

1 DARRYL COTTON, *In pro se*
2 6176 Federal Boulevard
3 San Diego, CA 92114
4 Telephone: (619) 954-4447
5 151DarrylCotton@gmail.com

6
7
8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN DIEGO - CENTRAL DIVISION

10 DARRYL COTTON, an individual,

11 Plaintiff and Petitioner

12 v.

13 CITY OF SAN DIEGO, A Municipal Corporation;
14 and DOES 1-100

15 Defendants and Respondents.

16 Case No.: 25CU017134C

17
18
19
20
21
22
23
24
25
26
27
28
**VERIFIED FIRST AMENDED
COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF AND PETITION
FOR WRIT OF MANDATE UNDER THE
CALIFORNIA PUBLIC RECORDS ACT
AND OTHER LAWS**

Hearing Date: Not Set
Hearing Time: Not Set
Judge: Hon. Matthew C. Braner
Courtroom: C-60
Complaint Filed: March 28, 2025
Trial: Not Set

18 Plaintiff and Petitioner, DARRYL COTTON (“COTTON, I or MY”) alleges as follows:

19
20
21
22
23
24
25
26
27
28
INTRODUCTION

1. COTTON brings this action under the California Public Records Act (“CPRA”) as well as the California Constitution, the common law, and other legal authorities. COTTON has made multiple lawful CPRA requests to the CITY OF SAN DIEGO (“CITY”) as Defendant/Respondents, but they have illegally failed to disclose the responsive public records.

2. COTTON submits this VERIFIED FIRST AMENDED COMPLAINT (“FAC”) to provide the Court with an improved narrative from his original complaint, which better describes the multiple COTTON CPRA’s that have sought confirmation of certain Cannabis Business Tax (“CBT”)

1 payments due the city, which were determined by audit to be owed by adult-use cannabis businesses,
2 operators and licensees, and which, COTTON, upon information and belief, alleges remain unpaid.

3 3. COTTON submits that the CITY is experiencing budget shortfalls because of, *inter alia*,
4 these unpaid CBT payments, which have resulted in the CITY now imposing fees on what was previously
5 offered as free services to the public, i.e. parking at Balboa Park, and the implementation of residential
6 permit fee parking in designated zones.

7 Making up for those budget shortfalls is a clear public policy issue that harms taxpayers, the
8 CITY's General Fund and public fiscal oversight in the absence of uniform and non-selective
9 enforcement of tax laws, reaching to unequal protection of the laws, (as is demonstrated, *infra* at 15.c).

PARTIES

11 4. COTTON is a resident of the City of San Diego and is acting on his own behalf, both as
12 a taxpayer and a concerned citizen. COTTON is a government "watchdog" who is driven to ensure that
13 public agencies comply with all applicable laws aimed at promoting transparency and accountability in
14 government.

16 5. The CITY is a "local agency" within the meaning of Government Code Section 6252.

17 6. The true names and capacities of the Defendant/Respondents identified as DOES 1
18 through 100 are unknown to COTTON, who will seek the Court's permission to amend this pleading to
19 allege the true names and capacities as soon as they are ascertained. COTTON is informed, believes and,
20 on that basis, alleges that each of the fictitiously named Defendants/Respondents 1 through 100 has
21 jurisdiction by law over one or more aspects of the public records that are the subject of this lawsuit or
22 has some other cognizable interest in the public records.

23 7. COTTON is informed, believes and, on that basis, alleges that, at all times stated in this
24 pleading, each Defendant/Respondent was the agent, employee, servant, subordinate or superior of every
25 other and was, in doing the things alleged in this pleading, acting under color of law within the scope of
26 said agency, servitude, or employment and with the full knowledge or subsequent ratification of his
27 principals, masters and employers. Alternatively, in doing the things alleged in this pleading, each

1 Defendant/Respondent was acting alone and solely to further his or her own interests. Alternatively, some
2 of the Defendant/Respondents, acting as others' supervisors, under the doctrine of *respondeat superior*
3 have failed in their duty to see that their subordinates' actions were and remained lawful.

4 **JURISDICTION and VENUE**

5 8. The Court has jurisdiction over this lawsuit pursuant to Government Code §§ 6253, 6258,
6 6259, 7922.000 *et seq.*, 7922.530 and 7922.535 (segregability statutes which requires agencies to disclose
7 non-exempt portions of records), 7922.600(a)(assist in identifying records that are responsive to the
8 request or the purpose of the request, if stated); Code of Civil Procedure Sections 526a, 1060 *et seq.*, and
9 1084 *et seq.*; the California Constitution, and the common law, amongst other provisions of law.

10 9. Venue in the Court is proper because the obligations, liabilities and violations of law
11 alleged in this pleading occurred in the County of San Diego in the State of California.

12 **FIRST CAUSE OF ACTION:**
13 **Violation of Open-Government Laws**
14 (Against All Defendants/Respondents)

15 10. The preceding allegations in this pleading are fully incorporated into this paragraph.

16 11. This action seeks production of existing public records under the CPRA, not creation of
17 new reports, certifications, or declarations of facts by the CITY.

18 12. On or about February 23, 2025, COTTON submitted a request to CITY for certain public
19 records, identified as **PRA 25-1455**, pertaining to the payment status of a post audit/appeal assessment
20 by the CITY of \$542,727.07. (See "PRA-1455" at Exhibit A)

21 13. On March 6, 2025, the CITY responded by closing the request citing "*Any documents*
22 *responsive to the request are being withheld pursuant to:*"

23 *Government Code Section 7925.000*

24 *Information required from any taxpayer in connection with the collection of local taxes is exempt*
25 *from disclosure when it is received in confidence **and** [emphasis added] the disclosure of the*
26 *information to other persons would result in unfair competitive disadvantage to the person*
27 *supplying the information.* [emphasis added]

1 [In this instance, a disclosure of this information would not “...result in unfair competitive
2 disadvantage to the person supplying the information.” Thus, Government Code Section 7925.000
3 is moot, because both prongs of Government Code Section 7925.000 have not been met.]

4 *Government Code Section 7922.000*

5 *The public interest in the nondisclosure of personal identifying information clearly outweighs the
6 public interest in disclosure.*

7 [In this instance, Government Code Section 7922.000 is also moot because the public interest in
8 the disclosure of this information, (15. *Infra*), outweighs the stated purpose for nondisclosure.
9 (*City of Vallejo v. Superior Court*, 112 Cal.App.5th 565 (2025), footnote 2, *infra*]

10 *San Diego Municipal Code section 34.0113(e).*

11 *To the extent allowed by law, all returns and payments submitted by each Operator shall be
12 treated as confidential by the City Treasurer and shall not be released except upon order of a
13 court of competent jurisdiction or to an officer or agent of the United States, the State of
14 California, the County of San Diego, or the City of San Diego for official use only.”*

15 14. COTTON submits that while confidentiality might exist under normal circumstances a
16 further review of the SDMC sections being cited is necessary in this instance;

- 17 a. §34.0112(a), which requires 15% of the Gross Receipts be the basis of the Operator
18 liability. This is, at best, difficult to ascertain when the Operator, as is the case here,
19 provided no records i.e. years’ worth of “lost data” to produce during their audit. (See
20 the “minimum 7 year records retention rule” at Cal. Code Regs. Tit. 4 § 15037 *et seq*)
21 b. §34.0113(a-c)(f) Operator reports must be submitted monthly. This raises the question
22 as to how this liability was allowed to go unchecked by the CITY over a 42 month
23 audit period especially when considering these businesses ALL operate on a cash¹
24 basis.

25 ¹ Unlike any other industry that comes to mind, licensed cannabis is a state but not federally legal industry. While state
26 medicinal cannabis had, up until the most recent federal budget was enacted, enjoyed Congressionally mandated protection
27 from interference by the federal government, this has NEVER been true of so-called “Adult Use,” e.g. cannabis identified
by the state as for non-medicinal use. State licensee/operators find it difficult, if not impossible, to open bank accounts when
the business is federally illegal. Banks are conservative by nature, and they usually won’t expose themselves to what is, *de
jure and de facto*, a violation of the federal Controlled Substance Act. (Is the lack of transparency a deliberate avoidance of
creating a paper trail that would constitute evidence of “money-laundering?”) Thus, the cash payments made to local
government(s), unless meticulously and transparently tracked, with 3rd party verification of the actual cash deposits, are

- c. §34.0114 (a)(b1-4) defines when the CBT is deemed delinquent, due dates, interest rates and Operator responsibilities to remain compliant.
 - d. §34.0116 (b) defines when an Operator fails or refuses to file a timely return, when no records exist and what “may” result in a “written jeopardy determination” by the Tax Administrator.
 - e. §34.0117 (e) defines the 14-calendar day requirement for the Operator to pay the amount due. (See “SDMC Chapter 3” at Exhibit B)

15. COTTON also contends that the reliance on any confidential language must also consider the following;

- a. The CPRA's disclosure requested does not create an unfair competitive advantage over the licensee.
 - b. The disclosure of the personal identifying information is indispensably fundamental to the public interest when it comes to confirming whether a tax liability was paid or not and ensuring that any forgiveness of these debts is not part of a larger pattern of selective enforcement of tax and licensing law by the CITY. The CITY has not demonstrated undue burden nor duplicative efforts to justify nondisclosure. (*Becerra v. Superior Court*, 44 Cal. App. 5th 897)
 - c. The CPRA request for information confirming Adam Knopf, Licensee and Operator and GSG PL INC tax liability is based upon information that is already in the public domain. This can be seen by documents that were submitted in a San Diego County Grand Jury Complaint (“GJC”) filed by Adam Knopf’s former wife, Tiffany Knopf, specifically the October 5, 2023, CITY demand letter addressed to Adam Knopf and

subject to misappropriation by those in government who control the licensee cash coming in the door and allegedly finding their way into the General Fund, rather than being treated as a line item within the General Fund. This makes CPRA requests and CITY responses, which could be redacted when absolutely, legitimately, necessary to protect confidentiality, fundamental to assuring that the taxpayers rights are being protected.

- 1 his attorney Gina Austin (“Austin”) for the post audit amount of \$542,727.06 to be
2 paid within 14 days of the letter. (See “Tiffany Knopf GJC” at Exhibit C, Page 005)
3 d. That the CITY does publish confidential Operator/Licensee taxpayer information as
4 can be seen in the May 31, 2022, CITY OF SAN DIEGO v. XTRACTA
5 DISTRIBUTION, INC ET AL, Case No. 37-2022-00020488-CU-CL-CTL in which
6 the CITY publicly pursued tax liability in seeking recovery of unpaid cannabis
7 business tax, penalties, interest, collection referral fee, officer liability and successor
8 liability in the amount of \$642,852.56.² (See “XTRACTA COMPLAINT” at Exhibit
9 D.0, Pg. 8:1-15)
10 e. Austin represented Defendants XTRACTA DISTRIBUTION, INC and Stephen
11 Michael Dang, Licensee/Operator named in the complaint.
12 f. On September 20, 2022, Austin answered the complaint asserting the CITY was
13 “...not entitled to the relief sought by reason of its own unclean hands³ with regards
14 to the matters alleged in the complaint.” (See “XTRACTA ANSWER” at Exhibit D.1)
15 g. On May 2, 2023, the CITY dismissed the complaint with prejudice. (See “XTRACTA
16 DISMISSAL” at Exhibit D.2)
17 h. No evidence exists within the XTRACTA matter that the tax obligation was paid. This,
18 along with the serial involvement of specific Defendant/Respondents, justifies
19

21

22 ² The principle that tax confidentiality statutes exist to protect the content of taxpayer submissions, not the existence, status,
23 or enforcement outcome of a government-assessed tax obligation aligns with CPRA case law and the CITY’s own conduct in
prior tax enforcement litigation. (*City of Gilroy v. The Superior Court of Santa Clara County*, S282937, S282950, 2026 Cal.
LEXIS 1)

24 ³ This begs the question as to how the “unclean hands” allegation Austin refers to would somehow relieve XTRACTA of this
25 tax obligation. Furthermore, if an “unclean hands” allegation leads to the CITY dismissing a complaint aimed at collecting
26 tax obligations, or forgives another licensee of their tax obligation without filing suit, the most troubling aspect of this “unclean
27 hands” allegation is that the attorney, Gina Austin, who makes this allegation and who represents both licensees, may hold
28 some unknown power over the CITY and can apply it anywhere she may choose to. Thus, it must be determined as to what
exactly constitutes “unclean hands,” and is this an ongoing condition in which Austin, and perhaps others who hold this
“unclean hands” information, may be subject to vicarious liability damages when representing certain clients, whereby Austin
and her clients’ best interests may unlawfully supersede those of COTTON’s personal financial interests, the CITY and the
taxpayers in those representations.

1 suspicion the CITY is engaging in a pattern of selective enforcement. (*Sander v. State*
2 *Bar of California* (2013) 58 Cal.4th 300, 323)

- 3 i. Austin also represented Adam Knopf and GSG PL INC in the tax liability matter with
4 the CITY. (See “Tiffany Knopf GJC” at Exhibit C, Pg. 004)
- 5 j. No evidence exists that the CITY has ever filed a lawsuit like XTRACTA against
6 Adam Knopf and GSG PL INC to collect the \$542,727.06 which would have been due
7 the CITY on or before October 19, 2023⁴.
- 8 k. The existence of a tax liability, as opposed to the content of the returns, may not be
9 confidential. (*State Bd. Of Equalization v. Superior Court* (1992) 10 Cal.App.4th
10 55,82)

11 16. On March 8, 2025, COTTON submitted a follow up to PRA 25-1455 request to the CITY
12 for certain public records, identified as **PRA 25-1809**. (See “PRA 25-1809” at Exhibit E)

13 17. In PRA 25-1809 COTTON requested that “no [confidential] records be provided...but
14 instead respond to whether the October 5, 2023, Adam Knopf, GSC PL [INC] post audit deficiency in
15 the amount of \$542,727.02 has been paid in full or in part to the City.”

16 18. PRA 25-1809 was a good-faith effort to accommodate the confidentiality issues that the
17 CITY relied on when denying any documents provided under PRA 25-1455.

18 19. PRA 25-1809 was simply seeking records from the CITY that would not violate
19 confidentiality, such as Treasurer ledger entries, Cashiering/payment logs, Delinquency notices, Payment
20 plan agreements, Lien/enforcement actions, Compliance determinations, Internal enforcement
21 correspondence, Discharge/write-off records, all with personal identifiers redacted to prove the status of
22 the \$542,727.07 tax liability as required in Government Code § 7922.530 where document segregability
23 requires the CITY to separate exempt from non-exempt information in the request.

24
25
26
27 4 The XTRACTA litigation demonstrates the CITY’s willingness to litigate similar tax matters publicly and what is selective
28 disclosure of cannabis tax delinquencies by the CITY, undermining any claim that all such records are categorically
confidential. (*CBS, Inc. v. Block* (1986) 42 Cal.3d 646)

1 20. PRA 25-1809 did not seek taxpayer names, social security numbers, account numbers,
2 business identities, personal identifying information protected by law, interrogatory-style responses, the
3 creation of new information, certifications, or declarations of fact by the CITY.

4 21. COTTON seeks records, redacted where necessary, reflecting whether the assessed tax
5 liability of \$542,727.06 was satisfied through payment, payment plan, settlement, waiver or remains
6 outstanding, and what enforcement actions such as a “written jeopardy determination,” were taken by
7 the CITY.

8 22. In their response to PRA 25-1809, the CITY has engaged in CPRA procedural violations
9 such as;

- 10 a. Failing to provide the records requested, as they do exist and are in control of the
11 CITY.
- 12 b. The records being requested are subject to CPRA operative law.
- 13 c. The CITY has failed to disclose and cite proper exemptions.
- 14 d. The CITY must determine CPRA’s exemption on a case-by-case basis, with the
15 burden on the CITY to prove that nondisclosure serves the public interest more than
16 disclosure. (*City of Vallejo v. Superior Court*, 112 Cal.App. 5th 565 (2025))
- 17 e. The CITY did not do a thorough search for all public records responsive to COTTON’s
18 request, including but not limited to failing to search for responsive public records
19 maintained on the personal accounts and/or devices of public officials.
- 20 f. By way of example and not limitation, CITY has never provided COTTON with any
21 affidavit or any other evidence that the outstanding KNOPF/GSG tax liability owed to
22 the CITY had been paid.
- 23 g. The CITY has not produced any public records responsive to COTTON’s request.
- 24 h. To the extent these documents may be protected by the privileges being cited in the
25 response, COTTON would request that the CITY be ordered to show proof if any, or

1 all the unpaid tax liability was paid, or if any payment plan was agreed to between the
2 parties which would have satisfied this obligation.

- 3 i. The CITY did not comply with Government Code § 7922.600 (a) which required them
4 to assist COTTON in “...identifying records and information that are responsive to
5 the request or the *purpose* of both requests, if stated.” COTTON’s request did
6 adequately and fully convey the purpose of the request. The CITY response failed to
7 assist COTTON by suggesting narrowing the request, suggesting producible records,
8 or explaining partial disclosure options. (*Community Youth Athletic Center v. City of*
9 *National City* (2013) 220 Cal.App.4th 1385, 1420)
- 10 j. While taxpayer returns are confidential, the existence of a tax liability may not always
11 be protected, especially if the information is already public or can be disclosed without
12 revealing confidential details. (*State Bd. of Equalization v. Superior Court* (1992) 10
13 Cal.App.4th 1177)
- 14 k. The CITY must demonstrate that an exemption applies and that the public interest in
15 nondisclosure clearly outweighs the public interest in disclosure. (*County of Santa*
16 *Clara v. Superior Court* (2009) 170 Cal.App.4th 1301)
- 17 l. The public interest in disclosure must be balanced against privacy and confidentiality
18 interests, and the agency bears the burden of justifying nondisclosure. (*CBS, Inc. v.*
19 *Block* (1986) 42 Cal.3d 646)
- 20 m. The CITY must disclose non-exempt portions of records, even if other portions are
21 exempt, and must use redaction where possible. (*ACLU of Northern California v.*
22 *Superior Court* (2011) 202 Cal.App.4th 55)
- 23 n. In *Sander v. State Bar of California*, 58 Cal.4th 300, the court held that the State Bar must
24 disclose requested information if it could be produced without identifying individuals or
25 unduly burdening competing interests. The court emphasized that public records are
26
27

subject to a qualified right of access when there is legitimate public interest, unless outweighed by confidentiality or other considerations.

23. The California State Auditor issued their March 2024 Report titled Local Cannabis Permitting in Monterey and Santa Barbara counties and San Diego, Fresno, Sacramento and South Lake Tahoe. San Diego did not fare well under this audit which was designed to bolster public confidence in the process and, “Because this audit objective directed us to identify whether different processes are structurally more susceptible to corruption, we focused on those processes and the risks that they could be susceptible to corruption.” These findings support the claim of systemic transparency issues. (See “CA STATE AUDITOR REPORT” at Exhibit F, Pg. 17, ¶2)

24. The CA STATE AUDITOR REPORT states that the CITY "...could not provide evidence that it followed its policy to compare the [competing] applications to the checklist, all of which were submitted before December 2021." (See "CA STATE AUDITOR REPORT" at Exhibit E, Pg. 26, ¶ 4)

25. On August 28, 2024, CITY Mayor Todd Gloria (“GLORIA”) authored a letter to the Honorable Maureen F. Hallahan, Presiding Judge of the Superior Court regarding the CITY response to a Grand Jury Report titled “Cannabis in San Diego – How is it going?” In that letter GLORIA addresses the reports “Finding 3: The City does not report all revenue, expenses and impacts associated with cannabis legalization, leaving citizens unaware of the full fiscal impact of Measure N.”

Gloria replies, “The Mayor disagrees in part with the Grand Jury’s finding. The City’s Cannabis Business Tax is a general tax...are placed in the City’s General Fund...are tracked via the City’s financial system...However, the Grand Jury is correct that the City does not currently provide a comprehensive report detailing expenditures [and generated revenues and those still operating while in tax arrears]...there are several reasons why the City does not agree that a comprehensive report is necessary, as explained in response to Recommendation 2.”

1 In his response to Recommendation 2, he states, “The San Diego Mayor should direct the city
2 staff to develop and publish reports that document the fiscal and law enforcement impacts of cannabis
3 legalization,” to which GLORIA replies, “The recommendation will not be implemented because it is not
4 warranted...[due to] current budgetary constraints and pressing priorities...” (See “GLORIA REPLY
5 LETTER TO GRAND JURY” at Exhibit G)

6
7 26. COTTON, and other members of the public, have been harmed⁵ by the CITY’s failure to
8 produce the public records responsive to COTTON’s request. By way of example and not limitation, the
9 legal rights of COTTON⁶ to access information concerning the conduct of the people’s business are being
10 violated and continue to be violated.

11
12 **SECOND CAUSE OF ACTION:**
13 **Declaratory Relief under Code of Civil Procedure Section 1060 *et seq.***
14 (Against all Defendants/Respondents)

15 26. The preceding allegations in this pleading are fully incorporated into this paragraph.
16 27. This action seeks production of existing public records under the CPRA, not creation of
17 new reports, certifications, or declarations of facts by the CITY.

18 28. COTTON is informed, believes and on that basis alleges that an actual controversy exists
19 between COTTON, on the one hand, and Defendants/Respondents, on the other hand, concerning their

20 ⁵ In a related but directly on-point decision, on October 30, 2017, in DONNA FRYE v. CITY OF SAN DIEGO, Case No. 37-
21 2017-00041323-CU-MC-CTL, Plaintiff and Petitioner FRYE, a former CITY Councilmember (2001-2010), alleges in her
22 VERIFIED COMPLAINT, specific CITY acts which include, ”...this institutionalized secrecy...the [CITY] policy...actually
23 promotes secrecy...the policy is illegal...” ([ROA-1 at Pg. 2:7-12](#)). On March 22, 2022, Judge John S. Meyer signed an
24 [ORDER](#) granting FRYE, the prevailing party, \$79,459.15 in attorney fees and costs.

