

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

RESOLUTION NO. _____

Resolution by the Monterey County Board of Supervisors to:)

- a. Deny the appeal of Old Stage Partners, LLC of the imposition of \$181,440.00 in unpaid commercial cannabis business taxes and associated penalties and interest for the third quarter of FY 2017-18;)
- b. Deny the appeal of LGS Plant Company, Inc. of the imposition of \$19,104.00 in unpaid commercial cannabis business taxes and associated penalties and interest for the third quarter of FY 2017-18;)
- c. Authorize the Director of the Monterey County Resource Management Agency to cancel, without prejudice, unused/underutilized Cannabis Business Permits issued to Old Stage Partners, LLC and reissue such Cannabis Business Permits for the remainder of the permit validation period (12-14-17 to 12-13-2018); and)
- d. Authorize the Director of the Monterey County Resource Management Agency to cancel, without prejudice, unused/underutilized Cannabis Business Permits issued to LGS Plant Company, Inc. and reissue such Cannabis Business Permits for the remainder of the permit validation period (12-14-17 to 12-13-2018).)

WHEREAS, the Treasurer-Tax Collector is charged with the duty of enforcing the County of Monterey’s commercial cannabis business tax, which is codified at Chapter 7.100 of the Monterey County Code; and

WHEREAS, section 7.100.050 of the Monterey County Code states in relevant part that the Treasurer-Tax Collector shall impose a commercial cannabis business tax based on rates set forth in Chapter 7.100, and that such taxes shall be based on the square footage of canopy authorized by each County permit or by each State license in the absence of a County permit, not deducting for unutilized square footage; and

WHEREAS, on or about September 8, 2017, Old Stage Partners, LLC (“OSP”) and LGS Plant Company Inc. (“LGS”) applied for annual Cannabis Business Permits (“Business Permits”) pursuant to Chapter 7.90 of the Monterey County Code. Subsequently, on December 14, 2017, OSP was granted eight Business Permits authorizing the cultivation of 76,032 square feet and LGS was granted one Business Permit authorizing nursery cultivation in the amount of 49,728 square feet; and

WHEREAS, on December 12, 2017, OSP filed a Commercial Cannabis Business Tax

Reporting Form with Treasurer-Tax Collector stating a business start date of October 16, 2017 and cultivation of 27,648 square feet for the October – December second quarter. LGS filed the same form indicating the same start date and a total of 6,912 square feet of nursery cultivation. All applicable third quarter taxes were paid on January 30, 2018.

WHEREAS, on January 1, 2018, the California Department of Food & Agriculture (“CDFA”) began issuing temporary cannabis cultivation licenses. As many CDFAs temporary licenses have “unlimited” maximum square footage designations and the temporary state licenses did not identify specific square feet allowing the applicant to elect a designation within the possible range allowed by the license type as originally anticipated, the Treasurer-Tax Collector decided to require local cultivators who had not yet applied for or received their Business Permits to file an Initial Registration Form for their Business Permits. This document served as the basis for computing the tax obligations for the balance of the fiscal year or until such time as a specific square footage is identified on the annual Business Permit or state license; and

WHEREAS, on January 20, 2018, OSP and LGS also received 16 temporary state licenses authorizing cultivation of 169,000 square feet and two temporary state licenses for unlimited nursery cultivation on the above referenced parcel; and

WHEREAS, on April 24, 2018, the Treasurer-Tax Collector received written correspondence from Jennifer Rosenthal Iverson on behalf of OSP and LGS requesting to pay taxes on a square footage amount they would “self-report” instead of the square footage designations authorized on the Business Permits they had requested and received in December 2017; and

WHEREAS, on April 25, 2018, the Treasurer-Tax Collector reviewed and denied the request as there is no legal basis in Chapter 7.100 to reduce the square footage calculation for purposes of taxation. Section 7.100.060 of the Monterey County Code, specifically emphasizes the remittance of tax to be based on the square footage of cultivation authorized by the Business Permit, and that the tax will not be prorated or adjusted for any reduction in the square footage authorized but not utilized for cultivation; and

WHEREAS, on April 30, 2018, the Treasurer-Tax Collector issued tax bills to OSP for \$285,120 and LGS for \$24,864 based on the permitted amount of square footage as required by Chapter 7.100. Partial payments were made in the amounts of \$103,680 and \$5,740 respectively; and

WHEREAS, the Board of Supervisors has authority pursuant to Section 7.100.150 of the Monterey County Code to hear any appeal by a taxpayer aggrieved by any decision of the Treasurer-Tax Collector and the finding of the Board of Supervisors shall be final and conclusive.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby:

- a. Find that the above recitals are true and correct;

- b. Deny the appeal of Old Stage Partners, LLC of the imposition of \$181,440.00 in unpaid commercial cannabis business taxes and associated penalties and interest for the third quarter of FY 2017-18;
- c. Deny the appeal of LGS Plant Company, Inc. of the imposition of \$19,104.00 in unpaid commercial cannabis business taxes and associated penalties and interest for the third quarter of FY 2017-18;
- d. Authorize the Director of the Monterey County Resource Management Agency to cancel, without prejudice, unused/underutilized Cannabis Business Permits issued to Old Stage Partners, LLC and reissue such Cannabis Business Permits for the remainder of the permit validation period (12-14-17 to 12-13-2018); and
- e. Authorize the Director of the Monterey County Resource Management Agency to cancel, without prejudice, unused/underutilized Cannabis Business Permits issued to LGS Plant Company, Inc. and reissue such Cannabis Business Permits for the remainder of the permit validation period (12-14-17 to 12-13-2018).

PASSED AND ADOPTED on this 26th day of June 2018, by the following vote:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book___ for the meeting on _____.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy