

# MONTEREY COUNTY

## COUNTY ADMINISTRATIVE OFFICE

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**TO:** Board of Supervisors Cannabis Committee

**FROM:** Joann Iwamoto, Cannabis Program Manager

**CC:** Nicholas E. Chiulos, Assistant CAO

**DATE:** September 7, 2018

**SUBJECT:** Cannabis Program Status Update

### Recommendations:

Staff recommends that the Board of Supervisors Cannabis Committee:

- a. Accept the Cannabis Program status update; and
- b. Support staff presenting the following recommendations to the Budget Committee and the Board of Supervisors for approval:
  1. Augment to the County Administrative Office, Intergovernmental & Legislative Affairs Division, CAO-004, Unit 8054, a new Appropriation Unit, Cannabis, with \$200,000, managed by the Cannabis Program Manager for enforcement against illegal cannabis activities. The fund will be appropriated, quarterly, as a reimbursement after the search warrant service has been completed with the following criteria:
    - a. Sheriff's Office will first utilize the previously \$200,000 budgeted "Deputy Overtime" before reimbursement of additional funds for overtime hours.
    - b. Analysis of financial requests prior to reimbursement completed by Budget & Analysis staff.
    - c. Reimbursement of fund will be limited to the service of search warrants (days of) as follows:
      - i. Staff time,
      - ii. Overtime, and
      - iii. Hauling/dumping fees.
    - d. Unused funds will be returned to the General Fund at the close of this fiscal year.
    - e. All other related staff costs of pre- and post-work, case preparation, and administrative processes will be funded by the General Fund appropriations as approved in the 2019 Recommended Budget.
  2. Augment to the County Administrative Office, Intergovernmental & Legislative Affairs Division, CAO-004, Unit 8054, new Appropriation Unit, Cannabis, with an additional \$100,000, managed by the Cannabis Program Manager for the sole purpose of consultant fees used to assist the RMA Planning Services Division for cannabis permit reviews.
    - a. Unused funds will be returned to the General Fund at the close of this fiscal year.
  3. Augment Agricultural Commissioner Office to add one, additional, full-time equivalent Weights and Measures Inspector III, to be allocated for the sole purpose of supporting the Cannabis Program Compliance and Enforcement inspections.
  4. Augment Cannabis Program (CAO-IGLA) to add one, full-time equivalent Management Analyst III, to be allocated for the sole purpose of supporting the Cannabis Program work functions.

5. Augment CAO Budget & Analysis to add one, full-time equivalent Accounting Clerk position, to be allocated for the sole purpose of supporting the CAO Budget & Analysis Finance Manager that will allow the Finance Manager to provide support to the Cannabis Program.
6. Augment District Attorney to add one, additional full-time equivalent District Attorney Investigator II/II and one, full-time Deputy District Attorney, to be allocated for the sole purpose of supporting cannabis investigations and case work. The DA Office report is forthcoming but due to resource restrictions was not available at the time of this memorandum submittal.
7. Augment Health Department, Environmental Health Bureau, to add two, additional full-time equivalent Environmental Health Inspector III and an additional \$50,000 for Lab Analysis, to be allocated for the sole purpose of supporting cannabis compliance and enforcement inspections.
8. Augment RMA to add one, additional, full-time equivalent Code Compliance Inspector I/II position, to be allocated for the sole purpose of compliance inspections.

### **Discussion:**

Monterey County desires to become a cannabis industry leader in the State of California. To become a leader, we must demonstrate the highest performance level of an industry that is used as a standard or benchmark for others. Often, a leader will equal or exceed their own expectations. The Monterey County Cannabis Program completed one of the important critical steps in becoming an industry leader by developing the Cannabis Program Strategic Plan. (**Attachment A**). The Strategic Plan and accompanying Implementation Action Plan was presented and approved by the Board of Supervisors Cannabis Committee on July 23, 2018. The plans will be presented to the Board of Supervisors in October 2018 for their approval. During the development of the Strategic Plan, insufficient allocations were identified as a critical area of concern that would need to be further evaluated and addressed with the Board of Supervisors.

### **Cannabis Program Major Accomplishments with Current Staffing Allocations:**

In June 2018, the Board of Supervisors approved 11.48 full-time equivalent staff allocated to the Cannabis Program at a cost of \$2,731,110. In our efforts to achieve the Board of Supervisors expectations for the Cannabis Program, departments have adjusted priorities and realigned staff to work on Cannabis Program tasks to accomplish the following in the last four months:

- Development of the Cannabis Program Strategic Plan and Program Webpage.
- Coordination and collection of Cannabis Tax Revenue estimated at \$14.6MM, of which \$2.78MM is billed and not yet collected. If collected, it will remain booked in FY 17-18 upon collection.
- Initial Compliance Inspections found variations between self-reported cannabis square foot cultivation and actual cultivation measured. Highlights of June 2018 inspections found:
  - 16 businesses visited on multiple parcels.
  - 2 were deemed to be in tax compliance.
  - Square footage was underreported by an average of 73%.
  - Reported square footage 113,040.
  - Measured square footage 419,997.
  - Equates to approximately \$1.2MM in underpayments.
- Started the process to have ESS track Cannabis Program Department staff time. As an example, the table below identifies staff costs and related hours for July 2018. This snapshot of staff hours includes 54 County employees, which may indicate that the Program needs are outpacing the budgeted allocations. The program was allocated 11.48 full-time equivalent staff. The Cannabis Program is complex and involves more staff than what was anticipated. The tracking of staff hours is one method

to evaluate actual the program costs of doing business. Further study and analysis over time will provide information to support this assumption. Departments are making the effort to collaborate and realign staffing and department priorities to meet the needs of the Cannabis Program.

Department Name	Pay Amount	Hours
Agriculture Commissioner	18,902.99	514.00
Assessor/Clerk/Recorder	190.62	8.50
Auditor Controller	1,891.66	15.00
County Administrative Office	9,097.39	136.00
County Counsel	6,417.59	69.33
District Attorney	33,067.35	684.00
Health Department	10,801.96	237.00
Resource Management Agency	7,204.09	65.25
Sheriff-Coroner	3,394.48	166.50
Treasurer/Tax Collector	15,062.44	281.50
<b>Grand Total</b>	<b>106,084.57</b>	<b>2,177.08</b>

- The Board of Supervisors Cannabis Committee topics addressed this calendar year:
  - Staffing levels for 2019 Recommended Budget.
  - Reduced cannabis tax rate (amended and gained Board of Supervisor approval of Monterey County Code 7.100).
  - Collaboration with outside agencies: Pacific Gas & Electric, Monterey Bay Air Regional Board, State Water Board, CA Department of Fish & Wildlife to further assist our operators to meet regulatory and local compliance.
  - Retail setbacks; amended ordinance in process.
  - Outdoor cultivation; amended ordinance in process.
  - Change from Use Permit to Administrative Permit; amended ordinance in process.
- Continued review of 250+ State Agency Temporary and Annual Operator License requests.
  - Formed a Cannabis Permit Task Force consisting of departments to share and track permit progress and data.
  - Working with ITD to develop a shared database for efficiency and work production.
- Legislative work related to:
  - Hemp grown for research purposes, and monitoring the State's work on regulations for industrial hemp.
  - Extension of State Temporary Licenses for 2019.
- Continue to collaborate with the Cannabis Industry to process 99 formal Use/Coastal Development Permit applications.
  - At the end of July 2018, an additional 22 applications were resubmitted as formal applications. To meet the requirements of the Permit Streamlining Act, the County may need an outside consultant to assist with application processing. A request for additional funding is requested as detailed above.
  - First Industry Workshop (September 2018) with internal and external agency participation to further provide information to our industry and achieve collaborative goals.

- Formation of the Health Department public health ad hoc planning committee to address subjects on public awareness, community engagement surveillance and community design, and youth based prevention/early prevention intervention.
- Frequent meetings with Cannabis Industry representative to collaborate and share updates.
- Monterey County Cannabis Program lead the development of the “Coastal County Cannabis Program Manager Forum” to share best practices between jurisdictions. First meeting scheduled for September 2018.

*Restructured Cannabis Enforcement Task Force: Enforcement Tasks and Compliance Inspection Tasks:*

Restructured Cannabis Enforcement Task Force which identifies two separate groups, Enforcement, and Compliance:

- This is a crucial component of the Program with efforts to facilitate economic development, protection of public safety, health, and the environment as the industry flourishes; and implementation of a well-managed County program with effective and equitable compliance, and enforcement that is self-funded.
- Compliance - focuses on compliance with County and state laws by operators who are legally operating, or are attempting to operate legally in the County. Typically, the process to cure non-compliance occurs over a period of time working with cooperative business operators. Compliance cases will use the administrative process through Code Enforcement, Environmental Health, or the Agricultural Commissioner when needed. Compliance cases can be escalated to Enforcement when necessary.
- Enforcement - focuses on stopping illegal cannabis operations or unfair business practices. Enforcement against an illegal cannabis operation occurs when there is engagement in any unpermitted cannabis activity without obtaining all required permits and licenses. Enforcement cases will use the civil or criminal prosecution process through the Sheriff and District Attorney. Compliance Task Force departments may be called to participate in the enforcement actions.

While the Task Force works together, the two areas can cross over which creates a multi-department process that requires agreement, strong communication, coordination, and data tracking. The Task Force has conducted multiple meetings in the last few months and agreed on the lead agencies for Compliance and Enforcement. The Task Force remains committed to always consider the utilization of County resources by being mindful of costs, and economies of scale with efficient processes.

In the study of seven search warrant services, costs for illegal plant removal were 88% higher when using an outside vendor versus County RMA Public Works (PW) resources. Staff recommends using RMA Public Works (PW) to haul and dump collected illegal cannabis whenever possible, recognizing that it removes these resources from other road maintenance duties. PW staff is funded by Road Funds and cannabis enforcement is not an eligible expense, so all costs for PW staff would need to be fully reimbursed.

It is important to note, that many external agencies have been involved in Enforcement and Compliance activities including, but not limited to, numerous fire districts, Department of Fish & Wildlife, Department of Toxic Substances Control, and Monterey Bay Air Resources District. They are funded separately so their associated costs are not included in the Program costs. As such, we need to consider those costs, in addition to County costs, when analyzing the total costs for an abatement.

Several Enforcement and Compliance investigation/inspections were completed in September 2017, and May and June 2018. Staff time and expenses have been compiled to determine an initial baseline for costs; however, it is important to note that a more complete tracking of staff time only begun as of July 1, 2018. An estimated

17,000 pounds of illegal cannabis was collected and destroyed. These activities are the beginning of a robust enforcement strategy that targets illegal cannabis activity in Monterey County. The Program will need to continue to collect data to analyze over an extended period of time to evaluate levels of service and related costs. The purpose of quarterly reports is to continuously update the Cannabis Committee and the full Board of findings and outcomes.

The Enforcement Task Force is committed to work collaboratively internally, as well as with our cannabis industry. Our goal is to foster a legal, compliant industry where we demonstrate our internal and industry best practices. While the legal cannabis industry is developing in Monterey County, it is critical that the illegal cannabis activity be controlled.

Recent significant findings on Compliance and Enforcement issues include:

- Compliance involves inspections by the Agricultural Commissioner, Environmental Health Bureau, and the RMA as lead agencies while they:
  - Collaborate with our cannabis industry on all operation requirements to create best operating practices; and
  - Work with our cannabis operators to obtain all required County permits.
- The Agricultural Commissioner's Office has been authorized to perform cultivation site inspections on behalf of the Department of Food and Agriculture CalCannabis program and is receiving funding for these services under a pilot inspection program. These compliance and information-gathering inspections are being integrated with pesticide use enforcement activities.
- Surveillance has identified a large number of illegal outdoor grows and, in some cases, illegal greenhouse cannabis cultivation which was not previously known.
- Each parcel and operator is different; therefore, each enforcement plan and search warrant service is different. The differences create a variation in the number of hours required to conduct pre-search warrant service planning, the service of the warrant on a specific day, and the post-work to close or further the investigation/case.

During last year's budget process, the Program did not have complete data history or performance measures to fully understand the Program's needs. Despite this, the departments provided their best estimates on what they understood to be the needs. However, the Board limited allocations to \$200,000 for the Sheriff's Department until more information was provided on what is needed to sustain this Program. The Sheriff's Office has agreed to reallocate the salary savings from July -September 2018, to revise the previously allocated vehicles to trucks with similar equipment and overhead expenses such as the mobile computers, VAMP, fuel, and maintenance and augment overtime resources. The requested Cannabis Fund would supplement additional overtime hours if they are needed in FY 8-19.

The overall Cannabis Program is currently allocated with one Program Manager to coordinate and collaborate nine County departments, implement the Strategic Plan, act as the State Agency Point of Contact, assist our industry operators, track multiple data collection systems, and create program standards and efficiencies. The Program functions and demands out pace one position in a practical manner. Staff hours exceed a normal 40-hour work week. Examples of work tasks that involve more time than anticipated include, but are not limited to, communication between departments and state agencies, data collection, and analytics. The Program requests additional staff support.

The Cannabis Program Enforcement Task Force had not previously included a process or identified the need for compliance resources because enforcement was historically based reactive rather than proactive enforcement.

Staff finds that the current environment requires a more proactive approach to manage compliance checks on legal operators. One additional Code Compliance Inspector would allow staff to visit sites and meet with operator's multiple times per year, which is what staff feels is and will be needed for Program compliance. RMA would assume the lead for these inspections (verifying canopy, assessing site conditions, condition compliance once permits are issued, etc.).

### Cannabis Program Staffing

In late 2017, the Cannabis Program departments were requested to project staffing allocations for FY 2018-19. The total cost projected was \$7,383,898. Departments were requested to re-evaluate their requests due to budget constraints and the lack of actual program costs.