25 ⁶ COTTON alleges that the CITY has retaliated against COTTON for filing this action and that the CITY’s reluctance to
26 provide the information requested in these CPRA’s is because the CITY is aware of COTTON’s investigation into pay-to-
27 play awards in the CITY’s adult-use licensing program and published what is referred to as his “Deep Dive,” chronicles these
28 insider practices occurring between 2014-2021 at https://151farmers.org/wp-content/uploads/2018/04/2024-05-13_Deep-Dive-CUPs-Steering-Document.pdf and a series of 21 Grand Jury Complaints at <https://www.justice4amy.org/wp-content/uploads/2023/02/GJC-Combined-1-21-Redacted.pdf> and an appearance by six speakers at the City Council hearing
on June 6, 2023, at https://sandiego.granicus.com/player/clip/8685?view_id=3&redirect=true, beginning at 1:37. These earlier
acts, by certain government officials, are what COTTON alleges has given certain non-government bad actors an ongoing
ability to exert *undue influence* in CITY decisions by making “unclean hands” allegations and aligns with Frye’s campaign to
expose these practices relative to broader CITY fiscal policy decisions in violation of, *inter alia*, the Brown Act. (02/10/2026,
KOGO, Conway and Larson show with Frye’s continuing efforts at <https://www.iheart.com/podcast/176-conway-and-larson-28149809/episode/6pm-special-guest-donna-frye-322152513>)

respective rights and duties under the CPRA, the California Constitution, the common law, and other applicable legal authorities. As alleged in this pleading, COTTON contends that public records, responsive to COTTON's request, exist and that Defendants/Respondents are required by law to produce each and every responsive record, or alternatively, if said documents are protected product, produce segregable records to COTTON and the public, that the tax liability was paid in full, or in part and if in part, there exists an executed payment plan that would satisfy the tax liability.

29. COTTON desires a judicial determination as to whether disclosable public records were unlawfully withheld by the CITY and whether they were required by law to produce such records in a timely manner.

PRAYER

A. *On the First Cause of Action:*

1. An order determining or declaring that Defendant/Respondents have not promptly and fully complied with the CPRA, the California Constitution, the common law, and/or other applicable laws regarding COTTON's request.

2. A writ of mandate ordering Defendant/Respondents to promptly and fully comply with the CPRA, the California Constitution, the common law, and all other applicable laws regarding COTTON's request; and

3. Preliminary and permanent injunctive relief directing Defendants/Respondents to fully respond to COTTON's request to inspect and obtain copies of all responsive public records, or alternatively, if said documents are protected by confidentiality, convey to COTTON and the public, that the tax liability was paid in full, or in part, and if in part there exists an executed payment plan that would satisfy the assessed tax liability.

B. *On the Second Cause of Action:*

1. An order determining and declaring that the failure of Defendants/Respondents to disclose all public records responsive to COTTON's request to inspect and obtain copies of all responsive public records responsive to COTTON's request and to permit COTTON to inspect and obtain copies of the

1 responsive public records does not comply with the CPRA, the California Constitution, the common law,
2 and/or other applicable laws; and,

3 2. Preliminary and permanent injunctive relief directing Defendants/Respondents to fully
4 respond to COTTON's request to inspect and obtain copies of all responsive public records, or
5 alternatively, if said documents are protected by Attorney Client Privilege, convey to COTTON that the
6 tax liability was paid in full, or in part and if in part there exists an executed payment plan that would
7 satisfy the tax liability.

8 C. *On All Causes of Action:*

9 1. An order directing the CITY to provide all CBT expenditures, revenues, unpaid tax
10 obligations and uncollected arrears requiring that these be shown as separate line items within the General
11 Fund.

12 2. An order providing for the Court's continuing jurisdiction over this lawsuit to ensure that
13 Defendants/Respondents fully comply with the CPRA, the California Constitution, the common law,
14 and/or other applicable laws;

15 3. Alternatively, order the CITY to produce a Vaughn Index detailing an itemized, non-
16 conclusory description of each withheld document, citing specific statutory exemptions and how
17 disclosure would harm protected interests and that the CITY provides a sworn declaration establishing
18 the non-existence of records. (*Haynie v. Superior Court* (2001) Cal.4th 1061, 1072)

19 4. Find that the CITY has denied COTTON responsive records, that other than the parties,
20 are sufficiently similar, that treatment should have been the same, but was not.

21 5. Order that all legal expenses incurred by COTTON in connection with this lawsuit be
22 reimbursed to him by the CITY, and;

23 6. Any further relief that this Court may deem appropriate.

24 //

25 //

26 //

1
2 Date: February 12, 2026

3
4 Respectfully submitted,

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



10 Darryl Cotton, in propria persona
11 Plaintiff/Petitioner

12 Attachments:

- 13 EX-A: February 23, 2025, PRA-1455
14 EX-B: May 2025 San Diego Municipal Code, Chapter 3 Business Regulations and Taxes
15 EX-C: December 18, 2023, Tiffany Knopf Grand Jury Complaint w CITY Tax Demand Letter
16 EX-D.0: May 31, 2022, CITY OF SAN DIEGO v. XTRACTA Complaint
17 EX-D.1 September 20, 2022, ALG Answer in the XTRACTA Complaint
18 EX-D.2: May 22, 2023, CITY Dismissal of the XTRACTA Complaint
19 EX-E: March 8, 2025, PRA 25-1809
20 EX-F: March 2024 CA STATE AUDITORS CANNABIS REPORT for 2023
21 EX-G: August 28, 2024, Mayor Gloria's Response to the City of San Diego Grand Jury Report

Exhibit A

Request 25-1455

Closed



Dates

Received

February 23, 2025 via web

Requester

Darryl Cotton

151darrylcotton@gmail.com

6176 Federal Blvd, San Diego, CA, 92114

6199544447

[Show less](#)

Staff assigned

Departments

City Treasurer

Point of contact

Stephanie Hoover

Request

On October 5, 2023, the City issued a letter to Mr. Adam Knopf, GSG PL Inc ("Knopf/GSG") that upon completion of a tax audit of this adult-use retail dispensary, there existed a payment deficiency to the City of \$542,727.06. Pursuant to the California Freedom of Information Act, we kindly request any and all records related to the unpaid Cannabis Business Tax owed by defendants. Request includes but is not limited to: 1) Source of all payments received by the City to clear the underlying debt; 2) Monthly summary reports of gross receipts, adjustments, taxable receipts, and CBT collected for the past 5 years; 3) Chart of Accounts; 4) General Ledgers; 5) Monthly Profit and Loss Statements; and 6) Monthly tax worksheets used to calculate DBT due to the City; 7) A statement as to why the audit period was allowed to encompass a 3.5 year period in which these taxes had not been paid to the City; 8) Has this amount been paid in full to the City and if not what payment arrangements have been made to satisfy this debt, and 9) What has been done by the City to assure that since the audit was performed all CBT payments have been made in the correct amounts at the time they were due to maintain this license?

[Show less](#)

Timeline

Documents

Request closed ^

Anyone with access to this request

01a. Not Released - Withheld

Any documents responsive to the request are being withheld pursuant to:

Government Code section 7925.000

Information required from any taxpayer in connection with the collection of local taxes is exempt from disclosure when it is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

Government Code section 7922.000

The public interest in the nondisclosure of personal identifying information clearly outweighs the public interest in disclosure.

San Diego Municipal Code section 34.0113(e).

March 6, 2025, 4:29pm by Stephanie Hoover (Staff)

Exhibit B

§34.0112 Amount of Business Tax Owed

- (a) Every *Operator* engaged in *Cannabis Business* in the City shall pay a *Cannabis Business Tax* at a rate of up to 15 percent of *Gross Receipts*.
- (b) Notwithstanding the maximum tax rate of 15 percent of *Gross Receipts* imposed under subsection 34.0112(a), the City Council may, in its discretion, at any time by ordinance, implement a lower tax rate for all *Cannabis Businesses* or establish differing tax rates for different categories of *Cannabis Businesses*, as defined in such ordinance, subject to the maximum rate of 15 percent of *Gross Receipts*. The City Council may, by ordinance, also increase any such tax rate from time to time, not to exceed the maximum tax rate of 15 percent of *Gross Receipts* established under subsection 34.0112(a).
- (c) Commencing on May 1, 2025, except as set forth in subsection 34.0112(d), the *Cannabis Business Tax* rate shall be set at ten percent of *Gross Receipts* unless the City Council, by ordinance, takes action to set a different tax rate, not to exceed 15 percent of *Gross Receipts*.
- (d) Commencing on May 1, 2022, the *Cannabis Business Tax* rate for a *Cannabis production facility* shall be set at two percent of *Gross Receipts* unless the City Council, by ordinance, takes action to set a different tax rate, not to exceed 15 percent of *Gross Receipts*.

(“*Amount of Business Tax Owed*” added 8-3-2016 by O-20712 N.S.; effective 12-12-2016.)

(Amended 3-9-2022 by O-21441 N.S.; effective 4-8-2022.)

(Amended 4-3-2025 by O-21935 N.S.; effective 5-3-2025.)

34.0113**Remitting and Reporting**

The *Cannabis Business Tax* imposed by this Article shall be due and payable as follows:

- (a) Each *Operator* shall remit monthly the full amount of the tax owed from the previous month with the appropriate approved return form available from the *Tax Administrator*.
- (b) Returns and taxes remitted monthly by an *Operator* and actually received by the *Tax Administrator* on or before the last day of the following month shall be deemed timely filed and remitted; otherwise, the taxes are delinquent and subject to the penalties imposed by section 34.0114.

- (c) Each *Operator* shall submit, on or before the last day of the following month, a return on the appropriate approved forms to the *Tax Administrator* of the total *Gross Receipts* and the balance of the tax due. At the time the return is filed, the full amount of the balance of the tax due shall be remitted to the *Tax Administrator*.
- (d) Returns filed and taxes remitted by mail or courier service shall be deemed timely filed only if the envelope or similar container enclosing the returns and taxes is addressed to the City Treasurer, has sufficient postage, and bears a United State postmark, postage meter imprint, or courier pick up date, prior to midnight on the last day for reporting and remitting without penalty. If the envelope or other container bears a postage meter imprint as well as a United States Post Office cancellation mark, the latter shall govern in determining whether the filing and remittance are timely.
- (e) To the extent allowed by law, all returns and payments submitted by each *Operator* shall be treated as confidential by the City Treasurer and shall not be released except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the State of California, the County of San Diego, or the City of San Diego for official use only.
- (f) The same basis of accounting used by an *Operator* for keeping books and records shall be used for reporting and remitting.
- (g) If returns and taxes are due on a Saturday, Sunday, or a recognized City holiday, the due day shall be the next regular business day on which the Office of the City Treasurer is open to the public.

(“Remitting and Reporting” added 8-3-2016 by O-20712 N.S.; effective 12-12-2016.)

§34.0114 Delinquency; Penalties

- (a) Unless otherwise specifically provided under other provisions of this Article, the *Cannabis Business Tax* required to be paid pursuant to this Article shall be deemed delinquent if not paid on or before the due date specified in section 34.0113.
- (b) Any person who fails or refuses to pay any tax required to be paid pursuant to this Article on or before the due date shall pay penalties and interest as follows:

- (1) A penalty equal to 25 percent of the amount of the tax in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax; and
 - (2) An additional penalty equal to 25 percent of the amount of the tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid tax and on the unpaid penalties.
 - (3) Interest at the rate of one and one-half percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the last day of the month following the month period for which the amount of any portion thereof should have been paid until the date of payment.
 - (4) *Operators* must remit all taxes, interest and penalties owed unless an alternate payment agreement is reached with the *Tax Administrator*.
- (c) Whenever a check is submitted for payment of the taxes due and the check is returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the *Operator* will be liable for the tax amount due plus the returned check fee; penalties and interest as provided for in this section, and any amount allowed under state law.
- (d) The *Cannabis Business Tax* due shall be that amount due and payable from the first date on which a person was engaged in *Cannabis Business* in the City, together with applicable penalties and interest calculated in accordance with subsection 34.0114(a).
- (“Delinquency; Penalties” added 8-3-2016 by O-20712 N.S.; effective 12-12-2016.)*

§34.0115**Notice Not Required by City**

The *Tax Administrator* is not required to send a delinquency or other notice or bill to any *person* subject to the provisions of this Article and failure to send such notice or bill shall not affect the validity of any tax, interest, or penalty due under the provisions of this Article.

(“Notice Not Required by City” added 8-3-2016 by O-20712 N.S.; effective 12-12-2016.)

§34.0116 Failure to Report Tax; Jeopardy Determination

- (a) If any *Operator* fails or refuses to report or remit any *Cannabis Business Tax* due under this Article or if such *Operator* maintains records which are inadequate to show the amount of the tax due, the *Tax Administrator* shall forthwith assess the tax, interest and penalties provided for by this Article against the *Operator*.
- (b) When an *Operator* fails or refuses to make or file a timely return or remittance of taxes, or when the *Tax Administrator*, or duly authorized employee makes a determination, after having applied necessary and accepted auditing procedures, or by estimation if no records are available, that an *Operator* is or will be unable to remit any taxes due at the prescribed time, the *Tax Administrator* may make a written jeopardy determination which shall be issued to the *Operator* to require the *Operator* to thereafter furnish additional information or provide adequate security as necessary to ensure the remittance of taxes on a daily or weekly basis. The *Operator* shall thereafter report and remit all taxes due under the terms and conditions prescribed by the *Tax Administrator*. The *Tax Administrator* shall cancel the requirements imposed under the jeopardy determination once timely accounting and remittance procedures have been established and the *Operator* is meeting all obligations imposed by law for the remittance of taxes.
- (c) The *Tax Administrator* shall deliver notice of the assessment or the jeopardy determination to the *Operator* or deposit it in the United States mail, postage prepaid, addressed to the *Operator* at the last known place of business.

(“Failure to Report Tax; Jeopardy Determination” added 8-3-2016 by O-20712 N.S.; effective 12-12-2016.)

§34.0117 Administrative Remedies and Appeals

- (a) An *Operator* may within 14 calendar days after the serving or mailing of a notice of assessment or jeopardy determination make application in writing to the *Tax Administrator* for a hearing on the amount assessed pursuant to section 34.0116. If timely application for a hearing is not made, the tax, interest and penalties determined by the *Tax Administrator* shall become final and conclusive and immediately due and payable. If such application is made, the *Tax Administrator* shall give not less than five calendar days written notice in the manner prescribed herein to the appellant of the time and place for a hearing before a board consisting of the *Tax Administrator*, the City Comptroller and the Director of Financial Management or the duly appointed deputy of each. At the hearing, the *Operator* may appear and offer evidence why the specified tax, interest, and penalties should not be so fixed. The board shall consider all evidence produced and shall determine the proper tax, interest, and penalties to be remitted. After the hearing, the *Tax Administrator* shall give written notice to the appellant in the manner prescribed herein of the determination and the amount of such tax, interest, and penalties. If the amount remaining in dispute thereafter does not exceed \$5,000.00, the decision of the hearing board shall be final and conclusive and shall constitute the exhaustion of the appellant's administrative remedies. Any amount found to be due shall be payable within 14 calendar days of the serving or mailing of the determination of the tax due unless a further appeal is filed with the Chief Operating Officer as provided in this section within that 14-day period for any amount in excess of \$5,000.00.
- (b) When an appeal from the hearing board for remaining taxes and penalties exceeding \$5,000.00 is filed, the Chief Operating Officer, or designee, shall cause the appeal to be assigned to a hearing officer, who shall schedule a hearing to be heard within a reasonable time. The hearing officer shall be appointed by the Chief Operating Officer, shall be a member of the California Bar and shall not be a City employee. The hearing officer shall be compensated by the City of San Diego for the time spent deciding the appeal.

- (c) The appellant and the Chief Operating Officer, or designee, shall each have the right to appear in *person* and be represented by legal counsel, to receive notice, to present evidence, to call and cross-examine witnesses under oath and to present argument. The hearing officer shall have the power to compel attendance of witnesses and documents by subpoena in accordance with the California Civil Code. The formal rules of evidence shall not apply and any relevant evidence that is the sort of evidence upon which responsible *persons* are accustomed to rely in the conduct of serious business affairs shall be admissible. Hearsay evidence may be considered by the hearing officer, but no findings may be based solely on hearsay evidence unless supported or corroborated by other relevant and competent evidence. The formal exceptions to the hearsay rule shall apply.
- (d) The hearing officer is authorized to rule upon issues of law or fact and to determine the amount of the tax, interest or penalty in accordance with this Article. The hearing officer shall not have any jurisdiction to waive, mitigate or suspend the collection of any tax, interest or penalty found to be duly imposed.
- (e) The decision of the hearing officer shall be issued in writing no later than fourteen calendar days after the conclusion of the hearing. The decision shall be the final administrative remedy of the appellant and shall be binding upon the City. Any amounts due shall be immediately payable to the City Treasurer.
- (f) The City may promulgate supplementary rules and procedures for the conduct of the hearing, the forms of notice and proceedings and the preparation and submission of the record.

(“Administrative Remedies and Appeals” added 8-3-2016 by O-20712 N.S., effective 12-12-2016.)

Exhibit C



County of San Diego Grand Jury

Citizen Complaint Form

San Diego County Grand Jury
550 Corporate Center
550 W C Street, Suite 860
San Diego, CA 92101-3518
619-236-2020 Fax 619-338-8127
Email: sdgrandjury@sdcounty.ca.gov

**Please Review Complaint
Guidelines on Reverse Side**

Date 12/18/2023

1. **Who:** (Your Name) Tiffany Knopf

Address 5791 La Jolla Corona Drive

City, State, Zip Code La Jolla, CA 92037

Telephone 619.410.7028

2. **What:** Subject of Complaint: Briefly state the nature of complaint and the action of what San Diego County department, section agency or official(s) that you believe was illegal or improper.

Check This Box if you are using additional sheets for this question

As a result of a divorce I'm currently involved in with my soon to be ex-husband Adam Knopf, I have discovered some things that warrant a look at, specifically for their illegality in the adult-use cannabis industry to which Adam is a licensee. I bring these things forth because it is only a result of my having the benefit of hindsight, and through the divorce proceedings, that I have come to the realization that my case is far bigger than a simple separation of community assets. It is a fraud of monumental proportions that involves theft of federal (PPP and SBA Funds), state and local revenues as a result of improper bookkeeping in a largely cash business. To be clear, I was not aware of his activities as his MO was to tell me very little and what he did tell me, for the most part, I've discovered are lies. With the help of his corrupt attorneys, such as Gina Austin and Tamara Leetham, as well as an unethical accountant in Justus Henkes they have blocked me and my attorney from the information we request in discovery that would reveal both his disclosed and undisclosed interests. It is in the interest of broader justice that I set forth the following.

3. **When:** Date(s) of Incident 2012 to current

4. **Where:** Names and addresses of other departments, agencies or officials involved in this complaint. Include dates/types of contact, i.e. phone, letter, personal.

Check This Box if you are using additional sheets for this question

The difficulty I have had in understanding just what I was entitled to from what interest I had in the Golden State Greens dispensary required lengthy and expensive battles which turned on not only what Adam and his counsel determined to having no interest, to what desperate financial straits GSG was in. The deposition of Justus Henkes, CFO/CPA was done with exhibits that served to provide us with a clear understanding that their books, their methods and the money that deemed due from a City of San Diego Tax Deficiency (-\$542K) audit, was based on non-existent numbers that, for whatever reason, the City decided put them in a position to define the shortfalls associated with their sales. Please consider my Steering Document dated 11/18/23, in response to this deposition as well as my sworn Affidavit ISO Amy Sherlock and the business relationship her deceased husband, Michael "Biker" Sherlock had with Adam and decide for yourself if there was criminality taking place.

5. **Why/How:** Attach pertinent documents and correspondence with dates.

Print Name: Tiffany Knopf

It is a crime to report to the Grand Jury that a crime has been committed knowing the report to be false. Penal Code §148.5(d).

Digital versions of this print document can be found @ Justice4Amy.org in Litigation @ Section 13.

T. KNOPF Grand Jury Complaint w Supporting Tax Liability Letter

The Law Offices of
MOORE SCHULMAN & MOORE APC

ERIK S. MOORE*^o
DAVID S. SCHULMAN*^o
PEGGY L. MOORE (RET.)
JOHN H. TANNENBERG*^o^{**}
JAMES P. CLARK (RET.)
JEFF L. MANGUM*^o
KEVIN A. POLIS*^o
JEREMY S. BOVER*^o

JULIE A. WESTERMAN*^o
LAUREN A. SCHMIDT*^o
SARAH B. BEAR*^o
JILLIAN M. MINTER*^o
LINDSEY A. DENTINO*^o
BRYAN M. YERGER*^o
ISABEL STEINMETZ*^o
LAUREN N. HAACK*^o

* Certified Specialist - Family Law
The State Bar of California
Board of Legal Specialization
○ Principal
* Fellow in the American Academy of
Matrimonial Lawyers

○ Of Counsel
△ Partner
◆ Associate Attorneys
- A Professional Corporation

October 6, 2023

Brian J. Bergmark, MBA, CPA, ABV, ASA
John Potter, CPA, CFF, ABV, ASA
Stout
11455 El Camino Real, Suite 400
San Diego, CA 92130

Via E-Mail Only

Re: **Marriage of Knopf**
Case No. 21FL005564C

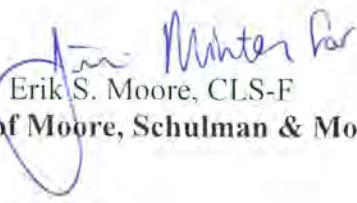
Dear Mr. Bergmark and Mr. Potter:

Please find enclosed herewith the following documents we believe to be pertinent to your analysis of Mr. Knopf's income available for support (both retroactive and going forward) and the valuation of Golden State Greens and related entities:

- Letter from City of San Diego, Office of the City Treasurer re: Determination of Hearing Board – Cannabis Business Tax Appeal for GSG PL Inc (Account Number 2015021560) for the Audit Period of 4/1/18 through 12/31/21 and Attachment A and B.¹

If you have any questions or comments regarding the above, please contact our office.

