

MONTEREY COUNTY

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June 18, 2024

Honorable, Stephanie Hulsey
Judge of the Superior Court
c/o Office of the County Counsel
Attention: Sandra Ontiveros
168 W. Alisal Street, 3rd FL
Salinas, CA 93901

Re: 2023-2024 Monterey County Civil Grand Jury Final Report – “Cannabis Tax
Revenues: Highs and Lows”

Dear Judge Hulsey,

Pursuant to Penal Code section 933.05(b), please find applicable responses from the Treasurer-Tax
Collector’s Office.

Respectfully,

MARY A. ZEEB
Monterey County Treasurer-Tax Collector

**THE COUNTY OF MONTEREY TREASURER-TAX COLLECTOR'S RESPONSES TO THE
2023-2024 MONTEREY COUNTY CIVIL GRAND JURY FINAL REPORT
"CANNABIS TAX REVENUES: HIGHS AND LOWS"**

Response to Findings F3 and F5

Finding F3: *Current tax rates have stabilized. Revenues for FY 2024-25 are projected to be consistent with prior years, contributing to the Program's sustainability if Program expenses are aligned with revenues.*

Treasurer-Tax Collector's Response to F3: Respondent partially agrees with this finding. The cannabis program will be sustainable if expenses are aligned with revenues. Respondent is not able to respond to this finding to the extent that it projects commercial cannabis business tax revenues for FY 2024-2025 in relation to prior fiscal years because there are a number of variables that impact tax revenues.

Commercial cannabis business tax is an annual tax which is due and payable in quarterly installments. The Treasurer-Tax Collector's office sends annual billing statements to cultivation operators based on the square footprint of canopy indicated on the operators' annual permit. However, operators are authorized under Monterey County Code Section 7.90.070 to modify the canopy allowed by the permit twice during the permit's annual term. In addition, the commercial cannabis business tax for dispensaries is based on reported gross receipts. These values are self-reported and not reported until the month following the close of each fiscal quarter. Business closures or changes to the commercial cannabis business tax ordinance implemented by the Board of Supervisors during the fiscal year can also impact projected commercial cannabis business tax revenues.

Finding F5: *More than 50 cannabis businesses have closed or filed bankruptcy leaving the County with \$6M in unpaid taxes, resulting in reduced revenues for community services.*

Treasurer-Tax Collector's Response to F5: Respondent agrees that approximately 50 commercial cannabis businesses have ceased operations since the inception of the commercial cannabis business tax in the county. There remains an uncollectable balance of commercial cannabis business tax for such businesses of approximately \$6 million (exclusive of penalties and interest). Uncollectable commercial cannabis business tax results in reduced general fund revenues available for board allocation.

Response to Recommendations R5-R6

Recommendation R5: *The Office of the Auditor-Controller's Internal Audit Division (IAD) conduct an internal audit of cannabis businesses with tax deferral payment plan agreements, including those in tax delinquency by January 31, 2025.*

Treasurer-Tax Collector's Response to R5: The recommendation for the Auditor-Controller's Internal Audit Division (IAD) to conduct an internal audit of cannabis businesses with active payment plan agreements has not yet been implemented. The Treasurer-Tax Collector's Office stands ready to assist the Auditor-Controller's Office with this process once implemented by that department.

Recommendation R6: *The Treasurer-Tax Collector Office develop a timely action plan for those growers in arrears and recommend to the BOS to consider phasing out further tax payment extensions by November 30, 2024.*

Treasurer-Tax Collector's Response to R6:

The recommendation that the Treasurer-Tax Collector develop a timely action plan for growers in arrears has been implemented to the extent that liens are routinely recorded against operators with a delinquent balance each quarter.¹ The Treasurer-Tax Collector routinely reports delinquent operators to the Cannabis Program for enforcement which can ultimately result in the revocation of the operator's business permit. The Treasurer-Tax Collector's office can also revoke a commercial cannabis business operator's business license for failure to pay business property taxes or business license taxes, fines or penalties associated with the business when due and payable.²

The recommendation that the Treasurer-Tax Collector recommend to the Board of Supervisors to consider phasing out further tax payment extensions by November 30, 2024, has not been implemented because Resolution 23-172³ provides an end date for the previously authorized conditional waiver of penalties. Resolution 23-172 extended the previously authorized conditional waiver of penalties and resumed interest in the amount of one- and one-half percent (1.5%) on unpaid installments of the annual commercial cannabis cultivation business tax for the second through fourth quarters of Fiscal Year 2021-2022 for operators seeking to extend their payment plan, provided the full amount due is received by the Treasurer-Tax Collector on or before March 31, 2026. The Treasurer-Tax Collector is not aware of any further tax payment extension proposals pending.

¹ Monterey County Code Section 7.100.160

² Monterey County Code Section 7.02.160.

³ Resolution 23-172 was passed and adopted on May 2, 2023.