<sup>th</sup> day of April through November 2023.

Staff seeks Board Cannabis Committee (Committee) direction on the outcomes of FY 21-22 payment plans and recommendations for the implementation FY 22-23 payment plans. Because staff recommendations for the implementation of FY 22-23 payment plans would exceed the current conditional waiver of penalties and interest on unpaid installments of the annual commercial cannabis business tax imposed on cultivation activities, staff seeks support of the Committee to bring a resolution extending the period to the Board for adoption. Due to the burden of administering cannabis business tax payment plans and the accompanying impacts to the budget process, staff also recommends resuming quarterly cannabis business tax installments for

FY 23-24.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and Treasurer-Tax Collector were involved in the preparation of this report.

FINANCING:

Monterey County's Cannabis Program is funded in County Administrative Office - Department 1050, Intergovernmental and Legislative Affairs Division - Unit 8533, Cannabis. The proposed recommendations will not incur additional expenses to the Program.

Staff approved 31 payment plans totaling \$1,366,361.87 in unpaid installments of FY 21-22 cannabis business taxes, where \$242,089.95 has been received, \$224,819.58 has been defaulted, and \$899,452.34 is pending payment through September 2023.

Staff have not yet approved payment plans for unpaid installments of FY 22-23 cannabis business taxes. \$36,125 of the \$7.2m budgeted for FY 22-23 has been received through January 2023.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The Monterey County Cannabis Program addresses each of the Strategic Initiative Policy Areas that promote the growth of a responsible and legal Monterey County cannabis industry.

Mark a check to the related Board of Supervisors Strategic Initiatives

- X Economic Development
- X Administration
- X Health & Human Services
- X Infrastructure
- X Public Safety

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Approved by: Nicholas E. Chiulos, Assistant CAO

Attachments:

- A. Completed Board Order Approving Payment Plan
- B. Resolution Extending Conditional Waiver of Penalties and Interest to September 2023
- C. Cannabis Business Tax Payment Plan Overview