



DATE: August 5, 2020

TO: Honorable Mayor and City Councilmembers

FROM: City Manager's Office

SUBJECT: **INTRODUCTION OF AN ORDINANCE ESTABLISHING A TAX ON CANNABIS BUSINESS ACTIVITY AND ADOPTION OF A RESOLUTION PLACING THE ISSUE ON THE BALLOT FOR THE NOVEMBER 3, 2020, GENERAL MUNICIPAL ELECTION**

SYNOPSIS

Staff recommends that the City Council introduce an ordinance adding Article V to Chapter 34 of the Oceanside City Code, establishing a tax on cannabis business activity; and adopt a resolution calling for the holding of a General Municipal Election on Tuesday, November 3, 2020, for the submission of a proposed ordinance for the establishment of a cannabis business tax; consolidating the election with the statewide election; requesting the Board of Supervisors of the County of San Diego to permit the Registrar of Voters to conduct the election; authorizing the Mayor and designated Councilmembers to submit ballot arguments in favor of the measure; and directing the City Attorney to prepare an impartial analysis.

BACKGROUND

In 1996 California voters approved Proposition 215, the Compassionate Use Act of 1996, which allowed the use of marijuana (aka cannabis) for medical purposes. In 2015 the California legislature enacted the Medical Marijuana Regulatory & Safety Act (MMRSA) which established a licensing and regulatory framework for commercial cultivation, manufacturing, transportation, distribution, and sale of medical cannabis for those 18 and older. MMRSA went into effect January 1, 2016.

In November 2016 California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). AUMA established a licensing and regulatory framework for commercial cultivation, manufacturing, distribution, and sale of cannabis for those aged 21 and older. Proposition 64 was approved by 56.9 percent of Oceanside voters.

On April 19, 2017, the City Council designated an ad hoc committee to explore possible regulations allowing for medical cannabis businesses in Oceanside. The ad hoc committee was composed of seven members, including two Councilmembers and five stakeholders from the community. The ad hoc committee held eight public meetings, took tours of medicinal cannabis production facilities, and met with industry experts. On December 20, 2017, the ad hoc committee presented its report to the City Council and

asked the City Council to receive the report and recommendations and forward the recommendations to appropriate staff and advisory groups for review and comments to be brought back to Council for adoption at a later date. After discussion, the City Council referred the recommendations to staff on a vote of 3-1-1 (Councilmember Sanchez voting no; Mayor Wood absent) with a provision that the recommendations focus solely on medical cannabis.

On March 28, 2018, the City Council on a 4-1 vote (Councilmember Feller voting no) introduced an ordinance amending the City Code and Zoning Ordinance to allow the establishment and operation of several commercial medical cannabis-related uses including nurseries, cultivation, manufacturing, distribution and testing. The City Council did not take action to allow cannabis dispensaries (retailers).

In June and September of 2018 the City Council approved ordinances amending several Articles of the City Code pertaining to cannabis cultivation, allowing waivers of separation requirements on a case-by-case basis, and allowing the issuance of no more than two Local Licenses and Conditional Use Permits (CUPs) for medical cannabis non-storefront delivery facilities (M-Type 9 Non-Storefront Retailer).

On August 21, 2019, the City Council directed staff to prepare appropriate amendments to the City Code and Zoning Ordinance to allow the twelve cultivators with Local Licenses and CUPs to engage in cannabis cultivation for adult use; a public hearing for that purpose was held on June 24, 2020, and the amendments were approved on a 4-1 vote (Councilmember Feller voting no). Additionally, at the August 21, 2019 meeting, the City Council directed staff to return with actions necessary to place a cannabis business tax measure on the November 2020 ballot.

The number of currently allowed, licensed and pending cannabis businesses in Oceanside is illustrated in Table 1:

Table 1: Number of Local Cannabis Businesses:

Business Type	Number of Licenses Allowed	Number of Licenses Issued	Active Licenses	Number of Licenses Pending
Manufacturer	No Limit	5	5	0
Distributor	No Limit	5	4	1
Cultivation	12	12	12	N/A
Type 9 Retailer	2	2	2	N/A
Testing Labs	No Limit	0	0	0

Cannabis Tax Measures

Most California cities that have implemented regulations for commercial and medical cannabis business have established, by a vote of the people, an excise or cannabis business tax for the purpose of funding general services. Generally, these taxes are viewed as a way to generate funds for enforcement of illegal cannabis activities and general city services in exchange for any real or perceived negative impacts generated by the cannabis businesses.

Local jurisdictions can only obtain voter approval for these types of local taxes at a General Municipal Election; the City's next scheduled General Election is November 3, 2020. A general tax measure requires approval of 50 percent of voters, plus one. The deadline to place a measure on the November 2020 ballot is August 7, 2020. If approved, the tax proceeds from a general tax can be spent for any lawful general government purpose.

The most common cannabis taxing methods tax cultivation on a per square foot basis of total canopy area while taxing a percentage of total gross receipts for manufacturing, distribution, deliveries, testing and retail businesses. The average range for taxes statewide is \$10-\$25 per square foot of canopy for cultivation businesses and 6 to 8 percent of gross receipts for business or excise taxes. There was a total of 192 marijuana tax measures in California from 2009 to March 2020. Of those, 87 percent were approved (167 measures), and 13 percent were defeated (25 measures).

Among San Diego County cities with a cannabis business or excise tax in place are the cities of San Diego, Chula Vista, La Mesa, and Vista. The taxes in Chula Vista, La Mesa and San Diego were placed on the ballot by the local jurisdiction. Vista had two measures on the November 2018 ballot, a city-sponsored initiative and a citizen's initiative. Both were approved, however, the citizen's initiative was approved by a wider margin and thus became effective. The tax rates in these cities are shown in Attachment 1.

ANALYSIS

Following Council's direction to pursue a tax measure, staff retained the services of the consulting firm HdL to prepare a fiscal analysis of the commercial cannabis industry and develop recommendations on a potential tax structure. The analysis prepared by HdL is included as Attachment 2. Through its analysis, HdL concluded that the tax ranges initially estimated by staff and shared with the City Council in August 2019 were too high, and would likely be a deterrent to the industry from investing in Oceanside. The tax rates currently recommended by HdL and staff are designed to generate significant local revenue while not overburdening what is still considered to be a fledgling industry. This is an important consideration in order to develop a regulated industry and deter illegal cannabis activity.

Staff initially recommended taxing cultivation based on a per square foot basis of total licensed canopy area. However, the majority of the City's licensed cultivators have expressed concerns over this taxation method and instead generally favor a tax

structure based on gross receipts, which they believe to be more equitable to start-up businesses. In response to this feedback, and upon completing additional research on potential taxations strategies, staff now recommends a cultivation tax based on gross receipts.

Table 2 illustrates recommended tax ranges per cannabis use type and the associated tax revenue anticipated to be generated. The percentage figures listed represent a tax on gross receipts. The number listed in the second column represents the number of businesses in each category that HdL presumes will open in Oceanside based on foreseeable market conditions and current local licensing limits in effect.

Table 2: Recommended Tax Ranges:

Business Type	Number	Low Rate	Revenue	Med Rate	Revenue	High Rate	Revenue
Manufacturer	6	2.5%	\$360,000	4%	\$576,000	6%	\$864,000
Distributor	6	2%	\$300,000	4%	\$600,000	6%	\$900,000
Cultivation	4	1.5%	\$180,000	2.5%	\$300,000	3.5%	\$420,000
Retailer	2	4%	\$449,000	5%	\$561,000	6%	\$673,000
Total			\$1,289,000		\$2,037,000		\$2,857,000

Although not addressed under Article XIII (Medical Cannabis Facilities) of the City Code, the proposed tax would also apply to retailers, manufacturers and distributors of industrial hemp, provided that such product accounts for more than 50 percent of that business’s gross receipts. However, staff is not recommending the imposition of a tax on industrial hemp cultivators due to ongoing questions regarding the local viability of the industry. In addition, staff is not recommending a tax on cannabis testing facilities due to the regulatory nature of the business and the lack of local interest expressed to date. These tax rates would apply to any current or future cannabis business activity in Oceanside, including business types not currently permitted in the City, such as retail sales for adult use. Since taxes can only be established by voter approval in a General Election in accordance with the California State Constitution, Article XIII C, this framework ensures that any future business permitted by future City Council action is subject to a tax.

Should a local cannabis tax be approved by local voters in November 2020, the City will need to establish an initial tax rate within the ranges described above. This would be done through a future City Council resolution. Staff is sensitive to the need to keep the initial tax rates relatively low in order to allow new businesses to successfully establish before taxing them at the higher end of the ranges. Staff is also aware of the need to ensure that Oceanside’s cannabis tax rates are competitive with those of other San Diego County communities. Attachment 1 includes a comparison of current cannabis tax rates within San Diego County. Table 3 illustrates the initial tax rates recommended by staff.

Table 3: Recommended Initial Tax Rates:

Business Type	Recommended Tax Range	Recommended Initial Rate	Estimated Annual Revenue
Manufacturer	2.5% - 6%	4%	\$576,000
Distributor	2% - 6%	3%	\$450,000
Cannabis Cultivation	0% - 3.5%	2.5%	\$300,000
Retailer	4% - 6%	5%	\$561,000
TOTAL			\$1,887,000

The proposed ordinance establishing the tax program, including rate ranges, was shared with the City's cannabis business licensees for review and comment. Comment letters received as of the printing of the staff report are included as Attachment 3. Comments generally express the need to keep the initial tax rates on the low range in order to ensure the success of local cannabis businesses. Some comment letters also recommended taxing cultivation businesses on a gross receipt or dry weight basis, as opposed to the per square foot of licensed canopy formula which was initially recommended by staff.

At the request of staff and per the direction of the City Council, the analysis prepared by HdL considered various options for taxing cultivation businesses. As noted earlier in this staff report, staff initially recommended a cultivation tax formula based on square footage of licensed canopy area, as it is the most common method used throughout the state. However, in response to feedback received from the City's licensed cultivators, staff is now recommending that cultivators be taxed on the basis of gross receipts. Taxing cultivation based on gross receipts does hold the potential to generate more tax revenue for the City as compared to a canopy tax in instances where the product produced carries a high dollar value. As noted in Table 3, staff is recommending an initial cultivation tax rate that is on the low end of the range in recognition of the need to avoid overburdening potential start up cultivators. As noted in one of the comment letters received, the analysis prepared by HdL addresses "indoor" cultivation versus the "mixed-light" (i.e., greenhouse) cultivation expected in Oceanside. In comparison to indoor operations, mixed-light facilities generally produce lower crop yields. Staff was aware of this fact and, as a result, the recommended tax rates were adjusted to account for this variation.

The City Attorney has prepared a ballot measure for City Council consideration for placement on the November 2020 ballot. The proposed ordinance, if adopted by the electorate, would add Chapter 34, Article V to the Oceanside City Code. The ballot measure language is contained in the resolution included as Attachment 5 and reads as follows:

<p>Shall the City of Oceanside establish a Cannabis Business Tax not to exceed 6% of gross revenues for Cannabis Retailers, Manufacturers and Distributors and not to exceed 3.5% of gross revenues for Cannabis Cultivators to generate approximately \$1,900,000 annually, until voters change or repeal the tax, to fund general city services, including enforcement efforts against cannabis businesses operating illegally?</p>	<p>YES</p>
	<p>NO</p>

The proposed measure would adopt the tax ordinance included as Attachment 4 which would establish the tax ranges described in Table 2. The proposed tax measure contemplates a general tax and, thus, requires approval by a simple majority (50 percent plus 1 of those casting ballots) of Oceanside voters. If approved, the tax proceeds can be spent for any lawful general government purpose. In addition to establishing tax ranges and tax collection procedures, the ordinance also:

- Allows the Council to adjust the tax rates within the specified ranges, without further approval from the voters;
- Requires businesses to register with the City prior to beginning operation, and to pay a registration fee to cover the City’s costs of implementing the tax, and other provisions of the ordinance;
- Requires remittance of amounts due, in arrears, on a monthly basis with interest and penalties for failure to timely remit; and
- Specifies that violation of the new tax provisions is a misdemeanor.

If approved by the voters, the tax measure will become effective ten days after certification of the election results (mid-December 2020) and will become operative on January 1, 2021.

Pursuant to Elections Code Section 9280, the proposed resolution directs the City Attorney to prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis may not exceed 500 words in length, and must be submitted to the City Clerk by the deadline of August 14th, as established by the Registrar of Voters.

Elections Code Section 9282 allows the legislative body, any member or members of the legislative body authorized by the body, any individual voter who is eligible to vote on the measure, bona fide association of citizens, or any combination of voters and associations, to submit an argument for or against a measure placed on the ballot by the legislative body. Arguments may not exceed 300 words in length, and must be submitted to the City Clerk by the deadline of August 13th, as established by the Registrar of Voters. Staff is recommending the Mayor to submit arguments in favor of

the measure, on behalf of the City Council. Pursuant to Elections Code 9285(a)(2), the author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal a rebuttal argument or may authorize in writing another person or persons to prepare, submit, or sign the rebuttal argument. A rebuttal argument shall not exceed 250 words in length, and must be submitted to the City Clerk by the deadline of August 18th, as established by the Registrar of Voters.

FISCAL IMPACT

If approved by Oceanside voters in November 2020, it is estimated that the proposed tax measure would result in annual revenues ranging between \$1.28 million to \$2.85 million. Revenues of approximately \$1.8 million are projected based on the recommended initial tax rates using the anticipated number of cannabis business reflected in Table 2 of this staff report. The cannabis business tax would be considered a General Tax and, therefore, able to be spent for any lawful governmental purpose.

CITY ATTORNEY ANALYSIS

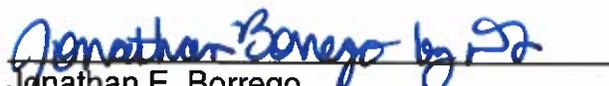
The City Attorney has drafted and approves to form the proposed ordinance and resolution placing the issue before the voters.

RECOMMENDATION

Staff recommends that the City Council introduce an ordinance adding Article V to Chapter 34 of the Oceanside City Code, establishing a tax on cannabis business activity; and adopt a resolution calling for the holding of a General Municipal Election on Tuesday, November 3, 2020, for the submission of a proposed ordinance for the establishment of a cannabis business tax; consolidating the election with the statewide election; requesting the Board of Supervisors of the County of San Diego to permit the Registrar of Voters to conduct the election; authorizing the Mayor and designated Councilmembers to submit ballot arguments in favor of the measure; and directing the City Attorney to prepare an impartial analysis.

PREPARED BY:

SUBMITTED BY:


Jonathan E. Borrego
Deputy City Manager


Deanna Lorson
City Manager

REVIEWED BY:

Michael Gossman, Assistant City Manager
Jane M. McPherson, Financial Services Director

A handwritten signature in blue ink, appearing to be 'J. Gossman', written over a horizontal line.

Attachments:

1. Tax Comparison of other San Diego County Jurisdictions
2. HdL Cannabis Business Fiscal Analysis
3. Comment Letters Received from Cannabis Stakeholders
4. Proposed Taxation Ordinance
5. Proposed Election Resolution

SAN DIEGO COUNTY CANNABIS TAX RATES

	Oceanside (Proposed)	San Diego	Vista	La Mesa	Chula Vista
Retail	Range: 4% - 6% GR Initial Rate: 5% GR	Range: Up to 15% GR Current Rate: 8% GR	Range: 5% - 10% GR* Current Rate: 7% GR Range 6% - 12% GR** Current Rate: 6% GR	Range: 4% - 6% (Adult) Range: 0% (Medical) Current Rate 4% GR (A) 0% GR (M)	Range: 5% - 15% Current Rate: 7% GR
Cultivation	Range: 0-3.5% GR Initial Rate: 2.5% GR	Range: Up to 15% GR Current Rate: 8% GR	Range: \$14/s.f. Current Rate: \$14/sf	Range: \$ 7 - \$10/sf Range: \$1 - \$10/sf (nurseries) Current Rate: \$7/sf and \$1/sf (nurseries)	Range: \$5 - \$25/sf Current Rate: \$15/sf
Manufacturing	Range: 2.5% - 6% GR Initial Rate: 4% GR	Range: Up to 15% GR Current Rate: 8% GR	Range: 4% - 8% Current Rate: 4% GR	2.5% - 6% GR Current Rate: 2.5% GR	Range: 5% - 15% Current Rate: 7% GR
Distribution	Range: 2% - 6% GR Initial Rate: 3% GR	Range: Up to 15% GR Current Rate: 8% GR	Range: 2% - 8% Current rate: 2% GR	2% - 6% GR Current Rate: 2% GR	Range: 5% - 15% Current Rate: 7% GR
Testing	N/A	N/A	Range: 1% - 3.5% Current Rate: 1% GR	1% - 6% GR Current Rate: 1% GR	Range: 5% - 15% Current Rate: 7% GR

*Vista storefront retail is limited to Medical Use sales

**Applicable to Adult Use cannabis delivered to Vista from outside the city



**Delivering Revenue, Insight
and Efficiency to Local Government**

Fiscal Analysis of the Commercial Cannabis Industry

Prepared for

the

City of Oceanside

May 18, 2020

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I. Introduction

On April 11, 2018, the City of Oceanside adopted Ordinance No. 18-OR0199-1 to allow the establishment and operation of commercial medical cannabis businesses in specified zoning districts of the City, subject to certain conditions and limitations. The City subsequently engaged the services of HdL to design and administer an application review and selection process for prospective cannabis businesses and to develop appropriate application and permitting fees. The City allows only M-type (medicinal) cannabis businesses but has initiated efforts to allow adult use (A Type) licenses for cultivation businesses.

The City initially limited the number of cultivation licenses to 5, and limited cannabis retailers to only Type 9 non-storefront (delivery only) operations, with only 2 licenses available. The City also allows cannabis manufacturing, distribution and testing facilities, with no limitation on the number of licenses available. The City has since issued a total of 21 licenses (12 cultivation, 2 retail, 4 manufacturing and 3 distribution), with 2 distribution and 1 manufacturing license pending review.

On August 21, 2019, the City Council voted to increase the maximum number of cultivation licenses available to 12, and directed staff to return with actions necessary to place a cannabis business tax measure on the November 2020 ballot. At the meeting, staff presented and the Council discussed, a variety of potential tax rates and structures, including a tax of \$10 to \$25 per square foot of canopy for cannabis cultivation and a tax of 5% to 15% of gross receipts for all other cannabis businesses. City staff initially proposed that rates be set at \$15 per square foot for cultivation and 7% of gross receipts for all others; however, staff has since recognized that those initially contemplated rates could be disadvantageous to the success of local cannabis businesses. Council Members also showed interest in exploring a cultivation tax based on either gross receipts or on weight. Revisions to the Ordinance now being considered would also allow cultivators to produce for both the medicinal (M Type) and adult-use (A Type) markets. In the future, the City Council could take further action to allow both medicinal and adult use for other cannabis business types, too.

Despite the steps that the City has taken to allow various cannabis related businesses to operate, in 2018, an initiative measure was filed with the City which seeks to loosen or eliminate portions of the City's current regulatory structure. As drafted, the initiative would allow a full spectrum of M Type and A Type licensed businesses, including retail storefront dispensaries which are not allowed under the City's current ordinance. The initiative also includes a proposed taxation structure that would impose a 5% gross receipts tax on retailers, manufacturers and distributors with a \$2 per dry ounce tax on cultivators. Backers of the initiative recently announced that signature gathering efforts have been suspended, therefore appearing to negate the possibility of the initiative appearing on the November 2020 ballot.

The City has requested that HdL conduct this fiscal analysis of the potential commercial cannabis industry in Oceanside and the surrounding region to help inform development of the tax measure and the setting of both initial and maximum tax rates. This analysis provides estimates for the number and size of each type of commercial cannabis business that may seek to locate in the City, as well as estimates for the gross receipts and tax revenue that may be generated from each type of business. In each case, our estimates are based on the number of businesses that the City *could* attract through favorable regulatory policies and advantageous tax rates. Higher tax rates or burdensome regulations can be expected to reduce both the number of businesses and their profitability.

The City requested that this analysis include a discussion of the advantages and disadvantages of different tax structures for cultivation, including a square-footage tax and a tax by weight, and how they might affect both subject businesses and potential tax revenues to the City. This study also includes a discussion of general economic impacts in the form of jobs, supporting businesses, and other economic activity.

Generally speaking, if a city or county wishes to generate revenue from the cannabis industry through taxes, then it must consider tax rates and structures that are more equitable to those aspects of the industry it wishes to support or encourage. A lower tax may ultimately generate more revenue as a function of attracting and supporting more businesses, while higher tax rates may have the effect of discouraging businesses or decreasing their gross receipts. Simply put, cities will generate no revenue from businesses that fail in this highly competitive marketplace, or that choose to locate elsewhere in search of more favorable regulations and taxes.

Legalization and regulation of commercial cannabis has exposed this industry to competitive free-market forces from which it was previously shielded due to prohibition. Licensing, permitting, and regulatory costs, combined with State and local taxes, have added significantly to the operational costs of commercial cannabis businesses. The net effect of these forces is that wholesale prices have dropped significantly at the same time that regulatory costs are climbing. High tax rates may have been acceptable to the industry when it enjoyed high profit margins and few regulatory costs, but those same rates become prohibitive for what is now one of the most highly regulated, and most competitive, industries in the State.

Discussion of regulating and taxing the cannabis industry can too often overshadow the larger jobs and economic development issues that typically accompany efforts to attract new industry. Word that a new business or industry is looking to bring hundreds of new jobs to a community is more commonly met with open arms and offers of tax incentives. The cannabis industry is perhaps completely unique in that the inherent jobs and economic development benefits are welcomed more grudgingly and met with the disincentive of special taxes. While the tax revenue potential is attractive to local governments, imposing excessively high rates may reduce the number of businesses that step forward and decrease the likelihood that they will succeed in the regulated market.

Equally important to tax rates is setting a clear and unambiguous direction for regulatory policy. As with any other industry, the cannabis industry desires regulatory certainty. Clear regulatory policies and competitive tax rates will be essential for attracting or holding on to this industry sector, and for helping these businesses to outcompete the persistent black market.

Summary

Applying the range of tax rates initially contemplated by the City could potentially generate between \$2,431,000 and \$7,094,000 per year, as shown in Figure 1, below. However, we caution that the proposed rates are significantly higher than the rates we would typically recommend, as discussed in Section III, *“Common Cannabis Tax Rates”*. These higher rates would likely make it difficult for local cannabis businesses to compete with similar businesses elsewhere and may discourage such businesses from choosing to locate in the City. For these reasons, while the revenue figures shown may appear to be attractive, we believe they are largely hypothetical and would be unlikely to actually materialize. The number of businesses illustrated in each category is reflective of the number of businesses the City can expect to realize in the foreseeable future, not the number of businesses that are in the licensing process.

Due to the regulatory nature of testing labs and the lack of local interest in their establishment, City staff is no longer recommending a tax upon such businesses.

Figure 1:

Business Type	Number	Low Rate	Revenue	Initial Rate	Revenue	High Rate	Revenue
Cultivation	4	\$10/sf	\$400,000	\$15/sf	\$600,000	\$25/sf	\$1,000,000
Manufacturer	6	5%	\$720,000	7%	\$1,008,000	15%	\$2,160,000
Distributor	6	5%	\$750,000	7%	\$1,050,000	15%	\$2,250,000
Type 9 Retailer	2	5%	\$561,000	7%	\$786,000	15%	\$1,684,000
Total			\$2,431,000		\$3,444,000		\$7,094,000

For this report we also analyzed the revenues that would likely be generated using more moderate tax rates currently being considered by the City. These rates are generally more consistent with the rates commonly recommended by HdL as discussed in Section III; *Common Cannabis Tax Rates*. Applying this range of tax rates could potentially generate between \$1,389,000 and \$2,837,000 per year. The rates shown in this addendum are competitive with the rates commonly seen in other jurisdictions, and so would be far less likely to discourage cannabis businesses from locating in the City. We believe the figures shown below in Figure 2 using the rates currently being considered are far more realistic than those shown above in Figure 1.

Figure 2:

Business Type	Number	Low Rate	Revenue	Med. Rate	Revenue	High Rate	Revenue
Manufacturer	6	2.5%	\$360,000	4%	\$576,000	6%	\$864,000
Distributor	6	2%	\$300,000	4%	\$600,000	6%	\$900,000
Cultivation	4	\$7/sf	\$280,000	\$8/sf	\$320,000	\$10/sf	\$400,000
Type 9 Retailer	2	4%	\$449,000	5%	\$561,000	6%	\$673,000
Total			\$1,389,000		\$2,057,000		\$2,837,000

The projections in both Figure 1 and Figure 2 assume that the City will ultimately allow both medicinal and adult use for all cannabis business types other than storefront retail. Limiting businesses to only medicinal cannabis would significantly reduce these numbers.

Statewide, M-type (medicinal only) licenses make up less than 10% of all licenses for each cannabis business type. Medicinal-only licenses make up just 66 of the 1,009 distribution licenses statewide, and just 90 of the 997 manufacturing licenses. Just 78 retailer licenses are for medicinal-only, out of a total of 973 statewide. This is consistent with a 2017 CalCannabis study which anticipated that medical cannabis sales would decline to just 9% of the overall market after legalization.

Were the City to limit distributors and manufacturers to only M-type licenses, we would expect to see fewer of each business type, each with lower sales than what we would expect from businesses that participate in both medicinal and adult use markets. Over time, we would also expect some of those M-

type businesses already permitted by the City either to fail or to move to neighboring or nearby jurisdictions where they could have access to the other 90% of the cannabis market.

HdL recommends that the City of Oceanside set its initial cannabis tax rates to keep the cumulative tax rate at or below 30% (as described in Attachment C; State Tax Considerations). Doing so would allow the local cannabis industry to compete with both the black market and with licensed businesses in neighboring or nearby communities. The rates currently being considered by the City are generally consistent with the rates recommended by HdL, though the maximum rate of 6.0% is considerably higher than what we recommend for distributors (3.0%) or manufacturers (4.0%). Should the City approve the maximum rate of up to 6.0%, we recommend that the initial rates for these activities be set to fall within the midpoint range defined in Section III, *Common Cannabis Tax Rates*.

II. The Cannabis Industry in the Oceanside/San Diego Region

The amount of revenue that a city or county may be able to generate from a cannabis business tax depends upon the type, number and size of cannabis businesses that may choose to locate within the City. Cannabis retailers, cultivators, manufacturers, distributors and testing facilities are each interdependent upon a network of other cannabis businesses, so understanding the extent of the industry in the region provides some basis for estimating the number of businesses which may seek to locate in Oceanside.

Our analysis of potential cannabis business tax revenue is based on data and assumptions about the total size of the local market. The three cannabis licensing agencies for the State of California (the Bureau of Cannabis Control, the CalCannabis Division of the California Department of Food and Agriculture, and the Manufactured Cannabis Safety Branch of the California Department of Public Health) have all been issuing temporary licenses for commercial cannabis businesses since late December of 2017. In addition, HdL has worked with a number of nearby cities and counties that are developing or implementing their own cannabis regulatory and taxation programs. This data provides a wealth of previously unavailable information about the cannabis industry around the State.

For our analysis, we shall assume that wholesale cannabis businesses such as cultivators, manufacturers and distributors would primarily interact or do business with other cannabis businesses within a one-hour radius. This would extend roughly from Chula Vista, La Mesa and El Cajon in the South and to Irvine, Santa Ana, Costa Mesa and Huntington Beach in the North. There are 50 distributors, 53 manufacturers, 7 testing laboratories and 64 retailers within this immediate area, along with 11 cultivators and 4 microbusinesses. These numbers are shown below in Figure 3.