Sincerely,


Erik S. Moore, CLS-F
Law Offices of Moore, Schulman & Moore, APC

cc: Justin Prybutok, CFLS
Tamara Leetham Rozmus, Esq.
Adam Knopf

¹ In accordance with the Protective Order in this matter, the referenced documents have been marked confidential by my office.

Knopf, Adam 4738
Letter to Others



Office of the City Treasurer

October 5, 2023

VIA EMAIL ONLY TO GAUSTIN@AUSTINLEGALGROUP.COM

Mr. Adam Knopf
GSG PL INC
3452 Hancock St
San Diego, CA 92110

Ms. Gina Austin
Austin Legal Group
3990 Old Town Ave, Ste A-101
San Diego, CA 92110

RE: Determination of Hearing Board – Cannabis Business Tax Appeal for GSG PL INC
(Account Number 2015021560) for the Audit Period of 4/1/18 through 12/31/21

Dear Mr. Knopf and Ms. Austin:

On September 14, 2023, the Cannabis Business Tax Appeals Board (Board) heard the appeal of Notice of Tax Deficiency in the amount of \$542,727.06, pursuant to the San Diego Municipal Code (SDMC) section 34.0117 (Administrative Remedies and Appeals). The Notice of Tax Deficiency (Attachment A) represents the Cannabis Business Tax (CBT) and associated penalties and interest due per the Summary of Audit Findings (Attachment B) for the audit period of April 1, 2018, through December 31, 2021, regarding GSG PL INC. (Operator).

The Hearing was heard via virtual teleconference and participants included:

- Board Members: Tracy Cadena, Deputy Director, Office of the City Treasurer; Benjamin Battaglia, Assistant Director, Department of Finance; Jeffrey Peele, Assistant Director, Department of Finance; and Justin Bargar, Deputy City Attorney, City Attorney's Office (representing the Board in a legal capacity).
- Appellant/Operator: GSG – Adam Knopf and Justus Henkes; represented by Austin Legal Group – Gina Austin, Tamara Leetham Rozmus, Brittany Biesterfeld.
- Office of the City Treasurer - Revenue Audit Staff: Dianne Modelo, Revenue Compliance Manager; Mark Calantoc, Supervising Revenue Auditor; and Michelle Cachuela, Supervising Revenue Auditor.
- Gerardo Quintana-Roo, Business Tax Manager, was also present to administer the Hearing.

At the hearing, you disputed the entire audit deficiency amount of \$542,727.06, stating the Operator is due a refund from the City of \$24,278.80. The appeal primarily focused on the disallowance of medical sales due to substantiating documentation not being provided to the City during audit fieldwork. You contend the Operator is not required to provide records to

substantiate the medical sales due to (1) Statute of Limitations and (2) a lack of basis for the City to require Medical Marijuana Identification Cards (MMIC) to substantiate medical sales during an audit. The Board disagrees with these positions and maintains the disallowance of MMIC customer exemptions due to missing MMIC cards because the Operator was unable to provide these during the audit. The SDMC requires the preservation of all business records relevant to determining Gross Receipts and resulting CBT due to the City. This requirement includes support for qualified non-taxable medical transactions. Any excluded sales that cannot be confirmed through documentation obtained during the audit are considered taxable, for reference:

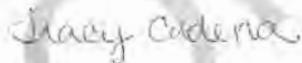
SDMC section 34.0124 (Audit and Examination of Records) provides, "It shall be the duty of every person liable for the payment to the City of any Cannabis Business Tax imposed by this Article to keep and preserve, for a period of three years, all business records as may be necessary to determine the amount of such tax for which the Operator is liable. The Tax Administrator and authorized deputies or agents in the exercise of duties imposed by this Article shall have the right to inspect such records at all reasonable times and to apply auditing procedures necessary to determine the amount of tax due to the City."

In addition, per the Office of the City Treasurer Cannabis Business Tax – Medical Cannabis Regulation- Applicability of the Medical Cannabis Exclusion, "Cannabis business owners must confirm the validity of doctors' recommendations and Medical Marijuana Identification Cards, and must provide documentation of validity to the City upon request. Any excluded sales that the City cannot confirm through documentation will be deemed taxable."

Further, the Board finds the penalties and interest were appropriately applied in accordance with the SDMC, as a result of the underpayment of taxes due to the City.

As the Board disagrees with your position, the appeal is denied and the audit is upheld. The total amount due pursuant to the audit is \$542,727.06. Please remit this amount within fourteen (14) calendar days of the serving or mailing of this determination to avoid further assessment of penalties. You may appeal this determination as provided in SDMC section 34.0117 by submitting an appeal in writing within fourteen (14) days of the serving or mailing of this determination to the City's Chief Operating Officer Eric Dargan.

Sincerely,



Tracy Cadena
Chair, Cannabis Business Tax Appeals Board

Enclosures: 1. Attachment A – Notice of Tax Deficiency
2. Attachment B – Summary of Audit Findings

Page 3
Mr. Knopf and Ms. Austin
October 5, 2023

Cc: Elizabeth Correia, City Treasurer
Benjamin Battaglia, Assistant Director, Department of Finance
Jeffrey Peelle, Assistant Director, Department of Finance
Nicole LeClair-Miller, Deputy Director Financial Operations
Ricardo Ramos, Deputy Director Business Operations
Justin Bargar, Deputy City Attorney, Office of the City Attorney

CONFIDENTIAL



OFFICE OF THE CITY TREASURER
CANNABIS BUSINESS TAX
PO BOX 122289
SAN DIEGO CA 92112
(619) 615-1580

Notice of Tax Deficiency

Account Number: 2015021560
Business Name: GOLDEN STATE GREENS
Business Owner Name: GSG PL INC
Business Address: 3452 HANCOCK ST
SAN DIEGO CA 92110

Invoice Date: 05/02/2023
Payment Due Date: 05/16/2023
Amount Due: \$542,727.06

Dear Cannabis Business Owner,

Based on the results of the Cannabis Business Tax audit for the period of April 1, 2018 through December 31, 2021, it has been determined that an underpayment of \$542,727.06 has occurred. In accordance with San Diego Municipal Code (SDMC) §34.0114, the total due includes late fees and interest. The monthly breakdown is included on the following page. If you wish to schedule a hearing to appeal this invoice, submit your request in writing to the Office of the City Treasurer within fourteen (14) days from the invoice date; late requests will be denied.

Your payment must be received by the due date listed above to avoid additional penalties. If paying by check, please use the enclosed envelope and include a copy of this notice. Cash payments in excess of \$3,000 require an appointment. For questions or to schedule an appointment, please call (619) 615-1580 or send an email to cannabistax@sandiego.gov.

Failure to submit a written request for an appeal or submit payment will result in the assessment of additional penalties and the referral to the City's Delinquent Accounts Program. Referred amounts are subject to a collection referral fee of 10% or \$25, whichever is greater, up to \$1,000, and interest. As required by law, you are hereby notified that a negative credit entry reflecting on your credit report may be submitted to a credit reporting agency if the amount is not paid by the due date.

* PAY YOUR TAX NOTICE ON-LINE *

Visit <https://www.sandiego.gov/businesstaxpayment>

FRONT

ACCOUNT NUMBER: 2015021560
BUSINESS NAME: GOLDEN STATE GREENS
BUSINESS ADDRESS: 3452 HANCOCK ST
SAN DIEGO CA 92110

CITY OF SAN DIEGO
OFFICE OF THE CITY TREASURER
CANNABIS BUSINESS TAX
PO BOX 122289
SAN DIEGO CA 92112-2289

NOTICE DATE: 05/02/2023
PAYMENT DUE DATE: 05/16/2023

AMOUNT DUE: \$542,727.06

GSG PL, Inc					
Reporting Period	Cannabis Tax Due	Cannabis Tax Paid	Over/Under Total	Total Penalty	Total Amount Due
April 2018	73,260.47	47,067.33	26,193.14	41,640.55	67,833.69
May 2018	75,679.52	52,534.86	23,144.66	36,238.75	59,383.41
June 2018	72,235.32	45,593.06	26,642.26	41,135.65	67,777.91
July 2018	64,218.26	43,338.40	20,879.86	31,753.04	52,632.90
August 2018	63,644.80	44,051.63	19,593.17	29,340.78	48,933.95
September 2018	55,797.90	40,863.71	14,934.19	22,027.94	36,962.13
October 2018	53,011.49	41,056.65	11,954.84	17,364.40	29,319.24
November 2018	49,899.30	38,891.43	11,007.87	15,733.01	26,740.88
December 2018	52,767.91	41,501.09	11,266.82	15,841.15	27,107.97
January 2019	51,491.00	41,986.70	9,504.30	13,163.46	22,667.76
February 2019	51,093.40	42,924.95	8,168.45	11,111.15	19,279.60
March 2019	60,817.34	51,492.64	9,324.70	12,488.10	21,812.80
April 2019	57,170.17	57,148.77	21.40	28.16	49.56
May 2019	58,116.02	58,837.43	(721.41)	-	(721.41)
June 2019	59,794.54	60,306.36	(511.82)	-	(511.82)
July 2019	94,494.81	95,415.37	(920.56)	-	(920.56)
August 2019	95,033.97	94,952.89	81.08	99.28	180.36
September 2019	86,066.41	85,793.58	272.83	327.75	600.58
October 2019	83,055.71	82,996.29	59.42	69.95	129.37
November 2019	73,965.31	74,049.02	(83.71)	-	(83.71)
December 2019	77,262.25	77,738.32	(476.07)	-	(476.07)
January 2020	77,821.24	76,939.96	881.28	977.34	1,858.62
February 2020	71,348.34	71,097.18	251.16	272.88	524.04
March 2020	72,801.78	72,569.45	232.33	247.38	479.71
April 2020	60,120.10	59,955.36	164.74	171.45	336.19
May 2020	69,073.57	68,554.42	519.15	529.02	1,048.17
June 2020	73,316.29	71,771.09	1,545.20	1,538.63	3,083.83
July 2020	78,158.29	76,772.31	1,385.98	1,347.86	2,733.84
August 2020	81,999.62	80,629.23	1,370.39	1,301.88	2,672.27
September 2020	76,165.27	76,700.61	(535.34)	-	(535.34)
October 2020	71,930.48	77,030.78	(5,100.30)	-	(5,100.30)
November 2020	65,369.09	66,849.66	(1,480.57)	-	(1,480.57)
December 2020	66,860.34	67,906.98	(1,046.64)	-	(1,046.64)

January 2021	65,484.40	62,961.35	2,523.05	2,109.27	4,632.32
February 2021	60,884.06	57,094.76	3,789.30	3,079.75	6,869.05
March 2021	74,791.04	71,863.89	2,927.15	2,315.38	5,242.53
April 2021	74,382.44	71,581.84	2,800.60	2,148.06	4,948.66
May 2021	72,130.71	69,347.95	2,782.76	2,073.85	4,856.61
June 2021	71,744.50	68,469.50	3,275.00	2,359.64	5,634.64
July 2021	74,121.76	70,090.08	4,031.68	2,817.14	6,848.82
August 2021	72,224.75	68,977.12	3,247.63	2,196.22	5,443.85
September 2021	67,036.69	64,712.71	2,323.98	1,515.81	3,839.79
October 2021	67,394.52	65,037.51	2,357.01	1,486.10	3,843.11
November 2021	61,265.67	59,150.35	2,115.32	1,284.53	3,399.85
December 2021	63,776.51	61,317.25	2,459.26	1,436.21	3,895.47
Total	\$ 3,099,077.37	\$ 2,875,921.82	\$ 223,155.54	\$ 319,571.52	\$ 542,727.06

CONFIDENTIAL

GSG Pl., Inc.
Point Loma Patient Consumers Cooperative Corp.
Summary of Audit Findings
For the Period of 04/01/2018 through 12/31/2021

Exhibit A

L N E	Month	(2) Taxable Gross Per Audit	(3) Disallowed Medical Sales (If any Remittance)	(4) Total (Col. 2 + Col. 3)	(5) Over Collected CBT	(6) Over Collected Excise Tax	(7) Total Taxable Gross Receipts (Col. 4 + Col. 6)	(8) CBT Due (Col. 7 x CBT Rate)	CBT Paid (Col. 8 + Col. 9)	(Over)Under Paid CBT (Col. 8 - Col. 9)	Penalty Interest Due	Tax Interest Due	Penalty Interest Due	Total Penalty Due	(15)
1	Apr-18	\$ 941,346.60	\$ 523,516.63	\$ 1,464,863.23	\$ 346.10	\$ 1,465,209.33	\$ 73,260.47	\$ 47,057.33	\$ 26,192.14	\$ 13,096.57	\$ 19,029.32	\$ 9,514.66	\$ 41,640.55	\$ 67,833.69	
2	May-18	1,050,657.19	462,565.81	1,513,263.00	-	327.49	1,513,580.49	75,691.52	53,934.86	23,444.65	11,572.33	16,444.28	8,222.14	36,238.75	59,333.41
3	Jun-18	911,861.20	532,161.86	1,444,417.06	231.36	1,444,706.42	72,255.32	45,593.06	26,647.26	13,321.13	18,545.01	9,271.51	41,135.65	67,777.91	
4	Jul-18	857,905.88	426,428.89	1,284,334.77	-	30.37	1,284,365.14	64,218.26	43,384.40	20,879.86	10,439.93	17,104.37	7,108.74	31,753.04	52,612.90
5	Aug-18	842,039.40	430,728.67	1,292,768.07	-	127.97	1,272,896.04	63,644.80	46,051.63	19,593.17	9,796.59	13,029.45	6,514.73	29,340.78	48,933.95
6	Sep-18	740,737.94	374,974.17	1,115,712.11	-	245.81	1,115,937.92	55,757.99	40,863.71	14,934.19	7,467.10	9,707.22	4,833.62	22,027.94	36,982.13
7	Oct-18	690,657.95	369,152.96	1,059,810.91	418.95	1,060,229.86	53,011.49	41,056.55	11,954.84	5,977.42	7,591.32	3,795.66	17,364.40	29,319.24	
8	Nov-18	637,058.85	340,539.20	997,598.05	387.87	997,985.92	49,899.30	38,891.63	11,007.87	5,560.94	6,819.38	3,409.69	15,731.01	26,740.88	
9	Dec-18	724,211.94	330,806.44	1,055,018.38	339.83	1,055,368.21	52,767.91	41,561.09	11,266.82	5,633.41	6,805.16	3,462.58	15,844.15	27,107.92	
10	Jan-19	716,793.48	312,631.76	1,039,845.24	-	394.84	1,029,820.08	51,491.00	41,966.70	9,504.30	4,752.15	5,601.54	2,803.77	13,163.46	22,667.76
11	Feb-19	736,212.02	285,265.24	1,021,475.26	-	392.74	1,021,868.00	51,093.40	42,924.95	8,168.45	4,084.23	4,684.61	2,342.31	19,279.60	
12	Mar-19	884,905.13	330,976.97	1,215,882.10	-	464.61	1,216,346.71	60,871.34	51,422.64	9,247.70	4,652.35	5,217.17	2,668.58	12,817.80	
13	Apr-19	1,019,345.28	123,630.08	1,142,975.46	427.93	1,143,403.29	57,170.77	57,148.77	21.40	10,70	11,64	5,82	28.16	49,56	
14	May-19	1,151,095.23	1,161,095.23	782.67	442.41	1,162,370.71	52,837.43	(721.41)	-	-	-	-	-	(71,41)	
15	Jun-19	1,192,053.48	2,818.85	1,194,872.33	562.74	455.65	1,195,880.72	59,794.54	60,306.36	(511.82)	-	-	-	(51,82)	
16	Jul-19	1,173,051.24	6,647.27	1,179,698.51	1,030.75	455.92	1,181,851.18	94,494.81	95,151.37	(920.56)	-	-	-	(92,0.56)	
17	Aug-19	1,181,832.61	5,639.31	1,187,465.92	-	488.68	1,187,921.60	94,933.97	94,922.89	81.08	40.54	39.16	19.58	99.28	
18	Sep-19	1,071,858.86	3,555.74	1,075,414.60	415.56	1,075,330.16	86,056.41	85,753.56	272.83	136.42	127.55	63.78	32,77.5	60,058	
19	Oct-19	1,034,646.54	3,148.33	1,037,794.87	-	401.50	1,038,196.37	83,055.71	82,965.29	59.42	29.71	26.83	13.41	65.95	129.37
20	Nov-19	921,476.00	2,632.70	924,098.70	121.12	924,560.48	92,566.32	73,965.31	74,049.02	(83.71)	-	-	-	(83.71)	
21	Dec-19	961,871.11	3,014.00	964,885.11	547.51	345.48	965,778.10	77,262.25	77,788.32	(476.07)	-	-	-	(476.07)	
22	Jan-20	948,811.75	-	948,811.75	-	23,967.96	972,765.53	77,821.24	76,939.96	81.28	44,056.64	357.80	178.90	977.34	
23	Feb-20	861,198.13	-	861,198.13	2,201.33	28,454.84	89,154.30	71,348.24	71,079.18	251.16	125.58	98.20	49.10	272.88	
24	Mar-20	817,927.51	-	877,397.51	2,331.25	29,711.47	910,022.23	72,807.78	72,599.45	22.33	11,67	87.47	43.74	247.38	
25	Apr-20	724,555.76	2,655.76	724,555.76	1,966.90	24,678.62	751,501.28	60,120.10	59,955.36	184.74	83.37	59.35	29.69	171.45	
26	May-20	832,000.92	-	832,000.92	1,994.35	29,464.30	863,419.57	68,554.42	59,19.15	255.58	179.63	89.81	52,986.0	1,048.32	
27	Jun-20	888,733.60	-	888,733.60	1,264.40	33,885.51	916,053.61	73,316.29	71,771.09	1,545.20	72,760.60	510.69	255.34	1,538.63	3,083.83
28	Jul-20	940,995.32	-	940,995.32	1,496.68	34,490.67	976,978.67	78,158.29	76,777.31	1,285.98	69.99	436.58	218.79	1,347.86	2,733.24
29	Aug-20	989,621.65	-	989,621.65	1,459.50	33,914.09	1,024,995.24	81,996.62	80,639.23	1,301.39	58.82	411.12	205.56	1,301.88	
30	Sep-20	914,382.55	-	914,382.55	3,550.02	34,133.52	952,053.89	76,163.27	76,700.61	(535.34)	-	-	-	(535.34)	
31	Oct-20	858,582.02	-	858,582.02	8,344.22	32,204.76	899,131.00	77,030.78	(5,100.30)	-	-	-	-	(5,100.30)	
32	Nov-20	784,445.25	-	784,445.25	4,063.04	28,206.32	817,113.61	65,365.09	66,849.66	(1,480.57)	-	-	-	(1,480.57)	
33	Dec-20	803,482.16	-	803,482.16	3,628.41	28,643.65	835,754.22	66,860.34	67,906.98	(1,046.64)	-	-	-	(1,046.64)	
34	Jan-21	792,426.02	-	792,426.02	26,129.03	818,556.04	65,484.40	62,961.35	2,523.05	1,261.53	565.16	285.58	2,109.27	4,632.22	
35	Feb-21	736,094.90	-	736,094.90	24,355.86	761,050.76	60,884.06	57,094.76	3,789.30	1,894.65	790.07	395.03	3,079.75	6,865.05	
36	Mar-21	904,931.76	-	904,931.76	29,952.24	934,888.00	74,791.04	71,863.69	2,327.15	1,463.58	567.87	283.93	2,315.38	5,245.53	
37	Apr-21	898,484.51	-	898,484.51	31,296.03	929,780.54	74,384.44	71,581.84	2,800.60	1,400.30	498.51	249.25	2,148.06	4,946.66	
38	May-21	868,194.10	-	868,194.10	33,439.72	901,633.82	72,130.71	69,347.55	2,782.76	1,391.38	454.38	227.49	2,073.85	4,856.61	

GSG PL, Inc
Point Loma Patient Consumers Cooperative Corp
Summary of Audit Findings
For the Period of 04/01/2018 through 12/31/2021