Department	FY 18-19
Auditor-Controller	\$469,382.00
Assessor-County Clerk-Recorder	\$112,007.00
Agricultural Commissioner	\$212,276.00
County Administrative Office	\$105,000.00
County Counsel	\$319,659.00
District Attorney	\$1,100,815.00
Health	\$1,345,729.52
Health - Environmental Health Bureau	\$309,948.00
Sheriff's Office	\$2,437,657.00
Resource Management Agency	\$602,463.10
Treasurer-Tax Collector	\$368,962.00
<b>TOTAL</b>	<b>\$7,383,898.62</b>

### Proposed Staffing Allocations:

The chart below shows the FY 2018-19 Board of Supervisor approved Cannabis Program allocations as reported in the 2019 Recommended Budget. The last two columns show the request for additional allocations to the Cannabis Program. If approved, the total allocations for the Cannabis Program would be 19.48 full-time equivalent employees at a cost of \$4,329,072. The FY 2018-19 Cannabis Tax Revenue would fund the newly requested allocations.



#### CANNABIS PROGRAM – RESOURCE AUGMENTATION

Department, Division	Job Classification or Program Area	FTE	Budget Allocation FY 2018-19	FTE Request – 9/18	Augmentation Request – 9/18 Fully Loaded Cost
County Administrative Office	Program Manager II	1.0	\$162,085		
	Management Analyst III			1.0	\$145,819
	Account Clerk			1.0	\$73,284
	Cannabis Program				



# CANNABIS PROGRAM – RESOURCE AUGMENTATION

Department, Division	Job Classification or Program Area	FTE	Budget Allocation FY 2018-19	FTE Request – 9/18	Augmentation Request – 9/18 Fully Loaded Cost
	Enforcement/Permit Fund				\$300,000
	Accela Automation Licenses – Enforcement Data Sharing		\$40,000		
	Program Travel/Training		\$10,000		
	CA Cannabis Authority		\$50,000		
Auditor-Controller	Analyst I – General Accounting	0.5	\$64,473		
Agricultural Commissioner	Inspector/Biologist	1.0	\$141,517		
	Weights and Measures Inspector III	0.5	\$70,759	1.0	\$149,732
County Counsel	Deputy County Counsel IV	1.0	\$223,553		
District Attorney	District Attorney Investigator III - Civil	1.0	\$262,838	1.0	\$344,178
	Deputy District Attorney			1.0	\$250,821
Health Department: Environmental Health	Environmental Health Specialist IV	1.0	\$155,614		
	Environmental Health Specialist III			2.0	\$225,130
	Lab Analysis		\$50,000		\$50,000
Health Department: Public Health	Management Analyst II	0.5	\$71,299		
	Public Awareness/Community Based		\$100,000		
	Youth Prevention/Intervention		\$125,000		
Sheriff	Deputy Sheriff	2.0	\$433,406		
	Two vehicles, including equipment		\$62,836		
	Overtime for enforcement		\$200,000		
Resource Management Agency	Code Compliance Inspector II	1.0	\$148,124	1.0	\$129,757
Treasurer/Tax Collector	Management Analyst III	0.66	\$102,483		
	Accountant III	0.66	\$95,852		
	Accounting Technician	0.66	\$63,586		
	IT, Clerical Executive Oversight		\$97,685		
<b>TOTALS</b>		<b>11.48</b>	<b>\$2,731,110</b>	<b>8.0</b>	<b>\$1,668,721</b>

*Cannabis Program Enforcement/Compliance Performance Measures:*

A set of Enforcement and Compliance Performance Measures have now been created. It is important to note that as the Program continuously improves, and with Board Cannabis Committee input, the performance measures may change over time. Staff feels that the current set of performance measures, **Attachment B**, provides data as we best know it today.

Attachments

- A: Cannabis Program Strategic Plan
  - B: Cannabis Program Enforcement Performance Measures
  - C: Agricultural Commissioner Request
  - D: Health Department, Environmental Health Bureau Augmentation Request
  - E: Resource Management Agency Memorandum
  - F: District Attorney Activity Report
- cc:
- Lew Bauman, County Administrative Officer
  - Dewayne Woods, Assistant County Administrative Officer
  - Dean Flippo, District Attorney
  - Jeannine Pacioni, District Attorney Elect
  - Mary Zeeb, Treasurer Tax Collector
  - Sheriff Steve Bernal
  - John Mineau, Undersheriff
  - Carl Holm, Resource Management Agency Director
  - John Ramirez, Health Department, Environmental Health Bureau Chief
  - Ric Encarnacion, Health Department, Assistant Environmental Health Bureau Chief
  - Bob Roach, Assistant Agricultural Commissioner
  - Kelly Donlon, Office of the County Counsel