Figure 3:

Active Licenses in Nearby Communities							
City/County	Cultivation	Distributor	Manufacturer	Retailer	Microbusiness	Testing Laboratory	Total
Costa Mesa	0	11	21	0	0	0	32
El Cajon	0	0	0	0	1	0	1
Escondido	0	0	0	1	0	0	1
Irvine	0	0	0	0	0	3	3
La Mesa	1	0	3	9	0	0	13
San Diego	4	19	18	20	0	3	64
San Diego County	2	2	0	1	3	0	8
Santa Ana	4	18	11	26	0	1	60
Vista	0	0	0	7	0	0	7
Total	11	50	53	64	4	7	189

Moving inland, there are no other cities within an hour drive that currently have licensed cannabis businesses¹. However the Inland Empire region of Riverside and San Bernardino counties has numerous cities that either allow, or are in the process of permitting, cannabis businesses. These include Perris,

¹ This refers to State licenses, only. Some cities may have issued local permits which are a pre-requisite before any State license may be issued. Businesses may not open until they have both.

Hemet, Canyon Lake, Moreno Valley, Riverside, Desert Hot Springs, Palm Desert and Cathedral City, among others.

There are currently 94 State-licensed cannabis businesses² in all of San Diego County. Neighboring Orange County has 91 licensed cannabis businesses, Riverside County has 326, and San Bernardino has 174. Los Angeles County has 1,152 State-licensed cannabis businesses. Combined, there are 1,837 State-licensed cannabis businesses in this 5-county region. Numerous cities and counties within this region are currently in the process of permitting additional cannabis businesses or developing regulatory policies that will allow them to do so in the near future.

We anticipate that the number of cannabis businesses in the Southern California region and the number of jurisdictions allowing and permitting them will continue to increase substantially over time. As this occurs, we would expect the decisions as to where these businesses choose to locate will be increasingly driven by the same market-based factors that influence such decisions for other types of businesses, including access to markets and consumers, available and appropriate industrial or commercial space, competitive lease rates, a ready talent pool, and a network of supporting businesses and industries. Differences in regulations and taxes (within reason) will cease to be the overarching consideration.

The high number of licensed cannabis businesses within the greater Southern California region suggests that there is already a large and diverse industry cluster that can both support and provide competition for additional cannabis businesses. Cultivators, manufacturers and distributors in Oceanside would have plenty of options for who to work with in bringing their products to market, and retailers would have lots of options for what products to place on their shelves.

² The numbers here represent only those licenses listed as “Active” by the three State licensing agencies. The number of State licenses and local licenses or permits may not be the same for a variety of reasons. The three State licensing agencies separately license each individual commercial cannabis activity (except for microbusinesses which may conduct three or more activities under one license). This may or may not be the case for local jurisdictions, which may instead permit a single business to conduct multiple activities from a single location. For cultivators, we have here listed the number of separate businesses, rather than the number of licenses, as it is very common for a cultivator to hold multiple licenses from the State.

III. Common Cannabis Tax Rates

Cannabis tax rates have been settling and stabilizing around the State since the beginning of 2018. Many cities instituted cannabis taxes prior to the implementation of statewide regulations, with a wide range of tax structures and rates as high as \$30 per square foot (for cultivation) or 18% of gross receipts. Some of these “early adopter” cities have since reduced their rates to be more competitive with common rates that are now emerging around the State.

The State of California applies two separate taxes to cannabis: a cultivation tax of \$9.65 per ounce of dried flower (\$2.87 per ounce of dried leaf or trim and an excise tax of 15% on the purchase of cannabis and cannabis products. These two separate State taxes can add up to 26% to consumer cannabis prices, even before any local taxes are contemplated. This leaves very little room for local jurisdictions to work within if they wish to remain under the total cumulative tax rate of 30%. This is an important benchmark to allow the local industry to compete against the illicit market and against other regulated cannabis businesses from around the State (see Attachment C; *State Tax Considerations*).

The City Council has discussed a variety of potential tax rates and structures, including a tax of \$10 to \$25 per square foot of canopy for cannabis cultivation and a tax of 5% to 15% of gross receipts for all other cannabis businesses. City staff initially proposed that initial rates be set at \$15 per square foot for cultivation and 7% of gross receipts for all others but is also mindful of the need to avoid over-taxing the industry to the point of harming its financial feasibility.

HdL has worked with numerous local agencies around the State to develop cannabis tax measures for the ballot. The initial range of tax rates for cannabis businesses other than cultivation commonly runs from 2% of gross receipts for distributors, to 2.5% for manufacturers, and up to 4% for retailers. These rates may be adjusted up to a maximum of 3%, 4% and 6%, respectively. The most common tax rates that HdL has recommended to our clients are shown in Figure 4, below.

Figure 4:

Cannabis Business Type	Initial Rate	Maximum Rate
Cultivation (indoors)	\$7 per square foot	\$10 per square foot
Manufacturing	2.5% of gross receipts	4% of gross receipts
Distribution	2% of gross receipts	3% of gross receipts
Retail	4% of gross receipts	6% of gross receipts
Testing	1% of gross receipts	2.5% of gross receipts

HdL recommends that the City of Oceanside set its initial cannabis tax rates to keep the cumulative tax rate at or below 30%. Doing so would allow the local cannabis industry to compete on an equal footing with similar businesses in neighboring or nearby communities.

IV. Cannabis Manufacturers

The manufacturing sector is still evolving and expanding, which presents significant opportunities for innovation, business development and job growth. The range of products being produced includes an ever-increasing variety of edibles such as candies, cookies, dressings, and infused (non-alcoholic) drinks. Manufacturers may produce their own extract on site, or they may buy extract from other Type 6 or Type 7 licensees. Much like any other industry, cannabis manufacturers often depend upon other businesses to supply them with the various materials or components that go into their final product. These suppliers do not have to be located in or even near the same jurisdiction as the final manufacturer, and may be located anywhere throughout the state.

Some manufacturers may handle all steps from extraction to packaging the end product in the form of vape pens or other such devices. Others may handle only discreet steps, such as making the raw cannabis concentrate, which is then sold either directly to retailers or to a Type N manufacturer who will package it into vapor cartridges or other end consumer products. Manufacturers also produce a wide variety of tinctures, as well as topicals such as cannabis infused lotions, salves, sprays, balms, and oils.

As of April 9th, 2020, the Manufactured Cannabis Safety Branch (MCSB) of the California Department of Public Health shows 995 cannabis manufacturing licenses statewide. Of these, 537 are for non-volatile extraction, 267 are for volatile extraction, 149 are for non-extraction manufacturing, 23 are for packaging and labeling, and 18 are for manufacturers using a shared-use facility. These 995 businesses are owned by 965 separate companies.

In its regulatory impact analysis, the MCSB estimated that there may ultimately be as many as 1,000 cannabis manufacturing businesses in California, employing around 4,140 people. This would indicate an average of 4 new jobs per manufacturer, though this figure likely varies significantly depending on the size and nature of each business. We believe these figures for both the potential number of cannabis manufacturing businesses and for the average number of employees to be on the low side. HdL is aware of individual manufacturers which have over 100 employees. While this may not be the norm, it demonstrates that cannabis manufacturers have the potential to far exceed the MCSB's early predictions.

In addition, 75% of cities and counties in California continue to ban cannabis businesses outrightⁱ, which greatly limits the size of the market available to legal businesses. As more jurisdictions allow and permit commercial cannabis businesses, the number of cultivators and retailers should increase to supply this growing market.

HdL has reviewed pro-formas for numerous cannabis manufacturers seeking permits in counties and cities throughout California. From our review we have seen a range of gross receipts from around \$1 million to well over \$20 million, with an average in the range of \$2 million to \$3 million.

The City has so far issued 4 licenses for manufacturers, though none currently appear to have been issued the corresponding licenses by the California Department of Public Health's Manufactured Cannabis Safety Branch (MCSB)ⁱⁱ. The City does not currently intend to limit the number of manufacturing licenses.

We have provided three scenarios to estimate the potential revenue that could be generated from a tax on cannabis manufacturers. The scenarios assume 4, 6 or 8 licenses for manufacturers, with a conservative average of \$2.4 million each. We note that these projections represent the number of

manufacturers that the City *may* be able to attract through favorable regulatory policies and advantageous tax rates. Higher tax rates or burdensome regulations can be expected to reduce both the number of businesses and their profitability.

The City initially considered a range of tax rates from 5% to 15%, with an initial rate of 7%. Under these scenarios, a tax rate of 5% of gross receipts could generate between \$480,000 and \$960,000 in annual revenue for the City, depending upon the number of distributors, and a rate of 7% could generate between \$672,000 and \$1,344,000. A rate of 15% could theoretically generate between \$1,440,000 and \$2,880,000. These numbers are shown in Figure 5, below.

We strongly caution that even the lowest of these rates is well above the highest rates shown for cannabis manufacturers in Section III, “*Common Cannabis Tax Rates*”. We anticipate that the 7% initial rate would likely be problematic for the 4 existing manufacturers which have been permitted by the City and would make it more difficult for them to compete with similar businesses elsewhere. These rates would also likely discourage other manufacturers from choosing to locate in the City. For these reasons, while the revenue figures shown may appear to be attractive, we believe they are largely hypothetical and would be unlikely to actually materialize.

Figure 5:

Cannabis Manufacturers; Initially Proposed Rates						
Type 6/7/N/P Manufacturer	# of Licenses	Avg Gross Receipts	Total Gross Receipts	Revenue @ 5.0% Tax Rate	Revenue @ 7.0% Tax Rate	Revenue @ 15.0% Tax Rate
Scenario 1	4	\$2,400,000	\$9,600,000	\$480,000	\$672,000	\$1,440,000
Scenario 2	6	\$2,400,000	\$14,400,000	\$720,000	\$1,008,000	\$2,160,000
Scenario 3	8	\$2,400,000	\$19,200,000	\$960,000	\$1,344,000	\$2,880,000

The City is currently considering tax rates that are more consistent with the common rates discussed in Section III; *Common Cannabis Tax Rates*, and as shown in Figure 4. For cannabis manufacturers, that would mean an initial rate of 2.5% with a maximum rate of 6.0%. Revenue projections using these rates are shown below in Figure 6.

Under these scenarios, a tax rate of 2.5% of gross receipts could generate between \$240,000 and \$480,000 in annual revenue for the City, depending upon the number of manufacturers, and a rate of 4.0% could generate between \$384,000 and \$768,000. A rate of 6.0% could generate between \$576,000 and \$1,152,000. These numbers are shown in Figure 6, below.

Figure 6:

Cannabis Manufacturers; Currently Proposed Rates						
Type 6/7/N/P Manufacturer	# of Licenses	Avg Gross Receipts	Total Gross Receipts	Revenue @ 2.5% Tax Rate	Revenue @ 4.0% Tax Rate	Revenue @ 6.0% Tax Rate
Scenario 1	4	\$2,400,000	\$9,600,000	\$240,000	\$384,000	\$576,000
Scenario 2	6	\$2,400,000	\$14,400,000	\$360,000	\$576,000	\$864,000
Scenario 3	8	\$2,400,000	\$19,200,000	\$480,000	\$768,000	\$1,152,000

V. Cannabis Distributors

Perhaps more than any other part of the cannabis supply chain, distributors are greatly dependent upon the number and variety of other cannabis business types within their service area. Essentially, distributors need a certain “critical mass” of other cannabis businesses for them to serve. Because of this, distributors tend to be located in cities or regions which have a large base of cultivation or manufacturing, as well as a large surrounding customer base.

As a very general figure, the number of cannabis distributors statewide is roughly 1/4 of the number of all other cannabis licenses, combined, or 1 distributor for every 4 other cannabis businesses. In addition, virtually all (266 out of 271) licensed microbusinesses in California include distribution as one of their licensed activities. We can reasonably extrapolate from this to assume that a similar ratio of distributors to other businesses is necessary within any defined region.

The business model for distributors is based on a percentage markup on the price paid to their suppliers. This markup commonly averages 20% to 30%, though this depends upon the actual services being provided. However, it is important to note that the distributor category may include a variety of services, not all of which are provided by all licensed distributors. Just under 11% of distributors hold Type 13 licenses that allow self-distribution or transport only. A distributor which is only buying and reselling cannabis at wholesale may make as little as 10% on a transaction, while a distributor which is purchasing raw flower and packaging it as pre-rolls for retail sale may make 50% or more on such a value-added transaction.

Distributors may have annual revenues ranging from less than \$1 million to over \$70 million. The vast majority of distributors would fall at the lower end of that range, with those at the high end qualifying as outliers. While there is not yet an abundance of data to determine the average gross receipts for distributors, HdL has reviewed a number of pro-formas for distributors seeking licenses in other jurisdictions. These indicate anticipated gross receipts commonly in the range of \$2 million to \$3 million per year, with an average of \$2.5 million.

The City has so far issued licenses for 3 distributors, though only one of these appears in the Bureau of Cannabis Control’s databaseⁱⁱⁱ. The City does not currently intend to limit the number of distributors, so our projections are based on State and regional figures. As noted previously, we anticipate that any distributors in Oceanside would primarily interact with other cannabis businesses within a one-hour radius generally extending from Chula Vista to Huntington Beach. There are currently 189 licensed cannabis businesses within that range, of which 50 are distributors, giving a ratio of roughly 1 distributor for every 2.78 other cannabis businesses. Due to this relatively high concentration of distributors, we would not expect to see a high demand for additional distributor licenses in Oceanside.

We anticipate that the City may be able to attract a somewhat smaller number of distributors than we would otherwise expect for a city of Oceanside’s size, and that the gross receipts for these businesses would likely be close to the \$2.5 million average. We have provided three scenarios which assume 4, 6 or 8 cannabis distributors with gross receipts averaging \$2.5 million each. We note that these projections represent the number of distributors that the City *could* attract through favorable regulatory policies and advantageous tax rates. Higher tax rates or burdensome regulations can be expected to reduce both the number of businesses and their profitability.

We have applied potential tax rates based on the City's initially-contemplated range of 5% to 15%, with an initial rate of 7%. Under these scenarios, a tax rate of 5% of gross receipts could generate between \$500,000 and \$1,000,000 in annual revenue for the City, depending upon the number of distributors, and a rate of 7% could generate between \$700,000 and \$1,400,000. A rate of 15% could theoretically generate between \$1,500,000 and \$3,000,000. These numbers are shown in Figure 7, below.

While these figures may be impressive, we strongly caution that even the lowest of these rates is well above the highest rate we commonly see or recommend for cannabis distributors. As such, even the 5% rate would likely result in fewer distributors choosing to locate in the City and may be problematic for the 3 distributors currently permitted. As noted, some distributor transactions can have a margin of as little as 10%. Adding a tax rate that is as much as 12.5% above the prevailing norm could make such transactions completely unworkable and could make distributors in Oceanside uncompetitive with other distributors elsewhere in the region. For these reasons, we believe the significant revenues shown by the 5.0% to 15% tax rates are hypothetical and would be unlikely to materialize.

Figure 7:

Cannabis Distributors; Initially Proposed Rates						
Distributors	# of Licenses	Avg Gross Receipts	Total Gross Receipts	Revenue @ 5.0% Tax Rate	Revenue @ 7.0% Tax Rate	Revenue @ 15.0% Tax Rate
Scenario 1	4	\$2,500,000	\$10,000,000	\$500,000	\$700,000	\$1,500,000
Scenario 2	6	\$2,500,000	\$15,000,000	\$750,000	\$1,050,000	\$2,250,000
Scenario 3	8	\$2,500,000	\$20,000,000	\$1,000,000	\$1,400,000	\$3,000,000

The City is currently considering tax rates that are closer to the common rates discussed in Section III; *Common Cannabis Tax Rates*, and as shown in Figure 4. For cannabis distributors, that would mean an initial rate of 2.0% with a maximum rate of 6.0%. Revenue projections using these rates are shown below in Figure 8.

Under these scenarios, a tax rate of 2.0% of gross receipts could generate between \$200,000 and \$400,000 in annual revenue for the City, depending upon the number of distributors, and a rate of 4.0% could generate between \$400,000 and \$800,000. A rate of 6.0% could generate between \$600,000 and \$1,200,000. These numbers are shown in Figure 8, below.

Figure 8:

Cannabis Distributors; Currently Proposed Rates						
Distributors	# of Licenses	Avg Gross Receipts	Total Gross Receipts	Revenue @ 2.0% Tax Rate	Revenue @ 4.0% Tax Rate	Revenue @ 6.0% Tax Rate
Scenario 1	4	\$2,500,000	\$10,000,000	\$200,000	\$400,000	\$600,000
Scenario 2	6	\$2,500,000	\$15,000,000	\$300,000	\$600,000	\$900,000
Scenario 3	8	\$2,500,000	\$20,000,000	\$400,000	\$800,000	\$1,200,000

VI. Cultivation

The City of Oceanside initially limited the number of cultivation licenses to 5, but the City Council subsequently voted to increase the maximum number of licenses available to 12, with an annual application period for new businesses. The City Council initially discussed a variety of potential tax rates, including a tax of \$10 to \$25 per square foot of canopy, with an initial rate set at \$15 per square foot. Council Members have also expressed interest in exploring alternate tax structures for cultivation, including a tax based on either gross receipts or on weight.

The CalCannabis Division of the California Department of Food and Agriculture has been issuing temporary cultivation licenses since January 1, 2018. As of May 5th, CalCannabis shows 4,783 active cultivation licenses statewide, held by 2,669 distinct businesses³ comprising 909 acres of cultivation which are conservatively estimated to be capable of producing over 8.5 million pounds of cannabis per year. This is more than three times the estimated 2.5 million pounds per year consumed by all Californians, combined.

The cannabis cultivation market in California has already far exceeded its saturation point, which suggests that there is not enough room for those growers already licensed, much less new entrants into the market. Entry into this highly competitive marketplace can be filled with risk, and requires ample capitalization and a clear strategy to win shelf space. Given this, our projection of how many cannabis cultivators the City of Oceanside might be able to attract in the future is very conservative.

We have provided 3 scenarios, ranging from the initial limitation of 5 cultivation sites up to the 12 cultivation sites currently being proposed, with an average cultivation area of 10,000 square feet. Under these scenarios, applying a tax of \$10 per square foot could generate between \$500,000 and \$1,200,000 in annual tax revenue for the City of Oceanside. A tax rate of \$15 per square foot could generate between \$750,000 and \$1,800,000, and a rate of \$25 per square foot could generate between \$1,250,000 and \$3,000,000 in annual revenue for the City. These estimates are shown in Figure 9, below.

Figure 9:

Cannabis Cultivation; Initially Proposed Rates						
License Type	# of Cultivation Sites	Average Square Footage	Total Square Footage	Revenue @ \$10/sf	Revenue @ \$15/sf	Revenue @ \$25/sf
Indoor	5	10,000	50,000	\$500,000	\$750,000	\$1,250,000
Indoor	8	10,000	80,000	\$800,000	\$1,200,000	\$2,000,000
Indoor	12	10,000	120,000	\$1,200,000	\$1,800,000	\$3,000,000

However, as with our discussion of tax rates for other business types, we caution that the lowest of these rates is already as high as the maximum rate we commonly recommend for indoor cultivation. Setting this as the minimum rate would likely serve as a disincentive for attracting cannabis cultivation businesses and would make cultivators in the City of Oceanside uncompetitive with similar businesses elsewhere. For this reason, we believe the revenue figures above are unlikely to be realized.

³ The actual number of distinct businesses is somewhat lower, as minor typos or inconsistencies in how a name is written appear as separate business names in the CalCannabis database.

As with other cannabis business types, HdL recommends that the City consider tax rates for cultivation that are consistent with the rates discussed in Section III; *Common Cannabis Tax Rates*, and as shown in Figure 4. For cannabis cultivation, that would mean an initial rate of \$7 per square foot and a maximum rate of \$10 per square foot. Revenue projections using these rates are shown below in Figure 6.

Under these scenarios, a tax rate of \$7 per square foot could generate between \$350,000 and \$840,000 in annual revenue for the City, depending upon the number of cultivation sites, and a rate of \$8 per square foot could generate between \$400,000 and \$960,000. A rate of \$10 per square foot could generate between \$500,000 and \$1,200,000. These numbers are shown in Figure 10, below.

Figure 10:

Cannabis Cultivation; HdL Recommended Rates						
License Type	# of Cultivation Sites	Average Square Footage	Total Square Footage	Revenue @ \$7/sf	Revenue @ \$8/sf	Revenue @ \$10/sf
Indoor	5	10,000	50,000	\$350,000	\$400,000	\$500,000
Indoor	8	10,000	80,000	\$560,000	\$640,000	\$800,000
Indoor	12	10,000	120,000	\$840,000	\$960,000	\$1,200,000

Alternate Taxing Methods

The City Council has also expressed interest in alternate tax structures for cultivation, including a gross-receipts tax and a tax by weight. Any of these methods can be accommodated, and each can be adjusted to generate an equivalent amount of revenue. Each method also has its advantages and disadvantages. The reasons for choosing one method over another can best be summarized as a question: What is it, exactly, that the City wishes to tax?

A tax based on square footage can be seen essentially as a tax on area of impact, under the assumption that the greater the size of the operation, the higher the impact on the surrounding neighborhood and City services. A square footage tax has the advantage that the amount of annual tax liability is generally known in advance by both the City and the tax-paying business, as it is keyed to the permitted amount of cultivation area. This allows both parties to budget accordingly. Variances in the actual amount of cultivation area being planted per cycle can be accommodated through advance notification, monitoring and regular inspections or audits. The amount of tax paid does not automatically increase with inflation, making it necessary to include a mechanism to adjust the tax rate annually in accordance with the Consumer Price Index (CPI).

Taxing cannabis cultivation by weight is essentially a tax on production. The tax is on the volume of product, rather than on the size of the operation or the profits generated. This method assumes that the volume of cannabis being produced creates a commensurate impact on the community. The State tax rate for cultivation is set by weight at \$9.65 per ounce of dried flower or \$2.87 per ounce of dried leaf. Because these rates are set by weight, rather than as a percentage of price paid, the tax is the same whether the cultivator is producing commercial-grade cannabis at \$500 per pound or top-grade cannabis at \$2,500 per pound. Reporting and remittance for a weight-based tax can be tied to the figures being

reported to the State. As with the square-footage tax, it is necessary to annually adjust the tax rate to reflect changes in the CPI.

A tax on gross receipts taxes the gross income of the business, not the actual profits. As such, a gross receipts tax is effectively a tax on conducting business, regardless of the physical size of the operation, the volume of cannabis being produced, or the profitability of the business. A gross receipts tax has the advantage of increasing or decreasing in accordance with income and automatically adjusting for inflation. Because the cannabis industry largely operates on a cash basis, annual financial audits are highly recommended to ensure that all receipts have been properly reported and all taxes fairly remitted.

Determining an equivalent rate between a tax on square footage, gross receipts or weight can be accomplished using a few basic assumptions. In Figure 7 (next page) we have projected the amount of cannabis that can be produced from a typical 10,000 square foot indoor cultivation facility. We have assumed that the facility will achieve four harvest cycles per year, which is fairly standard (though many operators are able to achieve more).

Yield is assumed to average one pound of cannabis flower for every 10 square feet of cultivation area. This metric is drawn from a 2010 study by the Rand Corporation^{iv}. Though the study is fairly old for such a young industry, its findings are consistent with more recent studies. Some cultivation facilities can yield one pound for every eight square feet, and others cite yields that are much lower (more square feet per pound), but 10 square feet remains a commonly used metric which provides for conservative estimates. Using this figure, a 10,000 square foot cultivation facility operating 4 cycles would produce around 4,000 pounds of cannabis per year.

The price per pound is conservatively assumed to be \$1,000. This figure is somewhat lower than the current average for indoor-grown cannabis, but there is still great variability in the market and, over the long term we anticipate that wholesale prices for raw cannabis will continue to decline. Applying this figure, our 10,000 square foot facility would generate \$4 million in gross receipts.

Having developed figures for both yield and gross receipts, we can now easily translate the equivalent tax rates between the different methods. Figure 11 shows the equivalent gross receipts and per-pound rates for the City’s proposed rates of \$10, \$15 or \$25 per square foot. A rate of \$10 per square foot is roughly equivalent to \$25 per pound, or 2.5% of gross receipts. A rate of \$15 per square foot is equivalent to \$37.50 per pound or 3.75% of gross receipts, and a rate of \$25 per square foot is equivalent to \$62.50 per pound or 6.25% of gross receipts.

Figure 11:

Cultivation Tax Rate Converter; Proposed Square Foot Rates									
Cultivation Type	Harvest Cycles /Year	Sample Area (sq ft)	Yield @ 1 lb/10 sf /cycle	Price per pound	Gross Receipts	Tax Rate per SF	Total Annual Tax Paid	Tax Rate per Pound	Tax Rate % Gross Receipts
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	\$10.00	\$100,000	\$25.00	2.50%
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	\$15.00	\$150,000	\$37.50	3.75%
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	\$25.00	\$250,000	\$62.50	6.25%

In Figure 12, below, we have modified this table to input the City’s proposed gross receipts tax rates of 5%, 10% or 15%. These higher rates cause the equivalent rates per pound and per square foot to increase

significantly. A gross receipts rate of 5% is equivalent to \$50 per pound or \$20 per square foot. A gross receipts rate of 10% is equivalent to \$100 per pound or \$40 per square foot, and a rate of 15% is equivalent to \$150 per pound or \$60 per square foot.

Figure 12:

Cultivation Tax Rate Converter; Proposed Gross Receipts Rates									
Cultivation Type	Harvest Cycles /Year	Sample Area (sq ft)	Yield @ 1 lb/10 sf /cycle	Price per pound	Gross Receipts	Tax Rate % Gross Receipts	Total Annual Tax Paid	Tax Rate per Pound	Tax Rate per SF
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	5.00%	\$200,000	\$50.00	\$20.00
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	10.00%	\$400,000	\$100.00	\$40.00
Indoors	4	10,000	4,000	\$1,000	\$4,000,000	15.00%	\$600,000	\$150.00	\$60.00

As discussed elsewhere in this report, the City’s proposed square footage rates are above emerging norms and would likely discourage cultivators from choosing to locate in Oceanside. Applying the proposed gross receipts rates would likely be prohibitive. The 12 cultivation businesses already licensed by the City would suddenly find it much harder to compete with cultivators elsewhere, as they would effectively have to increase their wholesale prices by up to 6.25%, or as much as 15% under the gross receipts tax.

Attachment C in the appendix, *State Tax Considerations*, explains how the cumulative tax rate on cannabis builds as the product moves towards market. Conversations with cannabis industry trade groups suggest that the cumulative tax rate on the end product should not exceed 30%. While a rate of 5% on any one step in the process may seem reasonable, there are multiple “touching points” before the product reaches the market. The cumulative rate with a 5% tax would be above 31%. The cumulative rate with a 10% tax at each touching point would reach 36%, and the cumulative rate with a 15% tax would be over 40%.

Higher tax rates create greater price disparity between legal and illegal cannabis, making it harder for the regulated industry to compete with the illicit market. Higher local tax rates can also make a county or city less attractive to the industry, especially for manufacturers and distributors, which have greater flexibility in choosing where to locate. We believe that setting rates that adhere to this 30% rule will help keep the City’s cannabis industry competitive with other cultivators across California, thus encouraging the transition to a legal industry.

VII. Cannabis Retailers

The City has limited cannabis retailers to only Type 9 non-storefront (delivery only) operations, with only 2 licenses available. The City has since issued both available licenses, though only one (MedLeaf Delivery) has so far received the necessary State license from the Bureau of Cannabis Control.

Retailers are the only cannabis business type that specifically serves the local community, rather than feeding into the statewide market, and so the number of retailers can be assumed to be somewhat proportional to the local population. Cannabis retailers address a local market demand which is generally assumed to exist within a given community regardless of whether there is any legal access. Consumer demand for cannabis is assumed to generally be a constant, regardless of its legal status or the availability of retailers, and so it's reasonable to expect that more retailers would mean fewer customers for each and, thus, lower gross receipts.

It is anticipated that providing greater access to retailers would initially facilitate a shift in cannabis purchases happening through legal, regulated means rather than through the illicit market. Eventually, though, the local cannabis market will reach saturation, at which point new cannabis retailers will simply cannibalize sales from existing retailers. Essentially, both licensed and unlicensed cannabis retailers all divide the same pie. The taxable amount of gross sales will likely plateau at some point, regardless of the number of retailers.

Under California's regulatory program, it is anticipated that consumers will have little reason to purchase cannabis in the medical segment rather than buying in the adult use segment. Both medical and adult use cannabis will pay the State cultivation tax and excise tax, with the only advantage being an exemption from regular sales tax for qualifying patients with a State-issued identification card. Currently there are only 6,172 such cardholders in California, and just 436 cards were issued in all of San Diego County in FY 2017/2018^v. Eligibility for this limited sales tax exemption will cost consumers approximately \$100 per year, plus time and inconvenience, for a savings of 8.25% in Oceanside. It's anticipated that this will provide no price advantage for the majority of cannabis consumers^{vi}.

The Bureau of Cannabis Control projects that more than half of the adult use purchases currently in the illicit market will transition to the legal market to avoid the inconvenience, stigma and risks of buying unknown product through an unlicensed seller^{vii}. Essentially, the easier, cheaper and more reliable it is for consumers to access quality cannabis legally, the less reason they will have to purchase it through the illicit market. That same study projects that 60% of those currently in the legal, medical cannabis market will shift to the adult use market, for the reasons noted above. The availability of legal adult use cannabis is also anticipated to produce a small 9.4% increase in consumer demand. It must be noted, though, that this transition to legal sales is dependent upon the availability of legal access. The majority of cities and counties in California do not allow or permit cannabis retailers, which has buoyed a persistent black market.

The shift from medical to adult use sales is not expected to change the overall volume of sales, only the category into which they fall. Once the legal, adult use market is properly functioning and available throughout the state, it is anticipated to capture about 61.5% of the overall cannabis market in California. The legal medical cannabis market is projected to decline to just 9% of the overall market, though this projection may change due to the increasing popularity of CBD products. The other 29.5% is expected to

remain in the illicit market^{viii}. The vast majority of retail licenses issued by the Bureau of Cannabis Control are for retailers who will operate both medical and adult use from the same premises.

Sales tax is collected at the point of purchase, which allows storefront cannabis retailers to capture sales tax dollars from outside of their host cities. This applies to cannabis retail taxes, too. Retail studies show that 93% of consumers are willing to travel 15 to 20 minutes to make most routine purchases^{ix}, meaning that storefront retailers in Oceanside would be able to capture sales tax (and cannabis tax) from a much larger area extending generally from as far away as Carlsbad, Vista and Encinitas.

For purchases made via delivery, however, the point of purchase is considered to be the location where the goods trade hands. Thus, while storefront retailers may capture sales and cannabis tax dollars from outside of the City, delivery services cannot. For this reason, the customer base for our analysis of potential cannabis tax revenue would not extend beyond the City's population of 176,000.

Estimates of the percentage of the population that uses cannabis on a regular basis vary from around 10% to 13%^x, up to as high as 22%^{xi}. This percentage is influenced by social acceptance of cannabis within the local community. Applying these estimates to the City's population of 176,000 would yield between roughly 17,688 and 38,720 potential cannabis consumers.

However, the City of Vista has licensed 11 cannabis retailers and six are now operating. Storefront retailers in the City of Vista⁴ would be very likely to capture sales from cannabis consumers who would like the opportunity to peruse the available merchandise and have a more tangible experience than is possible with a delivery service. We estimate cannabis sales and tax leakage to the City of Vista at 30%, which would reduce the customer and tax base to a range from 12,382 to 27,104.

Cannabis retailers typically average around 120 customers per day^{xii}, with an average transaction of \$73 and an average frequency of twice a month^{xiii}. This produces a range of annual gross receipts generated by cannabis consumers within the available market of between \$21.7 million and \$47.5 million.

Prior to January 1st, the Weedmaps website showed between 30 and 50 unlicensed cannabis delivery services located as far away as Vista and Encinitas that all appeared to deliver to addresses in the City of Oceanside⁵. Since the City is not intending to allow adult-use retailers, these unlicensed delivery services would be the only avenue for consumers to access cannabis without the cost and inconvenience of having to obtain a physician's recommendation.

Statewide, just 8% of retailer licenses are for medicinal-only (67 out of a total of 836). This is consistent with a 2017 CalCannabis study which anticipated that medical cannabis sales would decline to just 9% of the overall market after legalization. For these reasons, we believe that leakage to illicit delivery services could be 60% or even higher. This would reduce the adjusted annual gross receipts to between \$8.7 million and \$19 million.

⁴ Though Vista does not currently allow deliveries, that city is exploring changes to its ordinance which would allow licensed retailers to deliver, too. While retailers in Vista may also be able to deliver into Oceanside, those sales and cannabis tax dollars would rightfully belong to the City of Oceanside, not Vista.

⁵ Businesses listed on Weedmaps are often shown multiple times to show multiple locations they will deliver to. We called a number of businesses and found that they would deliver into Oceanside from as far away as Encinitas.

Applying the City’s initially-proposed minimum tax rate of 5% to this range would generate annual tax revenues between \$434,000 and \$950,000. The City’s initially-proposed rate of 7% would generate between \$607,000 and \$1,330,000, and the maximum rate of 15.0% would generate between \$1,300,000 and \$2,850,000. These estimates and all of the calculations discussed are shown in Figure 14, below.

Figure 14:

Revenue Projections for Cannabis Retailers, Initially Proposed Rates			
	Low Estimate	"Best" Estimate	High Estimate
Oceanside population	176,000	176,000	176,000
Percentage of population that uses cannabis	10%	13%	22%
Number of cannabis users	17,688	22,880	38,720
Leakage to other jurisdictions (30%)	5,306	6,864	11,616
Total customer base	12,382	16,016	27,104
Average transaction amount	\$73	\$73	\$73
Transaction frequency (per month)	2	2	2
Monthly gross receipts	\$1,807,714	\$2,338,336	\$3,957,184
Annual gross receipts	\$21,692,563	\$28,060,032	\$47,486,208
Leakage to black market (60%)	\$13,015,538	\$16,836,019	\$28,491,725
Adjusted annual gross receipts	\$8,677,025	\$11,224,013	\$18,994,483
Cannabis business tax rate:			
5.00%	\$433,851	\$561,201	\$949,724
7.00%	\$607,392	\$785,681	\$1,329,614
15.00%	\$1,301,554	\$1,683,602	\$2,849,172

Because of their higher profitability and their unique nature in serving a defined geographic area, cannabis retailers may be somewhat better able to absorb a slightly higher tax rate than other cannabis business types. This is especially true where the number of retailers is limited, subjecting them to less competition. However, competition can come from licensed or unlicensed sources both inside and outside of the City. As discussed, medicinal-only retailers in Oceanside would have access to less than 10% of the overall market and would have to compete with up to 11 retailers in Vista, and as many as 50 unlicensed delivery services.

The common range we see and recommend for cannabis retailers is 4% to 6%. The City initially considered rates of 5% to 15%, with an initial rate of 7%. The low end of 5% would be within the common range, and the proposed initial rate of 7% is not far outside, but even the midpoint of 10% would likely make it difficult for these retailers claim market share against from unlicensed businesses.

HdL recommends that the City consider applying these common tax rates for cannabis retailers as discussed in Section III; *Common Cannabis Tax Rates*. Applying a tax rate of 4% of gross receipts could generate between \$347,000 and \$760,000 in annual revenue for the City. Applying a rate 5% could generate between \$434,000 and \$950,000 in revenue, and a rate of 6% could generate between \$521,000 and \$1,140,000. These projections are shown in Figure 15, below.

Figure 15:

Revenue Projections for Cannabis Retailers, HdL Recommended Rates			
	Low Estimate	"Best" Estimate	High Estimate
Oceanside population	176,000	176,000	176,000
Percentage of population that uses cannabis	10%	13%	22%
Number of cannabis users	17,688	22,880	38,720
Leakage to other jurisdictions (30%)	5,306	6,864	11,616
Total customer base	12,382	16,016	27,104
Average transaction amount	\$73	\$73	\$73
Transaction frequency (per month)	2	2	2
Monthly gross receipts	\$1,807,714	\$2,338,336	\$3,957,184
Annual gross receipts	\$21,692,563	\$28,060,032	\$47,486,208
Leakage to black market (60%)	\$13,015,538	\$16,836,019	\$28,491,725
Adjusted annual gross receipts	\$8,677,025	\$11,224,013	\$18,994,483
Cannabis business tax rate:			
4.00%	\$347,081	\$448,961	\$759,779
5.00%	\$433,851	\$561,201	\$949,724
6.00%	\$520,622	\$673,441	\$1,139,669

APPENDIX

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a. Legal and Regulatory Background for California

The legal and regulatory status of cannabis in the State of California has been continually evolving ever since the passage of Proposition 215, the Compassionate Use Act of 1996 (CUA), which de-criminalized the use, possession and cultivation of cannabis for qualifying patients and their primary caregivers when such use has been recommended by a physician. The CUA did not create any regulatory program to guide implementation, nor did it provide any guidelines for local jurisdictions to establish their own regulations. The lack of legal and regulatory certainty for medical marijuana (or cannabis) continued for nearly 20 years, until the passage of the Medical Cannabis Regulation and Safety Act (MCRSA) in October of 2015. MCRSA created a State licensing program for commercial medical cannabis activities, while allowing counties and cities to maintain local regulatory authority. MCRSA required that the State would not issue a license without first receiving authorization by the applicable local jurisdiction.

On November 8, 2016, the voters of the State of California approved Proposition 64, the Adult Use of Marijuana Act (AUMA), which allows adults 21 years of age or older to legally grow, possess, and use marijuana for personal, non-medical “adult use” purposes, with certain restrictions. AUMA requires the State to regulate non-medical marijuana businesses and tax the growing and selling of medical and non-medical marijuana. Cities and counties may also regulate non-medical marijuana businesses by requiring them to obtain local permits or restricting where they may be located. Cities and counties may also completely ban marijuana related businesses if they so choose. However, cities and counties cannot ban transport of cannabis products through their jurisdictions, nor can they ban delivery of cannabis by licensed retailers to addresses within their jurisdiction (added later through regulations).

On June 27, 2017, the Legislature enacted SB 94, which repealed MCRSA and incorporated certain provisions of MCRSA into the licensing provisions of AUMA. These consolidated provisions are now known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). MAUCRSA revised references to “marijuana” or “medical marijuana” in existing law to instead refer to “cannabis” or “medicinal cannabis,” respectively. MAUCRSA generally imposes the same requirements on both commercial medicinal and commercial adult-use cannabis activity, with certain exceptions. MAUCRSA also made a fundamental change to the local control provisions. Under MCRSA, an applicant could not obtain a State license until they had a local permit. Under MAUCRSA, an applicant for a State license does not have to first obtain a local permit, but they cannot be in violation of any local ordinance or regulations. The State licensing agency shall contact the local jurisdiction to see whether the applicant has a permit or is in violation of local regulations, but if the local jurisdiction does not respond within 60 days, then the applicant will be presumed to be in compliance and the State license will be issued.

MAUCRSA authorizes a person to apply for and be issued more than one license only if the licensed premises are separate and distinct. With the passage of AB 133 in 2017, a person or business may co-locate multiple license types on the same premises, allowing a cultivator to process, manufacture or distribute their own product from a single location. This includes the allowance to cultivate, manufacture, distribute or sell cannabis for both medical and adult use from a single location. Licensees of cannabis testing operations may not hold any other type of license. However, these allowances are still subject to local land use authority, so anyone seeking to operate two or more license types from a single location would be prohibited from doing so unless local regulations allow both within the same zone.

The table below provides a detailed overview of the license types available under MAUCRSA and state cannabis regulations:

State License Types Under MAUCRSA					
Type	Activity	Description	Details	Licensing Agency	Notes
1	Cultivation	Outdoor; Specialty, Small	Up to 5,000 sf, or 50 plants on non-contiguous plots	CDFA	A, B
1A	Cultivation	Indoor; Specialty, Small	501 sf - 5,000 sf	CDFA	A, B
1B	Cultivation	Mixed-Light; Specialty, Small	2,501 sf - 5,000 sf	CDFA	A, B
1C	Cultivation	Outdoor/indoor/mixed; Specialty Cottage, Small	Up to 25 plants outdoor; up to 2,500 sf mixed light; up to 500 sf indoor	CDFA	A, B
2	Cultivation	Outdoor; Small	5,001 sf - 10,000 sf	CDFA	A, B
2A	Cultivation	Indoor; Small	5,001 sf - 10,000 sf	CDFA	A, B
2B	Cultivation	Mixed Light, Small	5,001 sf - 10,000 sf	CDFA	A, B
3	Cultivation	Outdoor; Medium	10,001 sf - one acre	CDFA	A, B, C
3A	Cultivation	Indoor; Medium	10,001 sf - 22,000 sf	CDFA	A, B, C
3B	Cultivation	Mixed-Light; Medium	10,001 sf - 22,000 sf	CDFA	A, B, C
4	Cultivation	Nursery		CDFA	A, B
-	Cultivation	Processor	Conducts only trimming, drying, curing, grading and packaging of cannabis	CDFA	A, B, E
5	Cultivation	Outdoor; Large	Greater than 22,000 sf	CDFA	A, B, D
5A	Cultivation	Indoor; Large	Greater than 22,000 sf	CDFA	A, B, D
5B	Cultivation	Mixed-Light; Large	Greater than 22,000 sf	CDFA	A, B, D
6	Manufacturer 1	Extraction; Non-volatile	Allows infusion, packaging and labeling	OMCS	A, B
7	Manufacturer 2	Extraction; Volatile	Allows infusion, packaging and labeling, plus non-volatile extraction	OMCS	A, B
N	Manufacturer	Infusion for Edibles, Topicals	No extraction allowed	OMCS	A, B, E
P	Manufacturer	Packaging and Labeling	No extraction allowed	OMCS	A, B, E
S	Manufacturer	Shared-use manufacturer	Manufacturing in a shared-use facility	OMCS	A, B, E
8	Testing		Shall not hold any other license type	BCC	A
9	Retailer	Non-storefront retail delivery	Retail delivery without a storefront	BCC	A, F
10	Retailer	Retail sale and delivery		BCC	A, B
11	Distributor			BCC	A, B
12	Microbusiness	Cultivation, Manufacturer 1, Distributor and Retailer	< 10,000 sf of cultivation; must meet requirements for all license types	BCC	A, B
CDFA	California Department of Food and Agriculture				
OMCS	California Department of Public Health, Office of Manufactured Cannabis Safety				
BCC	Bureau of Cannabis Control				
A	All license types valid for 12 months and must be renewed annually				
B	All license types except Type 8 Testing must be designated "A" (Adult Use), "M" (Medical) or "A/M" (Both)				
C	CDFA shall limit the number of licenses allowed of this type				
D	No Type 5 licenses shall be issued before January 1, 2023				
E	Established through rulemaking process				

AUMA, and its successor MAUCRSA, required three state agencies, the Bureau of Cannabis Control, the California Department of Food and Agriculture, and the California Department of Public Health, to permit commercial cannabis licensees and to adopt regulations for the cannabis industry. On January 16, 2019, all three agencies announced that the state's Office of Administrative Law officially approved state regulations, which took immediate effect and replaced emergency regulations that had been in effect since 2017. The final regulations were largely similar to the emergency regulations, but somewhat controversially, Section 5416(d) of the Bureau of Cannabis Control regulations authorizes deliveries of cannabis products into any city or county in the state, even if a city or county has banned commercial deliveries.

b. State Tax Considerations

To determine what local tax rates might be most appropriate, they must be considered in the context of other taxes imposed by the State. Any local taxes will be in addition to those taxes applied through the Adult Use of Marijuana Act (AUMA), which imposes both a 15% excise tax on purchases of cannabis or cannabis products and a separate cultivation tax on harvested cannabis that enters the commercial market, as well as sales tax. Taxes are most commonly expressed as a percent of price or value, so some method of conversion is necessary to allow development of an appropriate cultivation tax based on square footage.

The State tax rate for cultivation is set at \$9.65 per ounce of dried flower or \$2.87 per ounce of dried leaf. Because these rates are set per ounce, rather than as a percentage of price paid, the tax is the same whether the cultivator is producing commercial-grade cannabis at \$500 per pound or top-grade cannabis at \$2,500 per pound. The cultivator is generally responsible for payment of the tax, though that responsibility may be passed along to either a manufacturer or distributor via invoice at the time the product is first sold or transferred. The distributor is responsible for collecting the tax from the cultivator upon entry into the commercial market, and remitting it to the California

Cumulative Cannabis Taxes			
Category	Amount	Increase	Cumulative Price
Producer Price	\$1,000	\$1,000	\$1,000
State Cultivation Tax	\$9.65/oz	\$154	\$1,154
Local Tax	3.75%	\$38	\$1,192
Batch Testing	\$75/lb, + 0.75%	\$75	\$1,267
Wholesale Price w/ Taxes		\$1,267	
Total Tax at Wholesale		\$267	
Tax as %		26.65%	
Distributor Markup	20.00%	\$253	\$1,520
Local Tax	10.00%	\$152	\$1,672
Total Distributor Price		\$1,672	
Total Taxes at Distributor		\$418	
Total Tax as %		25.03%	
Retailer Markup	100.00%	\$1,672	\$3,344
Local Tax	10.00%	\$334	\$3,678
State Excise Tax	15.00%	\$502	\$4,179
Total Retailer Price		\$4,179	
Total Taxes at Retail		\$1,254	
Total Tax as %		30.01%	
CA Sales Tax (non-medical)	6.25%	\$261	\$4,441
Local Sales Tax	2.00%	\$84	\$4,524
Total Taxes at Retail		\$1,599	
Total Tax as %		35.35%	
Total Local Tax		13.43%	\$607.43

Department of Tax and Fee Administration.

The cultivation tax of \$9.65 per ounce of dried flower is equivalent to \$154 per pound. Just a year ago, HdL would have assumed an average wholesale market price for dried flower of around \$1,500 per pound, which would make that \$154 equal to roughly 10% of value. Since then, however, prices have plummeted. Competitive market forces enabled by legalization have brought the average price for indoor cannabis down to around \$1,000 per pound, or even less (cannabis prices vary greatly based on product quality).

Conversations with cannabis industry trade groups suggest that the cumulative tax rate on the end product should remain at or around 30%. Higher rates create too much price disparity between legal and illegal cannabis, making it harder for the regulated industry to compete with the illicit market. Higher local tax rates can also make a county or city less attractive to the industry, especially for manufacturers and distributors, which have greater flexibility in choosing where to locate. We believe that setting rates that adhere to this 30% rule will help keep the local cannabis industry competitive with other cultivators across California, thus encouraging the transition to a legal industry.

The above table shows how the cumulative tax rate on adult-use cannabis builds as the product moves towards market. The value of the product increases as it moves through the supply chain towards market, with manufacturers, distributors and retailers each adding their own markup. Testing laboratories do not add a direct markup to the product, but the cost of testing and the loss of a small test sample can add around \$75 per pound. Any or all of these activities may be taxed.

This model assumes a hypothetical case where cultivation, manufacturing, testing, distribution and retail sale all happen within the same jurisdiction and are thus all subject to that jurisdiction's tax rates. In actuality, this is unlikely to be the case. Manufacturers may work with product purchased from anywhere in California, and may sell their product to retailers elsewhere, as well. The cumulative tax burden for any product at retail sale will almost always include a variety of tax rates from numerous jurisdictions.

c. General Economic Impacts

Discussion of regulating and taxing the cannabis industry can too often overshadow the larger jobs and economic development issues that typically accompany efforts to attract new industry. Word that a new business or industry is looking to bring hundreds of new jobs to a community is more commonly met with open arms and offers of tax incentives. The cannabis industry is perhaps completely unique in that the inherent jobs and economic development benefits are welcomed more grudgingly and met with the disincentive of special taxes.

As with any other industry, the cannabis industry does not exist in a vacuum. Those businesses that actually grow, process, manufacture, distribute and sell cannabis products support a wide variety of other businesses that may never touch the actual product itself. Cultivators support garden supply stores, green house manufacturers, irrigation suppliers, soil manufacturers, and a wide variety of contractors including building and construction, lighting and electrical, HVAC, permitting, and engineering. Manufacturers support many of these same businesses, plus specialized tooling and equipment manufacturers, and product suppliers for hardware, packaging, and labeling. All of these businesses support, and are supported by, a host of ancillary businesses such as bookkeepers, accountants, tax preparers, parcel services, marketing and advertising agencies, personnel services, attorneys, mechanics, facilities maintenance, security services, and others.

The economic benefits are not limited to those in the cannabis industry, itself. Cultivators bring new money into the community by selling their products into a statewide market. Their profits and the salaries they pay move into the general local economy, supporting stores, restaurants, car dealerships, contractors, home sales and other businesses. In Humboldt County, a study done in 2011 found that at least \$415 million dollars in personal income was entering the local economy annually from the cannabis industry, roughly equal to one quarter of the county's entire \$1.6 billion economy.

While Humboldt is likely an outlier, research done by HdL for other clients suggests that other counties and cities see similar, if smaller, economic inputs from this industry, with some in the range of \$100 million dollars or more annually. As this industry adapts to a legal paradigm, the challenge for some counties will be mitigating and minimizing the economic loss as the black market slowly fades away.

Because of the emerging nature of this industry, it is currently populated primarily (but not solely) by small, independently-owned businesses. Numerous studies have demonstrated that locally-owned, independent businesses recirculate a far higher percentage of every dollar back into the local community than large, corporately-owned businesses do. The same economic development arguments that are used to support other independent, locally-owned businesses apply to this industry, too. Host cities or counties should expect to see typical economic benefits from these new (or newly daylighted) businesses on par with other new businesses, separate from any tax revenue that may be generated.

Industry experts believe that California's current statewide production is five to eight times higher than the State's population consumes, a figure derived from the SRIA done for CDFA's cannabis cultivation program. That assessment found that California's cannabis industry produces some 13.5 million pounds of cannabis per year, which would be enough to provide over half a pound of cannabis per year for every Californian 21 and over. However, the assessment also found that California's 4.5 million cannabis users only consume about 2.5 million pounds of cannabis per year.

The Bureau of Cannabis Control projects that more than half of the adult use purchases currently in the illicit market will transition to the legal market to avoid the inconvenience, stigma and risks of buying unknown product through an unlicensed seller. Essentially, the easier, cheaper and more reliable it is for consumers to access quality cannabis legally, the less reason they will have to purchase it through the illicit market. That same study projects that 60% of those currently in the legal, medical cannabis market will shift to the adult use market, for the reasons noted above. The availability of legal adult use cannabis is also anticipated to produce a small 9.4% increase in consumer demand.

Given these figures, cities and counties should expect to see some increase in retail sales as these shifts occur in the market. More significantly, the existence of legally permitted cannabis retailers will allow a far greater portion of existing cannabis sales to be captured by legal (and tax-paying) retailers.

The shift from medical to adult use sales is not expected to change the overall volume of sales, only the category into which they fall. Once the legal, adult use market is properly functioning, it is anticipated to capture about 61.5% of the overall cannabis market in California. The legal medical cannabis market is projected to decline to just 9% of the overall market. The other 29.5% is expected to remain in the illicit market.

These numbers only apply to the 2.5 million pounds of cannabis that is consumed in California, representing the potential size of the legal cannabis market. If 29.5% of the cannabis consumed in California continues to come from the illicit market, then the size of the market for legal cannabis must be adjusted downward accordingly. This would reduce the size of the legal market in California to 1.76 million pounds.

California has been issuing temporary licenses for commercial cannabis businesses since the beginning of the year. As of May 5th, CalCannabis shows 4,783 active cultivation licenses statewide, held by 2,669 distinct businesses and comprising 909 acres of cultivation. We conservatively estimate that these growers are capable of producing over 8.5 million pounds of cannabis per year, which is over three times as much cannabis as the State's legal buyers are anticipated to consume. Were the State to issue no more licenses, we would still expect a failure rate of at least 40% in the next two years.

d. References

ⁱ Ibid

ⁱⁱ California Department of Public Health, Manufactured Cannabis Safety Branch, License Search, <https://www.cdph.ca.gov/Programs/CEH/DFDCS/MCSB/Pages/licensesearch.aspx>, accessed October 10, 2019

ⁱⁱⁱ Bureau of Cannabis Control License Search database, <https://aca5.accela.com/bcc/customization/bcc/cap/licenseSearch.aspx>, accessed October 10, 2019

^{iv} John P. Caulkins (2010) *“Estimated Cost of Production for Legalized Cannabis”*, the Rand Drug Policy Research Center

^v California Department of Public Health (2018) *“Medical Marijuana Identification Card Program”* <https://www.cdph.ca.gov/Programs/CHSI/Pages/Medial-Marijuana-Identification-Card.aspx>

^{vi} *“Economic Costs and Benefits of Proposed Regulations for the Implementation of the Medical Cannabis Regulation and Safety Act (MCRSA)”* (February 23, 2017) University of California Agricultural Issues Center

^{vii} *“Economic Costs and Benefits of Proposed Regulations for the Implementation of the Medical Cannabis Regulation and Safety Act (MCRSA)”* (February 23, 2017) University of California Agricultural Issues Center

^{viii} *“Economic Costs and Benefits of Proposed Regulations for the Implementation of the Medical Cannabis Regulation and Safety Act (MCRSA)”* (February 23, 2017) University of California Agricultural Issues Center

^{ix} Ross Marchant (2014) *“Consumers will Travel 17 Minutes to Reach a Local Business”* <https://www.brightlocal.com/2014/05/01/local-business-travel-times/> Bright Local

^x CBS News (2018) *“17 stoner states: Where’s marijuana use highest?”* <https://www.cbsnews.com/pictures/17-stoner-states-where-marijuana-use-highest/9/>

^{xi} Christopher Ingraham (April 20, 2017) *“How many Americans regularly use pot? The number is, errr, higher than you think”* Sacramento Bee <http://www.sacbee.com/news/nation-world/national/article145681414.html>

^{xii} Eli McVey, et al. (2017) *“Marijuana Business Factbook 2017”* Marijuana Business Daily

^{xiii} Eli McVey, et al. (2017) *“Marijuana Business Factbook 2017”* Marijuana Business Daily

LAWYERS
3990 OLD TOWN AVE, STE A-101
SAN DIEGO, CA 92110
LICENSED IN
CALIFORNIA, ARIZONA & HAWAII
TELEPHONE
(619) 924-9600
FACSIMILE
(619) 881-0045

Writer's Email:
gaustin@austinlegalgroup.com

June 5, 2020

City of Oceanside
300 N. Coast Hwy
Oceanside, CA 92054

VIA EMAIL ONLY: jborrego@oceansideca.org

RE: June 17, 2020 City Council Meeting Public Comment re: Item - Proposed Cannabis Tax Ordinance

To Mayor Weiss and the City Council of Oceanside:

Austin Legal Group, APC submits this public comment on behalf of our client, Zenlabs Holding, LLC ("Zenlabs"), with respect to the City of Oceanside's proposed Cannabis Business Tax ordinance ("Ordinance") set to be heard in front of the City Council on June 17, 2020. Zenlabs currently holds four City cannabis business licenses: two mixed-light cannabis cultivation licenses and two cannabis nursery licenses. As an Oceanside cannabis stakeholder, Zenlabs would like to (i) address the inevitable harms a flat tax rate scheme would impose on the City's cannabis cultivation market; and (ii) request City Council to replace the cultivation flat tax rate with a gross receipt tax to further the City's local commercial cannabis market goals.