Exhibit A

Month	Year	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
		Gross Receipts Per Audit	Medical Sales	Total	Over Collected CBT	Over Collected Excise Tax	Total Taxable Gross Receipts	CBT Due	CBT Paid	(Over)Under Paid CBT	Penalty Interest Due	Tax Interest Due	Penalty Interest Due	Total Penalty Due	Total Interest Due	(Col. 10 + Col. 14)
39	Jun-21	865,820.80		865,820.80		30,985.51	896,806.31	71,744.50	68,469.50	3,279.00	1,677.50	481.43	240.71	2,359.64	5,634.64	
40	Jul-21	854,951.35		854,951.35		31,570.70	916,522.05	74,121.76	70,996.08	2,015.84	53.20	267.10	2,817.14	6,848.82		
41	Aug-21	871,905.28		871,905.28		30,904.11	902,809.39	72,224.75	68,977.12	3,247.63	1,623.82	381.60	190.80	2,196.22	5,443.85	
42	Sep-21	809,129.86		809,129.86		28,828.75	837,958.61	67,036.69	64,712.71	2,323.98	1,161.99	236.88	117.94	1,515.81	3,859.79	
43	Oct-21	813,013.93		813,013.93		29,417.61	842,431.54	67,394.52	65,037.51	2,357.01	1,178.51	205.06	102.53	1,486.10	3,843.11	
44	Nov-21	739,369.42		739,369.42		26,431.45	765,820.87	61,265.67	59,150.35	2,115.32	1,057.66	151.25	75.62	1,284.33	3,399.85	
45	Dec-21	766,455.67		4,311.96		26,428.79	797,206.42	63,776.51	61,317.25	2,459.26	1,229.63	131.72	68.86	1,436.21	3,895.47	
46																
47	Grand Total	\$ 39,851,155.87	\$ 4,875,586.84	\$ 44,726,742.71	\$ 35,339.89	\$ 718,865.17	\$ 45,480,947.77	\$ 3,099,077.37	\$ 2,875,921.82	\$ 223,155.54	\$ 117,016.04	\$ 135,037.00	\$ 67,518.48	\$ 319,371.52	\$ 542,727.06	

Exhibit D.0

1 MARA W. ELLIOTT, City Attorney
2 M. TRAVIS PHELPS, Assistant City Attorney
3 MIKKI SULLIVAN, Deputy City Attorney
4 California State Bar No. 99157
5 Office of the City Attorney
1200 Third Avenue, Suite 1100
San Diego, California 92101-4100
Telephone: (619) 533-5800
Facsimile: (619) 533-5856

ELECTRONICALLY FILED

Superior Court of California,
County of San Diego

05/31/2022 at 04:35:40 PM

Clerk of the Superior Court
By Jacqueline J. Walters, Deputy Clerk

6 Attorneys for Plaintiff, CITY OF SAN DIEGO

Exempt from fees per Gov't Code § 6103
To the benefit of the City of San Diego

7

8 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**

9 CITY OF SAN DIEGO, a Municipal Corporation,) Case No.: 37-2022-00020499-CU-CL-CTL
10 Plaintiff,)
11 v.)
12 XTRACTA DISTRIBUTION, INC., a California)
corporation formerly known as XTRACTA)
13 DISTRIBUTION, LLC, a California limited)
liability company; XTRACTA DISTRIBUTION,)
14 LLC, a California limited liability company)
individually and doing business as FLAV;)
15 STEVEN MICHAEL DANG; CHASE)
ANDREW ROLFSEN; and DOES 1 through 25,)
16 Inclusive,)
17 Defendants.)
18)
19)
)

) **COMPLAINT FOR VIOLATIONS OF
SAN DIEGO MUNICIPAL CODE RE:
UNPAID CANNABIS BUSINESS TAX,
PENALTIES, INTEREST,
COLLECTION REFERRAL FEE,
OFFICER LIABILITY, AND
SUCCESSOR LIABILITY**

) **[IMAGED FILE]**

) UNLIMITED JURISDICTION
(Amount demanded exceeds \$25,000)

20 Plaintiff CITY OF SAN DIEGO (CITY) brings this action against Defendants
21 XTRACTA DISTRIBUTION, INC., a California corporation formerly known as XTRACTA
22 DISTRIBUTION, LLC, a California limited liability company, XTRACTA DISTRIBUTION,
23 LLC, a California limited liability company individually and doing business as FLAV
24 (collectively XTRACTA), STEVEN MICHAEL DANG (DANG), CHASE ANDREW
25 ROLFSEN (ROLFSEN), and DOES 1 through 25, (collectively DEFENDANTS) alleging as
26 follows:
27
28 ////

2991401

1

COMPLAINT FOR VIOLATIONS OF SAN DIEGO MUNICIPAL CODE RE: UNPAID CANNABIS BUSINESS TAX,
PENALTIES, INTEREST, COLLECTION REFERRAL FEE, OFFICER LIABILITY, AND SUCCESSOR LIABILITY

JURISDICTION AND VENUE

1. Jurisdiction and venue are proper before this Court because DEFENDANTS conducted the underlying Cannabis Business in the City of San Diego, County of San Diego.

2. This matter is an unlimited jurisdiction case as the damages claimed by CITY exceed \$25,000.

THE PARTIES

3. At all times mentioned, CITY was, and is, a municipal corporation and a chartered city, organized and existing under the laws of the State of California.

4. CITY is informed and believes, and on that basis alleges, that XTRACTA is, and at all times mentioned was, operating at times as a California Corporation, and at times as a California Limited Liability Company, organized and existing under the laws of the State of California with its principal place of business in San Diego County. XTRACTA DISTRIBUTION, INC., initially incorporated in California on February 2, 2015. It converted to a California limited liability company on March 9, 2018. Then on or about July 6, 2020, it converted back to a corporation. At the times relevant to the initial imposition of the Cannabis Business Tax as alleged in this Complaint, XTRACTA was operating as a for-profit limited liability company. XTRACTA DISTRIBUTION, LLC filed a Fictitious Business Name Statement with the San Diego County Recorder on April 25, 2019, as Document No. 2019-9010694, to do business as FLAV.

5. CITY is informed and believes, and on that basis alleges, that DANG is an individual residing in California who is and was the Chief Executive Officer, President and Secretary of XTRACTA DISTRIBUTION, INC., and a Managing Member of XTRACTA DISTRIBUTION, LLC, conducting Cannabis Business in the City of San Diego.

6. CITY is informed and believes, and on that basis alleges, that ROLFSEN is an individual residing in California and conducting Cannabis Business in the City of San Diego as a Managing Member of XTRACTA DISTRIBUTION, LLC. ROLFSEN may have been an Officer at certain times relevant to this litigation when XTRACTA operated as a corporation as opposed to a limited liability company.

1 7. CITY is informed and believes, and on that basis alleges, that DANG, ROLFSEN,
2 and DOE DEFENDANTS 1 through 10 were the Officers or Members of the XTRACTA entities
3 at times relevant to this Complaint.

4 8. CITY is informed and believes, and on that basis alleges, that DANG, ROLFSEN,
5 and DOE DEFENDANTS 1 through 14 are the alter ego of XTRACTA at all times relevant to
6 this Complaint. There is such a unity of interest and ownership between XTRACTA and its
7 equitable owners that any separateness is a mere fiction and does not in reality exist. Adherence
8 to the fiction of the separate existence of said individual DEFENDANTS, as distinct from the
9 other DEFENDANTS, would permit abuse of the corporate and limited liability privileges and
10 would produce an inequitable result. Among other things, in addition to said DEFENDANTS
11 making the critical decisions for XTRACTA, CITY is informed and believes XTRACTA was
12 undercapitalized, funds were commingled, and DANG, ROLFSEN, and DOES 1 through 14, the
13 sole shareholders and members, made loans to XTRACTA and also guaranteed certain of
14 XTRACTA's obligations. This enabled XTRACTA to engage in an active business without
15 adequate financing which, in return, invited CITY to deal with DEFENDANTS, which resulted
16 to CITY's loss. XTRACTA has stopped operating under that name and said DEFENDANTS
17 have opened a new Cannabis Business, leaving XTRACTA being a shell of a corporation with
18 minimal assets, further adding to City's loss. Each said DEFENDANT should be treated as the
19 alter ego of the other DEFENDANTS for purposes of determining and assessing liability.

20 9. The true names and capacities, whether individual, corporate, or otherwise, of
21 DEFENDANTS named as DOES 1 through 25, are unknown to CITY. CITY is informed and
22 believes, and on that basis alleges, that each said fictitiously named DEFENDANT is liable to
23 CITY in some manner in the causes of action alleged, and, therefore, CITY sues such
24 DEFENDANTS by said fictitious names. CITY will move to amend this Complaint when the
25 true names and capacities of the fictitiously named DEFENDANTS have been ascertained.

26 10. CITY is informed and believes, and on that basis alleges, that at all times
27 mentioned, each DEFENDANT, including DOES, was the agent, employee, and joint venturer of
28 each of the other DEFENDANTS, and in doing the things mentioned, was acting within the
2991401

1 scope of their authority of such agency, employment or joint venture, with the permission and
2 consent of the other DEFENDANTS and each is responsible for the damages sustained by CITY.

3 **FIRST CAUSE OF ACTION**

4 **AGAINST DEFENDANTS XTRACTA, DANG, ROLFSEN, AND DOES 1 THROUGH 14**

5 **(San Diego Municipal Code section 34.0112 –Cannabis Business Tax Owed)**

6 11. CITY realleges paragraphs 1 through 10 of this Complaint and incorporates
7 them by reference as though fully set forth.

8 12. CITY is informed and believes, and on that basis alleges, that DEFENDANTS
9 were at all times mentioned engaged in Cannabis Business in the City of San Diego.

10 13. Under the Cannabis Business Tax Ordinance of the City of San Diego, set forth in
11 the San Diego Municipal Code, it is the purpose and intent of the People of the City of San
12 Diego to impose a Tax on non-medical cannabis business conducted in the City. The Office of
13 the City Treasurer, under its authority of San Diego Municipal Code section 34.0122,
14 promulgated a Regulation clarifying the ordinance stating when a medical cannabis sale is
15 excluded from being taxed. CITY is informed and believes, and on that basis alleges, that
16 DEFENDANTS do not qualify for an exclusion and are required to pay Cannabis Business Tax
17 as set forth in the Complaint.

18 14. Under San Diego Municipal Code section 34.0103, “Cannabis” means all parts of
19 the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from
20 any part of the plant; and every compound, manufacture, oil, salt, derivative, mixture, or
21 preparation of the plant, its seeds or resin.

22 15. Under San Diego Municipal Code section 34.0103, “Cannabis Business” means
23 any activity which entails the distribution, delivery, dispensing, exchanging, bartering or sale of
24 non-medical Cannabis, including but not limited to, transporting, manufacturing, cultivating,
25 compounding, converting, processing, preparing, storing, packaging, wholesale, or retail sales of
26 Cannabis and any ancillary products in the City, whether or not carried on for gain or profit.

27 Additionally, as relevant to this Complaint, from December 2018 through February 8, 2020, the
28 definition of Cannabis Business stated that “[m]edical marijuana activities authorized under
2991401

1 Health and Safety Code section 11362.765, as it may be amended from time to time, are not
2 Cannabis Businesses under this Article. Medical marijuana consumer cooperatives permitted
3 pursuant to this Code are not Cannabis Businesses under this Article.” Then, effective February
4 9, 2020, the amended ordinance deleted that last quoted sentence from the definition. XTRACTA
5 was operating as a limited liability company from March 9, 2018 until on or about July 6, 2020.
6 It was not operating as a medical marijuana consumer cooperative or a non-profit entity.

7 16. Under San Diego Municipal Code section 34.0103, “Cannabis Business Tax”
8 means the Tax due for engaging in Cannabis Business in the City. “Engaged in Cannabis
9 Business” means the commencing, conducting, operating, managing or carrying on of a
10 Cannabis Business and the exercise of corporate or franchise powers, whether done as owner, or
11 by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed
12 location in the City or coming into the City from an outside location to engage in such activities.
13 A person shall be deemed engaged in Cannabis Business within the City if:

- 14 (1) Such person or person’s employee maintains a fixed place of location for
15 Cannabis Business purposes, in whole or in part, within the City for the benefit or
partial benefit of such person;
- 16 (2) Such person or person’s employee owns or leases real property within the city for
Cannabis Business purposes;
- 17 (3) Such person or person’s employee regularly maintains a stock of tangible
19 personal property in the City for sale in the ordinary course of such Cannabis
Business;
- 20 (4) Such person or person’s employee regularly conducts solicitation of Cannabis
21 Business within the City, which may be demonstrated by the use of signs,
22 circulars, cards or any other advertising media, including the use of internet or
telephone solicitation; or
- 23 (5) Such person or person’s employee uses the streets within the City in connection
24 with the operation of motor vehicles, or other methods of transportation, for
Cannabis Business purposes.

25 The foregoing specified activities shall not be a limitation on the meaning of “engaged in
26 Cannabis Business.”

27 17. Under San Diego Municipal Code section 34.0103, “Person” means, without
28 limitation, any natural individual, organization, firm, trust, common law trust, estate, partnership
2991401

1 of any kind, association, syndicate, club, joint stock company, joint venture, limited liability
2 company, corporation (including foreign, domestic, and nonprofit), cooperative, receiver, trustee,
3 guardian, or other representative appointed by order of any court

4 18. Under San Diego Municipal Code section 34.0103, "Employee" means each and
5 every person engaged in the operation or conduct of any business, whether as owner, member of
6 the owner's family, partner, associate, agent, manager or solicitor, and each and every other
7 person employed or working in such a business for a wage, salary, commission or room and
8 board.

9 19. Under San Diego Municipal Code section 34.0103, "Officer" means any natural
10 individual serving as an officer of a corporation, a member of a partnership, a member or
11 manager of a limit liability company, or in a similar executive capacity in any other legal entity,
12 who is under a duty to perform on behalf of the corporation, partnership, limited liability
13 company or other legal entity.

14 20. Under San Diego Municipal Code section 34.0103, "Operator" means any person
15 engaged in Cannabis Business as the owner of such Cannabis Business, whether such ownership
16 is partial or full. Where an Operator is a corporation, partnership, limited liability company or
17 other legal entity, the acts and omissions of the Operator shall be deemed to be the acts and
18 omissions of its Officers.

19 21. Under San Diego Municipal Code 34.0103, "Sale" means and includes any sale,
20 exchange, or barter.

21 22. Under San Diego Municipal Code section 34.0103, "Gross Receipts," except as
22 otherwise specifically provided, means the total amount actually received or receivable from all
23 sales; the total amount or compensation actually received or receivable for the performance of
24 any act or service, of whatever nature it may be, for which a charge is made or credit allowed,
25 whether or not such act or service is done as a part of or in connection with the sale of materials,
26 goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains
27 realized from trading in stocks or bonds, however designated. As relevant to this Complaint,
28 Gross Receipts subject to the Cannabis Business Tax shall be that portion of the Gross Receipts
2991401

1 relating to non-medical Cannabis Business conducted within the City.

2 23. Under San Diego Municipal Code section 34.0112, every Operator engaged in
3 Cannabis Business in the City of San Diego shall pay a Cannabis Business Tax based on a
4 percentage of the Gross Receipts. Commencing on December 12, 2016, the Cannabis Business
5 Tax rate was five percent of the Gross Receipts. Commencing on July 1, 2019, the Cannabis
6 Business Tax rate was eight percent of Gross Receipts.

7 24. Under San Diego Municipal Code section 34.0113, each Operator shall remit, on
8 or before the last day of the following month, the full amount of the Tax owed from the previous
9 month, together with the appropriate approved form available from the City Treasurer, referred
10 to herein as a Cannabis Business Tax Remittance Form

11 25. Cannabis Business Tax Remittance Forms and Taxes remitted monthly by an
12 Operator received by the City Treasurer on or before the last day of the following month shall be
13 deemed timely filed and remitted; otherwise, the Taxes are delinquent and subject to the
14 penalties imposed by San Diego Municipal Code section 34.0114.

15 26. DEFENDANTS remitted Cannabis Business Tax Remittance Forms signed by
16 XTRACTA's Controller to self-report its Gross Receipts subject to the Cannabis Business Tax
17 for all the reporting periods of December 2018 through June 2020. Defendants paid the Cannabis
18 Business Tax for the reporting periods of December 2018 through March 2019. They also paid
19 Cannabis Business Tax for the reporting period of June 2020. However, from April 2019 through
20 May 2020, DEFENDANTS failed to make all the required Tax payments in a timely fashion for
21 the reporting periods. The payments made are reflected in the chart in the paragraph below. The
22 total amount paid was \$212,709.16, leaving a balance due for the reporting periods of April 2019
23 through May 2020. After application of \$55,000 paid late, between July 1, 2019 and May 4,
24 2020, which payments were allocated to penalties or interest, there is now due and owing to the
25 City, Cannabis Business Tax in the principal sum of \$684,852.56 or an amount to be proven at
26 trial.

27 ///

28 ///

2991401

7

1 27. Cannabis Business Tax due and payments made by DEFENDANTS as of May
2 31, 2022, are as follows:

3 Reporting Period	4 Due Date	5 Total Tax Due	6 Payments	7 Payment Date
December 2018	January 31, 2019	30,804.45	(30,804.45)	January 31, 2019
January 2019	February 28, 2019	17,610.40	(17,610.40)	February 27, 2019
February 2019	April 2, 2019	31,405.07	(31,405.07)	March 29, 2019
March 2019	April 30, 2019	26,997.14	(26,997.14)	April 30, 2019
April 2019	May 31, 2019	36,724.51	(15,000.00)	July 1, 2019
May 2019	July 1, 2019	30,819.96	0.00	
June 2019	July 31, 2019	27,724.96	0.00	
July 2019	September 3, 2019	51,405.38	0.00	
August 2019	September 30, 2019	54,395.49	0.00	
September 2019	October 31, 2019	64,530.59	0.00	
October 2019	December 2, 2019	72,548.66	0.00	
November 2019	December 31, 2019	47,997.15	0.00	
December 2019	January 31, 2020	64,938.56	0.00	
January 2020	March 2, 2020	49,690.55	(10,000.00)	February 25, 2020
February 2020	April 1, 2020	51,695.74	(10,000.00) (10,000.00)	March 2, 2020 March 4, 2020
March 2020	April 30, 2020	55,871.56	0.00	
April 2020	June 1, 2020	37,467.68	(10,000.00)	May 4, 2020
May 2020	June 30, 2020	39,041.77	0.00	
June 2020	July 31, 2020	50,892.10	(50,892.10)	August 5, 2020
Total		842,561.72	(212,709.16)	

16 28. DEFENDANTS have failed or refused to pay CITY all of the Cannabis Business
17 Tax owed under the Municipal Code's Cannabis Business Tax Ordinances, despite repeated
18 demands. On numerous occasions DEFENDANTS acknowledged and discussed the delinquency
19 in emails and telephone calls with the City Treasurer's Office.

20 29. Despite being aware of the delinquency, DEFENDANTS failed to pay their debts
21 to CITY. DEFENDANTS did not dispute the self-reported debt at the time relevant to this
22 Complaint. They repeatedly stated to the City Treasurer's Office verbally and in writing that
23 they did not have the finances at the time to pay the Taxes due and they were waiting for funding
24 to be able to make the payments.

25 30. The Cannabis Business Tax owed to CITY was just one Tax obligation not being
26 paid by DEFENDANTS. A review of San Diego County Recorder documents reveals
27 XTRACTA had numerous unreleased tax liens recorded against it from 2018 through 2022.
28 The liens were recorded by the Internal Revenue Service, the Franchise Tax Board, the State
2991401

1 Employment Development Department and the County of San Diego.

2 **SECOND CAUSE OF ACTION**

3 **AGAINST DEFENDANTS XTRACTA, DANG, ROLFSEN, AND DOES 1 THROUGH 14**

4 **(San Diego Municipal Code section 34.0114-Delinquency Penalties)**

5 31. CITY realleges paragraphs 1 through 30 of this Complaint and incorporates them
6 by reference as though fully set forth.

7 32. As a result of DEFENDANTS' failure or refusal to timely pay CITY the amounts
8 owed for the Cannabis Business Tax, the Taxes are delinquent and subject to the penalties and
9 interest imposed by San Diego Municipal Code section 34.0114.

10 33. Under San Diego Municipal Code section 34.0114, penalties and interest are as
11 follows: (1) A penalty equal to 25 percent of the amount of the Tax in addition to the amount of
12 the Tax, plus interest on the unpaid Tax calculated from the due date of the Tax; (2) An
13 additional penalty equal to 25 percent of the amount of the Tax if the Tax remains unpaid for a
14 period exceeding one calendar month beyond the due date, plus interest on the unpaid Tax and
15 on the unpaid penalties; and (3) Interest at the rate of one and one-half percent per month or
16 fraction thereof on the amount of the Tax, exclusive of penalties, from the last day of the month
17 following the month period for which the amount of any portion thereof should have been paid
18 until the date of payment.

19 34. Based on the Cannabis Business Tax Remittance Forms submitted by
20 DEFENDANTS for the reporting periods of April 2019 through June 2020, under San Diego
21 Municipal Code section 34.0114 DEFENDANTS owe penalties plus interest on the unpaid Tax
22 and on the unpaid penalties in amounts to be proven at trial. Interest will continue to accrue until
23 judgment is entered against DEFENDANTS, or until DEFENDANTS have paid the amounts
24 owed to City.

25 ///

26 ///

27 ///

28 ///

2991401

9

THIRD CAUSE OF ACTION

AGAINST DEFENDANTS XTRACTA, DANG, ROLFSEN, AND DOES 1 THROUGH 14

(San Diego Municipal Code section 22.1707-Recovery of Collection Referral Fee and Interest)

35. CITY realleges paragraphs 1 through 34 of this Complaint and incorporates them by reference as though fully set forth.

36. As a result of DEFENDANTS' failure or refusal to pay CITY the amounts owed for the Cannabis Business Tax, penalties and interest, the City of San Diego, Office of the City Treasurer, Cannabis Business Tax Program, referred the delinquent account to the City Treasurer's Collections Department (Collections).

37. Under San Diego Municipal Code section 22.1707(b), the City Treasurer is authorized to charge DEFENDANTS a collection referral fee of 10% of the principal amount referred or \$25.00, whichever is greater, up to a maximum amount of \$1,000, to reimburse CITY for a portion of the cost to collect. As a result of the referral of this delinquent account to Collections, DEFENDANTS became obligated to pay CITY a collection referral fee of \$1,000.