BACKGROUND

On May 18, 2020, the City of Oceanside circulated its proposed Cannabis Business Tax ordinance for public review. As is currently drafted, the City's cannabis cultivation tax would be imposed as follows: a minimum tax rate of \$5.00 per square foot of canopy and a maximum tax rate of \$10.00 per square foot of canopy. As noted in the June 1, 2020 email by Development Services Director Jonathan E. Borrego, City staff is recommending the initial cultivation rate to be set at \$8.00 per square foot of canopy.

DISCUSSION

A. A flat tax rate for cannabis cultivation operations greatly restricts the City's ability to generate revenue.

Implementing a flat tax rate directly inhibits the City's goal to generate significant revenue while promoting success within its local commercial cannabis marketplace. A flat tax rate provides no business security or support for the City's cannabis cultivators.

To begin, a flat tax rate does not consider the differing production capabilities between indoor cannabis cultivation and mixed-light greenhouse cultivation. Indoor cannabis cultivation allows for more consistent harvest cycles as indoor cultivators can grow year-round. This means more reliable crop production and profit-making. Contrarily, greenhouse cultivation is reliant on the climate and season changes. This results in a lower crop production and less opportunities to generate higher profits. This was not taken into account in the fiscal analysis HdL prepared for the City (“Fiscal Analysis”). The Fiscal Analysis only analyzes figures from an indoor cannabis cultivation perspective. Ironically, the City only allows for mixed-light cannabis cultivation. Such a vast omission in the analysis fails to provide the City with an accurate representation of how its cannabis cultivators would be impacted by a flat tax rate.

Moreover, a flat tax rate does not consider the naturally-fluctuating California cannabis market. Many outside market forces continue to have major impacts on the market’s success. State and local laws, regulations, and policies are consistently being amended. Several regulatory amendments have immediate effective dates often causing cannabis businesses loss of profits as they work to modify their operations for full compliance. The market is also incredibly competitive and small business owners struggle to survive due to overly burdensome taxes that do not take into account the hardships of a small business owner. Inevitably, a flat tax rate has no sympathy for this ever-changing cannabis market.

Finally, a flat tax rate does not consider non-cannabis related market forces, including force majeure events and agricultural-related issues. Novel coronavirus (“COVID-19”) is a very real and current demonstration of this. The COVID-19 economic impacts on businesses have been extremely detrimental causing loss of sales, loss of services, and loss of employees. Additionally, cannabis cultivators, as stated above, rely heavily on the current environment and weather forces. “Bad harvests” are not uncommon and a flat tax rate provides no support for it. City-licensed cannabis cultivators would have no choice but to struggle to pay a fixed tax rate with a non-existent income. This scenario is the very thing the City wishes to avoid, yet the proposed cannabis cultivation tax structure directly works against it.

B. A gross receipt tax structure for all commercial cannabis activity would promote the City’s goal to general significant tax revenue while encouraging local business success.

In its Fiscal Analysis, HdL misleadingly states that imposing a gross receipt tax on cannabis cultivators would “likely be prohibitive.”¹ However, this is based on the City’s initially proposed numbers, which HdL admitted “are *significantly higher* than the rates we would typically recommend.”² Many major cannabis cultivation cities and counties impose a gross receipt tax on cannabis cultivators. To illustrate:

- City of Modesto: Cultivation 2.5% of gross receipts.³

¹ See HdL’s Fiscal Analysis p.17.

² See HdL’s Fiscal Analysis p.4.

³ City of Modesto Commercial Cannabis Fees and Tax Rates, <https://www.modestogov.com/2212/Commercial-Cannabis-Fees-and-Tax-Rates>.

- Mendocino County: Cultivation 2.5% of gross receipts.⁴
- Santa Barbara County: Cultivation 4% of gross receipts.⁵

Gross tax receipts allow for the generation of City revenue while ensuring cannabis cultivation businesses do not fail when forces outside their control occur. It allows for flexibility when cannabis regulations change, when climate and environmental issues occur, and when unforeseen events arise. The City is providing this flexibility to all other commercial cannabis activity it permits in its City, and should allow the same equal treatment to its cultivators.

Lastly, considering the uncertainty in today's market, we ask City Council to start with a lower gross receipt tax percentage of 2.5% for cultivation licensees. This allows the City's cultivation businesses to survive the current economic crisis, without restricting the City's ability to increase the tax rate percentage once the economy is revived.

CONCLUSION

Considering the inevitable detriments a flat tax rate would impose on local cannabis cultivators, Zenlabs respectfully requests City Council to eliminate its proposed flat tax rate scheme of "a minimum tax rate of \$5.00 per square foot of canopy and a maximum tax rate of \$10.00 per square foot of canopy," and replace it with a more sustainable gross receipt tax scheme of 2.5% as to be more aligned with the City's goals of bolstering its tax revenue while supporting its own commercial cannabis market.

Sincerely,
AUSTIN LEGAL GROUP, APC



Gina M. Austin, Esq.

⁴ Mendocino County Code section 6.32.050(B)(1).

⁵ Santa Barbara County Code section 50A-1(a)(4).



DM Color Express, Inc.

Main Office (949)496-9356 Fax (949)496-9174

PO Box 220. San Juan Capistrano. CA 92693

www.dmcloexpress.com

June 10, 2020

To: Oceanside City Council

RE: Proposed flat tax on Cannabis cultivation businesses

Dear honorable City Council,

My name is Karl Metz, I am the CFO and part owner of DM Color Express, Inc, and my family has owned and operated greenhouses in South Morro Hills for over 30 years. Like most farmers around here, we have had an increasingly difficult time making a profit in agriculture due to a variety of factors, so when cannabis cultivation became a reality in our region we were on board to get involved. Our hopes were that we could maintain the land as agricultural, given the supplemental income a cannabis related business would bring. This notion became more of a reality when we partnered with Zenleaf and were approved to apply for a conditional use permit.

In consideration of the recently proposed flat tax on cannabis cultivation licenses, I believe a flat tax per square foot of canopy will be detrimental to any greenhouse cannabis cultivation business in Oceanside. At the proposed rate, the City of Oceanside would be receiving 3-4 times more tax dollars than my family would receive as rental income from the leased premises. Under this structure, I don't see how it would be possible for our partners to realize any profitability and thus keep paying us rent. The cannabis industry is quickly becoming a mainstream source of revenue for farmers in other parts of the state, and because of that, the price of cannabis has come down drastically. With these rapidly decreasing prices, it is my opinion that the industry can no longer support these outdated tax structures proposed by HDL.

I believe the only way to ensure success of cannabis cultivation by South Morro Hills farmers is to opt for a tax on gross receipts. This would allow for a steady stream of tax revenue for the city of Oceanside over time, rather than a large upfront flat tax which would quickly bankrupt any cannabis cultivation business willing to participate.

I hope you will consider this letter,

Respectfully,

Karl Metz
CFO, DM Color Express, Inc
Metz Properties, LLC

Johnathan Borrego
Deputy City Manager, City of Oceanside
300 North Coast Hwy
Oceanside, CA 92054

Dear Deputy City Manager Jonathan Borrego,

As you may be aware in order to meet all the Conditional Use Permit requirements, an environmentally advanced greenhouses is extraordinarily capital intensive and expensive to construct. In addition, there is a minimum 20-24 month period from project approval until operations begin in full. During this time business owners will not have available products for sale and will have very high costs to set up operations. While the industry is advancing on a daily basis, this is still a brand new industry and faces unprecedented challenges from black market producers. Being taxed for two full years before producing any plant material will negatively impact the growth of this fledgling industry in Oceanside and deny the city the revenue as HdL outlined.

We recommend the initial cultivation tax rate be set at \$5 with allowances for incremental increases in the following years. We also urge staff to consider having tax payments to be paid within 9 months after approval of a certificate of occupancy.

The staff originally proposed a cultivation tax rate at \$10-\$25 per square foot of canopy, however when HdL's research found that range to be prohibitively high and recommended lowering to the \$5-\$10 range. It is important to highlight that HdL based their tax rate recommendations on indoor cultivation spaces which maximize yields and are conducive to higher tax rates than outdoor cultivation spaces which cannot control lighting. HdL also found that the Cannabis market is already saturated, noting that Californian's consume about 2.5 million pounds a year, whereas black market cultivators and others produce 8.5 million pounds of product a year. This information indicates that Cannabis prices will likely keep decreasing before they increase as markets properly licensed and regulated to correct the supply imbalance.

During this time, it would be counterproductive for the City of Oceanside to establish a tax rate that is higher than absolutely necessary. The profits HdL predicted are predicated on businesses surviving the first 20-24 months of construction and successfully setting up operations. Requiring tax payments as soon as the ordinance is approved would result in an unjust burden on businesses if they are stuck with tax obligations for 24 months before having the opportunity to get into production much less turn a profit. Such a requirement would also lead to legal challenges as seen in Calaveras, Humboldt, and Lake County's.

Best Regards,
Oceanside Grown Farms Team



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Ojai Energetics

VICE-CHAIR
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Vote Hemp

SECRETARY
John Rulack
Nutiva

TREASURER
Boris Scharansky
Papa & Barkley

DIRECTOR
Eddie Bemacchi

CHIEF COUNSEL
Patrick Goggin

LEGISLATIVE & REGULATORY

STAFF
Bret Barrow
Kiana Valentine

June 19, 2020

City Council
City of Oceanside
300 North Coast HWY
Oceanside, CA 92054

Re: Ordinance to Tax Cannabis Business Activity

Dear Mayor and City Council:

The California Hemp Council (CHC) is a California-based advocacy organization advancing the interests of the hemp industry in the State. We write regarding concerns that we have with the above-referenced proposed local cannabis tax ordinance.

The ordinance is an effort to apply a local tax to commercial cannabis business activity in the City of Oceanside (the City). While the CHC is not opposed to a local cannabis business tax, the ordinance appears to conflate hemp and marijuana, which are distinctly defined and regulated under California law.

Hemp is a federally lawful agricultural product defined in the Food and Agricultural (§81000(a)(6)) and Health and Safety (§11081.5) Codes as Cannabis sativa L. with less than 0.3% THC. Hemp is regulated as an agricultural crop by the Department of Food and Agriculture (CDFA) and only requires registrations issued by County Agricultural Commissioners.

Cannabis or marijuana, on the other hand, is federally prohibited but was made lawful in California by the passage of Propositions 215 (medicinal law passed in 1996) and 64 (adult-use law passed in 2016). Cannabis is governed by the Business and Professions Code and regulated by several agencies including the Bureau of Cannabis Control (BCC), CDFA, and the Department of Public Health (CDPH). The state cannabis program requires local authorization as a condition for applying for a state license.

Despite these different regulatory regimes for hemp and cannabis, the City's proposed ordinance proposes to tax hemp:

cultivation, transportation, dispensing, manufacturing, producing, processing, preparing, storing, providing, selling, or distributing...by commercial Cannabis Businesses in the City of Oceanside, pursuant to the State Medicinal and Adult-Use Cannabis Regulation and Safety Act (California Business and

California Hemp Council
1127 11th Street
Suite 747
Sacramento, CA 95814
Phone (916) 309-4488
Fax (916) 442-6437
www.calhempcouncil.com

Professions Code sections 26000, et seq.), as it now exists or may be amended from time-to-time, and local law, whether or not conducted in compliance with such laws.

However, the cultivation and manufacturing of hemp are regulated completely separate from cannabis leaving the purpose for the inclusion of hemp in the tax ordinance a mystery. The ordinance does not propose to tax the cultivation and manufacturing of other agricultural crops and products by cannabis businesses so why does it attempt to do so with hemp? The ordinance fails to explain and justify its inclusion of hemp and its conflation of cannabis, a federally prohibited substance, with hemp.

Based on the foregoing, the CHC strongly urges the City of Oceanside to remove all “hemp” and “industrial hemp” references from the proposed ordinance. Failing to do so may result in legal action against the City of Oceanside to effectuate the removal of hemp that was unjustifiably included in the ordinance. Thank you for your attention to this critical flaw with the proposed tax ordinance.

Sincerely,

/s/

Patrick D. Goggin
Chief Counsel

MED LEAF DELIVERY

**Financial Analysis of
Adult-Use Retail Delivery**

Prepared by



for the

City of Oceanside

May 28, 2020

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I. Introduction

The City of Oceanside passed Ordinance Number 18-OR0199-1 to permit and regulate Cannabis Businesses under the authority of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). Section 7.117(b) states that “[...] no more than two (2) local licenses may be issued by the city manager or designee to permit a medical cannabis delivery establishment (M-Type-9 non-storefront retailer) located in Oceanside.” The city did not include Adult-Use cannabis activities in its initial licensing efforts.

One of the two Medical Delivery Only permits was awarded to MedLeaf through a competitive licensing process. MedLeaf, located at 2935 San Luis Rey, has gone through the majority of the requisite departmental reviews and has obtained the proper state licensing to operate – MedLeaf plans to open for delivery services in June 2020.

Since January 2018 there have been increasing indications that the Medical Only market is dwindling and is no longer, or soon will no longer be, a viable market in and of itself. In May 2020 HdL Companies prepared a Fiscal Analysis for the City of Oceanside. The paper entreats the city to permit Adult-Use cannabis businesses, citing the shrinking Medical market (roughly 9% of the overall state cannabis market) and the persistent illicit market (nearly 30% of the overall state cannabis market). The crux of HdL’s argument is that permitting both Medical and Adult-Use retail, under a fair and reasonable tax structure, is the most prudent strategy in order to facilitate legal cannabis sales in a way that is viable for cannabis retail operators and the surest way to create long-term tax revenue for the City and combat the illicit market.

Adding Adult-Use retail to an existing Medical Only retail regime is not unprecedented; major cities such as Long Beach and Santa Ana have done so efficiently. These cities, through adult-use cannabis ordinances, amended their licensing programs to include adult-use retail. Both jurisdictions gave priority licensing to existing Medical dispensaries and offered a streamlined application process.

Our projections show that the addition of adult-use retail to the city is in the best interest of both licensed operators and the City of Oceanside. By allowing MedLeaf to conduct both Medical and Adult-Use sales, the city will be facilitating fair competition, all while increasing MedLeaf’s revenues and the City’s tax benefits. Section II provides a brief overview of the state of Adult-use cannabis in Southern California. Section III discusses HdL Companies’ Fiscal Analysis and how it corroborates MedLeaf’s urging of the city to allow adult-use sales; Sections IV and V discuss jurisdictions that originally permitted medical only cannabis businesses and then later added Adult-Use activities, as well as what the respective processes looked like; Section VI provides some overall projections and discusses the financial impact for MedLeaf and the City if Oceanside were to allow Adult-Use delivery sales; Section VII is a brief conclusion and formal request that the City consider allowing licensed medical delivery businesses within the city to apply for, and operate, Adult-Use sales.

II. Adult-Use Retail Cannabis in California

California's legal cannabis industry was developed through a slow process of legalization that originated with legal cannabis for medicinal purposes and evolved into a multi-billion dollar commercial enterprise. Starting with the Compassionate Use Act of 1996 (Proposition 215), the state's initial voter-enacted legislation protected patients and designated caregivers who possessed and cultivated marijuana for personal medical use. Senate Bill 420, which went into effect in 2004, provided broader protection for patients and caregivers. However, the industry lacked formal regulation until the Medical Cannabis Regulation and Safety Act (MCRSA) became effective in January of 2016. After the Adult Use of Marijuana Act (AUMA) was passed in November 2016, the Bureau of Cannabis Control merged the Adult-Use and Medical regulations into the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

The MAUCRSA's regulations grant broad discretion and authority to local jurisdictions to approve of and regulate cannabis businesses and cannabis business licenses. In accordance with this discretion and under an abundance of caution, many of the early jurisdictions that approved cannabis businesses and cannabis business licenses limited these businesses to medicinal only licenses and operations. Fortunately, as the state's legal cannabis industry evolved many of these jurisdictions adapted their regulations to allow medicinal only businesses to add adult-use business activities.

Statewide, medicinal only cannabis business licenses now make up less than 10% of all licenses for each business type. With respect to retail business licenses only 78 out of the state's 973 licenses are for medicinal only, which accounts for 8% of all licensed retail businesses. As the number of adult-use retail licenses increases, medicinal only licensees have faced competitive disadvantages and continue to see a decline in sales. Medicinal only licensees can only serve patients who have received a doctor's recommendation for cannabis use, and this inconvenience has resulted in most consumers seeking Adult-use alternatives as well as the illicit market.

An Economic Study conducted by the University of California Agricultural Issues Center¹ projected that over sixty percent (60%) of purchases in the legal, medicinal cannabis market will shift to the adult use market. The same study predicts that over half of the current purchases in the illicit market will transition to the legal adult use market to avoid the risks and inconvenience associated with purchasing cannabis from illegal sources. The potential transition to legal sales and increasing revenues will mostly be lost opportunities for medicinal only retailers whose customers must go through the added inconvenience of receiving a medical recommendation.

Over time, the legal medicinal market is expected to decrease to around nine percent (9%) of California's overall cannabis market, with the adult use market capturing over sixty percent (60%) of the state's market and the remaining market share being held by illicit sales. In order to compete and stay relevant in an evolving market, legal cannabis retailers will need to service the legal adult-use consumer market.

¹ "Economic Costs and Benefits of Proposed Regulations for the Implementation of the Medical Cannabis Regulation and Safety Act (MCRSA)" (February 23, 2017) University of California Agricultural Issues Center

Beyond being limited to delivery only retail dispensaries, Oceanside's current licensing program only permits medicinal only delivery operations. While the delivery-only limitation will result in leakage of potential consumers to nearby competitors with storefront retail, the medicinal only restriction will result in substantial loss of customers to nearby licensed adult-use deliveries as well as illicit deliveries which continue to proliferate throughout the state. As long as the City of Oceanside continues to limit retail delivery licenses to medicinal only sales, unlicensed delivery services will be the only option for consumers to access cannabis without the inconvenience of obtaining a doctor's recommendation.

This unnecessary loss of consumers to the illicit market and competing adult use licensed deliveries will inevitably result in lost tax revenue for the City of Oceanside and will also jeopardize the long-term viability of the medicinal only retail delivery operations that the City has licensed. Based on the projected market share of adult use and medicinal only consumers, Oceanside and its licensed deliveries will likely realize as low as fifteen percent (15%) of their potential revenue if the City continues to limit its licensees to medicinal only sales. This difference could result in millions of dollars of lost revenue for the licensed delivery operations and hundreds of thousands of dollars in lost tax revenue for the City of Oceanside.

III. Summary of HdL's Oceanside Retailer Fiscal Analysis

In May 2020 HdL Companies ("HdL") prepared a Fiscal Analysis of the Commercial Cannabis Industry ("Fiscal Analysis") for the City of Oceanside to aid the city in deciding whether to allow adult-use cannabis cultivation activities and what the tax structure should look like. The Fiscal Analysis, however, is not limited in scope to medicinal versus adult-use cultivation municipal tax considerations. The Fiscal Analysis is a comprehensive document that addresses the regional cannabis market, common cannabis tax rates, legal and regulatory parameters, state tax considerations, economic impacts, as well as provides cannabis manufacturing, distribution, cultivation and retail contextual analyses. We have thoroughly reviewed the Fiscal Analysis and believe it to be an accurate depiction of the cannabis industry as applied to Oceanside.

MedLeaf was awarded a Medical Delivery Only cannabis business permit from the City of Oceanside, which translates to a M-Type 9 Retail License at the state level. Because the Fiscal Analysis includes an overview of retail market, plus operational and tax considerations, we would like to utilize HdL's analysis to set the table contextually so that each party involved is on the same page with respect to the issues at hand – specifically pertaining to the pros and cons of permitting adult-use retail and the associated tax structures.

Currently the City of Oceanside has limited cannabis retailers to two (2) Medicinal Non-Storefront Delivery licenses, of which MedLeaf holds one of the two licenses. However, limiting retail to Medical Only is not prudent because of market trends, as HdL points out:

Under California's regulatory program, it is anticipated that consumers will have little reason to purchase cannabis in the medical segment rather than buying in the adult use segment. Both medical and adult use cannabis will pay the State cultivation tax and excise tax, with the only advantage being an exemption from regular tax sales for qualifying patients with a State-issued identification card. Currently there are only 6,172 such cardholders in California, and just 436 cards were issued in all of San Diego County in FY 2017/2018. Eligibility for this limited sales tax exemption will cost consumers approximately \$100 per year, plus time and inconvenience, for a savings of 8.25% in Oceanside. It's anticipated that this will provide no price advantage for the majority of cannabis consumers.²

The addition of adult use sales is pivotal for MedLeaf's retail operations. The Bureau of Cannabis Control projects that more than half of the adult use purchases currently in the illicit market will transition to the legal adult-use market to avoid the inconvenience, stigma and risks of buying unknown product through an unlicensed seller. A study by the University of California Agricultural Issues Center projects that 60% of those purchasing from the legal medical cannabis market will shift to the adult use market. HdL points out that "The shift from medical to adult use sales is not expected to change the overall volume of sales, only the category into which they fall [...] the legal *medical cannabis market is projected to decline to just 9% of the overall market.*"³ Multiple studies and industry experts suggest that the medical market is declining and will not be a significant segment of California's cannabis industry. If Oceanside continues to allow

² Fiscal Analysis of the Commercial Cannabis Industry, City of Oceanside, May 2020, Page 18.

³ Fiscal Analysis of the Commercial Cannabis Industry, City of Oceanside, May 2020, Page 18. (Emphasis Added)

Medical only retail, HdL expects those “businesses already permitted by the City either *to fail* or to move to neighboring or nearby jurisdictions where they could have access to the other 90% of the cannabis market.”⁴

Further, cannabis retailers must compete with California’s enormous illicit market, which accounts for over 29% of the overall market. HdL states, “Prior to January 1st, the Weedmaps website showed between 30 and 50 unlicensed cannabis delivery services located as far away as Vista and Encinitas that all appeared to deliver to addresses in the City of Oceanside. Since the City is not intending to allow adult-use retailers, these unlicensed delivery services would be the only avenue for consumers to access cannabis without the cost and inconvenience of having to obtain a physician’s recommendation.”⁵ HdL finds, “Medicinal-only retailers in Oceanside would have access to less than 10% of the overall market and would have to compete with up to 11 retailers in Vista, and as many as 50 unlicensed delivery services.”⁶

MedLeaf, as a Medical-only retail delivery, will have access to approximately 10% of the cannabis consumer market within its delivery scope. Although it is unclear to what extent medical retailers lose business to unlicensed delivery operations, it is clear that MedLeaf will be competing with dozens of unlicensed delivery operations. Ultimately, HdL finds that “if a city or county wishes to generate revenue from the cannabis industry through taxes, then it must consider tax rates and structures that are more equitable to those aspects of the industry it wishes to support or encourage. A lower tax may ultimately generate more revenue as a function of attracting and supporting more businesses, while higher tax rates may have the effect of discouraging businesses or decreasing their gross receipts. Simply put, cities will generate no revenue from businesses that fail in this highly competitive marketplace, or that choose to locate elsewhere in search of more favorable regulations and taxes.”⁷ They go on to conclude that “imposing excessively high rates may reduce the number of businesses that step forward and decrease the likelihood that they will succeed in the regulated market [...] Clear regulatory policies and competitive tax rates will be essential for attracting or holding on to this industry sector, and for helping these businesses to outcompete the persistent black market.”⁸

Thus, consistent with HdL’s Fiscal Analysis, we believe that it is in the best interest of both MedLeaf and the City of Oceanside to allow MedLeaf to operate as both a Medical and Adult Use delivery only retail business. By doing so the City of Oceanside will increase the likelihood of MedLeaf’s success thereby increasing the likelihood of collecting substantial tax revenue on a long-term basis, all while disincentivizing illicit cannabis delivery operations in proximity of the City.

⁴ Fiscal Analysis of the Commercial Cannabis Industry, City of Oceanside, May 2020, Page 6. (Emphasis Added)

⁵ Fiscal Analysis of the Commercial Cannabis Industry, City of Oceanside, May 2020, Page 19.

⁶ Fiscal Analysis of the Commercial Cannabis Industry, City of Oceanside, May 2020, Page 20.

⁷ Fiscal Analysis of the Commercial Cannabis Industry, City of Oceanside, May 2020, Page 4.

⁸ Fiscal Analysis of the Commercial Cannabis Industry, City of Oceanside, May 2020, Page 4.

IV. Long Beach Adult-Use Adoption – Medical Licensing followed by Adult-Use Licensing

The City of Long Beach originally permitted Medical-only cannabis businesses in accordance with the MAUCRSA and the jurisdictional authority granted to determine the scope of local cannabis business licensing programs. Long Beach Municipal Code Chapter 5.90 regulates Medical Marijuana Businesses; the city conducted its first round of licensing offering only Medical Cannabis Business Licensing – Distributors, Cultivators, Manufacturers, Laboratories, and Retailers. Long Beach limits cannabis retailers according to a population ratio:

The number of licensed and permitted Medical Marijuana Dispensaries shall be limited to not less than one (1) Medical Marijuana Dispensary business for every eighteen thousand (18,000) residents in the City of Long Beach or not more than one (1) Medical Marijuana Dispensary business for every fifteen thousand (15,000) residents in the City⁹ [...]

The City has a de facto limitation on cannabis retail based on the census population and the application of the municipal code section. Long Beach awarded approximately twenty (20) Medical Dispensary permits in a competitive licensing process (similar to Oceanside's process). Since there were about four (4) pre-MAUCRSA collectives who were grandfathered in and given Medical Dispensary permits, Long Beach had, in early 2018, twenty-four (24) licensed Medical Dispensaries.

In late 2018, the City of Long Beach decided to add Adult-Use cannabis business licenses to the city's cannabis business licensing program and did so through Ordinance Number 18-0015. The ordinance made amendments to both the city zoning and municipal code. The Long Beach Zoning Code, found in Chapter 21 of the municipal code, was adjusted by amending the use tables, which basically amounted to adding adult-use cannabis businesses to designated zones within the city. Ord. No. 18-0015 also added LBMC §5.92 Adult-Use Cannabis Businesses and Activities.

Because of the limitation on retail businesses as described above, the city could not permit new dispensaries. Instead, the City of Long Beach put procedures in place for *co-location* of adult-use and medicinal commercial cannabis activities available to Medical Cannabis Business Licensees within the city. This option effectively gave existing Medical Dispensaries licensed in Long Beach the *option to add Adult-Use activities* through a relatively streamlined process. This process, elucidated upon in Ord. No. 18-0015, was codified under LBMC §5.92 – relevant provisions reproduced below:

5.92.225 - Co-location of adult-use and medicinal commercial cannabis activities.

The City may allow a Commercial Cannabis Business to conduct both adult-use and medicinal commercial cannabis activity on the same permitted premises if all of the following criteria are met:

- A. The permittee holds both an Adult-Use Cannabis Business Permit and a Medical Marijuana Business Permit on the same premises for an identical type of commercial cannabis activity.
- B. Except as otherwise authorized by law, the permittee only conducts one of the following types of commercial cannabis activities on the same permitted premises: retail sale (Dispensary), cultivation, distribution, manufacturing, or laboratory testing. Examples of exceptions authorized by law

⁹ LBMC §5.90.060

include, but are not limited to, businesses holding a State license for a Type 12 Microbusiness or Transport Only Distributors that hold a State license and City permit for cultivation or manufacturing.

- C. Prior to the issuance of an Adult-Use Cannabis Business Permit, the applicant shall waive the rights to the inspection, penalty, suspension, revocation, and appeals process and requirements under Chapter 5.90 of this Code, and shall consent to subject the Medical Marijuana Business Permit to the inspection, penalty, suspension, revocation, and appeals processes and requirements of this Chapter.
- D. The application for an Adult-Use Cannabis Business Permit shall be submitted by the same entity and owners that hold the Medical Marijuana Business Permit, or the same entity and owners who are named on the application for the Medical Marijuana Business Permit, for the identical premises as the Medical Marijuana Business.
- E. The operation of adult-use and medicinal commercial cannabis activities from the same permitted premises complies with the requirements in this Chapter and all other applicable State and local laws and regulations, including, but not limited to, the location requirements specified in Section 5.92.420.
- F. *If the Commercial Cannabis Business is a Dispensary, the proposed Adult-Use Cannabis Dispensary shall also be one of the following:*
 - 1. *A permitted Medical Marijuana Dispensary in good standing; or*
 - 2. *A Medical Marijuana Dispensary applicant who participated in a Non-Priority Dispensary Public Lottery held by the City after September 29, 2017, who has received written notice from the Director of Financial Management that said application is eligible to move forward to department and plan check review.*
- G. The Medical Marijuana Business Permit shall be issued before the Adult-Use Cannabis Business Permit will be issued.

The application procedure for adding Adult-Use is streamlined for existing Medical Dispensaries, but only if it is the same owner and location (See: Exhibit A). As of May 2020, all twenty-four (24) licensed dispensaries in the City of Long Beach conduct both Medical and Adult-Use sales (See: Exhibit B). We believe that, by enacting a similar framework, the City of Oceanside could create a process for existing medicinal only licensees to add Adult-use activities, which would increase potential tax revenues for the City and ensure that these businesses remain viable as the state's medicinal cannabis market continues to decrease in overall market share.

V. Santa Ana Adult-Use Adoption – Medical Licensing followed by Adult-Use Licensing

The City of Santa Ana originally permitted Medical-only cannabis retail businesses in accordance with the MAUCRSA and the jurisdictional authority granted to determine the scope of local cannabis business licensing programs. Santa Ana added Adult-Use cannabis activities via Ordinance Number NS-2929; the city gave priority Adult-Use Retail application processing to existing permitted medical dispensaries in the city. The city allowed any medical marijuana dispensary “to apply for a Regulatory Safety Permit for the sale of Adult-Use cannabis provided that they enter into the Adult-Use Cannabis Retailer Operating Agreement with the City.”¹⁰

The City of Santa Ana has an explicit limitation on cannabis retailers based on medical versus adult-use designations, as described below:

Sec. 40-4. Maximum number of regulatory safety permits for commercial cannabis retail businesses.

The total number of cannabis retail businesses in operation shall be determined based on the number of locations which have been issued a Regulatory Safety Permit by the City of Santa Ana. In no case shall the City of Santa Ana allow more than the following commercial cannabis retail businesses to operate within City limits, regardless of the location’s compliance with any other Section specified in this article:

- A. Twenty (20) total medicinal cannabis retail businesses (as regulated by Article XIII of Chapter 18)
- B. Thirty (30) total adult-use cannabis retail businesses (which could include any or all of the medicinal cannabis retail businesses)

This licensing program was designed to offer the existing medical dispensaries the first shot at obtaining adult-use licensing. According to the BCC, there are currently twenty-seven (27) state licensed cannabis retail businesses in the City of Santa Ana. Of these, one (1) is Medical Only, eight (8) are Adult-Use only, and eighteen (18) have both Medical and Adult-Use sales. (See: Exhibit C) Similar to the process enacted by Long Beach, Santa Ana’s adoption of a framework that permitted its existing medicinal only licensees to add adult-use activities has allowed the City’s retail businesses to continue to flourish, thus securing a steady source of continuing tax revenue for the City and its constituents.

¹⁰ Ord. No. NS-2929 §40-1(B).

VI. Financial Impact of Oceanside Adult-Use Adoption

If Oceanside were to adopt a framework that allows its existing medicinal only delivery licensees to add adult-use activities, the City would be simultaneously ensuring the long-term viability of these businesses while securing a continuous stream of tax revenue for the City. In order to provide an overall assessment of the financial impact that adult-use adoption would result in, we will consult HdL's recent Fiscal Analysis as well as current sales figures in comparable retail operations throughout Southern California.

To begin with, retail delivery taxes are determined by where the physical transaction occurs. This means that deliveries to customers outside of Oceanside do not result in added tax revenue for the City of Oceanside. Accordingly, unlike storefront retailers, delivery only retailers are unable to capture tax dollars from outside the City. Thus, the overall customer base for the increased tax considerations for the City of Oceanside will be limited to the City's current population of approximately 177,000.

Cannabis usage rates vary somewhere between 10-22% based off current reports and industry estimates. This suggests that Oceanside's population boasts a consumer base between 17,700 and 38,940. Oceanside's consumer base will likely be affected by the six (6) current operational storefront retailers in Vista as well as licensed adult-use deliveries and the 30-50 illicit deliveries that currently service the area. Given that Oceanside is currently limited to medicinal only and delivery only cannabis retail it is expected that around 90% of the City's consumer base will leak into neighboring jurisdictions with adult-use or storefront retail as well as into the illicit market. This would reduce the customer and tax base to a range between 1,770-3,894.

Based on data pooled from a licensed dispensary in Marina del Rey as well as one of the licensed dispensaries in Vista, current storefront retailers in comparable markets are averaging 345 transactions per day, with an average transaction of \$76.81. While transaction rates across delivery and storefront retailers are pretty consistent, delivery-only retailers typically see anywhere between 33-50% of the transaction rates that storefront retailers with delivery. Therefore we expect MedLeaf's Oceanside delivery to see anywhere between 115-170 transactions per day with an average transaction in the \$76 range.

ANNUAL REVENUE PROJECTIONS FOR MEDLEAF OCEANSIDE DELIVERY			
Daily Transactions	Average Transaction Price	Days of Operation	Annual Revenue
115-170	\$76	360	\$3,146,400 - \$4,651,200

As discussed above, the Gross Revenue of MedLeaf's operations cannot be used to determine the potential tax revenue to the City of Oceanside as deliveries made outside of Oceanside do not result in added tax revenue to the City. In order to determine the tax base and expected revenue based on deliveries to Oceanside consumers, we will use the same Average Transaction Price but this should be used in conjunction with a 1,770-3,894 consumer base and an average frequency of 1.5x per month. This produces a range of annual gross revenue generate by Oceanside cannabis consumers between \$2.4 million and \$5.3 million. The City's initially-proposed tax rate of 7% would generate between \$168,000 and \$371,000, and the maximum 15% rate would generate between \$360,000 and \$795,000. These estimates and associated calculations are outline in the table, below.

REVENUE PROJECTIONS FOR MEDLEAF'S OCEANSIDE DELIVERIES (MEDICINAL)			
	Low Estimate	Likely Estimate	High Estimate
Oceanside Population	177,000	177,000	177,000
% of population that uses cannabis	10%	15%	22%
Number of cannabis users	17,700	26,550	38,940
Leakage to adult-use and illicit (90%)	15,930	23,895	35,046
Total Customer Base	1,770	2,655	3,894
Average Transaction Price	\$76	\$76	\$76
Transactions per month	1.5	1.5	1.5
Monthly Gross Receipts	\$201,780	\$302,670	\$443,916
Annual Gross Receipts	\$2,421,360	\$3,632,040	\$5,326,992
Cannabis Business Tax Rate:			
7.00%	\$169,495	\$254,243	\$372,889
15.00%	\$363,204	\$544,806	\$799,049

The above table shows the estimated Annual Receipts and associated Tax Revenue that MedLeaf expects to produce operating its medicinal only delivery retail license. These numbers are mostly affected by the amount of leakage that will be experienced due to competing adult-use deliveries as well as transactions that remain in the illicit market due to the inconvenience associated with procuring the required doctor's recommendation for medicinal purchases.

As discussed above, and confirmed in HdL's report, upwards of 60% of legal transactions are projected to be adult-use transaction and nearly 30% of consumer transactions are expected to remain in the illicit market. This accounts for the 90% leakage that MedLeaf's operations will experience in the Oceanside consumer base. While extending adult-use activities to Oceanside's retail delivery licensees will not result in a perfect capture of the 60% leakage to the adult-use market, we expect that at least 30% of the leakage will be captured and the remaining 30% will be leaked to other jurisdictions, including those with retail storefront activities. The following table outlines the estimates and associated calculations that we would expect should the City extend adult-use privileges to its current delivery licenses.

REVENUE PROJECTIONS FOR MEDLEAF'S OCEANSIDE DELIVERIES (ADULT-USE)			
	Low Estimate	Likely Estimate	High Estimate
Oceanside Population	177,000	177,000	177,000
% of population that uses cannabis	10%	15%	22%
Number of cannabis users	17,700	26,550	38,940
Leakage to adult-use and illicit (60%)	10,620	15,930	23,364
Total Customer Base	7,080	10,620	15,576
Average Transaction Price	\$76	\$76	\$76
Transactions per month	1.5	1.5	1.5
Monthly Gross Receipts	\$807,120	\$1,210,680	\$1,775,664
Annual Gross Receipts	\$9,685,440	\$14,528,160	\$21,307,968
Cannabis Business Tax Rate:			
7.00%	\$677,980	\$1,016,971	\$1,491,557
15.00%	\$1,452,816	\$2,179,224	\$3,196,195

Based on the above calculation and projections, the City of Oceanside could see its expected tax revenue from retail deliver activities go up by as much as four times (4x) as what would be expected under the current medicinal only licensing limitations. At the initially-proposed 7% tax rate, the City could expect anywhere between \$675,000 and \$1,491,557. This range increases to between \$1,452,816 and \$3,196,195 under the maximum tax of 15%. In a worst case scenario, if Oceanside approves adult-use retail delivery operations, the City can expect over half a million dollar (\$500,000) increase in expected tax revenue from retail cannabis business activities.

Given the amount of leakage that both the City and its licensed cannabis businesses will ensure if Oceanside continues to limit cannabis delivery activities to medicinal only, we believe it is in the City's best interest as well as the interest of its current licensed businesses that the City move forward with extending adult-use privileges to its licensed and operational cannabis delivery businesses. MedLeaf respectfully requests and recommends that the City consider approving adult-use delivery activities.

VII. Conclusion

The foregoing analysis provides an overview of the current state of Retail commercial cannabis businesses and looks into the positive financial impact that would result from extending adult-use privileges to current medicinal only cannabis delivery operations in the City of Oceanside. HdL's May 2020 Fiscal Analysis provided the City with a thorough foundation from which to consider the fiscal impacts and business risks associated with continuing to limit licensed cannabis businesses to medicinal only activities. Additionally, Long Beach and Santa Ana's transition framework were highlighted as examples of how the transition to adult-use activities has been successfully implemented by other Southern California Cities. Finally, a financial comparison of expected revenue that medicinal only and adult-use delivery operations would realize from Oceanside's residents was provided to show the increased tax revenues that the City of Oceanside could expect if it were to extend adult-use delivery privileges to its current medicinal only cannabis delivery businesses.

HdL's Fiscal Analysis and current industry data have made it abundantly clear that the illicit and adult-use markets pose a huge threat to medicinal only operations. The current trends within the industry suggest that medicinal sales account for less than 10% of the cannabis consumer market share. While illicit sales continue to account for nearly 30% of consumer transactions, legal medicinal only business are missing out on access to upwards of 60% of the cannabis market's consumer transactions. This competitive disadvantage has resulted non-profitability in 75% of medicinal only retail businesses.¹¹ As HdL astutely points out, "*cities will generate no revenue from businesses that fail* in this highly competitive marketplace, or that choose to locate elsewhere in search of more favorable regulations and taxes."¹²

The pressure from illicit businesses persists in the Oceanside community so much so that illegal operators have been willing to go on record to criticize Oceanside's medicinal only approach. David Newman, owner of A Soothing Seed, an illegal cannabis home delivery service, stated that Oceanside's program, "shoves people like us into the black market."¹³ Mr. Newman brazenly spoke to the *San Diego Reader* on record and reaffirmed his intention to continue Soothing Seeds illegal delivery operations. These continuing illicit businesses subvert Oceanside's efforts to legitimize the cannabis industry and collect tax revenue for the City and its constituents.

With Cities like Santa Ana and Long Beach paving the way, a blueprint has already been laid out for how to seamlessly and successfully extent adult-use privileges to Oceanside's existing approved cannabis businesses. Extending adult-use privileges to licensed delivery retailers not only protects the City's interest in collecting tax revenue, it also provides an important step in favor of public safety and community safe access. The vape crisis of 2019 provides direct evidence of the damage that black market products can have on public safety. A continued ban on adult-use sales forces local citizens who use cannabis to illicit sources of cannabis products, which do not undergo the same rigorous safety testing and are often laden with pesticides and other harmful chemicals.

¹¹ Eli McVey, et al. (2019) "Annual Marijuana Business Factbook 7th Edition" Marijuana Business Daily

¹² Fiscal Analysis of the Commercial Cannabis Industry, City of Oceanside, May 2020, Page 4.

¹³ Ken Leighton (2020) "Oceanside pro-weed advocates envy Vista's marijuana clinics"

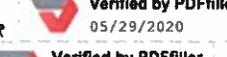
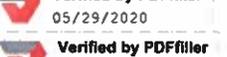
<https://www.sandiegoreader.com/news/2020/apr/14/stringers-oceanside-dealers-vistas-marijuana-c/>

Moreover, Oceanside's current medicinal only delivery program threatens the very businesses that the City has authorized to operate. MedLeaf has made significant investments in order to comply with the City's requirements and prepare itself for licensed and compliant business operations. The illicit market and Vista's recent approval of delivery activities for its licensed storefront retailers combine to threaten the long term viability of medicinal only delivery operations in Oceanside. MedLeaf has worked hard with the City to bring safe access to Oceanside's citizens and allowing delivery operations to include adult-use activities would safeguard these efforts and ensure that the City can avail itself to the benefits of continued tax revenues from a trusted community business partner.

Our above projections (See Section VI) show that approving adult-use delivery activities could result in the City of Oceanside realizing as much as four times (4x) the amount of tax revenue than what would be expected under the current medicinal only framework. At the initially-proposed 7% tax rate, the City could expect anywhere between \$675,000 and \$1,491,557. This range increases to between \$1,452,816 and \$3,196,195 under the maximum tax of 15%. At the very least, if Oceanside approves adult-use retail delivery operations, the City can expect over half a million dollar (\$500,000) increase in expected tax revenue from retail cannabis business activities. On the other hand, if the City continues to limit delivery sales to medicinal only there is a very real possibility that its approved delivery businesses will fail and the City will not only be unable to generate any tax revenue, but Oceanside residents will also lose their ability to have safe access to cannabis.

We believe that the foregoing analysis provides sufficient evidence and reasoning to warrant that the City of Oceanside and its City Council to seriously consider extending adult-use privileges to its current medicinal only cannabis delivery businesses. Aside from the half a million dollars in additional tax revenue, the City has a duty to its citizens to promote public safety by providing a means for safe and legal access to cannabis. The cannabis industry has come a long way and Oceanside's adoption of a cannabis regulatory program has shown its willingness to embrace an industry and business type that specifically serves the local community. It is against this background that MedLeaf respectfully requests and recommends that Oceanside and its City Council Members consider adding adult-use activities to its current medicinal only cannabis delivery businesses.

Respectfully,

George Hananwi 
Hoda Hajirmia 
Bianca Davila 
Justin Baker 
Krisztián Boos 

Team MedLeaf

EXHIBIT A



DEPARTMENT OF FINANCIAL MANAGEMENT
BUSINESS SERVICES BUREAU

Cannabis Dispensary Business License Application

Section A – Reason for Application		
<input type="checkbox"/> New Application	<input type="checkbox"/> Transfer of Ownership	<input type="checkbox"/> Change of Address
Section B – Application Type		
<input type="checkbox"/> Medicinal Cannabis Dispensary	<input type="checkbox"/> Adult-Use Cannabis Dispensary	
Section C – State License Types (Check Only One Per Application)		
<input type="checkbox"/> Type 10: Retailer*		
*You will need to hold a valid medical cannabis dispensary license in order to be issued an adult-use cannabis dispensary license. If at any time, the medical cannabis license becomes invalid, the adult-use cannabis dispensary license becomes null and void.		
Section D – Equity Status Information (For Adult-Use applications only)		
NOTE: Please visit www.longbeach.gov/cannabisequity for more information on the City's Cannabis Equity Program.		
Are you applying as an Equity Business? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If you marked "No", please proceed to Section D of this application.		
If "Yes", have you been verified as an Equity Applicant by the Office of Cannabis Oversight? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If you marked "Yes", please attach to this application:		
<ul style="list-style-type: none"> • Verification Letter issued by the Office of Cannabis Oversight • LBMC Chapter 5.92 Verification of Equity Business Ownership Form 		
Section E – License Information		
Are you applying to be a co-located cannabis business*? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If "Yes", what is the license account number for the associated cannabis business, if applicable? MJ _____		
*A co-located cannabis business means any business (entity) that is engaged in both adult-use and medicinal commercial cannabis activities on the same permitted premises for one (1) identical type of commercial cannabis activity.		
Are you converting an existing medical application/license to adult-use or vice versa? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If "Yes", what is the license account number for the license being converted? MJ _____		
Do you plan on operating a microbusiness*? <input type="checkbox"/> Yes <input type="checkbox"/> No		
* The State requires microbusinesses to engage in at least three (3) of the following commercial cannabis activities: cultivation, manufacturing, distribution, and/or retail sale. The City does not issue microbusiness licenses. A separate application and City license is required for each activity.		
Do you plan on operating a delivery service from the dispensary? <input type="checkbox"/> Yes <input type="checkbox"/> No		



EXHIBIT B

Licensed Cannabis Dispensaries in Long Beach (as of 5-1-2020)					
Business Name	DBA Name	Site Location	Medical	Adult-Use	Council District
4TH STREET COLLECTIVE INC	HAVEN	1248 LONG BEACH BLVD, LONG BEACH CA 90813	✓	✓	1
562 DISCOUNT MED INC	CONNECTED BELMONT SHORE	5227 2ND ST, LONG BEACH CA 90803	✓	✓	3
ALTERNATE HEALTH COLLECTIVE ASSOCIATION INC	STONE AGE FARMACY	3428 LONG BEACH BLVD, LONG BEACH CA 90807	✓	✓	7
ALTERNATIVE THERAPEUTIC SOLUTIONS	CONNECTED 405	3170 CHERRY AVE, LONG BEACH CA 90807	✓	✓	5
AVALON WELLNESS COLLECTIVE	THE CIRCLE	1755 XIMENO AVE LONG BEACH CA 90815	✓	✓	4
C.A.R.E COLLECTIVE INC		2725 SOUTH ST, LONG BEACH CA 90805	✓	✓	9
CASEY CROW COLLECTIVE		5959 CHERRY AVE, LONG BEACH CA 90805	✓	✓	9
CHRONIC PAIN RELEAF CENTER		1501 SANTA FE AVE, LONG BEACH CA 90813	✓	✓	1
CORNERSTONE HEALTH AND WELLNESS INC	EUFLORA	1147 E SOUTH ST, LONG BEACH 90805	✓	✓	9
EMERALD BEACH CARE INC	THE STATION	1957 PACIFIC AVE, LONG BEACH CA 90806	✓	✓	6
GOLD FLORA PARTNERS LLC	KING'S CREW	5630 E PACIFIC COAST HWY, LONG BEACH CA 90814	✓	✓	3
HOLISTIC ALTERNATIVE HERBAL MEDICINE	LEAF AND LION	6978 STANLEY AVE, LONG BEACH CA 90805	✓	✓	9
LB COLLECTIVE INC		1731 E ARTESIA BLVD, LONG BEACH 90805	✓	✓	9
LB GREEN ROOM INC	LB GREEN ROOM	1735 E 7TH ST, LONG BEACH CA 90813	✓	✓	2
LONG BEACH WELLNESS CENTER		5900 E SPRING ST C, LONG BEACH CA 90815	✓	✓	5
MATTJEREMY INC	ONE LOVE BEACH CLUB	2767 E BROADWAY, LONG BEACH CA 90803	✓	✓	2
MODERN BUDS LLC		3730 E BROADWAY LONG BEACH CA 90803	✓	✓	3
NHS COLLECTIVE		1901 ATLANTIC AVE, LONG BEACH CA 90806	✓	✓	6
RLB COLLECTIVE INC	HAVEN	3401 NORWALK BLVD, LONG BEACH CA 90808	✓	✓	5
RYAN BURNS COLLECTIVE	THE LIFT	2800 E 4TH ST, LONG BEACH CA 90814	✓	✓	2
RYAN CAMERON RAYBURN COLLECTIVE		2115 E 10TH ST, LONG BEACH CA 90804	✓	✓	4
SAVIA LLC	THE CORNER	2760 E SPRING ST 120, LONG BEACH CA 90806	✓	✓	5
THE AIRPORT COLLECTIVE	SHOWGROW	3411 E ANAHEIM ST, LONG BEACH CA 90804	✓	✓	4
THE AIRPORT COLLECTIVE	HAVEN	2801 E ARTESIA BLVD, LONG BEACH CA 90805	✓	✓	9