38. In addition, under San Diego Municipal Code section 22.1707(c), City Treasurer is authorized to charge DEFENDANTS interest at the highest rate allowed by law on any amount owed by DEFENDANTS and referred to Collections, such interest to commence on the date that any such amount owed was referred, and continuing until such time as judgment is entered against DEFENDANTS, or until DEFENDANTS have paid the amount owed to City.

39. City Treasurer initially referred this delinquent account to Collections on or about October 10, 2019. A subsequent delinquent amount was referred on or about January 22, 2020, and a third delinquent amount was referred on or about February 10, 2022.

40. Under Municipal Code section 22.1707(c), CITY is entitled to interest on the amounts referred from each respective referral date. Interest will continue to accrue on the amounts referred and owed by DEFENDANTS until paid.

111

111

FOURTH CAUSE OF ACTION

AGAINST DEFENDANTS XTRACTA, DANG, ROLFSSEN, AND DOES 1 THROUGH 14

(San Diego Municipal Code section 12.0202(b)-Additional Civil Penalty)

41. CITY realleges paragraphs 1 through 40 of this Complaint and incorporates them by reference as though fully set forth.

42. Under San Diego Municipal Code section 12.0202(b), as part of a civil action filed to enforce provisions of the Municipal Code, a court may assess a maximum civil penalty of \$2,500 per violation of the Code for each day during which any person commits, continues, allows or maintains a violation of any provision of the Code. As a result of DEFENDANTS violating numerous Code sections as set forth herein, DEFENDANTS are subject to the imposition of this additional penalty.

FIFTH CAUSE OF ACTION

AGAINST DEFENDANTS DANG, ROLFSEN, AND DOES 1 THROUGH 10

(San Diego Municipal Code section 34.0121-Officer Liability)

15 43. CITY realleges paragraphs 1 through 42 of this Complaint and incorporates them
16 by reference as though fully set forth.

17 44. Under San Diego Municipal Code section 34.0121, any Officer who willfully fails
18 to accurately report or remit any Cannabis Business Tax owed, or who willfully attempts in any
19 manner to evade or defeat any Tax due shall, in addition to other penalties provided by law, be
20 liable for a penalty in the amount of the Tax not paid or evaded, to be assessed and collected in
21 the same manner as such Taxes are assessed and collected. DANG, ROLFSEN, and DOES 1
22 through 10 are Officers within the definition of the San Diego Municipal Code section 34.0103,
23 failed to pay the required Cannabis Business Taxes and are subject to the imposition of this
24 additional penalty.

25 | //

26 | //

27 | //

28 | //

SIXTH CAUSE OF ACTION

AGAINST DEFENDANTS DOES 15 THROUGH 25

(San Diego Municipal Code section 34.0127-Successor, Assignee or Transferee of Liability)

45. CITY realleges paragraphs 1 through 44 of this Complaint and incorporates them by reference as though fully set forth.

46. Under San Diego Municipal Code section 34.0127, if any Operator, while liable for any amount under Chapter 4, Article 3, sells, assigns, or otherwise transfers the business, whether voluntarily or involuntarily, the Operator's successor, assignee, transferee, or other person or entity obtaining ownership or control of the business, shall satisfy any Tax liability owed to CITY associated with the business. Failure to do so for the benefit of CITY will result in being personally liable to CITY for the full amount of the Tax liability, which includes interest and penalties. City is informed and believes that DEFENDANTS sold, assigned, or otherwise transferred the Cannabis Business. If so, the successors, assignees, or transferees, DOES 15 through 25, will be liable for the full amount of the Tax liability, including all interest and penalties.

WHEREFORE, CITY prays judgment against DEFENDANTS as follows:

AGAINST DEFENDANTS XTRACTA, DANG, ROLFSSEN, AND DOES 1 THROUGH 14

On the First Cause of Action:

1. For money damages for unpaid Cannabis Business Tax for the reporting periods of April 2019 through May 2020, in the amount of \$684,852.56 or as proven at trial;

On the Second Cause of Action:

2. For money damages for unpaid penalties, plus unpaid interest at 1.5% per month on the unpaid Tax, and interest on the unpaid penalties, for the reporting periods of April 2019 through May 2020, in an amount to be proven at trial;

On the Third Cause of Action:

3. For the collection referral fee in the amount of \$1,000 and interest at the highest rate allowed by law on the amount referred to Collections;

111

1 **On the Fourth Cause of Action:**

2 4. For assessment of a civil penalty of \$2,500 per day for each violation of the San
3 Diego Municipal Code;

4 **On the First through Fourth Causes of Action:**

5 5. For costs of suit incurred; and
6 6. For any other relief the Court deems appropriate.

7 **AGAINST DEFENDANTS DANG, ROLFSEN, AND DOES 1 THROUGH 10**

8 **On the Fifth Cause of Action:**

9 7. For the penalty under San Diego Municipal Code section 34.0121 for
10 the full amount owed to CITY;
11 8. For costs of suit incurred; and
12 9. For any other relief the Court deems appropriate.

13 **AGAINST DEFENDANTS DOES 15 THROUGH 25**

14 **On the Sixth Cause of Action:**

15 10. For the imposition of successor, assignee or transferee liability;
16 11. For costs of suit incurred; and
17 12. For any other relief the Court deems appropriate.

18 Dated: May 31, 2022

19 MARA W. ELLIOTT, City Attorney

20 By

21 
22 Mikki Sullivan, Deputy City Attorney
23 Attorneys for Plaintiff, City of San Diego

Exhibit D.1

1 Gina M. Austin (SBN 246833)
Email: gaustin@austinlegalgroup.com
2 Tamara Leetham Rozmus (SBN 234419)
Email: tamara@austinlegalgroup.com
3 AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-101
4 San Diego, CA 92110
Phone: (619) 924-9600
5 Facsimile: (619) 881-0045

6 Attorneys for Defendants
Xtracta Distribution, Inc. and Steven Michael Dang

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

09/20/2022 at 04:49:00 PM
Clerk of the Superior Court
By Malka Manneh, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

CITY OF SAN DIEGO, a Municipal
Corporation,

Plaintiff,
v.

XTRACTA DISTRIBUTION, INC., a
California corporation formerly known
as XTRACTA DISTRIBUTION, LLC,
a California limited liability company;
XTRACTA DISTRIBUTION, LLC, a
California limited liability company
individually and doing business as
FLAV; STEVEN MICHAEL DANG;
CHASE ANDREW ROLFSEN; and
DOES 1 through 25, Inclusive,

Respondents.

CASE NO. 37-2022-00020499-CU-CL-CTL

**XTRACTA DISTRIBUTION, INC'S
ANSWER TO COMPLAINT**

Defendant Xtracta Distribution, Inc. (“Defendant” or “Xtracta”) hereby answers plaintiff City of San Diego’s (“Plaintiff” or the “City”) Complaint as follows:

GENERAL DENIAL

Pursuant to Code of Civil Procedure section 431.30(d), Defendant generally denies each and every allegation in the Complaint. Defendant further denies that Plaintiff has suffered any damage or loss by reason of any act or omission on the part of Defendant, denies that Plaintiff has been damaged in any amount whatsoever, and denies that Defendant owes Plaintiff any amount whatsoever.

AFFIRMATIVE DEFENSES

Defendant asserts the following affirmative defenses, each of which is expressly pled in the alternative and the applicability of which will be determined through the course of investigation and discovery. These affirmative defenses, except where otherwise indicated, are being asserted as to each and every allegation in Plaintiff's Complaint. In asserting these defenses, Defendant does not assume the burden of proof as to matters that, pursuant to law, are Plaintiff's burden to prove.

FIRST AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, the Complaint, and each and every cause of action alleged therein, fails to state facts sufficient to constitute a cause of action against Defendants upon which the requested relief may be granted.

SECOND AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, the Complaint, and each and every cause of action alleged therein, is barred by the applicable statute of limitations.

THIRD AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, the Complaint, and each and every purported cause of action alleged therein against Defendant, is barred by the doctrine of laches due to Plaintiff's unreasonable delay in bringing the action and the resulting prejudice to Defendant.

111

FOURTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each and every cause of action therein are barred by the doctrine of equitable estoppel.

FIFTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, without conceding that any damages are owed to Plaintiff, which supposition is made solely for the purposes of this affirmative defense, Defendant is informed and believes and thereon alleges that any damage or loss proven to have been sustained by Plaintiff is a direct and approximate result of the independent acts and unlawful conduct of Plaintiff and/or third parties or its agents or employees, not foreseen by any act or admission on the part of Defendant. By reason thereof, any right of recovery of Plaintiff from Defendant should be reduced by that amount which the fault of the persons or entities other than Defendant contributed to any of the damages allegedly sustained by Plaintiff.

SIXTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that Plaintiff is not entitled to the relief sought by reason of its own unclean hands with regard to the matters alleged in the Complaint.

SEVENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Plaintiff has failed to specify or demonstrate actual harm allegedly suffered, or any damages.

EIGHTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Plaintiff, with actual or constructive knowledge of the facts alleged in the Complaint, was under a duty to mitigate damages, if any, and has failed to fulfill such duty; as a consequence, Defendant was and is exonerated from any liability to Plaintiff, and damages, if any, is the sole and approximate result of Plaintiff's failure to mitigate damages.

111

111

111

NINTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that any damages recovered by Plaintiff should be reduced, abated, or eliminated to the extent of Plaintiff's comparative fault.

TENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that Plaintiff is not entitled to the relief sought by reason of the fact that Defendant was not the legal or proximate cause of Plaintiff's injuries.

ELEVENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, the Complaint and each and every cause of action therein are barred because Defendant acted in good faith.

TWELFTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, the Complaint, and each and every cause of action alleged therein, is barred because Defendant was justified in doing any and/or all of the acts alleged in the Complaint.

THIRTEENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, the Complaint and each and every cause of action are barred therein are barred due to a mistake of fact.

FOURTEENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each and every cause of action therein are barred by Plaintiff's lack of standing.

111

111

111

111

111

111

444

1
PRAAYER FOR RELIEF

2 WHEREFORE, Defendant prays for judgment as follows:

- 3 1. That Plaintiff take nothing by way of the Complaint;
- 4 2. That Plaintiff's Complaint be dismissed with prejudice;
- 5 3. That judgment be entered in Defendant's favor;
- 6 4. That Defendant be awarded its reasonable costs and attorneys' fees; and
- 7 5. For such other and further relief as the Court deems just and proper.
- 8

9 Dated: September 20, 2022

10 AUSTIN LEGAL GROUP, APC

11 By:

12 
13 Gina Austin/Tamara Leetham Rozmus
14 Attorneys for Defendant Xtracta
15 Distribution, Inc.

Exhibit D.2

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Mikki Sullivan, Deputy City Attorney (SBN 99157)
 Office of the San Diego City Attorney
 1200 Third Avenue, Suite 1100
 San Diego, CA 92101
 TELEPHONE NO.: (619) 533-5800 FAX NO. (Optional): (619) 533-5856
 E-MAIL ADDRESS (Optional): rasullivan@sandiego.gov
 ATTORNEY FOR (Name): CITY OF SAN DIEGO, Plaintiff

FOR COURT USE ONLY

ELECTRONICALLY FILEDSuperior Court of California,
County of San Diego

05/02/2023 at 04:42:00 PM

Clerk of the Superior Court
By Jacqueline J. Walters, Deputy Clerk**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**

STREET ADDRESS: 330 West Broadway
 MAILING ADDRESS: 330 West Broadway
 CITY AND ZIP CODE: San Diego, CA 92101
 BRANCH NAME: Central Division - Hall of Justice

PLAINTIFF/PETITIONER: CITY OF SAN DIEGO, a Municipal Corporation

DEFENDANT/RESPONDENT: XTRACTA DISTRIBUTION, INC., et al.

REQUEST FOR DISMISSAL

CASE NUMBER: 37-2022-00020499-CU-CL-CTL

A conformed copy will not be returned by the clerk unless a method of return is provided with the document.**This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)****1. TO THE CLERK: Please dismiss this action as follows:**

- a. (1) With prejudice (2) Without prejudice
 b. (1) Complaint (2) Petition
 (3) Cross-complaint filed by (name):
 (4) Cross-complaint filed by (name):
 (5) Entire action of all parties and all causes of action
 (6) Other (specify):*

on (date):

on (date):

2. (Complete in all cases except family law cases.)

The court did did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed).

Date: April 24, 2023

Mikki Sullivan, Deputy City Attorney

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

*If dismissal requested is of specified parties only or specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

3. TO THE CLERK: Consent to the above dismissal is hereby given.**

Date:

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

** If a cross-complaint – or Response (Family Law) seeking affirmative relief – is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

(To be completed by clerk)

4. Dismissal entered as requested on (date): 05/02/2023
 5 Dismissal entered on (date): as to only (name):
 6. Dismissal not entered as requested for the following reasons (specify):

05/04/2023

7. a. Attorney or party without attorney notified on (date):
 b. Attorney or party without attorney not notified. Filing party failed to provide
 a copy to be conformed means to return conformed copy

J. Walters
J. Walters

Date: 05/04/2023 Clerk, by _____, Deputy

PLAINTIFF/PETITIONER: CITY OF SAN DIEGO, a Municipal Corporation
 DEFENDANT/RESPONDENT: XTRACTA DISTRIBUTION, INC., et al.

CASE NUMBER:
 37-2022-00020499-CU-CL-CTL

COURT'S RECOVERY OF WAIVED COURT FEES AND COSTS

If a party whose court fees and costs were initially waived has recovered or will recover \$10,000 or more in value by way of settlement, compromise, arbitration award, mediation settlement, or other means, the court has a statutory lien on that recovery. The court may refuse to dismiss the case until the lien is satisfied. (Gov. Code, § 68637.)

Declaration Concerning Waived Court Fees

1. The court waived court fees and costs in this action for (name): _____
2. The person named in item 1 is (check one below):
 - a. not recovering anything of value by this action.
 - b. recovering less than \$10,000 in value by this action.
 - c. recovering \$10,000 or more in value by this action. (If item 2c is checked, item 3 must be completed.)
3. All court fees and court costs that were waived in this action have been paid to the court (check one): Yes No

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)

(SIGNATURE) 

Exhibit E

Request 25-1809

Closed



Dates

Received

March 08, 2025 via web

Requester

Darryl Cotton

151darrylcotton@gmail.com

6176 Federal Blvd, San Diego, CA, 92114

6199544447

[Show less](#)

Request

In my previous PRA 25-1455 request, the response from Mr. Ricardo Ramos, Deputy City Treasurer, was that my request would violate Government Code sections 7925-000, 7922.000, SDMC section 34.0113(e) and would be withheld pursuant to these sections.

Accordingly I wish to modify my request and ask that no records be provided but instead respond to whether or not the October 5, 2023, Adam Knopf, GSG PL post audit tax deficiency in the amount of \$542,727.07 has been collected in full or in part by the City. And, if it has not been paid in full or in part, where on the City's Annual Comprehensive Financial Report-FY2023 or any current City financials where this remains as a lump sum value of all unpaid adult-use liabilities due the City can be found.

[Show less](#)

Timeline Documents

Request closed ^

[Anyone with access to this request](#)

No responsive documents

The City of San Diego has no responsive documents.

March 19, 2025, 12:17pm by Stephanie Hoover (Staff)

Requester + Staff

Message to requester ^

Requester + Staff

Greetings Darryl,

Re: CPRA Request No. 25-1809

In response to your request, the City of San Diego has determined no responsive records.

This concludes our response to your request.

Kindest regards,

March 19, 2025, 12:17pm by Stephanie Hoover (Staff)

Requester + Staff

Message to requester ^

Requester + Staff

Please be advised that City staff have received your CPRA request. Within the next 10 days, we will determine whether your request seeks copies of disclosable records in the City's possession or whether the City will require an extension. If your request is submitted on a Saturday, Sunday, or City holiday, the City considers the request received on the following business day.

March 8, 2025, 9:20am

Department assignment

[Anyone with access to this request](#)

City Treasurer

March 8, 2025, 9:20am by the requester

Exhibit F



Local Cannabis Permitting

Cities and Counties Can Improve Their Permitting Practices to Bolster Public Confidence

March 2024

REPORT 2023-116



**CALIFORNIA STATE AUDITOR**

621 Capitol Mall, Suite 1200 | Sacramento | CA | 95814



916.445.0255 | TTY **916.445.0033**



For complaints of state employee misconduct,
contact us through the **Whistleblower Hotline:**
1.800.952.5665

Don't want to miss any of our reports? Subscribe to our email list at

auditor.ca.gov



For questions regarding the contents of this report, please contact our Communications Office at 916.445.0255

This report is also available online at www.auditor.ca.gov | Alternative format reports available upon request | Permission is granted to reproduce reports



March 28, 2024

2023-116

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As directed by the Joint Legislative Audit Committee, my office conducted an audit of the cannabis-permitting processes at the counties of Monterey and Santa Barbara and the cities of Fresno, Sacramento, San Diego, and South Lake Tahoe. In general, we determined that cities and counties (local jurisdictions) could improve their cannabis-permitting processes to increase public confidence and mitigate the risks of corruption.

Our review found that the local jurisdictions we reviewed did not always include several best practices in their permitting policies that help to ensure fairness and prevent conflicts of interest, abuse, and favoritism. Only two of the local jurisdictions we reviewed used blind scoring of applications, wherein the identities of the applicants are kept from those reviewing and scoring applications, and four of the local jurisdictions we reviewed did not require that all individuals involved in reviewing applications agree to impartiality statements. My office also found that all six of the local jurisdictions we reviewed were inconsistent in following key steps that their permitting policies required. For example, records at each of the six jurisdictions lacked documentation to demonstrate that all applicants had passed their required background checks.

Through Proposition 64, California's voters legalized the nonmedical use of cannabis by adults age 21 and older. Because the resulting state law ensures that local jurisdictions retain significant control over the authorization and regulation of cannabis businesses within their jurisdiction, we have made recommendations generally and identified best practices for all local jurisdictions that may permit cannabis businesses. Such best practices may help local jurisdictions bolster the public's confidence in the fairness and transparency of their permitting processes.

Respectfully submitted,

GRANT PARKS
California State Auditor

Blank page inserted for reproduction purposes only.

Contents

Summary of Key Findings and Recommendations	1
Introduction/Background	3
AUDIT RESULTS (by Objective)	
Review and evaluate the laws, rules, and regulations significant to the audit objectives. (Objective 1)	7
State law gives local jurisdictions the ability to decide whether to allow cannabis businesses to operate within their jurisdiction and to create their own policies and procedures for permitting cannabis businesses.	
Determine whether local jurisdictions took reasonable steps to ensure fairness and prevent conflicts of interest, abuse, and favoritism. (Objective 3c)	9
Only two of the local jurisdictions we reviewed require blind scoring of applications—a process in which the identities of the applicants are kept from those reviewing and scoring applications to reduce the opportunity that those scoring will provide certain applicants with preferential treatment. Four of the local jurisdictions we reviewed did not require that all individuals involved in reviewing applications agree to impartiality statements, the use of which is a best practice to help reduce the risk of any conflicts of interest those individuals might have with any applicants.	
Assess the benefits and challenges of different processes for awarding local licenses, and evaluate whether some selection processes are structurally more susceptible to corruption. (Objective 5)	17
Local jurisdictions that limit or cap the number of cannabis-related permits they will issue potentially increase permits' value because of scarcity, leading to greater incentives for corruption by government officials. Local jurisdictions that place decision-making authority with one person and where the decisions can be based on that person's discretion instead of on publicly understood criteria increases the risk of corruption. Local jurisdictions would benefit from implementing best practices, such as blind scoring and an appeals process, to reduce the risk of corruption.	
For a selection of permits at each of the six local jurisdictions, determine whether the local jurisdiction followed its policies and procedures when issuing the local licenses. (Objective 4)	21
We found that the local jurisdictions have not consistently documented whether they followed their policies and procedures for ensuring that background checks occurred and that applications were complete.	
Determine whether local jurisdictions' policies and procedures comply with relevant state and local laws and regulations. (Objective 3b)	29
Proposition 64 does not set specific conditions with which local jurisdictions must comply when creating their permitting processes. The local jurisdictions we reviewed aligned their policies and procedures, as applicable, with their local ordinances for permitting processes.	

Determine whether cannabis business licensing and permitting policies and procedures are in place and clearly communicated to the public and potential licensees. (Objective 3a)	31
Jurisdictions we reviewed made their ordinances and permit application forms available on their websites for access by the public, including potential permittees. Several jurisdictions provided additional information on their websites, such as frequently asked questions, application instructions, and fee information.	
Review and assess any other issues not covered in the audit objectives that are significant to the audit. (Objective 6)	33
We reviewed permitting time frames, local cannabis equity programs, and permit-related fees for our selected local jurisdictions.	
Using available information regarding permitted commercial cannabis activity in cities and counties throughout the State, as well as other relevant criteria, select six local governments for review. (Objective 2)	39
Using information about size, geography, type of permitting process, and number of permits issued or allowed, we selected the cities of Fresno, Sacramento, San Diego, and South Lake Tahoe and the counties of Monterey and Santa Barbara.	
Recommendations	41
Appendix A	
Scope and Methodology	45
Responses to the Audit	
City of Fresno	47
California State Auditor's Comments on the Response From the City of Fresno	49
City of Sacramento	51
California State Auditor's Comment on the Response From the City of Sacramento	53
County of Santa Barbara	55

Summary of Key Findings and Recommendations

Of the more than 240 local jurisdictions throughout the State that allowed cannabis businesses to operate as of December 2023, our audit reviewed the permitting processes of six—the cities of Fresno, Sacramento, San Diego, and South Lake Tahoe and the counties of Monterey and Santa Barbara. During our review of these six local jurisdictions, we found the following:

- As Table 1 shows, all of the local jurisdictions we reviewed did not always take reasonable steps to ensure fairness and prevent conflicts of interest, abuse, and favoritism, such as by having an administrative appeals process (appeals process) or using blind scoring. For example, Fresno lacked an appeals process for denied applications. An appeals process is critical because it helps ensure that applicants have the opportunity to contest the decision if they are denied improperly, and it can help reduce the risk of corruption.
- The local jurisdictions we reviewed inconsistently documented whether they followed their policies and procedures that require background checks for key individuals and to ensure that permit applications are complete. For example, although all local jurisdictions' ordinances that we reviewed require applicants or certain individuals associated with an applicant to undergo a criminal background check, none of the six was able to demonstrate that it consistently reviewed or documented the results of the background checks. Inconsistently following a local jurisdiction's policy can erode public trust in that local jurisdiction's permitting processes.
- The local jurisdictions created policies and procedures that aligned with local ordinances, and they posted information about ordinances and permit applications to their public websites.