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EXHIBIT C

License Number	License Type	Business Owner	Business Contact Information	Business Structure	Premise Address	Status	Issue Date	Expiration Date	Address	Address Type
C11-000110-LIC	Commissary Distributor License	Christopher Landolf	PROCIANA OF CALIFORNIA - Procos of California - Email: landolf@prociana.com - Phone: 3108320714	Corporation	5474 AVE. CA 927810837 County	Active	05/09/2020	05/09/2021	N/A for this license type	BDTH
C10-000154-LIC	Commissary Distributor License	Robert Goodheart	NEWTOMAN PRINCIPLES, INC. - Planet 13 Orange County - Email: Robert.Goodheart@newtoman.com - Phone: 952389430	Corporation	5488 WARDNER AVE SANTA ANA, CA 92704 County ORANGE	Active	04/17/2020	04/17/2021	N/A for this license type	Adult-Use
C11-000154-LIC	Commissary Distributor License	Heather Aze	ORA GREENS - Procos of California - Email: heatheraze@oragreens.com - Phone: 7147719127	Corporation	SANTA ANA, CA 927084000 County ORANGE	Active	01/08/2008	01/01/2021	N/A for this license type	BDTH
C11-000158-LIC	Commissary Distributor License	Daniel Nathanson	SHOETHORN CANYON DEVELOPMENT, LLC - Healy Golf - Email: danielnathanson@shoethorn.com - Phone: 6433514856	unemployed	SANTA ANA, CA 927074200 County ORANGE	Active	13/04/2019	13/02/2020	N/A for this license type	BDTH
C11-000160-LIC	Commissary Distributor License	Janet Smith	STPC DISTRIBUTION, INC. - Procos of California - Email: janet.smith@stpc.com - Phone: 7149011286	Corporation	SANTA ANA, CA 927054119 County ORANGE	Inactive	10/16/2019	10/16/2020	N/A for this license type	Adult-Use
C10-000166-LIC	Commissary Distributor License	Jason Luby	DELTA HEALTH INC. Delta Distributor - Email: jason.luby@deltahealth.com - Phone: 688466212	unemployed	Santa Ana, CA 92705 County ORANGE	Active	10/16/2019	10/16/2020	N/A for this license type	BDTH
C11-000168-LIC	Commissary Distributor License	Jeffrey Singh	JINCH LLC, LLC - Kawaii Works - Email: jeffrey.singh@jinch.com - Phone: 5674320788 - Website: www.jinch.com	Limited Liability Company	2103 SUSAN ST SANTA ANA, CA 92704 County ORANGE	Active	08/08/2019	08/08/2020	N/A for this license type	BDTH
C11-000169-LIC	Commissary Distributor License	Travis Smith	SUPERB PRODUCT RESOURCE - Email: travis.smith@superb.com - Phone: 949899916	Corporation	SANTA ANA, CA 927073900 County ORANGE	Active	09/03/2019	09/03/2020	N/A for this license type	BDTH
C11-000170-LIC	Commissary Distributor License	Doreen Kinsey	YES IT WINKER LLC - Pacific Distribution - Email: doreen.kinsey@yesitwinker.com - Phone: 488943360	Limited Liability Company	Santa Ana, CA 92708 County ORANGE	Active	08/09/2019	08/27/2020	N/A for this license type	BDTH
C11-000171-LIC	Commissary Distributor License	Justin Brinkley	OCC SYSTEMS INC - Great Monday - Email: justin.brinkley@occsystems.com - Phone: 679000898 - Website: www.occsystems.com	Corporation	Santa Ana, CA 92708 County ORANGE	Active	09/15/2019	09/26/2020	N/A for this license type	BDTH
C10-000172-LIC	Commissary Distributor License	Jimmy Dzung	FARFAX ENTERPRISES, INC. - FARFAX ENTERPRISES, INC. - Email: jimmy.dzung@farfax.com - Phone: 9524001529	Corporation	Santa Ana, CA 92708 County ORANGE	Active	08/09/2019	08/27/2020	N/A for this license type	BDTH
C10-000173-LIC	Commissary Distributor License	Kyle DeMat	NEWTOMAN PRINCIPLES, INC. - Email: kyle.demat@newtoman.com - Phone: 7146482775	Corporation	3210 STRAIGHT AVE SANTA ANA, CA 927080520 County	Active	07/20/2019	07/20/2020	N/A for this license type	Adult-Use
C10-000174-LIC	Commissary Distributor License	Yveson Kheng	THE GARRY FINE ARTS SOCIETY - Email: yveson.kheng@garry.com - Phone: 7147178998 - Website: NA	Limited Liability Company	3001 W GARRY AVE SANTA ANA, CA 927080400 County ORANGE	Active	07/16/2019	07/16/2020	N/A for this license type	Adult-Use
C10-000175-LIC	Commissary Distributor License	Jonathan Hyde	THE SOURCE SANTA ANA - Healy Golf - Email: jhyde@thesource.com - Phone: 3233055110 - Website: www.thesource.com	Corporation	2141 Wright St Santa Ana, CA 92708 County	Active	07/16/2019	07/16/2020	N/A for this license type	BDTH
C11-000176-LIC	Commissary Distributor License	Michael Beaudry	HEBEL, INC - Email: michael@hebel.com - Phone: 625426200	Corporation	SANTA ANA, CA 927080800 County ORANGE	Active	07/15/2019	07/15/2020	N/A for this license type	BDTH
C10-000177-LIC	Commissary Distributor License	Jimmy Dzung	AAA HEALTH CENTER - AAA Health Center - Email: jimmy.dzung@aaahealth.com - Phone: 9496798026	Corporation	1228 Burr Court Pl, Santa Ana, CA 92708 County ORANGE	Active	07/15/2019	07/15/2020	N/A for this license type	Adult-Use
C11-000178-LIC	Commissary Distributor License	Bernard Barkhorn	Herb Oil, LLC - Email: bernard@herboil.com - Phone: 7146673799	Limited Liability Company	Santa Ana, CA 92707 County ORANGE	Active	07/15/2019	07/15/2020	N/A for this license type	BDTH
C10-000179-LIC	Commissary Distributor License	Jeffrey Nguyen	HALLADAY HEALING GROUP INC. - Email: jeffrey@halladay.com - Phone: 7147178988 - Website: NA	Corporation	SANTA ANA, CA 92707 County ORANGE	Inactive	07/16/2019	07/16/2020	N/A for this license type	BDTH
C10-000180-LIC	Commissary Distributor License	Jeffrey Wang	The 18 Spot, Inc. - Email: jeffrey@the18spot.com - Phone: 952329216	Corporation	2705 BARRON ST SANTA ANA, CA 927040232 County ORANGE	Inactive	07/16/2019	07/16/2020	N/A for this license type	Adult-Use
C10-000181-LIC	Commissary Distributor License	Jeffrey Nguyen	HALLADAY HEALING GROUP INC. - Super Clinic - Email: jeffrey@halladay.com - Phone: 7147171400 - Website: www.halladay.com	Corporation	3525 S BRICH ST SANTA ANA, CA 927040300 County ORANGE	Active	07/16/2019	07/16/2020	N/A for this license type	BDTH
C10-000182-LIC	Commissary Distributor License	Nguyen Kheng	8218 HALLADAY WELLSNESS, INC. - West Clin. - Email: nguyen.kheng@8218.com - Phone: 7146333221 - Website: www.8218.com	Corporation	7110 WILE ST SANTA ANA, CA 927040400 County ORANGE	Active	07/16/2019	07/16/2020	N/A for this license type	BDTH
C11-000173-LIC	Commissary Distributor License	Jimmy Dzung	Green Rose Great Last Care, Inc. - Green Rose Great Last Care, Inc. - Email: jimmy.dzung@greenrose.com - Phone: 7144221980	Corporation	SANTA ANA, CA 927084025 County ORANGE	Active	07/08/2019	07/08/2020	N/A for this license type	BDTH
C11-000174-LIC	Commissary Distributor License	Jimmy Dzung	MOCHI PLACE WELLSNESS INC. - Email: jimmy.dzung@mochiplace.com - Phone: 9493222999	Corporation	SANTA ANA, CA 927080114 County ORANGE	Active	07/08/2019	07/08/2020	N/A for this license type	BDTH
C11-000175-LIC	Commissary Distributor License	Nguyen Kheng	PHENYVE HOLDING LLC - Email: nguyen.kheng@phenyve.com - Phone: 7147178998	Limited Liability Company	SANTA ANA, CA 92704423 County ORANGE	Inactive	07/08/2019	07/08/2020	N/A for this license type	BDTH
C10-000176-LIC	Commissary Distributor License	Nguyen Kheng	2018 HALLADAY WELLSNESS, INC. - Super Clinic - Email: nguyen.kheng@2018.com - Phone: 7147178998	Corporation	SANTA ANA, CA 92704423 County ORANGE	Inactive	07/08/2019	07/08/2020	N/A for this license type	BDTH
C11-000177-LIC	Commissary Distributor License	Nguyen Kheng	The Baby Box, LLC - Email: nguyen.kheng@thebabybox.com - Phone: 7147178998 - Website: 3091 W Garry Ave.	Limited Liability Company	SANTA ANA, CA 92704 County ORANGE	Inactive	07/09/2019	07/09/2020	N/A for this license type	BDTH
C11-000178-LIC	Commissary Distributor License	Brandon Jones	611 VENTURES, LLC - Email: brandon@611ventures.com - Phone: 9494827588	Limited Liability Company	SANTA ANA, CA 92708687 County ORANGE	Active	07/09/2019	07/09/2020	N/A for this license type	BDTH
C10-000179-LIC	Commissary Distributor License	Nguyen Kheng	STPC DISTRIBUTION - Procos of California - Email: nguyen.kheng@stpc.com - Phone: 7149011286	Corporation	1228 E GARDNER AVE SANTA ANA, CA 927084110 County ORANGE	Active	07/09/2019	07/09/2020	N/A for this license type	Adult-Use
C10-000180-LIC	Commissary Distributor License	Robert Salt	THE SPANISH HEART INC. - 430 Central - Email: robert@spanishheart.com - Phone: 9493427126 - Website: www.spanishheart.com	Corporation	430 CENTRAL AVE SANTA ANA, CA 92707 County ORANGE	Active	06/08/2019	06/27/2020	N/A for this license type	BDTH
C11-000181-LIC	Commissary Distributor License	Eric Fager	GRACE HEALING CENTER LLC - Email: eric.fager@gracehealing.com - Phone: 9493262009	Limited Liability Company	Santa Ana, CA 92704 County ORANGE	Active	06/27/2019	06/26/2020	N/A for this license type	BDTH
C10-000182-LIC	Commissary Distributor License	Doreen Kinsey	TT Santa Ana Corp. - Email: doreen@tt.com - Phone: 705 477 4700 - Website: www.tt.com	Corporation	428 E DYER RD SANTA ANA, CA 92705 County ORANGE	Active	06/26/2019	06/25/2020	N/A for this license type	Adult-Use
C10-000183-LIC	Commissary Distributor License	Erin Binkley	Kingsman Inc - Palm Springs - Email: erin@kingsman.com - Phone: 7144899066	Corporation	3858 FULLMANN ST SANTA ANA, CA 927050713 County ORANGE	Active	06/26/2019	06/24/2020	N/A for this license type	Medical
C11-000184-LIC	Commissary Distributor License	Shelene Pagan-Tran	ADAMS ST. ENTERPRISES LLC - Email: shelene@adamsst.com - Phone: 9492236668 - Website: NA	Limited Liability Company	SANTA ANA, CA 92704 County ORANGE	Active	06/25/2019	06/24/2020	N/A for this license type	BDTH
C10-000185-LIC	Commissary Distributor License	Elliot Lewis	H&MFC, Inc. - Connected Santa Ana - Email: elliott@hmf.com - Phone: 9492254444	Corporation	3428 FULLMANN ST SANTA ANA, CA 927050610 County ORANGE	Active	06/18/2019	06/17/2020	N/A for this license type	BDTH
C10-000187-LIC	Commissary Distributor License	Stacy Pond	QED INC. - From the Earth - Email: stacy@qed.com - Phone: 9497940022 - Website: www.qed.com	Corporation	3822 S ORANGE AVE SANTA ANA, CA 927040700 County ORANGE	Active	06/16/2019	06/14/2020	N/A for this license type	BDTH
C11-000188-LIC	Commissary Distributor License	Greg McPherson	ADORA MANUFACTURING, LLC - Email: greg@adoramfg.com - Phone: 9493884088	Limited Liability Company	SANTA ANA, CA 92709 County ORANGE	Active	06/14/2019	06/13/2021	N/A for this license type	BDTH
C11-000189-LIC	Commissary Distributor License	Richard Wicker	Revere Corporation - Email: richard@revere.com - Phone: 7147591851	Corporation	SANTA ANA, CA 92708987 County ORANGE	Subsequent	06/14/2019	06/13/2020	N/A for this license type	BDTH
C10-000190-LIC	Commissary Distributor License	Christopher Peary	BOAR COLLECTIVE - OCS - Email: christopher@boar.com - Phone: 7144832200 - Website: www.boar.com	Corporation	3122 HALLADAY ST SANTA ANA, CA 92708088 County ORANGE	Active	06/14/2019	06/13/2020	N/A for this license type	BDTH
C10-000191-LIC	Commissary Distributor License	Bernard Barkhorn	PEOPLE'S FIRST CHOICE, LLC - PEOPLE'S OC - Email: bernard@people.com - Phone: 7144667279	Limited Liability Company	2721 ORANGE AVE SANTA ANA, CA 927084029 County ORANGE	Active	06/13/2019	06/13/2021	N/A for this license type	BDTH
C10-000192-LIC	Commissary Distributor License	Joseph Martin	Maevon Place Wellness, Inc. - MR NICE OUY - Email: joseph@maevon.com - Phone: 7146400004	Corporation	1728 DYER RD SANTA ANA, CA 927080114 County ORANGE	Active	06/13/2019	06/11/2020	N/A for this license type	BDTH
C10-000193-LIC	Commissary Distributor License	Jimmy Dzung	GREEN ROSE GREEN LEAF CARE, INC. - The Just. - Email: jimmy.dzung@greenrose.com - Phone: 9524001529	Corporation	1325 E WINDSOR PL SANTA ANA, CA 92708 County ORANGE	Active	06/13/2019	06/11/2020	N/A for this license type	BDTH
C10-000194-LIC	Commissary Distributor License	David Du Wayne	SCSA GROUP INC. - Email: david@scsa.com - Phone: 7144866601	Corporation	1923 E WARDNER AVE SANTA ANA, CA 92708 County ORANGE	Active	06/13/2019	06/11/2020	N/A for this license type	BDTH
C10-000195-LIC	Commissary Distributor License	Yveson Kheng	OSG SYSTEMS INC - New Generation - Email: yveson.kheng@osg.com - Phone: 6719422406 - Website: www.osg.com	Corporation	3203 W BEZELTOWN AVE SANTA ANA, CA 92708 County ORANGE	Active	06/13/2019	06/10/2020	N/A for this license type	BDTH
C10-000196-LIC	Commissary Distributor License	Jeffrey Thomsen	HEALTHY HEALING HOLISTIC OPTIONS, INC. - HEALTHY HEALING HOLISTIC OPTIONS, INC. - Email: jeffrey@hhho.com - Phone: 9498844788 - Website: www.hhho.com	Corporation	1658 ST GERTILUDE PL SANTA ANA, CA 92708 County ORANGE	Active	06/10/2019	06/09/2020	N/A for this license type	BDTH
C10-000197-LIC	Commissary Distributor License	Rebecca Vahdatpour	WCV ORGANIZATION INC. - Email: rebecca@wcv.com - Phone: 9494591117	Corporation	1800 ORANGE AVE SANTA ANA, CA 927080700 County ORANGE	Active	06/09/2019	06/07/2020	N/A for this license type	BDTH
C10-000198-LIC	Commissary Distributor License	Nguyen Kheng	Four Twenty Ocean Blvd, Inc. - 10 Spot - Email: nguyen.kheng@four20.com - Phone: 7147178998	Corporation	3248 HALLADAY ST SANTA ANA, CA 92708 County ORANGE	Active	06/04/2019	06/03/2020	N/A for this license type	BDTH
C10-000199-LIC	Commissary Distributor License	Michael Mahan	65 OC COLLECTIVE, INC. - Jumpy Bays - Email: michael@65oc.com - Phone: 708147390 - Website: www.65oc.com	Corporation	2811 TRICH CTR SANTA ANA, CA 927080887 County ORANGE	Active	06/01/2019	06/02/2021	N/A for this license type	BDTH
C10-000200-LIC	Commissary Distributor License	Jonathan Lewis	BLD AND BLOOM - Email: jonathan@bldandbloom.com - Phone: 7146321189 - Website: www.bldandbloom.com	Corporation	1267 E GERTILUDE PL SANTA ANA, CA 92708 County ORANGE	Active	06/00/2019	06/00/2021	N/A for this license type	BDTH
C11-000000-LIC	Commissary Distributor License	Jason Adams	PURE LABORATORIES & DISTRIBUTION, INC. - Email: jason@pure.com - Phone: 714 472 6716	Corporation	SANTA ANA, CA 927080300 County ORANGE	Active	06/07/2019	06/06/2021	N/A for this license type	BDTH
00-000000-LIC	Commissary - Testing Laboratory License	John Adams	OC LABS - Corvallis - Email: john@oclabs.com - Phone: 9492249271 - Website: www.oclabs.com	Corporation	Santa Ana, CA 92705 County ORANGE	Active	06/06/2019	06/06/2021	N/A for this license type	BDTH
C11-000000-LIC	Commissary Distributor License	Wesley Sun	OIA SERVICES, LLC - Email: wesley@oia.com - Phone: 9171101468	Limited Liability Company	SANTA ANA, CA 927040320 County ORANGE	Active	06/01/2019	04/20/2021	N/A for this license type	BDTH



Calitopia Farms
691 Sleeping Indian Road
Oceanside ca 92057

June 17, 2020

Dear Johnathan and city staff,

Greetings dear fellow Oceansiders! I want to thank you all, for doing a great job in communicating with all cannabis stakeholders and landowners alike. It really shows the strength of our cities structure especially in these unforeseen and unfortunate times. So, thank you!

I would like to briefly fill you in on who we are. My Wife and I are the proud owners of Calitopia farms, tucked away here in the South Morro hills of Oceanside. We are also the smallest licensed cannabis farm here in Oceanside. We are a third generation of family farmers, who have worked incredibly hard, just to get to this point! We are not backed by a group of money investors or corporate partners. We are a Family of five. Both my wife and I have been in Oceanside since we were children and will most likely live out the rest of our lives here in Oceanside. We quite literally are Oceanside!

For the past 4 years we have been analyzing the cannabis market on every level in California. This applies to all legal cultivation facilities and farms, dispensaries, deliveries, distribution and manufacturing practices and rates on packaging etc. We have witnessed the fluctuation cost of flower, from city to city in California based on demand and tax rates. We are also a Licensed General Contractor and have had the opportunity to build dispensaries and manufacturing facilities for other California Cannabis Licensed businesses. We know exactly what it takes in order to create a successful, tax generating cannabis business.

When HDL company provided tax information to the City, it was done before the pandemic. Unfortunately, the current state of our economy and the true impact of Covid-19 aftermath is now really starting to show the damage and will continue to do so for some time. This is what really needs to be looked at closely by all of us. This is a different market now.

Ask yourself for a moment, how confident would you personally feel, starting a business right now in these current times, like a restaurant....let alone a cannabis business? Money does not just start flowing in the way people who know very little about cannabis business, think it does. Please think about a few things that a new cannabis business starting out needs to do in order to be a success, so that we may generate enough income in order to pay proper tax consistently.

First note, nothing is promising that any of the licensed cannabis businesses in Oceanside will actually be successful in their endeavors. We have to create a brand from the ground up. Market that brand for an extended period, until the brand gets notoriety from customers.

We must produce a cannabis product that people will actually enjoy and want to keep buying. For example, not everyone drinks the same type of milk. Some prefer 2%, some prefer almond milk, some lactide. Well, the same applies to cannabis. There are hundreds of different types of cannabis strains that can be grown. We need to provide people with what they actually want.

We will have to work exceptionally hard during these times, just to get our cannabis products into local dispensaries. Many dispensaries are sitting on flower that is not selling the way it did in the previous year. As a result, many dispensaries do not have the shelf space for new cannabis companies due to the drop in sales caused to the pandemic. Many dispensaries are now charging distributors for shelf space, cutting into cultivation,

manufacturing and distribution profits. Recently, I was even told by three different dispensaries that we would have to pay them just to get our product in a semi visible place on the shelves.

This takes time. It costs money. It is a process. A process we are prepared for and ready to start. Unfortunately, the biggest impact to this process and current tax rate is the pandemic! All historical seed to sale data collected from California cannabis businesses no longer applies with the current state of our economy. In just four months, so much has changed in our daily lives and we now have to adjust how we are going to individually build our brands from the ground up in these unfortunate and unforeseen times. Adjustments need to be made by everyone involved.

The unemployment rate in California has greatly affected the economy and legal cannabis businesses we have been in contact with. Despite cannabis being an essential business, too many customers are unemployed. Therefore, cannabis Flower is sitting on the shelf and sales have dropped. This is due to people not working and having enough money to purchase their cannabis.

On average, people who used to spend \$145 in a dispensary on three products per visit now spend about \$35 and purchase only one product per visit. Regarding quality and freshness, just like the produce you have at home, cannabis also has shelf life. It is not like clothing, which can sit on the shelf forever until sold. We have a perishable product and a small window of time once our cannabis leaves our farm and into the dispensaries and delivery services and on to the customer so that they can enjoy the cannabis at its freshest.

A great deal of time and money has gone into our farm and into future harvesting. We stand to lose if our flower is not being bought. For this reason, the tax rates must be realistic in accommodating the growth and a long-term survival of all cannabis businesses in Oceanside.

These fair, annual tax rates I feel, should be set as low as possible, for the first two years of business. This is the time needed to build each Company's brand and solidify our place in the California cannabis market. Doing so will help ensure that all cannabis businesses in Oceanside grow properly, thrive and ultimately produce consistent tax revenue.

Oceanside getting onboard with adult use along with medical is a very smart move for the big picture and flow of business. This means more business, and more tax revenue for the city. I suggest that we continue working together collectively as a team. As the economy continues to change, I am confident that as a collective, we can together adapt and eventually thrive. Collectively, we are all Oceanside family!

Sincerely,

Steve Scordel

Steve Scordel



From: Moe Saab <moesaab1@gmail.com>
Sent: Friday, June 05, 2020 9:20 AM
To: Jonathan Borrego
Subject: Re: Proposed Cannabis Tax Ordinance - Request for Comments

Warning: External Source

Hey Jonathan,

Sorry for the late reply. The City of Oceanside passed with a 0% tax for legal cannabis businesses to help lower the prices for medical patients and get rid of the blackmarket. The only issue is none of the business have opened since the license were issued. We don't oppose the City receiving taxes and would hope they would propose the lowest percentage of gross receipts for the first year of operation.

Thank you for your consideration,

Buddiez LLC
Mohamad Saab
8584726718

On Jun 1, 2020, at 5:46 PM, Jonathan Borrego <Borrego@oceansideca.org> wrote:

Dear Oceanside Cannabis Stakeholder: You should have received the following message on May 18. I would like to thank those of you that provided comment by the requested May 29 comment deadline. If you still wish to comment, please submit any correspondence as soon as possible. While you can still comment up until the June 17 City Council meeting, the earlier that staff receives comments the more time we will have to give them fair consideration. Thanks again for your attention. – Jonathan

Dear Oceanside Cannabis Stakeholder:

In August 2019, the Oceanside City Council directed staff to return with actions necessary to place a Cannabis Business Tax measure on the November 2020 Ballot. Following this direction, staff engaged the consulting firm HdL to prepare an analysis of the local cannabis industry and provide recommendations relative to a potential tax structure. Upon completing its analysis, HdL concluded that the tax rates initially contemplated by staff are higher than the current industry standard and would have the potential effect of discouraging the industry from investing in Oceanside. As a result, staff and the consultant are recommending a balanced approach that would generate significant local revenue from cannabis businesses while encouraging their success through a competitive tax structure. Under the provisions of the proposed Ordinance, the City would have the ability to tax manufacturers, distributors and retailers within a range of 2% to 6% of gross receipts. Staff is recommending that the initial rate be set at 4% of gross receipts for manufacturers and distributors and 5% for

Type-9 non-storefront retailers. Per the proposed Ordinance, cultivators could be taxed within a range of \$5 to \$10 per square foot of licensed canopy area. Staff is recommending the initial cultivation rate be set at \$8 per square foot of canopy. Although subject to future taxation under the proposed Ordinance, staff is not recommending an initial tax be set for industrial hemp. Testing labs would not be taxed. The recommended rates are amongst the most competitive in San Diego County.

Attached is a copy of the current draft ordinance and analysis prepared by HdL. **Staff plans to present the draft tax ordinance and associated ballot language to City Council on June 17, 2020.** If you wish to provide feedback on the proposed ordinance, we ask that you please submit comments by Friday May 29 so that staff has ample time to evaluate comments received in advance of the June 17 meeting. Should you wish to discuss the proposed ordinance with staff, we are available to meet remotely. Feel free to contact me should you wish to do so. Thank you for your continued interest in Oceanside. - Jonathan

Jonathan E. Borrego, AICP
Deputy City Manager/Development Services Director
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054
760-435-3918
jborrego@oceansideca.org
<image001.jpg>
<City of Oceanside Fiscal Analysis FINAL.pdf>
<CTO-5-12-20.pdf>



ZENLEAF LLC

ZENLEAF LLC
7745 Arjons Drive
San Diego Ca 92126
619.763.4901

June 8, 2020

To Mayor Weiss and the City Council of Oceanside,

VIA EMAIL ONLY: cityclerk@oceansideca.org

Subject: A flat tax rate for cannabis cultivation operations greatly restricts the City's ability to generate revenue.

My name is Michael Boshart and I am the managing member of ZENLEAF LLC and a director of ZENLABS Holdings Inc. My company holds four of the licenses for cultivation and nursery in Oceanside. The license is held under ZENLABS Nursery. My partner, friend and fellow director is Karl Metz. His family owns the properties that have been licensed and he also owns and operates over 100 acres of nursery in the Morro Hills area of Oceanside. Karl came to me when he heard that Oceanside had decided to start offer an application process for cannabis. We have worked really hard and spent a considerable amount of money obtaining those licenses. We are currently in the CUP process and working hard to meet and exceed the requirements so that we can be a good partner to Oceanside and its community. We want nothing more than to run a successful business in Oceanside where we can create jobs and generate revenue for our company and the city. What concerns us is the proposed flat tax.

As business owners in not only the regulated cannabis market via our licenses in San Diego as well as the Hemp market via our nursery in Fallbrook but also the nurseries than DM Color operates, we have a wide range of data that helps us understand what will work and what will not in the long run. It is our shared opinion that a flat tax rate does not take into account the natural eb and flow of the market and agriculture in general. It is likely that any of the hundreds of companies in the Morrow Hills area or Oceanside for that matter that could take on such a tax and still be able to generate enough revenue to pay their employees well or turn a profit. At the end of the day we, as a company, need to be able to make money. Taxing us without and consideration as to revenue does not allow us to grow as a healthy company and in the end will ensure that there is not money to be paid, square foot or otherwise, to the city. We want to be a part of the agricultural community in Morro Hills for the long term. We want to help ensure that the area has a healthy and prosperous

7745 Arjons Drive San Diego, Ca 92126 619.763.4901

climate. If the goal was to help the farmers then the only way forward is to ensure that they/we have the ability to be successful.

Farming and nursery operations are not cut and dry. There are so many variables like the weather that are unpredictable. Asking a company to pay a flat rate without taking into consideration the ups and downs of farming puts an unfair financial burden on the company. What we are suggesting is much more suitable for the near future as well as the long term.

What we would suggest is a gross receipts tax. This tax would allow for the company to not only get up and running but stay running for the long term. That long term viability is what the voters want. What I am sure they did not want was a one time fee and then to watch as the potential jobs and tax revenue disappear with the company as it is unable to sustain the financial burden of a flat tax. I would also suggest that the gross receipts tax be something that is also sustainable. There are many rumors about the cannabis space and tons of profit is one of them. When in actuality it is one of the most expensive businesses to run do to the regulation, up front cost, as well as city and state requirements. At the end of the day it is agriculture and the margins are getting thinner and thinner. Imposing a high tax almost ensures that the companies within the city of Oceanside will be unable to compete with other cities in California. Again it is important to take the long term into consideration here. It is also important to understand that greenhouse cultivation is way different than indoor. One week of hot temperature can cause the demise of a soft tissue crop like cannabis. This says nothing about what a pandemic and the inability for employees to work closely together would do. As a business owner during these unprecedented times we have been able to keep our 9 employees working without access to any of the government programs. This means they have been able to provide for their families even when their spouses may be out of work. It is important to us to be a positive part of the community and we need your help to do so. DM color has been growing in greenhouses in Morro Hills for decades and is intimately familiar with the challenges of farming in Oceanside. That experience coupled with our track record of success in San Diego (at ZENLEAF) are indicators that with the City of Oceanside's help we can grow our company responsibly and profitably which will lead to more money for the city in the long run. Personal feelings about the cannabis space aside it is here to stay and Oceanside should allow the companies who have worked hard to comply with the cities requirements have a chance at being successful. We want to generate revenue and create jobs. We want the Ag area of Morro Hills to flourish. We need your help in doing so. Please consider a gross receipts tax of 2.5% so that we can help to generate tax dollars for the city for decades to come.

Sincerely,



Michael Boshart - Managing Member
7745 Arjons Drive
San Diego CA 92126
mike@zenleafca.com
619.763.4901

From: coltin barody <coltin@leftcoastllc.org>
Sent: Friday, May 29, 2020 7:09 PM
To: Jonathan Borrego
Subject: Re: City of Oceanside - Proposed Cannabis Tax Ordinance
Attachments: image001.jpg

Warning: External Source

Hello Mr. Borrego, thank you for your email. We would like to see a lower tax rate at first to help make sure we can be competitive in the industry. We are already in over 100 stores in California. It is our opinion that manufacturer/distribution should be set at a 3% rate. I believe the tax rate for retail should be higher 5% is to low. It should be around 7%. Being in the industry and one of the fastest-growing brands in the state we are seeing a lot of manufacturers and distributors fail due to not generating enough money to stay afloat. It takes a lot longer for distributors and manufacturers to see a profit. With retail, almost all of the licenses we work with are seeing a quick profit due to the lack of retail licenses in the state. I believe the city should allow more retail type 9 licenses to a cap of at least 10 and put a cap on manufacturing and distribution at 10.

This is our thoughts thank you for your email again.

Respectfully,

Coltin Barody

On Mon, May 18, 2020, 6:45 PM Jonathan Borrego <JBorrego@oceansideca.org> wrote:

Dear Oceanside Cannabis Stakeholder:

In August 2019, the Oceanside City Council directed staff to return with actions necessary to place a Cannabis Business Tax measure on the November 2020 Ballot. Following this direction, staff engaged the consulting firm HdL to prepare an analysis of the local cannabis industry and provide recommendations relative to a potential tax structure. Upon completing its analysis, HdL concluded that the tax rates initially contemplated by staff are higher than the current industry standard and would have the potential effect of discouraging the industry from investing in Oceanside. As a result, staff and the consultant are recommending a balanced approach that would generate significant local revenue from cannabis businesses while

encouraging their success through a competitive tax structure. Under the provisions of the proposed Ordinance, the City would have the ability to tax manufacturers, distributors and retailers within a range of 2% to 6% of gross receipts. Staff is recommending that the initial rate be set at 4% of gross receipts for manufacturers and distributors and 5% for Type-9 non-storefront retailers. Per the proposed Ordinance, cultivators could be taxed within a range of \$5 to \$10 per square foot of licensed canopy area. Staff is recommending the initial cultivation rate be set at \$8 per square foot of canopy. Although subject to future taxation under the proposed Ordinance, staff is not recommending an initial tax be set for industrial hemp. Testing labs would not be taxed. The recommended rates are amongst the most competitive in San Diego County.

Attached is a copy of the current draft ordinance and analysis prepared by HdL. **Staff plans to present the draft tax ordinance and associated ballot language to City Council on June 17, 2020.** If you wish to provide feedback on the proposed ordinance, we ask that you please submit comments by Friday May 29 so that staff has ample time to evaluate comments received in advance of the June 17 meeting. Should you wish to discuss the proposed ordinance with staff, we are available to meet remotely. Feel free to contact me should you wish to do so. Thank you for your continued interest in Oceanside. - Jonathan

Jonathan E. Borrego, AICP

Deputy City Manager/Development Services Director

City of Oceanside

300 North Coast Highway

Oceanside, CA 92054

760-435-3918

jborrego@oceansideca.org



LAWYERS
3990 OLD TOWN AVE, STE A-101
SAN DIEGO, CA 92110
LICENSED IN
CALIFORNIA, ARIZONA & HAWAII
TELEPHONE
(619) 924-9600
FACSIMILE
(619) 881-0045

Writer's Email:
gaustin@austinlegalgroup.com

July 20, 2020

City of Oceanside
300 N. Coast Hwy
Oceanside, CA 92054

VIA EMAIL ONLY: jborrego@oceansideca.org

RE: August 5, 2020 City Council Meeting Public Comment re: Item - Proposed Cannabis Tax Ordinance

To Mayor Weiss and the City Council of Oceanside:

Austin Legal Group, APC submits this public comment on behalf of our client, Left Coast, LLC ("Left Coast"), with respect to the City of Oceanside's proposed Cannabis Business Tax ordinance ("Ordinance") set to be heard in front of the City Council on August 5, 2020. Left Coast currently holds two City cannabis business licenses: a medical manufacturing license and a medical distribution license. As an Oceanside cannabis stakeholder, Left Coast would like to (i) address the inevitable harms a four percent (4%) initial tax rate would impose on the City's commercial cannabis manufacturing and distribution market; and (ii) request City Council to set the cannabis manufacturing and distribution tax rate at two and one-half percent (2.5%), as it has proposed for cultivation, to further the City's local commercial cannabis market goals.