Table 1
Summary of Findings Related to Audit Objectives

LOCAL JURISDICTION	THE LOCAL JURISDICTION ...			
	TOOK REASONABLE STEPS TO ENSURE FAIRNESS AND PREVENT CONFLICTS OF INTEREST, ABUSE, AND FAVORITISM	FOLLOWED ITS POLICIES AND PROCEDURES WHEN ISSUING LOCAL PERMITS	CREATED POLICIES AND PROCEDURES THAT COMPLIED WITH LOCAL LAWS, AS APPROPRIATE	ADOPTED ORDINANCES OR CREATED POLICIES TO REGULATE CANNABIS PERMITTING AND POSTED THAT INFORMATION ON ITS PUBLIC WEBSITE
Fresno	X	X	✓	✓
Monterey County	X	X	✓	✓
Sacramento	X	X	✓	✓
San Diego	X	X	✓	✓
Santa Barbara County	X	X	✓	✓
South Lake Tahoe	X	X	✓	✓

Source: Local jurisdictions' ordinances, policies and procedures, websites, and application files.

Note: An X indicates that we found at least one deficiency related to the local jurisdiction's practices.

Proposition 64, by which California's voters legalized under state law the nonmedical use of cannabis by adults age 21 and older, ensures that local jurisdictions retain significant control over the authorization and regulation of cannabis businesses within their jurisdiction. Therefore, we have made recommendations generally to all local jurisdictions that may permit cannabis businesses. For example, all local jurisdictions could benefit from implementing an appeals process for denied applicants and requiring that all individuals involved in reviewing cannabis applications sign impartiality statements asserting that they do not have personal or financial interests that may affect their decisions.

Agency Comments

This audit report does not contain recommendations specific to the six local jurisdictions we reviewed, and as a result, we did not expect responses from the jurisdictions. However, three local jurisdictions—the cities of Fresno and Sacramento, and Santa Barbara County—provided responses to our audit report. Fresno disagreed with how we characterized its handling of background checks, whereas Sacramento appreciated our review and work in highlighting statewide best practices. Santa Barbara County acknowledged the value in considering some best practices as it assesses and enhances its permitting processes.

Introduction

Background

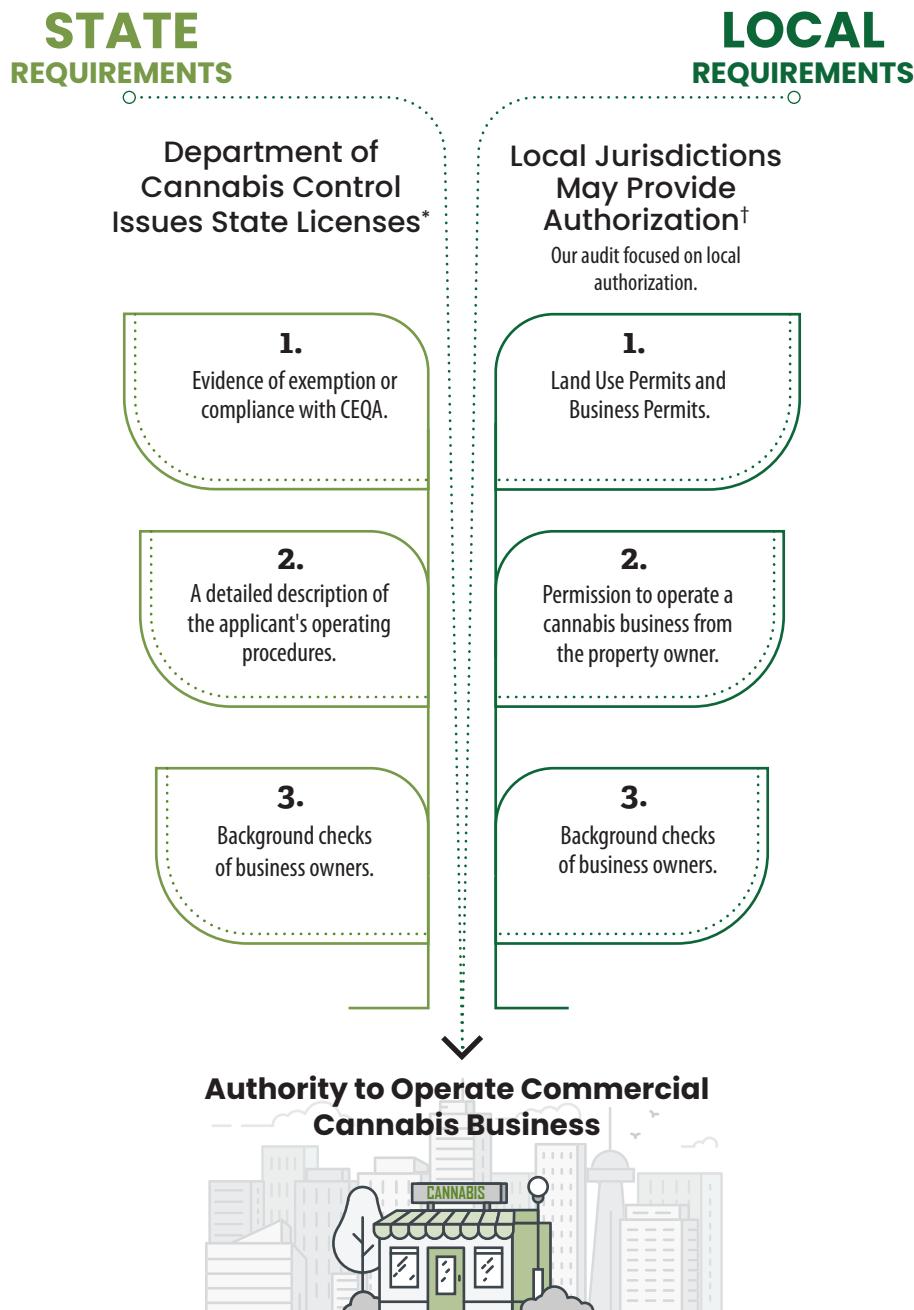
California's voters legalized under state law the nonmedical use of cannabis by adults age 21 and older by approving Proposition 64 in 2016. State law, known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act, allows California cities and counties (local jurisdictions) to decide whether to allow cannabis businesses to operate within their jurisdiction and to adopt local ordinances to regulate cannabis businesses at the local level. As shown in Figure 1, for an applicant to enter the cannabis market and begin operation, that applicant must both obtain a state license and satisfy any requirements for operation imposed by the local jurisdiction in which the applicant intends to operate, such as by obtaining a permit. The State oversees the statewide licensing of cannabis businesses through a process overseen by the Department of Cannabis Control (DCC). State law requires applicants seeking a state license to provide certain information with their application, such as a list of every person with a financial interest in the applicant and a copy of the owner's application for a background check. DCC reported in 2023 that it had issued nearly 3,800 licenses for cannabis businesses and processed more than 8,800 license renewals.¹ As of December 2023, nearly 240 local jurisdictions were allowing at least one type of cannabis business to operate in their jurisdictions. Table 2 lists the key types of cannabis businesses that DCC licenses. In 2023 licensed cannabis businesses produced \$5.1 billion in total cannabis sales.

In addition to needing licensure from the State, each cannabis business must comply with any requirements imposed on cannabis businesses by the local jurisdictions in which they operate. With the significant local control over the authorization and regulation of cannabis businesses that those jurisdictions retain under state law, local jurisdictions generally may decide not to allow any types of cannabis businesses to operate, may issue permits for only certain types of cannabis businesses, or may set limits on the number of cannabis businesses that may operate in their jurisdiction. Local jurisdictions may also assess and set fees for their permitting processes, annually renew permits, and perform on-site inspections of cannabis businesses. This audit focuses on the local jurisdictions and their processes for issuing permits required to operate cannabis businesses. We refer to these permits as *cannabis-related permits*.

¹ A person may hold multiple state cannabis licenses. For example, a cultivator may have individual licenses for different plots of land under one business name.

Figure 1

Cannabis Businesses Require Both State Licenses and Local Authorization Prior to Commercial Operation



Source: State law and ordinances of local jurisdictions we reviewed.

* We present a selection of requirements to obtain a state license.

† Proposition 64 safeguards local control over the authorization and regulation of cannabis businesses. Therefore, local jurisdictions' processes for authorizing and regulating cannabis businesses may vary. We present several examples of requirements to obtain local authorization from the jurisdictions we reviewed.

Table 2
DCC Licenses Six Key Types of Cannabis Businesses

BUSINESS TYPE	DESCRIPTION OF BUSINESS
Cultivation	Plants, grows, harvests, dries, cures, grades, or trims cannabis. The type of license issued may vary according to several factors, including the size of the cultivated area and whether cannabis grows indoors or outdoors.
Manufacturing	Makes products from cannabis plants, such as edible cannabis. Businesses vary according to the activities performed and the processes used for production.
Testing Laboratory	Tests cannabis goods before they are sold by a retailer.
Retail	Sells cannabis products through either storefronts or delivery.
Distribution	Transports cannabis products between other licensed cannabis businesses, such as by taking finished cannabis products from a manufacturer to a retailer. This business type may also provide storage of cannabis products for other licensees and arrange for the testing of cannabis goods.
Microbusiness	Performs at least three of the following licensed activities at one location: cultivation of no more than 10,000 square feet, manufacturing, distribution, or retail sales.

Source: State law and DCC.

Blank page inserted for reproduction purposes only.

Audit Results

Audit Objective 1:

Review and evaluate the laws, rules, and regulations significant to the audit objectives.

KEY POINT

- Under state law, local jurisdictions have the ability to decide whether to allow cannabis businesses to operate in their jurisdictions, and local jurisdictions have autonomy in creating and implementing their own policies and procedures for any permitting process they choose to adopt.

Proposition 64 safeguards local control over the regulation of cannabis businesses, allowing local jurisdictions to regulate cannabis businesses, to subject cannabis businesses to zoning and permitting requirements, and alternatively, to ban the operation of cannabis businesses altogether. In fact, as of December 2023, the Department of Cannabis Control (DCC) reported that 56 percent of the jurisdictions in the State do not allow any type of cannabis businesses to operate within their boundaries.

Although Proposition 64 allows local jurisdictions to regulate cannabis businesses at the local level, former federal guidance, which has since been rescinded, set forth the federal government's expectations for local jurisdictions that allow cannabis-related conduct. Certain cannabis-related activities, however, including the possession and distribution of cannabis, remain illegal under federal law and therefore can be prosecuted by federal authorities even if those activities are legal according to a state's laws. In August 2013, a U.S. deputy attorney general authored a memorandum for all U.S. attorneys providing guidance on when to enforce federal cannabis laws. As the text box shows, the memorandum states the expectation that states and local governments that have enacted laws authorizing cannabis-related activity will establish strong and effective regulatory and enforcement systems for cannabis-related activity.

Former Federal Guidance on Cannabis Enforcement

... [it is the] expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice.

Source: August 2013 Memorandum from U.S. Deputy Attorney General relating to cannabis enforcement.

Although the U.S. attorney general rescinded the 2013 federal guidance memorandum in 2018, the memorandum was in effect when California legalized the nonmedical use of cannabis by adults 21 years and older. Therefore, this guidance represents a reasonable best practice for how local jurisdictions should regulate cannabis businesses and address any threats to public safety and public health. In fact, one local jurisdiction we reviewed—Monterey County—referenced this federal guidance and used some of its language in the ordinance it adopted authorizing the operation of commercial cannabis businesses.

Each of the six local jurisdictions we reviewed adopted ordinances establishing a permitting process for cannabis businesses, but the specificity of these ordinances varied. For example, South Lake Tahoe's ordinance and the application guidelines adopted by city council resolution specified important elements of the permitting process, such as the required application materials and other criteria for issuance of a cannabis-related permit. Conversely, Fresno's ordinance does not specify the requirements for its cannabis permitting process. Instead, Fresno's ordinance gives the city manager discretion to design evaluation criteria and permitting processes for issuing commercial cannabis business permits, which Fresno developed using policies and procedures.

Under the framework created by Proposition 64, local jurisdictions retain significant control to authorize and regulate cannabis businesses. Therefore, we used best practices and comparative criteria from other local jurisdictions and governments to establish the criteria we use to evaluate each local jurisdictions' cannabis permitting processes.

Audit Objective 3c:

Determine whether local jurisdictions took reasonable steps to ensure fairness and prevent conflicts of interest, abuse, and favoritism.

KEY POINTS

- Only two of the local jurisdictions we reviewed require blind scoring of applications—a process in which the identities of the applicants are kept from the evaluators reviewing and scoring applications, which can reduce the opportunity that they will provide certain applicants with preferential treatment.
- Fresno was the only local jurisdiction we reviewed that lacked an administrative appeals process (appeals process) for applicants to contest the jurisdiction's decision to deny their applications. An appeals process is critical because it helps ensure that applicants have the opportunity to contest the decision if they are denied improperly.
- Four of the local jurisdictions we reviewed did not require that individuals involved in reviewing applications agree to impartiality statements. Requiring such impartiality statements is a best practice to help reduce the risk of any conflicts of interest evaluators might have with the applicants.

Blind Scoring and an Appeals Process Could Help Local Jurisdictions Ensure Fairness

Local jurisdictions can use blind scoring and an appeals process to help ensure fairness and prevent favoritism. The blind scoring of permit applications reduces opportunities for those reviewing or scoring applications to improperly influence outcomes by providing preferential treatment for certain applicants. An appeals process helps ensure that applicants have an opportunity to contest the decision if they are denied improperly. Processes such as these help build public trust and are more likely to lead people to accept a decision or outcome, even when they do not agree with the decision itself. A fair process also requires an impartial decision-maker, clearly understood rules, as well as information about any available review or appeals processes.

Of the six local jurisdictions we reviewed, four—the cities of Fresno, Sacramento, South Lake Tahoe and the county of Santa Barbara—have chosen to require a competitive process that requires scoring of permit applications for either all or some permit types. The remaining two local jurisdictions—Monterey County and the city of San Diego—have chosen not to require a competitive process that scores applications. Of the four local jurisdictions that require scoring, Table 3 shows that the city of Fresno and Santa Barbara County could benefit from implementing blind scoring of applications. In blind scoring, staff redact any identifying information about applicants, such as the business owner name, business name, or business

address, from the application materials that evaluators review so the evaluators cannot identify the applicant whose materials they are scoring. Blind scoring can help prevent personal or financial affiliations between applicants and evaluators from influencing the scores. Blind scoring may also make it more difficult for elected officials to improperly influence government workers who review applications, since blind scoring would make it difficult for the evaluators to know which application the elected official wanted them to focus on. Research on fair and efficient hiring practices shows that identity-blind hiring prioritizes applicant qualifications and removes bias.² To identify whether a local jurisdiction required blind scoring, we reviewed the local jurisdictions' ordinances, policies and procedures, and a selection of applications and related documentation, such as application scoring records.

Table 3
Two of the Local Jurisdictions We Reviewed Would Benefit From Implementing Blind Scoring of Applications

LOCAL JURISDICTION	JURISDICTION'S CANNABIS PERMITTING ORDINANCE OR POLICY REQUIRES BLIND SCORING OF APPLICATIONS	JURISDICTION FOLLOWED POLICY REQUIRING BLIND SCORING
Fresno	X	—*
Monterey County	N/A	N/A
Sacramento	✓†	✓†
San Diego	N/A	N/A
Santa Barbara County	X	—*
South Lake Tahoe	✓	X

Source: State law, local jurisdictions' ordinances and policies, and our selection of applications.

N/A = These local jurisdictions do not require a competitive process that scores applications for permits, and therefore, we would not expect to see blind scoring in our review of applications.

* The jurisdiction did not have a policy requiring blind scoring. Therefore, we would not expect to see blind scoring in our review of applications.

† Sacramento requires blind scoring of equity-retail or storefront applications because it has chosen to have a competitive process for these types of applications. It does not require a competitive process for other types of applications, including those that are not storefront applications. State law defines local equity programs as programs adopted or operated by a local jurisdiction that focus on the inclusion and support of individuals and communities in the cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization.

South Lake Tahoe's application guidelines require it to employ blind scoring, whereby the identity of the applicant or owner will not be revealed when written proposals are scored by the reviewers. However, we found the jurisdiction did not adhere to these guidelines. Specifically, South Lake Tahoe did not fully redact the names of the

² Self WT, Mitchell G, Mellers BA, Tetlock PE, Hildreth JAD (2015) Balancing Fairness and Efficiency: The Impact of Identity-Blind and Identity-Conscious Accountability on Applicant Screening. PLoS ONE 10(12): e0145208. doi:10.1371/journal.pone.0145208.

business or owner on all of the applications it received before sending the applications to its evaluators. The city attorney explained that a former employee performed the redactions manually and did not involve other city staff in performing the redactions. The city attorney agreed that to avoid these same errors in the future, a better practice would be to involve the city attorney's office in the redaction process. In fact, one applicant filed an appeal stating that the city did not follow its selection process because it did not fully redact their application, which precluded the blind scoring as required by the application guidelines. Although the hearing officer—an independent contractor who evaluated the appeal—verified that the city did not completely redact the identity of the applicant in all of the applications, he found no evidence of bias, prejudice, or favoritism by any reviewer that would have affected the results of the scoring. Nevertheless, by not following its procedures, the local jurisdiction undermined applicants' confidence that its evaluation process was fair.

Santa Barbara County's and the city of Fresno's cannabis-permitting ordinances and procedures did not require blind scoring for evaluating permit applications. Both local jurisdictions explained why they had not implemented blind scoring. Santa Barbara County explained that parts of their process could not have been scored blindly, such as those parts that relied on site visits with the applicants. However, county departments also performed portions of the initial scoring—such as evaluating premise diagrams—and blind scoring would have helped ensure impartiality in those steps. Nonetheless, in our view, nothing would have precluded performing site visits after the blind scoring of applications since the local jurisdiction has discretion in the design of the application process. Fresno's deputy city manager indicated that incorporating blind scoring would require additional resources and would significantly delay the process. She further noted that the evaluators consisted of a panel rather than just one individual and that each evaluator was required to sign impartiality statements for each application. Having evaluators sign impartiality statements is a good practice, as we discuss later. However, we also note that although incorporating blind scoring may require additional resources, redacting applications before they are reviewed and ranked is an important additional safeguard for limiting the influence of potential biases.

Following blind scoring during the permit application stage, implementing an appeals process can also help local jurisdictions ensure fairness in the permitting process. In fact, as Table 4 shows, five of the six local jurisdictions we reviewed established a process for denied applicants to appeal the denial, and those local jurisdictions' ordinances detailed the appeals process. At some of the local jurisdictions we reviewed, applicants have the option to appeal a denied application by submitting an appeal within a certain time frame. The person designated to hear the appeal may then receive evidence relevant to the matter and decide the appeal. The designated person may overturn a decision in certain specified circumstances. At one of these local jurisdictions, we found that this designated person is required to be an impartial decision-maker selected by a process that eliminates the risk of bias, which we believe to be a best practice. We identified evidence of appeals made during our review of a selection of applications at the local jurisdictions. An appeals process for applicants who are denied cannabis business permits is an important mechanism that allows such applicants an opportunity for a different individual to review the appeal and identify any potential errors in the original decision.

Two of the local jurisdictions had appeals among the applications we reviewed and one of the five appeals we reviewed resulted in the approval of a formerly denied application. Specifically, one applicant from Santa Barbara County was denied a permit for knowingly, willfully, or negligently making a false statement of a material fact or omitting a material fact. This denial led the applicant to appeal this decision. As a result of the appeal, an administrative law judge conducted a hearing and then reversed the decision after finding that Santa Barbara County's grounds for denial were flawed. This appeal and overturned decision shows the positive effect an appeals process has for applicants, allowing those applicants who were inappropriately denied a permit the ability to have the reason for denial reviewed.

Table 4
Fresno Could Benefit From Implementing an Appeals Process for Denied Applications

LOCAL JURISDICTION	JURISDICTION ALLOWS APPEALS OF DENIED CANNABIS BUSINESS APPLICATIONS	OF THE 121 APPLICATIONS REVIEWED, THE NUMBER OF APPLICANTS WHO APPEALED THEIR DENIED APPLICATIONS	OF THE APPEALS REVIEWED, THE NUMBER OF SUCCESSFUL APPEALS THAT OVERTURNED A DECISION
Fresno	X	N/A	N/A
Monterey County	✓	0	N/A
Sacramento	✓	0	N/A
San Diego	✓	0	N/A
Santa Barbara County*	✓	2	1
South Lake Tahoe	✓	3	0

Source: Local jurisdictions' ordinances and our selection of applications.

* Because records of appeals were not kept in any central database or file, we made inquiries at the jurisdiction to identify any appeals related to the specific applications we selected for review.

Fresno was the only local jurisdiction that we reviewed that lacked an appeals process for denied applications. Fresno's ordinance allows appeals only of approved permits and allows such appeals to be brought only by certain individuals, including the mayor or councilmember in whose district the cannabis business would be located. However, this process does not allow an applicant who has been denied a permit to appeal the decision. Fresno's deputy city manager indicated that the city has followed its ordinance, which does not include an appeals process for denied applicants. She further explained that the city believes there would be a significant number of appeals that would delay the process if appealing denied applications were an option. However, the five other local jurisdictions we reviewed had appeals processes for denied applicants. Specifically, an appeal in another local jurisdiction led them to reverse the decision to deny an application because the grounds for the denial were flawed, showing the value of such an appeals process. Moreover, a lack of an appeals process can also increase the risk of unfairness in the permitting process. Appeals processes are used in different levels of government such as the federal government,

including the U.S. Equal Employment Opportunity Commission, and the state government, including the Employment Development Department, to ensure that disputes are resolved in a fair way. An appeals process is a best practice to help ensure a fair and transparent process and to reduce the risk of favoritism and abuse.

Local Jurisdictions Can Take Additional Steps to Prevent Conflicts of Interest

All six of the local jurisdictions we reviewed adopted and promulgated conflict-of-interest codes, as required by the State's Political Reform Act.³ However, we found examples in each jurisdiction we reviewed in which at least one individual involved in reviewing permit applications was not required to disclose certain financial interests under the local jurisdiction's conflict-of-interest code. To address this weakness, the local jurisdictions could implement an additional best practice whereby local jurisdictions require all individuals reviewing permit applications to sign impartiality statements, which would include whether the individual has any personal or financial interests. Disclosing non-financial conflicts of interest, such as familial or other personal relationships, goes beyond what is required under state law for financial disclosures. However, this practice would allow local jurisdictions to mitigate the risk of conflicts of interest or even the perception of such a risk in the cannabis permitting process. In particular, local jurisdictions should require all application reviewers to sign impartiality statements and, in the interest of transparency, make the signed statements or the language used for the statements available to the public, as Table 5 shows.

Each local jurisdiction we reviewed adopted and promulgated a conflict-of-interest code that requires designated positions to disclose certain financial information, such as investments, business positions, interests in real property, and sources of income, including gifts, and outstanding loans.⁴ Among other things, a conflict-of-interest code designates the positions within a local jurisdiction that are involved in making or participating in making decisions that may foreseeably have a material effect on any financial interest and requires that individuals in those designated positions make those financial disclosures. For example, someone who is a partial owner of a cannabis business, who also works as a housing and development project manager and is involved in reviewing cannabis business applications, should disclose any interest in the business if that individual's position with the local jurisdiction is required to file financial disclosure statements. However, a weakness we found during our review of the local jurisdictions was that at least one individual involved in reviewing cannabis business applications from each jurisdiction was not employed in a designated position that required filing financial disclosure statements under the jurisdictions' conflict-of-interest codes. Individuals involved in reviewing a permit application who are not required to complete the financial disclosures or sign impartiality statements are at a greater risk of not disclosing a conflict of interest.

³ The Political Reform Act requires state and local government agencies to adopt and promulgate conflict-of-interest codes. This act is separate from requirements under Proposition 64.

⁴ We only reviewed the conflict-of-interest code for San Diego's Planning Department and Development Services Department because those are the departments responsible for reviewing and issuing cannabis business permits.

All local jurisdictions should require impartiality statements from all individuals in the cannabis-permitting process to further mitigate conflicts of interest. We also believe that in the interest of transparency, it is a best practice for local jurisdictions to make these signed statements or the language used in the statements available to the public by posting them to their website. However, none of the jurisdictions we reviewed published those signed statements.

Table 5

Although All Six Local Jurisdictions Comply With State Law, They Could Do More to Safeguard Against Conflicts of Interest

LOCAL JURISDICTION	JURISDICTION ADOPTED A CONFLICT-OF-INTEREST CODE THAT REQUIRES DESIGNATED INDIVIDUALS TO FILE CERTAIN FINANCIAL DISCLOSURES, AS REQUIRED BY STATE LAW	WEAKNESS	BEST PRACTICE
Fresno	✓	✗	✓*
Monterey County	✓	✗	✗
Sacramento	✓	✗	✓†
San Diego	✓	✗	✗
Santa Barbara County	✓	✗	✗
South Lake Tahoe	✓	✗	✗

Source: Local jurisdictions' ordinances, policies, and procedures, and our selection of applications.

* Fresno has a practice of requiring individuals responsible for the initial scoring to sign impartiality statements. According to its deputy city manager, Fresno did not require individuals who interviewed applicants to sign impartiality statements.

† Sacramento only required the individuals responsible for scoring the equity-retail applications to attest to their impartiality.

Despite not publishing such disclosures, Fresno and Sacramento have implemented the use of impartiality statements, a practice that requires staff responsible for evaluating cannabis business applications to sign a statement attesting to their not having personal relationships, affiliations, biases, or financial interests related to individuals participating in the application process. This practice goes beyond what a designated person is required to include in their financial disclosures under state law. Fresno's deputy city manager said that the city asks all individuals who are responsible for reviewing cannabis business applications to sign impartiality statements related to each applicant. The text box on the next page shows the language Fresno uses in its impartiality statements. In Sacramento, only reviewers of equity program applications for retail business permits, which included one of the 20 cannabis business applications we reviewed, must agree to impartiality agreements.⁵

⁵ Under state law, local equity programs are programs adopted or operated by a local jurisdiction that focus on inclusion and support of individuals and communities who are linked to populations negatively impacted by cannabis criminalization. We describe equity programs in more detail in a later section.

Both Fresno and Sacramento explained that their conflict-of-interest policies, including the use of impartiality statements, are crucial checks to ensure a fair process and instill public confidence. Additionally, both jurisdictions explained that they reviewed these signed impartiality statements to ensure that there were no conflicts of interest, which is an important step to ensure that a designated person is verifying that the reviewers do not have conflicts of interest. In other jurisdictions, implementing a similar process in which the individuals responsible for reviewing applications sign an impartiality statement could help prevent those individuals from not disclosing conflicts of interest.

The other four local jurisdictions did not require individuals involved in reviewing cannabis business applications to sign impartiality statements. Monterey County explained that it had not considered implementing a specific policy related to individuals reviewing cannabis business applications. Santa Barbara County contracted with a third party for the initial review of applications. It included in its contract a conflict-of-interest clause that states that the contractor agrees that it presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in business, property, or sources of income that would conflict with the performance of services. In addition, Santa Barbara County indicated that local jurisdiction staff who were responsible for ranking the final application and performing site inspections had discussed the importance of impartiality with the county's legal counsel, after which the staff verbally affirmed their impartiality. Therefore, the local jurisdiction had not considered further requiring the staff to sign an impartiality statement. Nevertheless, in any process that requires impartiality or that may be susceptible to bias, it is important to consider and implement safeguards, such as using impartiality statements, to prevent undue influence and strengthen confidence in the integrity of the process.

Excerpt From Fresno's Impartiality Statement

I, _____, a City of Fresno employee and commercial cannabis business permit application reviewer, certify that I have no personal relationship or affiliation with this applicant and have no bias based on a favorable or unfavorable relationship with this applicant. Further, I have no financial interest of any sort with this applicant.

Source: Fresno application files.

Blank page inserted for reproduction purposes only.

Audit Objective 5:

Assess the benefits and challenges of different processes for awarding local licenses, and evaluate whether some selection processes are structurally more susceptible to corruption.

KEY POINTS

- Local jurisdictions that limit or cap the number of cannabis-related permits they will issue potentially increase the value of those permits because of scarcity, leading to greater incentives for corruption committed by government officials.
- Local jurisdictions that place decision-making authority with one person so that the decisions can be based on one person's judgment instead of clearly understood criteria increase the risk of corruption.
- Local jurisdictions would benefit from implementing best practices, such as blind scoring and an appeals process, to reduce the risk of corruption.

Proposition 64 gives local jurisdictions significant control over any cannabis permitting process they choose to implement, and the six local jurisdictions we reviewed created different ways to permit cannabis businesses. Some local jurisdictions adopted permitting processes that competitively score applications and issue a limited number of permits based on applicants' scores. For example, South Lake Tahoe determined that it would issue cannabis-related permits to no more than four retail businesses and awarded permits to only those applicants whose applications received the highest scores. Other jurisdictions, such as Monterey County, adopted permitting processes that do not set such strict limits on the number of retail permits and instead issue retail permits to applicants whose applications comply with all the requirements in ordinance. Because this audit objective directed us to identify whether different processes are structurally more susceptible to corruption, we focused on those processes and the risks that they could be susceptible to corruption.

Corruption is dishonest or illegal behavior involving a person in a position of power, such as an elected official accepting money for doing something illegal.

The U.S. Attorney's Office recently detailed three different bribery schemes involving government officials helping to pass laws allowing commercial cannabis activity or issuing permits to certain cannabis businesses in exchange for money in California. For example, two individuals were involved in bribery and funneling bribes in exchange for influence over Baldwin Park, California's cannabis permitting process, such as helping certain businesses obtain cannabis permits.⁶ Specifically, a city councilmember solicited bribe payments from businesses seeking cannabis-related permits in the city, which it had set to a limit of 25 permits. In exchange for the illicit

⁶ We did not review the permitting process for Baldwin Park, California.

payments, the councilmember agreed to use his position in city government to assist the companies with obtaining those permits by voting to approve the applications for those business and securing votes from other councilmembers. A former county planning commissioner agreed to act as an intermediary to funnel those bribes to the councilmember by using his internet marketing company and keeping a portion of those bribes for himself. Nevertheless, the Institute for Local Government's publication about protecting a community against corruption indicates the importance of a robust culture of ethics and that decision-making criteria include values such as fairness. It further indicates that processes promoting transparency and limiting the risk of corruption serve to increase public confidence.

Best Practices to Reduce the Risk of Corruption in Cannabis Permitting

- Blind scoring of applications to ensure that the identity of the applicants does not bias the reviewer's/decision-makers' score.
- Appeals processes that include a review of denied applications by an impartial decision-maker to increase transparency and public confidence in the outcomes of the permitting process.

Source: Local jurisdictions' permitting ordinances and policies.

Local jurisdictions increase their susceptibility to corruption when they create scarcity by limiting the number of permits issued—thus increasing their value—without implementing additional safeguards. Capping the number of permits also increases the risk that someone would use their influence to preferentially select the applicants who will receive permits. Although South Lake Tahoe's ordinance limited the number of retail cannabis businesses permitted in the city, it took steps that help mitigate the risk of corruption and increased its transparency and fair decision-making criteria by requiring blind scoring and providing an appeals process that allowed applicants to challenge their denied applications. This limitation on retail permits required South Lake Tahoe to approve no more than four retailers of all 21 applications it received. We identified two key best practices, such as those at South Lake Tahoe, in the text box.

One appeal that we reviewed alleged that two of the individuals who were owners of two cannabis businesses, which were ultimately awarded permits, were part of a subcommittee that wrote South Lake Tahoe's ordinances and scoring criteria for the local jurisdiction's cannabis-permitting process. The appeal further alleged that the subcommittee possessed decision-making authority and established the cannabis program, thereby providing those two owners with an unfair advantage in completing their applications. However, after reviewing the cannabis business application guidelines, written appeal, and responses by and information from the local jurisdiction and from the businesses involved in the appeal, the hearing officer—an independent contractor—denied the appeal. The hearing officer, appointed to review, investigate, and decide South Lake Tahoe's cannabis appeals, found that there was no evidence that the subcommittee developed the scoring criteria for the applications and no facts to suggest that the subcommittee had any influence over the content of the ordinances. Further, the hearing officer stated that the subcommittee was a citizen's advisory committee that only provided background information to the city council. Nevertheless, having an independent appeals process to promote transparency and resolve disputes is important to better ensure that applicants have recourse if they are evaluated unfairly by the local jurisdiction.

Our review of applications at Fresno identified policies that may make its cannabis-permitting process more susceptible to corruption. Specifically, the city manager is responsible for making the decision to award or deny a permit, and the city limits the number of cannabis-related permits it can approve—such as limiting permits to no more than 14 cannabis retail businesses. The text box includes an excerpt from Fresno's application procedures and guidelines, which discusses the city manager's authority to make a final determination on which applicants to award a permit. In our view, such a process lacks transparency for how potentially lucrative cannabis-related permits are being issued by the city manager, possibly eroding public trust in the process. In an environment where a city sets a cap on cannabis-related permits, it is even more important that the public fully understand the permitting process and decision-making criteria.

Even though such authority can be used for laudable purposes—as in Fresno's case with equity applicants—the integrity of the city's process significantly relies on one person who can effectively ignore an application's score under the current permit procedures and guidelines. In the case of using this authority in a positive manner, the deputy city manager indicated that the city manager gave preference to the highest ranked equity applicants over non-equity applicants by approving the top three ranking equity applicants before approving any non-equity applicants. Specifically, the city manager selected an equity applicant to obtain cannabis-related permits in place of a non-equity applicant. The non-equity applicant scored high enough to obtain the cannabis-related permit, but after the city manager selected the equity applicant, the non-equity applicant was no longer eligible for a cannabis permit due to proximity location requirements in city ordinance. Because equity applicants were not scored using the same metric that applied to non-equity applicants, we could not compare the two to see whether an equity applicant scored higher than a non-equity applicant. Nevertheless, this shows that the city manager used his authority by prioritizing equity, which is a priority of the State.

Although the city manager deserves credit for prioritizing equity and awarding the established minimum number of equity permits, there are no limitations in ordinance or in the policy restricting the city manager's discretion and decision-making authority. This type of permitting structure can increase the risk of corruption since only one individual decides who should get a permit, and that individual can deviate from the scoring even though that scoring is ostensibly the basis for awarding a permit.

Fresno also had a control that may reduce the risk of corruption—a process to appeal the city manager's decision—but we identified two concerns with the process. Our first concern is that the process does not allow applicants to appeal denied applications. Fresno's appeals process allows certain individuals, including the mayor,

Excerpt From Fresno's Application Procedures and Guidelines

"The city manager will make a final determination regarding the applicants to be awarded a permit **and the decision is not necessarily determined by the application score alone**. If requested by the city manager, the applicants may be requested to provide additional information or respond to further questions before the city manager makes the final decision on the awarding of a permit(s). The city manager may also take into consideration the quantities of applications for different permit types."

Source: Fresno's 2021 Commercial Cannabis Business Application Permit Procedures and Guidelines. Emphasis added.

or the councilmember in whose district the cannabis business would be located to appeal the decision of an approved permit, but it does not allow applicants who are denied a permit to appeal the decision. In fact, we saw several cases in which a councilmember appealed the city manager's decision to approve a cannabis business permit, leading to one applicant being denied, and another applicant who scored lower to be approved. The applicant whose application was originally approved would not have any opportunity to appeal this denial since the application was now denied, which threatens fairness of the process. Our second concern is that the appeals process allows councilmembers who file an appeal to also vote on the appeal decision. For example, a councilmember from one district appealed one application that the city manager had approved. During a city council meeting, the councilmember voted for the denial of that application after the discussion in the meeting. By allowing councilmembers to appeal the decision to award a permit and also vote on the appeal, the process provides an opportunity for a single councilmember to exercise significant influence over which applicants ultimately obtain cannabis-related permits. Having separation of duties or an impartial decision-maker to decide the appeal could help reduce the risk of corruption in the cannabis-permitting process.

Fresno's deputy city manager stated that the city followed its ordinance, which does not include an appeals process for denied applicants. Further, she indicated that if Fresno were to create an appeals process for denied applicants there would be a significant number of appeals, thereby delaying the permitting process. Regardless, because Fresno does not have a process for applicants to appeal denied applications, it denies those applicants an opportunity to have their concerns heard. Further, Fresno's existing process that allows a council member who raised an appeal of an approved application to vote on the outcome of that appeal could raise questions about integrity of the process and undermine the public's trust in the process.

To mitigate corruption in the permitting process, local jurisdictions can implement certain best practices. In particular, implementing blind scoring of applications so that the identity of the applicants is not shared with the reviewers can help ensure that an evaluator does not give preferential treatment to certain applicants. Further, ensuring that there is more than one person responsible for approving or denying permits increases public confidence in the fairness of the permitting process. Finally, instituting an appeals process for denied applications, in which an impartial decision-maker reviews the appeal, increases transparency by providing applicants with an opportunity to contest the decision to deny their application if it was not made in accordance with the local jurisdiction's established permitting process.

Audit Objective 4:

For a selection of permits at each of the six local jurisdictions, determine whether the local jurisdiction followed its policies and procedures when issuing the local licenses.

KEY POINT

- Local jurisdictions have inconsistently documented whether they followed their policies and procedures when ensuring that background checks occurred and that permit applications were complete.

We Selected Applications From Each Local Jurisdiction to Determine Whether the Jurisdictions Followed Their Policies and Procedures

As Table 6 demonstrates, we judgmentally selected 20 applications for review from five of the six local jurisdictions, and we reviewed 21 applications from South Lake Tahoe because it had received only a total of 21 applications. Some of our six local jurisdictions had additional information available that assisted us in making our selection. For example, Fresno's list of applications documented the reason an application was denied, allowing us to select applications that had different reasons for denial. Where possible, we selected some applications that a jurisdiction had denied and the applicant had subsequently appealed. We also considered, where possible, the cannabis business category, such as retail, cultivation, or microbusiness, to ensure that we included a variety of business types in our selection.

To determine which processes to test, we reviewed each local jurisdictions' ordinances, policies, and procedures and identified key controls that would help ensure public health and safety and fairness in the process. Two of the key controls we identified were performing background checks and ensuring that applications were complete. To test the applications at each local jurisdiction, we reviewed applications, including business plans, site diagrams, and land ownership information; we also reviewed the local jurisdictions' evidence of reviewing the applications; and we interviewed local jurisdiction staff knowledgeable about the applications.

The Six Local Jurisdictions We Reviewed Were Inconsistent in Documenting Required Criminal Background Checks

Although the ordinances of all six local jurisdictions' we reviewed require that applicants, or certain individuals associated with an applicant, undergo a criminal background check, we found that none of the six was able to demonstrate that they consistently reviewed or documented the results. A criminal background check is the process of screening a person's criminal history to determine whether that individual has been convicted of any disqualifying misdemeanors or felonies. The Medicinal

Examples of Disqualifying Convictions

- Felonies involving fraud, deceit, or embezzlement.
- Felonies for using a minor in activities involving controlled substances, such as transporting or selling.
- Crimes of moral turpitude.
- Felonies for certain drug trafficking offenses.
- Extortion.

Source: Ordinances of local jurisdictions we reviewed.

and Adult-Use Cannabis Regulation and Safety Act does not mandate that local jurisdictions require applicants of cannabis-related permits to undergo background checks. However, each of the local jurisdictions have recognized the importance of requiring background checks and have reflected this in their ordinances. For example, Sacramento's ordinance generally prohibits involvement with a cannabis business of any individuals who have been convicted of an offense that is substantially related to the qualifications, functions, and duties of a cannabis business; such offenses include a violent felony, a serious felony, or a felony involving fraud, deceit, or embezzlement. The text box provides further examples of disqualifying convictions from several of the local jurisdictions we reviewed. As Table 7 shows, all local jurisdictions we reviewed inconsistently documented whether they followed their policies requiring

background checks. When a local jurisdiction does not document the results of all background checks during the permitting process, it calls into question whether that local jurisdiction adequately addressed public safety concerns. Further, inconsistently following a local jurisdiction's policy can erode public trust in that local jurisdiction's permitting processes.

Table 6
Local Jurisdictions Have Received and Approved Varying Numbers of Applications

LOCAL JURISDICTION	ACTIVE PERMITS AS OF OUR REVIEW IN 2023*	TOTAL NUMBER OF APPLICATIONS RECEIVED, BY LOCAL JURISDICTION*	TIME FRAME FROM WHICH APPLICATIONS WERE SELECTED†	NUMBER OF PERMITTED APPLICATIONS WE REVIEWED	NUMBER OF NON-PERMITTED APPLICATIONS WE REVIEWED	TOTAL NUMBER OF APPLICATIONS WE REVIEWED
Fresno	2‡	164	2020–2023	2	18	20
Monterey County	24	149	2018–2023	11	9	20
Sacramento	91	263	2020–2023	15	5	20
San Diego	43	—§	2018–2023	10	10	20
Santa Barbara County	56	142	2019–2023	13	7	20
South Lake Tahoe	4	21	2019	4	17	21
						Total 121

Source: Local jurisdictions' application and permit records.

* We reviewed applications as of different dates in each local jurisdiction, depending on when we performed our fieldwork.

† Each local jurisdiction implemented its cannabis-permitting process during different time frames. Our selection of applications reflects this.

‡ As of January 2024, we received information from Fresno that it issued four additional permits, which are not shown in this table.

§ Because San Diego did not maintain the records of applications for adult-use cannabis permits, we were unable to accurately identify the number of applications.

Of the 16 applications requiring background checks in Sacramento that we reviewed, we found shortcomings for 10 applications.⁷ Specifically, we found that Sacramento lacked clear documentation demonstrating that eight applicants had passed background checks. Sacramento cannabis program staff explained that before 2020, another department provided the cannabis department with a listing of individuals who had passed the background check, which the program staff would input into a spreadsheet. When we reviewed the spreadsheet, we found that it only contained the names of individuals and, generally, their birthdates, but lacked any other information, including the dates of the results or whether the individuals had passed the background checks. Beginning in mid-to-late 2020, Sacramento updated its process by having the cannabis program staff check the spreadsheet maintained by the other department performing the background check, which indicates the applicant's or owner's name, the results of the background check, and the date of the results.