BACKGROUND

On May 18, 2020, the City of Oceanside circulated its proposed Cannabis Business Tax ordinance for public review. As is currently drafted, the City intends to tax the gross receipts of cannabis manufacturers and distributors at a tax rate of no less than two percent (2%) and no more than six percent (6%). As noted in the June 1, 2020 email by Development Services Director Jonathan E. Borrego, City staff is recommending the initial cannabis manufacturer and distributor tax rate to be set at four percent (4%) of gross receipts.

In that same June 1, 2020 email, Mr. Borrego noted that the City's cannabis cultivation tax would be imposed as follows: a minimum tax rate of \$5.00 per square foot of canopy and a maximum tax rate of \$10.00 per square foot of canopy. On or around July 8, 2020, Mr. Borrego sent a follow-up email with respect to the proposed Cannabis Business Tax ordinance. The introduction of the Cannabis Business Tax ordinance was continued until August 5, 2020 so that the City had enough time to address the comments from Oceanside cannabis stakeholders. The comments primarily requested that the cultivation tax method be changed to a gross receipt tax,

and that the tax rate initially be set at a lower starting rate of two and one-half percent (2.5%) to support the growth of the local market. Based on these comments, the City changed the proposed cultivation tax method to a gross receipt tax and proposed an initial tax rate of two and one-half percent (2.5%). The revisions rested on the importance of avoiding over-taxation on emerging cultivators. The same treatment and understanding is requested for local cannabis manufacturers and distributors.

DISCUSSION

A. The initial imposition of high tax rates results in a non-operational market, the fleeing of local businesses, and a low generation of city revenue.

Imposing higher tax rates on an emerging local industry inevitably reduces the number of businesses that can sustain local operations. In HdL Companies' Fiscal Analysis, HdL warned the City of Oceanside of its unusually high proposed tax rates for both manufacturers and distributors.¹ HdL provided that the common initial tax rate for manufacturers is two and one-half (2.5%) with a common maximum rate of four percent (4%).² For distributors, the common initial tax rate is even lower at two percent (2%) with a common maximum tax rate of three percent (3%).³

The City is proposing an *initial* tax rate of four percent (4%) for both business types. This rate is equivalent to the common maximum tax rate of manufacturers and is higher than the common maximum tax rate for distributors. These initial numbers will not successfully support the growth of the City's cannabis manufacturers and distributors.

To illustrate, the City of Costa Mesa has a similar medical cannabis market structure to that of Oceanside's. When Costa Mesa first adopted its cannabis business tax, it imposed an initial rate of six percent (6%) on all cannabis-related businesses. With the 6% city tax, along with the state-imposed taxes, the Costa Mesa cannabis market experienced "severe economic challenges" which "contributed to lower City revenue than anticipated."⁴ By March 2020, Costa Mesa had issued 20 cannabis business permits, but only 8 manufacturers and distributors had been able to overcome the financial burden to remain active operators.⁵ In response, the Costa Mesa's City Council voted to reduce the 6% gross receipt tax to 1% on all distributors, manufacturers, and research.⁶

Similarly, the City of Long Beach recently voted to lower the city's tax rate from six percent (6%) to one percent (1%) for its cannabis manufacturers, distributors, cultivators, and laboratories.⁷ The Long Beach Collective Association, cannabis business owners, consumers, and

¹ See HdL's Fiscal Analysis p.11.

² See HdL's Fiscal Analysis p.9.

³ See HdL's Fiscal Analysis p.9.

⁴ City of Costa Mesa March 17, 2020 Staff Report to City Council. Item Number: CC-5.

<http://ftp.costamesaca.gov/costamesaca/council/agenda/2020/2020-03-17/CC-5.pdf>.

⁵ Voice of OC, "Costa Mesa Approves Ordinance Lowering Business Tax on Legal Marijuana" April 14, 2020, <https://voiceofoc.org/2020/04/costa-mesa-approves-ordinance-lowering-business-tax-on-legal-marijuana/>.

⁶ City of Costa Mesa, March 17, 2020 City Council meeting, https://costamesa.granicus.com/MediaPlayer.php?view_id=10&clip_id=3529.

⁷ City of Long Beach, "Cannabis Business License Taxes & Fees", <http://www.longbeach.gov/finance/business-info/business-licenses/cannabis-business-information/cannabis-business-license-taxes/#taxrates>.

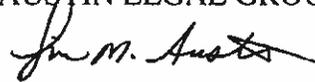
City officials supported the tax reduction.⁸ It was determined that the high tax rates drove consumers to the black market, and that lowering the tax rate would help keep the lawful commercial cannabis jobs in Long Beach.⁹

In sum, Oceanside sits in a very advantageous position. It has the ability to analyze the implications of a high cannabis tax rate in comparable local markets and develop a tax structure that effectively supports and strengthens its own market. Through the City's recent decision to revise the cultivation tax structure, it is clear that the City understands this importance. However, imposing a lower tax rate for only one sector of the market will provide an unsustainable foundation for the market as a whole. If the City's manufacturers and distributors cannot overcome the financial burdens of an initial high tax rate, the City's cultivators will have no option but to engage in business with and support outside manufacturers and distributors.

CONCLUSION

Considering the inevitable detrimental affects a high tax rate would impose on local cannabis manufacturers and distributors, Left Coast respectfully requests City Council to match the revised tax rate scheme for cannabis cultivators (an initial gross receipts tax rate of 2.5%) for its manufacturers and distributors, as to be more aligned with the City's goals of bolstering its tax revenue while supporting its own commercial cannabis market.

Sincerely,
AUSTIN LEGAL GROUP, APC



Gina M. Austin, Esq.

⁸ PR Newswire, "Long Beach Lowers Cannabis Taxes" February 19, 2020 <https://www.prnewswire.com/news-releases/long-beach-lowers-cannabis-taxes-301007908.html>.

⁹ *Id.*

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OCEANSIDE ADDING ARTICLE V TO CHAPTER 34 OF THE OCEANSIDE CITY CODE ESTABLISHING A TAX ON CANNABIS BUSINESS ACTIVITY

WHEREAS, Sections 37101 and 37100.5 of the California Government Code authorize the City to levy a license tax, for revenue purposes, upon business transacted in the City of Oceanside (“City”); and

WHEREAS, in response to changes in California law, after considerable public debate, the City Council of the City of Oceanside (“City Council”) adopted several ordinances to license and regulate commercial cannabis activity in the City; and

WHEREAS, as of the date of adoption of this Ordinance, the City Council has implemented a requirement for commercial cannabis businesses to obtain a Local License in accordance with Chapter 7, Article XIII of the Oceanside City Code and a conditional use permit pursuant to specified articles of the Oceanside Zoning Ordinance; and

WHEREAS, cannabis businesses are likely to create demands upon City services, and the City’s current tax does not impose any taxes on cannabis businesses, aside from generally applicable municipal taxes; and

WHEREAS, the City may, and does, impose license taxes on businesses in the City for general purposes, pursuant to its home-rule authority and the City Charter; and

WHEREAS, the City Council desires to submit this Cannabis Business Tax measure to the voters of the City at a General Municipal Election to be held on Tuesday, November 3, 2020 to be consolidated with any other election to be held on that date; and

WHEREAS, this Ordinance proposes a general tax on the terms presented for consideration by the voters; and

WHEREAS, these business license taxes are imposed to raise revenue for general governmental purposes and not for regulation;

NOW, THEREFORE, subject to approval by a simple-majority vote of the electorate as required by law, the People of the City of Oceanside do ordain as follows:

SECTION 1. The Oceanside City Code is hereby amended to add Chapter 34, Article V as set forth below, enacting a tax on the privilege of conducting business relating to Cannabis in the City of Oceanside.

CANNABIS BUSINESS TAX

Sections

- 34.5.1 Title.
- 34.5.2 Effective Date.
- 34.5.3 Authority and Purpose.
- 34.5.4 Definitions.
- 34.5.5 Cannabis Business Tax.
- 34.5.6 Cannabis Cultivation Tax.
- 34.5.7 Registration of Cannabis Businesses.
- 34.5.8 Payment Obligation.
- 34.5.9 Tax Payment Does Not Authorize Activity.
- 34.5.10 Cannabis Tax is Not a Sales, Income or Property Tax.
- 34.5.11 Amendments, Rate Adjustments, and Administration.
- 34.5.12 Returns and Remittances.
- 34.5.13 Failure to Pay Timely.
- 34.5.14 Refunds.
- 34.5.15 Enforcement.
- 34.5.16 Consistency with Business Tax Rules.
- 34.5.17 Successor and Assignee Responsibility.
- 34.5.18 Debts, Deficiencies, and Assessments.
- 34.5.19 Apportionment.

34.5.1 TITLE.

This Ordinance shall be known as the "Cannabis Business Tax Ordinance."

34.5.2 EFFECTIVE DATE.

This Ordinance shall take effect ten days after the certification of its approval by voters at the November 3, 2020 election, pursuant to Elections Code section 9217. The tax rates established by this Chapter shall become operative on January 1, 2021.

34.5.3 AUTHORITY AND PURPOSE.

This Ordinance is intended to achieve the following purposes, among others, and shall be interpreted to accomplish such purposes:

- 1 A. Impose a tax on the privilege of conducting the following activities within the City’s
- 2 jurisdiction: cultivating, transporting, dispensing, manufacturing, producing, processing,
- 3 preparing, storing, providing, selling, or distributing Cannabis, Cannabis Products, Industrial
- 4 Hemp or Industrial Hemp Products (excluding Industrial Hemp Cultivation) by commercial
- 5 Cannabis Businesses in the City of Oceanside, pursuant to the State Medicinal and Adult-Use
- 6 Cannabis Regulation and Safety Act (California Business and Professions Code sections 26000,
- 7 *et seq.*), as it now exists or may be amended from time-to-time, and local law, whether or not
- 8 conducted in compliance with such laws;
- 9 B. Impose a general tax that generates revenue that may be used for any lawful purpose of
- 10 the City, in the discretion of the City Council;
- 11 C. Specify the type of tax and rate to be levied and the method of collection; and
- 12 D. Comply with all requirements for imposition of a general tax.

13 This Chapter is enacted solely to raise revenue and not for regulation. It shall apply to all
14 Persons engaged in Cannabis Business in the City. The tax imposed by this Chapter is a general tax
15 under XIII C of the California Constitution.

16 This Chapter does not authorize the conduct of any business or activity in the City, but provides
17 for the taxation of such businesses or activities as they occur. Neither the imposition of such tax by the
18 City nor the payment of such tax by the taxpayer shall imply that the activity being taxed is lawful.

19 This Chapter shall apply to each Cannabis Business in the City, whether or not such business
20 has a permit or license issued pursuant to the City of Oceanside City Code and regardless of whether
21 such business would have been legal at the time this section was adopted. Nothing in this section shall
22 be interpreted to authorize or permit any business activity that would not otherwise be legal or
23 permissible under laws applicable to the activity at the time the activity is undertaken.

24 34.5.4 DEFINITIONS.

25 The following definitions shall apply to the construction of this chapter unless the context is such that
26 it is plain that a different meaning is intended:

- 27 A. “Business” shall include all activities engaged in or caused to be engaged in within the
- 28 City, including any commercial or industrial enterprise, trade, profession, occupation,
 vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall
 not include the services rendered by an employee to his or her employer.

- 1 B. "Calendar year" means January 1 through December 31, of the same year.
- 2
- 3 C. "Cannabis" shall have the meaning set forth in Business and Professions Code section
- 4 26001(f) and means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or
- 5 Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude
- 6 or purified, extracted from any part of the plant; and every compound, manufacture,
- 7 salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also
- 8 means the separated resin, whether crude or purified, obtained from cannabis.
- 9 D. "Cannabis Accessory" shall have the meaning set forth in Health and Safety Code
- 10 section 11018 and means any equipment, products or materials of any kind which are
- 11 used, intended for use, or designed for use in planting, propagating, cultivating,
- 12 growing, harvesting, manufacturing, compounding, converting, producing, processing,
- 13 preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or
- 14 containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or
- 15 cannabis products into the human body.
- 16 E. "Cannabis Business" means the activity of any natural or legal Person, business, or
- 17 collective in the City relating to Cannabis, including but not limited to Nurseries,
- 18 Cultivation (excluding Industrial Hemp Cultivation), Transportation, Distribution,
- 19 Manufacture, compounding, conversion, processing, preparation, testing, storage,
- 20 packaging, Delivery and Sales (wholesale and/or retail sales) of Cannabis, Cannabis
- 21 Products, Industrial Hemp, or Industrial Hemp Products or any accessories for the use
- 22 of Cannabis, Cannabis Products, or Industrial Hemp or Industrial Hemp Products,
- 23 whether or not carried on for gain or profit, whether for medical or recreational use, and
- 24 whether or not such business is licensed by the State.
- 25 F. "Cannabis Nursery" shall have the meaning set forth in Business and Professions Code
- 26 section 26001(aj) and means a Cannabis Business that produces only clones, immature
- 27 plants, seeds, and other agricultural products used specifically for the propagation and
- 28 cultivation of cannabis.
- G. "Cannabis Product" shall have the meaning set forth in Health and Safety Code section
- 11018.1 and includes Cannabis or Industrial Hemp that has undergone a process
- whereby the plant material has been transformed into a concentrate, including, but not

1 limited to, concentrated Cannabis or Industrial Hemp, or an edible or topical product
2 containing Cannabis or Industrial Hemp or concentrated Cannabis or Industrial Hemp
3 and other ingredients.

4 H "Cannabis Business Tax" or "Business Tax," means the tax due pursuant to this Chapter
5 for engaging in a Cannabis Business in the City.

6 I. "City" means the City of Oceanside.

7 J. "City Attorney" means the City Attorney of the City of Oceanside, or designee.

8 K. "Commercial Cannabis Cultivation" means Cultivation conducted by, for, or as part of a
9 Cannabis Business. Commercial Cannabis Cultivation does not include Industrial Hemp
10 Cultivation or Cultivation for personal adult-use as authorized under the MAUCRSA,
11 for which the individual receives no compensation whatsoever.

12 L. "Cultivation" shall have the meaning set forth in Business and Professions Code section
13 26001(l) and includes any activity involving the planting, growing, harvesting, drying,
14 curing, grading, or trimming of Cannabis.

15 M. "Delivery" shall have the meaning set forth in Business and Professions Code section
16 26001(p) and includes the commercial transfer of Cannabis, Cannabis Products,
17 Industrial Hemp or Industrial Hemp Products to a customer. "Delivery" also includes
18 the use by a retailer of any technology platform.

19 N. "Distribution" shall have the meaning set forth in Business and Professions Code
20 section 260001(r) and includes the procurement, sale, and transport of Cannabis and
21 Cannabis Products between licensees. This shall include Industrial Hemp or Industrial
22 Hemp Products as determined by the state and/or City of Oceanside regulations that
23 may be adopted or amended from time to time.

24 O. "Employee" means each and every person engaged in the operation or conduct of any
25 business, whether as owner, member of the owner's family, partner, associate, agent,
26 manager or solicitor, and each and every other person employed or working in such
27 business for a wage, salary, commission, barter or any other form of compensation.

28 P. "Engaged in business as a cannabis business" means the commencing, conducting,
operating, managing or carrying on of a cannabis business, whether done as owner, or by
means of an officer, agent, manager, employee, or otherwise, whether operating from a

1 fixed location in the City or coming into the City from an outside location to engage in
2 such activities. A person shall be deemed engaged in business within the City if:

3 1. Such person or person's employee maintains a fixed place of business within the
4 City for the benefit or partial benefit of such person;

5 2. Such person or person's employee owns or leases real property within the City
6 for business purposes;

7 3. Such person or person's employee regularly maintains a stock of tangible
8 personal property in the City for sale in the ordinary course of business;

9 4. Such person or person's employee regularly conducts solicitation of business
10 within the City; or

11 5. Such person or person's employee performs work or renders services in the City.
12

13 The foregoing specified activities shall not be a limitation on the meaning of "engaged in
14 business."

15 Q. "Evidence of doing business" means evidence such as, without limitation, use of signs,
16 circulars, cards or any other advertising media, including the use of internet or telephone
17 solicitation, or representation to a government agency or to the public that such person is
18 engaged in a Cannabis Business in the City.

19 R. "Gross Receipts" except as otherwise specifically provided, means, whether designated as a
20 sales price, royalty, rent, membership fee, ATM service fee, delivery fee, slotting fee, any
21 other fee, vaping room service charge, commission, dividend, or other designation, the total
22 amount (including all receipts, cash, credits, services and property of any kind or nature)
23 received or payable for sales of goods, wares or merchandise, or for the performance of any
24 act or service of any nature for which a charge is made or credit allowed (whether such
25 service, act or employment is done as part of or in connection with the sale of goods, wares,
26 merchandise or not), without any deduction therefrom on account of the cost of the property
27 sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any
28 other expense whatsoever. However, the following shall be excluded from Gross Receipts:

1. Cash discounts allowed and taken on Sales.
2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or Purchaser;
3. Such part of the Sale price of property returned by Purchasers to the seller as a refund by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
4. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded;
5. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has furnished the Tax Administrator with the names and addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustee;
6. Cash value of Sales, trades or transactions between departments or units of the same business located in the City of Oceanside or if authorized by the Tax Administrator in writing in accordance with section 34.5.11;
7. Receipts derived from the occasional Sale of used, obsolete, or surplus trade fixtures, machinery, or other equipment used by the taxpayer in the regular course of the taxpayer's business;
8. Whenever there are included within the Gross Receipts amounts which reflect Sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the Gross Receipts in the year they prove to be uncollectible, provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of Gross Receipts for the period when they are recovered;
9. Retail sales of non-cannabis products, such as t-shirts, sweaters, hats, stickers, key chains, bags, books, posters, rolling papers, cannabis accessories such as pipes, pipe screens, vape pen batteries (without cannabis or industrial hemp) or other personal tangible property which the Tax Administrator has excluded in writing by issuing an administrative ruling per Section 34.5.11 shall not be subject to the Cannabis Business Tax under this section. However, any business activities not subject to this section as a

1 result of an administrative ruling shall be subject to the appropriate business tax
2 provisions of Chapter 15 or any other Title or Chapter of this Code as determined by the
3 Tax Administrator.

4 10. Any business which sells industrial hemp and/or hemp products or offers services or
5 activities related to industrial hemp or hemp products and /or which is not required to
6 obtain a cannabis or industrial hemp permit or license from the City or the State for the
7 purpose of manufacturing, processing, packaging, transporting, distributing, testing or
8 selling of industrial hemp either wholesale or retail shall be exempt from the cannabis
9 tax provided that such business does not generate more than fifty percent (50%) of their
10 total gross receipts in the reporting period from the business from industrial hemp
11 activities. However, the exemption may be amended by the City Council by resolution or
12 ordinance pursuant to Section 34.5.5 (B) to increase or decrease the percentage of the
13 business's hemp and/or hemp products gross receipts reporting from zero to one hundred
14 percent. To the extent the gross receipts from the hemp activities do not meet the
15 relevant percentage to be included, this exclusion shall reduce the gross receipts to zero.
16 The business shall still be subject to appropriate business tax provisions of other
17 Chapters of the Oceanside City Code.

18 S. "Industrial Hemp" means a crop that is limited to types of the plant *Cannabis sativa* L.
19 having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in
20 the dried flowering tops, whether growing or not; the seeds of the plant; the resin
21 extracted from any part of the plant; and every compound, manufacture, salt, derivative,
22 mixture, or preparation of the plant, its seeds or resin produced therefrom.

23 T. "Industrial Hemp Products" means any raw hemp that has undergone a process whereby
24 the raw agricultural product has been transformed into a concentrate, an edible product,
25 or a topical product. "Hemp Product" also means hemp products as defined by Section
26 11018.5 of the California Health and Safety Code.

27 U. "Lighting" means a source of light that is primarily used for promoting the biological
28 process of plant growth. Lighting does not include sources of light that primarily exist
for the safety or convenience of staff or visitors to the facility, such as emergency
lighting, walkway lighting, or light admitted via small skylights, windows or ventilation

1 openings.

- 2 V. "Manufacture" shall have the meaning set forth in Business and Professions Code
3 section 26001(ag) and means to compound, blend, extract, infuse, or otherwise make or
4 prepare a Cannabis Product.
- 5 W. "Medicinal Cannabis" or "Medicinal Cannabis Product" means cannabis or a cannabis
6 product, intended to be sold or sold for use pursuant to the Compassionate Use Act of
7 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code,
8 for a medicinal cannabis patient in California who possesses a physician's
9 recommendation, or a cannabis card issued pursuant to Health and Safety Code Section
10 11362.71.
- 11 X. "Operation" shall have the meaning set forth in Business and Professions Code section
12 26001(ak) and includes any act for which licensure is required under state law, or any
13 commercial transfer of Cannabis or Cannabis Products.
- 14 Y. "Person" means an individual, firm, partnership, joint venture, association, corporation,
15 limited liability company, estate, trust, business trust, receiver, syndicate, or any other
16 group or combination acting as a unit, whether organized as a non-profit or for-profit
17 entity and includes the plural as well as the singular number.
- 18 Z. "Processing" means a cultivation site that conducts only trimming, drying, curing,
19 grading, packaging, or labeling of cannabis, industrial hemp and nonmanufactured
20 cannabis or hemp products.
- 21 AA. "Purchaser" means the customer who is engaged in a transaction with a Person subject
22 to licensure under state law for purposes of obtaining Cannabis or Cannabis Products.
- 23 BB. "Sale" and "Sell" shall have the meaning set forth in Business and Professions Code
24 section 26001(as) and includes any transaction whereby, for any consideration, title to
25 cannabis, cannabis products, industrial hemp or industrial hemp products is transferred
26 from one person to another, and includes the delivery of cannabis, industrial hemp or
27 cannabis or industrial hemp products pursuant to an order placed for the purchase of the
28 same and soliciting or receiving an order for the same, but does not include the return of
cannabis, hemp or cannabis or industrial hemp products by a licensee to the licensee
from whom the cannabis, hemp or cannabis or industrial hemp products was purchased.
- CC. "State" shall mean the State of California.

1 DD. "State License," "License," or "Registration" means a state license issued pursuant to
2 California Business & Professions Code Section 26050, and all other applicable state
3 laws, required for operating a cannabis business or regulations which may be adopted
4 from time to time.

5 EE. "Tax Administrator" means the City Manager or his/her designee.

6 FF. "Testing Laboratory" means a cannabis business that (i) offers or performs tests of
7 cannabis, cannabis products, industrial hemp and/or industrial hemp products (ii) offers
8 no service other than such tests, (iii) sells no products, excepting only testing supplies
9 and materials, (iv) is accredited by an accrediting body that is independent from all
10 other persons involved in the cannabis industry in the state and (v) is registered with the
11 Bureau of Cannabis Control or other state agency.

12 34.5.5 CANNABIS BUSINESS TAX.

13 A. There is hereby imposed on every Cannabis Business in the City, excluding
14 Commercial Cannabis Cultivation and Testing Laboratories, an annual tax at a rate to be
15 established pursuant to Section 34.5.5.B, by ordinance or resolution of the City Council. The
16 tax for all Cannabis Businesses, excluding Commercial Cannabis Cultivation businesses and
17 Testing Laboratories, shall be imposed with respect to the Gross Receipts of such businesses
18 and shall be a minimum tax rate of no less than two percent (2%) and up to a maximum tax rate
19 of six percent (6%). The tax imposed under this Section shall be due and payable as provided in
20 Section 34.5.12. The tax upon Commercial Cannabis Cultivation businesses, shall be imposed
21 as provided in Section 34.5.6. Testing Laboratories shall be exempt from the cannabis business
22 tax.

23 B. The City Council may, by resolution or ordinance, increase or decrease the rate of the
24 cannabis business tax provided for in this Section. Notwithstanding the foregoing, in no event
25 shall the City Council repeal this ordinance or set any adjusted rate that is higher than the
26 maximum rate calculated pursuant to this Section with voter approval.

27 C. Cannabis Businesses subject to the tax imposed by subsections 34.5.5.A and 34.5.5.B
28 shall register and pay the registration fee described in Section 34.5.7, and shall comply with
Oceanside City Code Chapter 15, except that they shall be exempt from paying the general

1 business tax imposed by Chapter 15, Section 15.6 unless otherwise specified. Any Cannabis
2 Business not subject to the tax imposed by subsections 34.5.5.A. and 34.5.5.B. of this Section
3 or Section 34.5.6 is subject to the general business tax imposed by Chapter 15, except as
4 otherwise provided by this Code, including Section 34.5.6, or other applicable law.

5
6 34.5.6 CANNABIS CULTIVATION TAX.

7
8 A. There is hereby imposed on every Cannabis Business engaged in Commercial Cannabis
9 Cultivation in the City, an annual tax in an amount established pursuant to Section 34.5.6 C, by
10 ordinance or resolution of the City Council. The tax for all Commercial Cannabis Cultivation
11 Businesses shall be imposed with respect to the Gross Receipts of such businesses and shall be
12 up to a maximum tax rate of three and one half percent (3.5%). The tax imposed by this Section
13 shall be due and payable in installments as provided in Section 34.5.12.

14 B. Every Commercial Cannabis business shall pay: (i) the Cultivation tax imposed in
15 Section 34.5.6, instead of the tax imposed by Section 34.5.5 on its Cultivation activity and (ii)
16 the tax imposed by Section 34.5.5 on any and all of its other Cannabis Business activities. The
17 activity of Cannabis Nurseries as defined in Section 34.5.4, above, is subject to the tax imposed
18 by Section 34.5.5 rather than the tax imposed by this Section.

19 C. The City Council may, by resolution or ordinance, increase or decrease the rate of the
20 Cannabis Business Tax provided for in this Section. Notwithstanding the foregoing, in no event
21 shall the City Council repeal this ordinance or set any adjusted rate that is higher than the
22 maximum tax rates calculated pursuant to this Section without voter approval.

23
24 D. Cannabis Businesses engaged in Cultivation and subject to the tax imposed by this
25 Chapter shall register and pay the registration fee described in Section 34.5.7, and shall comply
26 with Oceanside City Code Chapter 15, except that they shall be exempt from paying the general
27 business tax imposed by Chapter 15, Section 15.6. Any Cannabis Business engaged in
28 Cultivation not subject to the tax imposed by Sections 34.5.6.A, and 34.5.6.B, is subject to the
general business tax imposed by Chapter 15, except as otherwise provided by this Code.

1 34.5.7 REGISTRATION OF CANNABIS BUSINESSES.

2 A. All Persons engaging in a Cannabis Business, whether an existing, newly-established or
3 acquired business, shall register with the Financial Services Department no later the thirty (30)
4 days prior to commencing Operation and shall annually renew such registration no less
5 frequently than one calendar year after the date of the most recent registration. In registering,
6 such Persons shall furnish to the Financial Services Department a sworn statement, upon a form
7 provided by the City, setting forth the following information:

- 8
- 9 1. The name of the Cannabis Business;
 - 10 2. The names and addresses of each Owner;
 - 11 3. The nature or kind of all business activity to be conducted;
 - 12 4. The place or places where such Cannabis Business is to be carried on; and
 - 13 5. Any further information which the Tax Administrator or designee may require.

14 B. Registrants shall pay an annual registration fee in an amount established from time to
15 time by resolution of the City Council to recover the City's costs to implement the taxes
16 imposed under this Chapter, the registration requirement of this Section, and the other
17 provisions of this Chapter. As a regulatory fee, such fee shall be limited to the City's reasonable
18 regulatory costs.

19 34.5.8 PAYMENT OBLIGATION.

20 All taxpayers subject to a tax under this Chapter shall pay that tax regardless of any rebate, exemption,
21 incentive, or other reduction set forth elsewhere in this Code, except as required by state or federal
22 law. Failure to pay such a tax shall be subject to penalties, interest charges, and assessments as
23 provided in this Chapter and the City may use any and all other enforcement remedies available at law
24 or in equity. No provision of this Code shall be interpreted to reduce a tax rate established under this
25 Chapter or otherwise reduce the taxes paid hereunder unless the provision specifically expresses that
26 reduction.

27
28 34.5.9 TAX PAYMENT DOES NOT AUTHORIZE ACTIVITY.

1 The payment of a tax imposed under this Chapter shall not be construed to authorize the conduct or
2 continuance of any illegal business or of a legal business in an illegal manner.

3 34.5.10 CANNABIS TAX IS NOT A SALES, INCOME OR PROPERTY TAX.
4

5 The taxes provided for under this Chapter are excises on the privilege of doing business in the City
6 regardless of whether such business would have been legal at the time this Section was adopted. They
7 are not sales or use taxes, taxes upon real property, or tax upon income and shall not be calculated or
8 assessed as such. Nevertheless, at the option of the taxpayer, the tax may be separately identified on
9 invoices, receipts and other evidence of transactions.

10 34.5.11 AMENDMENTS, RATE ADJUSTMENTS, AND ADMINISTRATION.

11 A. Any amendment to this Chapter to increase the taxes above the maximum tax rates
12 provided by this Chapter requires further voter approval. The voters authorize the City Council
13 to adopt an ordinance or resolution to set the taxes at or below the applicable maximum tax
14 rates and at or above the minimum tax rates established in this Chapter. The voters authorize
15 the City Council to establish exemptions, incentives, or other reductions, and penalties and
16 interest charges or assessments for failure to pay the tax when due, as otherwise allowed by the
17 City Charter, the City Code, and state law. No action by the City Council under this Section
18 shall prevent it from later adjusting the tax or removing any exemption, incentive, or reduction,
19 and restoring the maximum tax authorized by this Chapter and provided that the City Council's
20 action does not otherwise constitute a tax "increase" within the meaning of Government Code
21 section 53750, subdivision (h).

22 B. The Tax Administrator, in consultation with the City Attorney, may adopt
23 administrative policies to promulgate rules, regulations, and procedures to implement and
24 administer this Chapter to ensure the efficient and timely collection of the taxes imposed by this
25 Chapter, such policies shall be: (i) effective upon the date specified in the policy; (ii) signed by
26 the Tax Administrator and City Attorney; and (iii) posted on the City website by the City Clerk
27 prior to implementation.

28 C. The Tax Administrator shall annually audit the Cannabis taxes imposed by this Chapter
to verify that tax revenues have been properly collected and expended in accordance with the
law.

1 34.5.12 RETURNS AND REMITTANCES.

2 The taxes imposed by this Chapter shall be due and payable as follows:

- 3 A. The cannabis business tax imposed by this Section shall be paid, in arrears, on a
4 monthly basis. Each person owing a cannabis business tax each calendar month shall, no
5 later than the last day of the month following the close of the calendar month, file with
6 the Tax Administrator a statement (“tax statement”) of the tax owed for that calendar
7 month and the basis for calculating that tax. The Tax Administrator may require that the
8 tax statement be submitted on a form prescribed by the Tax Administrator. The tax for
9 each calendar month shall be due and payable on that same date that the tax statement
10 for the calendar month is due.
- 11 B. All tax returns shall be completed on forms provided by the Financial Services
12 Department.
- 13 C. Tax returns and payments for all outstanding taxes, fees, penalties and interest owed to
14 the City are immediately due upon cessation of business for any reason.
- 15 D. Whenever any payment, statement, report, request or other communication is due, it
16 must be received by the Financial Service Department on or before the final due date. A
17 postmark will not be accepted as timely remittance. If the due date would fall on a
18 Saturday, Sunday or a holiday observed by the City, the due date shall be the next
19 regular business day on which the City is open to the public.
- 20 E. Unless otherwise specifically provided by this Chapter, the taxes imposed by this
21 Chapter shall be deemed delinquent if not paid on or before the due date specified in
22 subsection 34.5.12.A and 34.5.12.C.
- 23 F. The Financial Services Department may, but need not, send a delinquency or other
24 notice or bill to any Person subject to a tax or fee imposed by this Chapter and failure to
25 send such notice or bill shall not affect the validity of any tax, fee, interest or penalty
26 due under this chapter.

26 34.5.13 FAILURE TO PAY TIMELY.

- 27 A. Any Person who fails or refuses to pay any tax or fee imposed by this Chapter when due
28 shall pay penalties and interest as follows:

- 1 1. A penalty equal to 10 percent of the tax or fee, in addition to the amount of the tax;
- 2 2. An additional penalty equal to 25 percent of the amount of the tax or fee if unpaid
- 3 for more than a month beyond the due date; and
- 4 3. Interest charges on the amount of any and all unpaid taxes, fees, or penalties at the
- 5 rate of one percent interest per month from the date due until paid. Interest shall be
- 6 applied at the rate of one percent per month on the first day of the month for the full
- 7 month and will continue to accrue monthly on the tax and penalty until the balance
- 8 is paid in full.

9 B. If a check is submitted in payment of a tax or fee and is returned unpaid by the bank
10 upon which drawn, and the check is not redeemed before the due date, the taxpayer will be
11 liable for the tax or fee due plus penalties and interest as provided for in this Section plus any
12 amount allowed under state law for the returned check.

13 C. The Tax Administrator may waive some or all of the penalties imposed by this Section
14 as to any Person if:

- 15 1. The Person provides evidence satisfactory to the Tax Administrator that failure to
16 pay timely was due to circumstances beyond the control of the Person and occurred
17 notwithstanding the exercise of ordinary care and the absence of willful neglect, and
18 the Person paid the delinquent tax or fee and accrued interest owed the City upon
19 applying for a waiver.
- 20 2. A waiver authorized by this subsection shall not apply to tax, fee or interest and may
21 be granted to a taxpayer only once during any 24-month period.

22 34.5.14 REFUNDS.

23 A. No refund shall be made of any tax collected pursuant to this Chapter, except as
24 provided in this Section.

25 B. No refund of any tax collected pursuant to this Chapter shall be made because of the
26 discontinuation, dissolution, or other termination of a Cannabis Business.

27 C. Any Person entitled to a refund of sums paid under this Chapter may elect to have such
28 refund applied as a credit against future obligations under this Chapter.

1 D. Whenever any tax, fee, penalty, or interest under this chapter has been overpaid, paid
2 more than once, or has been erroneously or illegally collected or received by the City, such
3 amount shall be refunded to the Person who over paid the tax upon a timely written claim for
4 refund filed with the Tax Administrator

5 E. The Tax Administrator may examine and audit all the books and business records of the
6 claimant to determine eligibility to the claimed refund. No claim for refund shall be allowed if
7 the claimant refuses to allow such examination of the claimant's books and business records.

8 F. A sum erroneously paid under this Chapter due to an error of the City shall be refunded
9 to the claimant in full upon a timely claim under applicable provisions of the Government
10 Code. If an error is attributable to the claimant, the City may retain an amount established by
11 ordinance or resolution of the City Council from time-to-time in an amount sufficient to
12 recover the City's cost to process the claim and refund the balance.

13 G. The Tax Administrator shall initiate a refund of any sum overpaid or erroneously
14 collected under this Chapter whenever the overpayment or erroneous collection is disclosed by
15 a City audit for the period of time for which a timely claim might then be filed.

16 34.5.15 ENFORCEMENT.

17 A. The Tax Administrator shall enforce this Chapter.

18 B. The Tax Administrator may audit and examine all business locations, books and records
19 of Cannabis Businesses, including both state and federal income tax returns, California sales
20 tax returns, California excise tax returns, or other evidence documenting the Gross Receipts of
21 a Cannabis Business to ascertain any tax due under this Chapter and to verify any returns or
22 other information any Person submits to the City under this Chapter. If a Cannabis Business,
23 after written demand by the Tax Administrator, refuses to make available for audit,
24 examination or verification such locations, books, and records as the Tax Administrator
25 requests, the Tax Administrator may, after full consideration of all such information as is
26 available make an assessment of the tax or fee due and demand payment from the tax or fee-
27 payer, together with any penalties and interest due for late payment. In the event that a dispute
28 between a cannabis cultivator and the Tax Administrator arises relative to the value of
cultivated product, fair market value shall be based on current values identified by Cannabis
Benchmarks® or a similar pricing service as determined by the Tax Administrator.

1 C. The criminal conviction and punishment of any Person for failure to pay a sum required
2 under this Chapter shall not excuse or exempt such Person from any civil action for the debt.
3 No civil action shall prevent a criminal prosecution for any violation of this Chapter or of any
4 state law requiring the payment of all taxes. No election of remedies shall apply to the
5 enforcement of this Chapter or any other provision of this Code and the City may pursue one or
6 more remedies in its discretion provided only that no double recovery shall be permitted.

7 D. Any Person violating any of the provisions of this Chapter or any regulation or rule
8 adopted pursuant to it, or knowingly or intentionally misrepresenting any material fact to the
9 City in procuring a certificate or document from the City under this Chapter, or shall be guilty
10 of a misdemeanor unless the City Attorney, in his or her discretion, elects to prosecute it as an
11 infraction in the interests of justice.

12 E. In addition to the penalty imposed for a failure to timely pay any tax or fee imposed by
13 this Chapter, the City may enforce the violations of this Chapter pursuant to the administrative
14 remedies ordinance, Sections 1.14 through 1.14.8 of this Code.

15 34.5.16 CONSISTENCY WITH BUSINESS TAX RULES.

16 This Chapter to be enforced consistently with Chapter 15 of this Code and any rule or regulation
17 promulgated under that Chapter except as expressly provided to the contrary in this Chapter.

18 34.5.17 SUCCESSOR AND ASSIGNEE RESPONSIBILITY.

19
20 A. If any Person, while liable for any amount under this Chapter, sells, assigns or otherwise
21 transfers half or more of a taxed Cannabis Business, whether voluntarily or involuntarily, the
22 Person's successor, assignee or other transferee, or other Person or entity obtaining ownership
23 or control of the business ("transferee") shall pay that amount when due. A transferee shall
24 notify the Director of Financial Services of a transfer thirty (30) days before the transfer date; or
25 if the agreement to sell, transfer, or otherwise dispose of the business is made less than thirty
26 (30) days before the date of transfer, on the first day the City is open for business after the
27 transfer.

28 B. A transferee shall be deemed to have satisfied an unpaid liability if the transferee
complies with the requirements of California Revenue and Taxation Code Section 7283.5 and

1 this Section by withholding from the purchase price, for the benefit of the City, an amount
2 sufficient to cover the liability, or by otherwise paying the liability and obtaining from the
3 Director of Financial Services a "Tax Clearance Certificate" showing that all outstanding
4 liability has been paid through the date of transfer.

5 C. Within ninety (90) days of receiving a written request from a transferee, the Director of
6 Financial Services may issue a "Tax Clearance Certificate" stating either the amount due as to
7 the business under this Chapter, or stating that there is no liability due for the business through
8 a stated date. The Tax Administrator may also request financial records from the transferor to
9 audit the amount due under this Chapter. The Tax Administrator shall issue a tax clearance
10 certificate within thirty (30) days of completing the audit, stating any amount owed, unless the
11 Tax Administrator determines the records provided for audit are insufficient to determine
12 whether taxes, fees, penalties and/or interest are due and in what amounts. If so, the Tax
13 Administrator may rely on available information to estimate any amount due and shall issue a
14 tax clearance certificate stating that amount. A written application for an appeal hearing on the
15 amount assessed on a tax clearance certificate must be made within 10 days after the Tax
16 Administrator serves or mails the certificate. The appeal provision of Section 1.14.4 of this
17 Code shall apply. If a timely application for a hearing is not made, the tax clearance certificate
18 shall serve as conclusive evidence of the liability under this Chapter associated with the
19 business through the date stated on the certificate.

20 34.5.18 DEBTS, DEFICIENCIES AND ASSESSMENTS.

21 A. The amount of any tax, fee, penalties, and interest imposed by this Chapter shall be
22 deemed a debt to the City and any Person operating a Cannabis Business without first having
23 procured a business license and paid all requisite business license taxes, as provided in this
24 Chapter, shall be liable in an action in the name of the City in any court of competent
25 jurisdiction for the amount due.

26 B. If no return or statement is timely filed, or if the Tax Administrator is not satisfied that
27 any return or other statement filed under this Chapter is correct, or that the amount due is
28 correctly computed, the Tax Administrator may determine that amount and make a deficiency
determination upon available information. The Tax Administrator may make one or more
deficiency determinations for a period or periods. When a Person discontinues engaging in a

1 business, the Tax Administrator may make a deficiency determination at any time within three
2 years thereafter as to any liability arising from engaging in such business whether or not a
3 deficiency determination is issued before the date the tax would otherwise be due. Whenever a
4 deficiency determination is made, a notice shall be given to the Person concerned as are notices
5 of assessment under Sections 34.5.18.C.

6 C. Under any of the following circumstances, the Tax Administrator may make and give
7 notice of an assessment of taxes, fees, penalties and interest owed under this Chapter:

- 8 1. If the Person has not filed any statement or return required by this Chapter;
- 9 2. If the Person has not paid any tax, fee, penalty or interest due under this Chapter;
- 10 3. If the Person has not, after demand by the City filed a corrected statement or
11 return, or adequate substantiation of the information contained in a statement or return
12 previously filed, or paid any additional amount due under this Chapter;
- 13 4. If the Tax Administrator determines nonpayment of any amount due under this
14 Chapter is due to fraud, a penalty of 25 percent of the amount of otherwise due shall be
15 added thereto in addition to penalties and interest otherwise stated in this chapter.
- 16 5. The notice of assessment shall separately set forth any amount the Tax
17 Administrator knows or estimates to be due under this chapter, including any penalties
18 or interest accrued to the date of the notice.
- 19 6. A notice of assessment shall be served upon the tax- or fee-payer either by
20 personal service or by a deposit in the United States mail, postage prepaid, addressed to
21 the address appearing on the Local License issued under Chapter 7, Article XIII of this
22 Code or such other address as a tax- or fee-payer may provide the Tax Administrator in
23 writing for notices under this Chapter; or, should the Person have no business tax
24 certificate issued and no address provided to the Tax Administrator for such purpose,
25 then to such Person's last known address. Service by mail is complete upon deposit in
26 the United States mail as provided in this paragraph. If no address is known, notice may
27 be given by posting at or near the location of the business.
- 28

1 D. Within 10 days after service of a notice of assessment, the tax- or fee-payer may apply
2 in writing to the Tax Administrator for a hearing on the assessment. If no timely application for
3 a hearing is made, the amount assessed shall be final and conclusive. Within 30 days of the
4 receipt of an application for hearing, the Tax Administrator shall cause the matter to be set for
5 an administrative hearing using the procedures set forth in Section 1.14.4 of this Code. The Tax
6 Administrator shall give notice of such hearing to the Person requesting it not later than five
7 business days before the hearing. At such hearing, the applicant may appear and offer why the
8 assessment should not be confirmed. After such hearing, the hearing officer shall determine the
9 amount due under this Chapter and shall give written notice to the Person as prescribed in this
10 Chapter for giving notice of assessment. That decision is final as to the City, but either the City
11 or the appellant may seek judicial review as provided by California Code of Civil Procedure
12 section 1094.6.

13 34.5.19 APPORTIONMENT

14 A. No tax imposed by this Chapter shall be applied so as to occasion an undue burden
15 upon interstate commerce or violate the equal protection and due process clauses of the
16 Constitutions of the United States or the State of California or otherwise exceed the City's
17 lawful authority.

18 B. If any case where a business tax imposed under this Chapter is believed by a taxpayer to
19 place an undue burden upon interstate commerce or violate such constitutional clauses or other
20 applicable law, the taxpayer may apply to the Tax Administrator for an adjustment of the tax. It
21 shall be the taxpayer's obligation to request in writing for an adjustment within one year after
22 the date of payment of the tax. If the taxpayer does not request in writing within one year from
23 the date of payment, then the taxpayer shall be conclusively deemed to have waived any
24 adjustment for that year.

25 C. The taxpayer shall, by sworn statement and supporting testimony, show the method of
26 business and the gross revenues of business and such other information as the Tax
27 Administrator may deem necessary to determine compliance with this Chapter. The Tax
28 Administrator shall then conduct an investigation, and shall fix as the tax for the taxpayer an
amount that is reasonable, nondiscriminatory, and lawful, or if the tax has already been paid,
shall order a refund of the amount over and above the tax so fixed. In fixing the tax to be

1 charged, the Tax Administrator shall have the power to base the tax upon a percentage of Gross
2 Receipts or any other measure which will ensure that the tax assessed shall be uniform with that
3 assessed on businesses of like nature, so long as the amount assessed does not exceed the tax as
4 prescribed by this Chapter and permitted by applicable law.

5 D. The Tax Administrator may require the taxpayer to submit a sworn statement of the
6 Gross Receipts or other data required to calculate the tax and to pay the amount of tax as
7 determined by the Tax Administrator.

8 SECTION 2. AMENDMENT. To the extent authorized by Article XIII C of the California
9 Constitution, this ordinance may be amended or modified by the City Council without a vote of the
10 People. Voter approval is required for any amendment or modification that would repeal this
11 Ordinance or increase, within the meaning of Government Code section 53750(h), applicable tax rates
beyond the maximum rates authorized by this Ordinance.

12 SECTION 3. SEVERABILITY. If any provision of this Ordinance or the application thereof to
13 any person or circumstance is held invalid, the remainder of the Ordinance and the application of such
14 provision to other persons or circumstances shall not be affected thereby. The People hereby declare
15 that they would have adopted this Ordinance and each portion thereof regardless of the fact that an
16 invalid portion or portions may have been present in the Ordinance.

17 SECTION 4. CEQA. This measure to be submitted to the voters adopts a general tax to fund
18 any legitimate purpose of the City. As such, under CEQA Guidelines section 15378(b)(4), the tax is
19 not a project within the meaning of CEQA because it creates a government funding mechanism that
20 does not involve any commitment to any specific project that may result in a potentially significant
21 impact on the environment. Therefore, under CEQA Guidelines section 15060, review under CEQA is
not required.

22 SECTION 5. EFFECTIVE DATE. This Ordinance relates to the levying and collecting of the
23 City's Cannabis Business Tax and shall not take effect until ten days after the certification of its
24 approval by the majority of the voters voting at the general municipal election to be held on November
25 3, 2020 pursuant to Elections Code section 9217. The tax rates established in this Ordinance shall be
26 operative on January 1, 2021.

27 SECTION 6. CERTIFICATION; PUBLICATION. Upon approval by the voters, the City
28 Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be published
according to law.

1 INTRODUCED at a regular meeting of the City Council of the City of Oceanside, California,
2 held on the 5th day of August, 2020; and, thereafter

3 PASSED and ADOPTED at a regular meeting of the City Council of the City of Oceanside
4 California, held on the ____ day of _____, 2020, subject to majority voter approval on
5 November 3, 2020 by the following vote:

6 AYES:

7 NAYS:

8 ABSENT:

9 ABSTAIN:

10
11 MAYOR OF THE CITY OF OCEANSIDE

12 ATTEST:

13 APPROVED AS TO FORM:

14
15 _____
16 CITY CLERK

17
18 
19 _____
20 CITY ATTORNEY

21
22 AN ORDINANCE OF THE CITY OF OCEANSIDE ADDING ARTICLE V TO
23 CHAPTER 34 OF THE OCEANSIDE CITY CODE ESTABLISHING A TAX ON
24 CANNABIS BUSINESS ACTIVITY
25
26
27
28

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 3, 2020, FOR THE SUBMISSION OF A PROPOSED ORDINANCE FOR THE ESTABLISHMENT OF A CANNABIS BUSINESS TAX; CONSOLIDATING THE ELECTION WITH THE STATEWIDE ELECTION, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO TO PERMIT THE REGISTRAR OF VOTERS TO CONDUCT THE ELECTION; AUTHORIZING THE MAYOR AND DESIGNATED COUNCIL MEMBERS TO SUBMIT BALLOT ARGUMENTS IN FAVOR OF THE MEASURE; AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS; Sections 37101 and 37100.5 of the California Government Code authorize the City to levy a license tax, for revenue purposes, upon business transacted in the City and

WHEREAS, the City Council of the City of Oceanside has introduced an ordinance adding Chapter 34, Article V, Sections 34.5.1 through 34.5.19 to the Oceanside City Code to establish a Cannabis Business Tax (“the Ordinance”); and

WHEREAS, the City Council is authorized by statute to submit the proposed ordinance to the voters;

WHEREAS, the City Council of the City of Oceanside has called a General Municipal Election to be held in the City of Oceanside, California, on Tuesday, November 3, 2020; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date; that the City precincts, polling places and election officers of the two elections be the same; that the Registrar of Voters canvass the returns of the General Municipal Election; and that the election be held in all respects as if there were only one election.

NOW, THEREFORE, the City Council of the City of Oceanside DOES RESOLVE as follows:

SECTION 1. Pursuant to the requirements of the laws of the State of California relating to charter cities, there is called and ordered to be held in the City of Oceanside, California, on Tuesday, November 3, 2020, a General Municipal Election for the purpose of submitting the

1 following proposed ordinance imposing a Cannabis Business Tax to the qualified electors of
2 the City of Oceanside:

<p>3 4 5 Shall the City of Oceanside establish a Cannabis 6 Business Tax not to exceed 6% of gross revenues for 7 Cannabis Retailers, Manufacturers and Distributors and 8 not to exceed 3.5% of gross revenues for Cannabis 9 Cultivators to generate approximately \$1,900,000 10 annually, until voters change or repeal the tax, to fund 11 general city services, including enforcement efforts 12 against cannabis businesses operating illegally?</p>	<p>YES</p>
	<p>NO</p>

15 SECTION 2. The text of the ordinance submitted to the voters is attached as Exhibit A.

16 SECTION 3. The vote requirement for the measure to pass is a majority (50%+1) of the
17 votes cast.

18 SECTION 4. The ballots to be used at the election shall be in form and content as
19 required by law.

20 SECTION 5. The San Diego County Registrar of Voters is authorized, instructed and
21 directed to procure and furnish any and all official ballots, notices, printed matter and all
22 supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully
23 conduct the consolidated election.

24 SECTION 6. The polls shall be open at seven o'clock a.m. of the day of the election and
25 shall remain open continuously from that time until eight o'clock p.m. of the same day when
26 the polls shall be closed, pursuant to Election Code § 10242, except as provided in § 14401 of
27 the Elections Code of the State of California.

28 SECTION 7. Pursuant to the provisions of Section 10403 of the Elections Code of the
State of California, the Board of Supervisors of San Diego County is hereby requested to consent

1 and agree to the consolidation of the General Municipal Election with the Statewide General
2 Election on Tuesday, November 3, 2020, for the purpose of the ballot measure authorized by the
3 City Council.

4 SECTION 8. The election shall be held in all respects as if there were only one election
5 and only one form of ballot shall be used, and that the Registrar of Voters is authorized to canvass
6 the returns of the General Municipal Election at the proper time.

7 SECTION 9. The Board of Supervisors is requested to issue instructions to the
8 Registrar of Voters to take any and all steps necessary for the holding of the consolidated election.

9 SECTION 10. The City of Oceanside recognizes that additional costs will be incurred by
10 the County by reason of this consolidation and agrees to reimburse the County for its reasonable
11 share of these costs, upon a proper invoice.

12 SECTION 11. The City of Oceanside agrees to indemnify and save free and harmless the
13 County, its officers, agents and employees from expense or liability, including reasonable
14 attorneys' fees, as a result of an election contest arising after conduct of this election.

15 SECTION 12. The City Clerk is hereby directed to file a certified copy of this resolution
16 with the Board of Supervisors and the Registrar of Voters of San Diego County

17 SECTION 13. In all particulars not recited in this resolution, the election shall be held
18 and conducted as provided by law for holding municipal elections.

19 SECTION 14. Notice of the time and place of holding the election shall be given and the
20 City Clerk is authorized, instructed and directed to give further or additional notice of the
21 election, in time, form and manner as required by law.

22 SECTION 15. Pursuant to Elections Code section 9282(b), the City Council authorizes
23 the Mayor to submit a written argument, not to exceed 300 words in favor of the measure on
24 behalf of the City Council. Arguments must be submitted to the City Clerk and may be changed
25 until and including the date fixed by the Clerk by 5:00p.m. after which no arguments for or
26 against the measure may be submitted, withdrawn or changed.

27 The arguments shall be filed with the City Clerk, signed, with the printed name(s) and
28 signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the
name of the organization, and the printed name and signature of at least one of its principal

1 officers who is the author of the argument. The arguments shall be accompanied by the Form
2 of Statement To Be Filed By Author(s) of Argument supplied by the City Clerk.

3 SECTION 16. Pursuant to Section 9285 of the Elections Code of the State of California,
4 when the elections official has selected the arguments for and against the measure, which will
5 be printed and distributed to the voters, the Elections Official shall send a copy of an argument
6 in favor of the proposition to the authors of any argument against the measure and a copy of an
7 argument against the measure to the authors of any argument in favor of the measure
8 immediately upon receiving the arguments.

9 The author or a majority of the authors of an argument relating to a city measure may
10 prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing
11 any other person or persons to prepare, submit, or sign the rebuttal argument.

12 A rebuttal argument may not be signed by more than five individuals.

13 The rebuttal arguments shall be filed with the City Clerk, signed, with the printed
14 name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an
15 organization, the name of the organization, and the printed name and signature of at least one of
16 its principal officers, not more than 10 days after the final date for filing direct arguments. The
17 rebuttal arguments shall be accompanied by the Form of Statement To Be Filed By Author(s)
18 of Argument as supplied by the City Clerk.

19 Rebuttal arguments shall be printed in the same manner as the direct arguments. Each
20 rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

21 SECTION 17. The City Council directs the City Clerk to transmit a copy of the measure
22 to the City Attorney. Pursuant to California Elections Code Section 9280, the City Attorney
23 shall prepare an impartial analysis of the measure not exceeding 500 words showing the effect
24 of the measure on the existing law and the operation of the measure

25 ///

26 ///

27 ///

28 ///

1 PASSED AND ADOPTED by the City Council of the City of Oceanside, California,
2 this 5th day of August, 2020, by the following vote:

3 AYES:

4 NAYS:

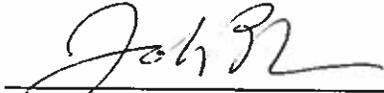
5 ABSENT:

6 ABSTAIN:

7
8
9 MAYOR OF THE CITY OF OCEANSIDE

10 APPROVED AS TO FORM:

11 ATTEST:

12 

13 _____
CITY ATTORNEY

14 _____
CITY CLERK