Table 7
The Six Local Jurisdictions Inconsistently Documented Whether They Followed Their Policies Requiring Background Checks

LOCAL JURISDICTION	LOCAL ORDINANCE REQUIREMENTS FOR BACKGROUND CHECKS	NUMBER OF APPLICATIONS REQUIRING A BACKGROUND CHECK*	NUMBER OF APPLICATIONS IN WHICH JURISDICTION DID NOT DOCUMENT APPLICANT PASSED BACKGROUND CHECK	DEFICIENCY	JURISDICTION'S PERSPECTIVE
Fresno	All operators, owners, investors, and managers of a cannabis business shall submit information for a background check. An application shall be denied if the applicant was convicted of activities related to controlled substances or other crimes.	7	5	Background checks related to five applications revealed criminal history for at least one of the owners but the jurisdiction did not document whether the criminal history disqualified the applicant.	Fresno indicated that it only documents failed background checks and does not believe it necessary to document when applicants have passed their background checks.
Monterey County	All owners, managers, and persons having a 20 percent or more financial interest must submit fingerprints and other necessary information for a criminal background check. An application shall be denied if these individuals have been convicted of a felony or certain drug-related misdemeanors within the past 10 years.	18	1	Undetermined whether individuals of one permitted business passed background checks. Otherwise, Monterey County has a clear process for documenting that individuals passed background checks.	The Monterey County cannabis program does not know whether the then-owners passed the background check for one application because the permit was issued by the department previously responsible for issuing permits.

continued on next page...

⁷ Each jurisdiction has different policies for when an applicant must complete and pass a background check. Because of the differences in these policies, applications may be denied for other reasons before the applicant is required to pass a background check. Therefore, we did not expect to see documentation of a background check for every application we tested.

LOCAL JURISDICTION	LOCAL ORDINANCE REQUIREMENTS FOR BACKGROUND CHECKS	NUMBER OF APPLICATIONS REQUIRING A BACKGROUND CHECK*	NUMBER OF APPLICATIONS IN WHICH JURISDICTION DID NOT DOCUMENT APPLICANT PASSED BACKGROUND CHECK	DEFICIENCY	JURISDICTION'S PERSPECTIVE
Sacramento	All owners having a 20 percent or more financial interest, officers, members of the board of directors, LLC managers, and individuals with similar responsibilities must submit fingerprints for a background check . An application may be denied if these individuals have been convicted of an offense that is substantially related to the qualifications, functions, or duties of a cannabis business .	16	10	Sacramento did not clearly document whether individuals of eight permitted businesses passed background checks and could not provide background checks for two businesses.	Sacramento originally could not provide documentation for the results of two background checks because the applicants submitted their information to the wrong department during the COVID pandemic and the city did not follow up. Subsequent to our review, Sacramento followed up with the two businesses to run background checks and verified that they passed.
San Diego	All responsible persons, including managers and persons responsible for the management of a cannabis business, are required to provide fingerprints to the city and undergo a background check . Any person who has been convicted of a violent felony or a crime of moral turpitude within the past seven years cannot act as a responsible person for a cannabis business.	10	1	San Diego could not provide documentation for the results of the background check before the start of one business's operations. However, San Diego was able to provide documentation showing that the responsible persons passed background checks when the applicants provided information for the renewal of their permit.	San Diego did not have the original background check in its records but the responsible person subsequently passed a background check.
Santa Barbara County	All owners, supervisors, employees, and persons having a 20 percent or more financial interest must go through a background check that does not disclose certain felonies.	13	11	Santa Barbara does not require the department that oversees cannabis to document evidence that each individual passed the background check, resulting in its permitting 11 of the 13 applicants we reviewed without first verifying and documenting that the sheriff's office performed background checks on each owner.	Santa Barbara's permitting staff only receive notification from the sheriff's office if a background check indicates a potentially disqualifying conviction. Santa Barbara agrees that the county should document approval verifying that each individual passed a background check.

LOCAL JURISDICTION	LOCAL ORDINANCE REQUIREMENTS FOR BACKGROUND CHECKS	NUMBER OF APPLICATIONS REQUIRING A BACKGROUND CHECK*	NUMBER OF APPLICATIONS IN WHICH JURISDICTION DID NOT DOCUMENT APPLICANT PASSED BACKGROUND CHECK	DEFICIENCY	JURISDICTION'S PERSPECTIVE
South Lake Tahoe	All owners, operators, and employees are required to complete fingerprinting. An application shall be denied if the applicant, owners, operators, or employees have been convicted of an offense that is substantially related to the functions or duties of a cannabis business.	4	2	For two applications, South Lake Tahoe deviated from its normal process and did not clearly document that the individuals required to undergo background checks had passed their background checks.	South Lake Tahoe noted that the inconsistent documentation of background checks was a result of different individuals completing the documentation. South Lake Tahoe agrees that the documentation of background checks should be consistent.

Source: Local jurisdictions' ordinances, policies, and staff interviews.

* Each jurisdiction has different policies for when an applicant must complete and pass a background check. Because of the differences in these policies, applications may be denied for other reasons before the applicant is required to pass a background check. Therefore, we did not expect to see documentation of a background check for every application we tested.

In the remaining two applications in which we identified problems and for which the applicants ultimately received their cannabis-related permits, Sacramento had not ensured that background checks had been completed. The cannabis program manager informed us that neither applicant had submitted all of the documents necessary to complete the background checks. She explained that it had issued the permits on the condition that the applicants successfully pass their criminal background checks. However, the applicants had submitted their documentation to the wrong city department, and the cannabis program did not follow up. After we brought this concern to Sacramento's attention, staff contacted the individuals and have since received verification that they passed the background checks.

Nevertheless, the cannabis program manager explained that Sacramento recently amended its permitting process so that it no longer issues any permits until it has received the results of required background checks.

Santa Barbara County's executive office, which oversees cannabis permitting, issued permits to 11 of the 13 applicants we reviewed without receiving documentation from the sheriff's office that each owner had passed a background check. According to Santa Barbara County's deputy county executive officer, permitting staff receive notification from the sheriff's office only when individuals have a potentially disqualifying conviction, but permitting staff do not receive any other information pertaining to the background check, including information confirming that an applicant has passed. Although the deputy county executive officer indicated that all of the individuals required to undergo background checks passed their background checks, she agreed that the county executive office should document for all required individuals whether they had passed criminal background checks.

An example from Monterey County shows a best practice that other local jurisdictions should implement. Information from background checks is confidential and includes personal information, such as names and dates of birth. State law

makes it a crime to improperly access or disseminate this confidential information. Monterey County's process is to document the results of its background checks in a way that maintains the confidentiality of the information and provides the results necessary to document whether an individual passed or failed. Monterey County Sheriff's Office provides notifications to the cannabis program reporting the results of background checks. On these notifications, the sheriff's office only indicates the name of the individual whose criminal record was reviewed, and the results of that review; this reporting is a best practice. We did not see these types of notifications at Santa Barbara County, for example, which instead received no notification unless someone did not pass the background check.

One Local Jurisdiction Did Not Demonstrate That It Followed Its Process for Verifying Completeness

Although the six local jurisdictions we reviewed required applicants to submit complete applications, one local jurisdiction did not consistently determine whether applications were complete. Verifying that an application is complete ensures that applicants have demonstrated that they meet the qualifications necessary for operating as a cannabis business. Similarly, accurately tracking the completeness of applications helps jurisdictions combat inconsistencies that may decrease public confidence in the cannabis-permitting process. As Table 8 shows, before December 2021 San Diego could not demonstrate that it followed its documented process for ensuring that applications were complete.

To ensure that all applicants meet the requirements to operate a cannabis business, the local jurisdictions must verify that all required elements of an application are complete. For example, a South Lake Tahoe ordinance requires that certain city staff review all applications for completeness, and the jurisdiction's application guidelines require that it notify applicants of missing items or that the applications are complete. To notify applicants, South Lake Tahoe sends a letter to the applicant with a checklist of outstanding items that the local jurisdiction needs to consider an application complete. South Lake Tahoe followed its process by sending letters to all 21 applicants, informing them that the applications were complete.

In contrast, San Diego could not demonstrate before December 2021 that it followed its documented process for ensuring that applications were complete. San Diego's policy states that its minimum submittal requirements checklist establishes the minimum details that must be included in all plans and documents required to be included in the application and that staff will review applicants' documents against this checklist. For applications submitted before December 2021, San Diego simply entered into its tracking database the date the application was deemed complete. However, for 13 of the applications we reviewed, San Diego could not provide evidence that it followed its policy to compare the applications to the checklist, all of which were submitted before December 2021. San Diego's project manager stated that the local jurisdiction's adoption of an online permitting process in December 2021 has improved its documentation and record retention. In fact, we reviewed seven applications that San Diego received after December 2021 and verified that city staff had performed appropriate checks for completeness using the online system.

Table 8

One Local Jurisdiction We Reviewed Did Not Follow Its Process for Ensuring Complete Applications

LOCAL JURISDICTION	NUMBER OF APPLICATIONS REVIEWED	NUMBER OF APPLICATIONS WITH COMPLETENESS PROBLEMS	RESULTS	JURISDICTION'S PERSPECTIVE
Fresno	20	0	Checked for completeness on all applications.	N/A
Monterey County	20	0	Checked for completeness on all applications.	N/A
Sacramento	20	0	Checked for completeness on all applications.	N/A
San Diego	20	13	Before December 2021, San Diego could not demonstrate that it followed its documented process for ensuring that 13 applications were complete.	San Diego implemented an electronic tracking system in December 2021 that has helped ensure that applications are checked for completeness. We reviewed seven applications that were filed after December 2021 and found San Diego documented its completeness checks for each of those applications.
Santa Barbara County	20	0	Checked for completeness on all applications.	N/A
South Lake Tahoe	21*	0	Checked for completeness on all applications.	N/A

Source: Local jurisdictions' applications.

N/A = Not applicable.

* South Lake Tahoe only had 21 applications in total so we reviewed each application.

Blank page inserted for reproduction purposes only.

Audit Objective 3b:

Determine whether local jurisdictions' policies and procedures comply with relevant state and local laws and regulations.

KEY POINT

- Proposition 64 does not set specific conditions with which local jurisdictions must comply when creating any permitting processes they choose to implement. The local jurisdictions we reviewed aligned their policies and procedures, as applicable, with their local ordinances for cannabis-permitting processes.

When approving Proposition 64, the voters found and declared that Proposition 64 safeguards local control over adult-use cannabis businesses. The California Constitution gives local jurisdictions the power to make and enforce certain ordinances within their limits. Under the framework for legalizing nonmedical adult-use cannabis created by Proposition 64, local jurisdictions may establish their own permitting processes to regulate cannabis businesses. Further, the Medicinal and Adult-Use Cannabis Regulation and Safety Act does not set specific requirements for, or establish oversight of, local cannabis-permitting processes, and local jurisdictions may include the details of any permitting process they choose to adopt in ordinance, policies and procedures, or both. Because of this significant local control, we make our recommendations generally to all local jurisdictions that permit cannabis businesses rather than make recommendations directly to the Legislature.

We reviewed the six local jurisdictions' laws and found that all six adopted ordinances that either established or authorized the establishment of a permitting process. These ordinances varied in specificity: some local jurisdictions specified the permitting process in the ordinances while others adopted ordinances directing staff in the jurisdiction to develop more detailed or specific permitting policies outside of the ordinances. Whether prescribed in ordinance or detailed in separate policies and procedures, all six local jurisdictions created and documented the details of their cannabis-permitting process. We also reviewed the cannabis-permitting policies and procedures at each of the six selected local jurisdictions, as applicable, and verified that they complied with key requirements in applicable local ordinance. We did not identify any problems in this area.

Blank page inserted for reproduction purposes only.

Audit Objective 3a:

Determine whether cannabis business licensing and permitting policies and procedures are in place and clearly communicated to the public and potential licensees.

KEY POINTS

- All local jurisdictions we reviewed made their ordinances and permit application forms available on their websites for access by the public, including potential permittees.
- Several local jurisdictions provided additional information on their websites, such as frequently asked questions, application instructions, and fee information.

Publicly available information is critical for ensuring the transparency of local jurisdictions' operations and decisions. According to the U.S. Census Bureau, transparency promotes accountability by providing the public with information about what their government is doing. The Institute for Local Government recommends that local agencies post regulations, permit information, and permit application forms on their websites to potentially enhance public trust and confidence. To evaluate the transparency of the local jurisdictions' permitting processes, we reviewed the local jurisdictions' public-facing websites for information on the permitting process. In doing so, we verified whether the cannabis-related ordinances, policies and procedures, and application forms were clearly posted to the jurisdictions' websites for access by the public. Each jurisdiction we reviewed made the information recommended by the Institute for Local Government available to the public through their websites, as Table 9 shows. For example, Sacramento has a webpage for the Office of Cannabis Management, with links to information on the equity program, cannabis business operating permits, and cannabis-related regulations. The webpage for the cannabis business operating permits also links to the application form, which the applicant can complete and submit online.

In our review of the local jurisdictions' public websites, we also found that some local jurisdictions provided additional information on the permitting process, including step-by-step guidelines on navigating the permitting process, which we considered a best practice. Providing this additional information increases the transparency of the permitting process for potential applicants and the public. Four of the six local jurisdictions followed all of the best practices outlined in Table 9. For example, Santa Barbara County created supplemental information for the public that includes a flow chart that illustrates the online application process and the steps taken by county staff to review applications.

Table 9

All Local Jurisdictions We Reviewed Include Basic Permit Information on Their Websites, and Several Jurisdictions Provide Additional Information That We Considered Best Practices

LOCAL JURISDICTION	CRITERIA FROM THE INSTITUTE FOR LOCAL GOVERNMENT		BEST PRACTICES OBSERVED AT LOCAL JURISDICTIONS		
	PERMIT-RELATED ORDINANCES, PERMIT INFORMATION, AND PERMIT APPLICATION FORMS AVAILABLE ON PUBLIC WEBSITE	PROVIDED SUPPLEMENTAL COMMUNICATIONS ABOUT ITS CANNABIS-PERMITTING POLICIES AND PROCEDURES, SUCH AS STEP-BY-STEP GUIDES AND FAQS	PROVIDED A WEB APPLICATION THAT GUIDES THE APPLICANT THROUGH THE APPLICATION PROCESS	INCLUDED CANNABIS-RELATED FEES	
Fresno	✓	✓	✓	✓	✓
Monterey County	✓	✓	✗	✓	
Sacramento	✓	✓	✓	✓	
San Diego	✓	✓	✓	✓	
Santa Barbara County	✓	✓	✓	✓	
South Lake Tahoe	✓	✗	✗	✓	

Source: Local jurisdictions' websites displaying ordinances, public communications, applications, and fees.

All of the local jurisdictions included cannabis-related permit fees on their public websites, including South Lake Tahoe, which included amounts for permit and license fees, annual inspection fees, and renewal fees, among other fees. By clearly communicating information about fees, local jurisdictions increase their transparency and accountability to the public and to potential applicants.

Audit Objective 6:

Review and assess any other issues not covered in the audit objectives that are significant to the audit.

KEY POINTS

- It took local jurisdictions, on average, more than 2.5 years to approve the applications reviewed in this audit.
- Some local jurisdictions have created programs to assist applicants from populations negatively impacted by cannabis criminalization (equity programs), but most of these programs that we reviewed were still relatively new, with few equity applicants having received cannabis-related permits.
- Local jurisdictions charge applicants fees—that varied widely in amount for the six jurisdictions we reviewed—to apply for and complete the cannabis-permitting process.

In conducting our audit, we identified certain other issue areas not covered in the audit objectives and on which we present information in the following sections. These areas include the length of time it took the six local jurisdictions to process permit applications, the local jurisdictions' equity programs, and the fee amounts the local jurisdictions charge applicants to complete the cannabis-permitting process. We present these issue areas in the audit for the sole purpose of increasing awareness about them, including awareness of the potential barriers to entry some of these issue areas may cause for applicants. However, the scope of the audit request did not ask us to evaluate the length of time it took jurisdictions to process applications, to assess their equity programs, or to review each local jurisdiction's fees relative to the actual costs of administering cannabis-permitting programs.

Local Jurisdictions Took an Average of Two and a Half Years to Process the Applications We Reviewed

The local jurisdictions we reviewed took more than two and a half years, on average, to process and approve the applications that we selected for review.⁸ Generally, the local jurisdictions we reviewed required each applicant to obtain one or more permits in order to begin operation. For the applications we reviewed at each local jurisdiction that were approved or still in progress, we identified the date the applicant submitted the application to the jurisdiction and the date the jurisdiction approved the final cannabis-related permit or the date we obtained the data from the jurisdiction, respectively. Table 10 shows the average length of time each local jurisdiction took to process the applications and approve the required permits.

⁸ Although we generally reviewed a selection of 20 applications at each local jurisdiction, we excluded from this analysis applications that were withdrawn or denied.

Of the applications we reviewed, the local jurisdictions took an average of 1.6 years in Fresno to 3.9 years in San Diego, to approve cannabis-related permits after an applicant submitted the initial application. Overall, the applications still in progress as of the date of our review had been pending for three years on average.

Table 10
Local Jurisdictions We Reviewed Took an Average of More Than Two Years to Process and Approve Applications

LOCAL JURISDICTION	APPROVED OR IN PROGRESS	NUMBER OF APPLICATIONS REVIEWED BY AUDITOR*	AVERAGE NUMBER OF CALENDAR DAYS OF APPLICATION PROCESSING†	AVERAGE NUMBER OF YEARS OF APPLICATION PROCESSING
Fresno	Approved	2	579	1.6
	In Progress	8	1,008	2.8
Monterey County	Approved	11	713	2.0
	In Progress	4	1,214	3.3
Sacramento	Approved	15	1,033	2.8
	In Progress	2	1,341	3.7
San Diego	Approved	10	1,432	3.9
	In Progress	9	618	1.7
Santa Barbara County	Approved	10	1,241	3.4
	In Progress	3	1,594	4.4
South Lake Tahoe	Approved	4	612	1.7
	In Progress	0	N/A	N/A
Overall	Approved	52	935	2.6
	In Progress	26	1,155	3.2

Source: Local jurisdictions' applications.

N/A = Not applicable.

* Although we reviewed a selection of 20 applications at each local jurisdiction, with the exception of South Lake Tahoe where we reviewed 21, we excluded applications that were withdrawn or denied from this table. If applications were missing the key dates needed to make calculations, we also did not include them in this table.

† For a selection of applications at each jurisdiction, we calculated the time it took them to process applications, beginning with the date the jurisdiction received the application and ending with the date it issued the permit or the date of our review, if the application was still in progress.

Some local jurisdictions cited several reasons for the lengthy process, such as the time it takes applicants to submit all of the required application information. Monterey County and Santa Barbara County noted that it takes a long time for applicants to satisfy all requirements for environmental reviews. Monterey

County also said that contributing factors include, for example, the time it takes for applicants to submit the information needed to perform background checks. Sacramento and San Diego similarly indicated that it can take additional time for applicants to submit all required documents. Required documents can include, for example, verification that property owners have consented to the use of the proposed business property to operate a cannabis business and proposed business plans. Moreover, Monterey County's equity assessment indicated that lengthy processing times may result in unintended barriers to obtaining permits. Because applicants may incur some operating expenses, such as rent, during the time they are waiting for permit approval and before they can begin to generate revenue, such expenses over months or years could represent a hardship to some applicants.

Although Santa Barbara County included in its ordinance a required time frame for processing applications, that jurisdiction had some of the longest application-processing times among the applications we reviewed. Santa Barbara County amended its ordinance in November 2021 to require applicants to submit a business permit application within 30 days of receiving approval of their land-use permit. Of the seven applications we evaluated that received land-use approval after November 2021, the local jurisdiction allowed four applicants to apply for their business licenses after the 30-day window had closed, and it allowed one applicant to submit a business license application after 183 days. As Table 10 shows, Santa Barbara County issued 10 permits that we reviewed, the processing time of which averaged 3.4 years, the second longest of the six local jurisdictions we reviewed. Santa Barbara County's deputy executive officer explained that the jurisdiction does not enforce this processing-time requirement because it is primarily concerned with the applicants beginning to prepare the necessary documents for the next step of the application process. Nevertheless, required time frames in local ordinances may not shorten the amount of time taken to process applications if local jurisdictions do not consistently enforce these requirements.

Although Not Required to Do So, Some Local Jurisdictions Have Created Equity Programs to Assist Applicants From Populations Negatively Impacted by Cannabis Criminalization

Under the California Cannabis Equity Act, local equity programs adopted or operated by a local jurisdiction focus on the inclusion and support of individuals and communities in the cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization (populations negatively impacted by cannabis criminalization). Although the California Cannabis Equity Act defines what constitutes a local equity program for its purposes, it does not require that local jurisdictions conduct an equity assessment or develop an equity program. Multiple equity assessments, including those from Sacramento and the county of Monterey, have found that historical cannabis criminalization has disproportionately affected some demographics in local jurisdictions' areas within California, including African American and Hispanic populations. Furthermore, according to the DCC's website, the long-term consequences of cannabis criminalization continue to affect people convicted of cannabis offenses, their families, and the communities in which they live. To counter these consequences, the State provides state license fee waivers and

DCC Has Identified Many Challenges for Potential Cannabis Business Owners

- Getting access to capital.
- Understanding complex regulatory requirements.
- Finding locations where cannabis businesses can operate.
- Developing business relationships.
- Getting technical support.

Source: DCC's website.

technical support to equity business owners, and some local jurisdictions have developed equity programs, though the California Cannabis Equity Act does not require local jurisdictions to do so.⁹ DCC has identified several challenges for people seeking to enter the cannabis industry, as the text box shows. DCC provides support to equity business owners in various ways, such as waiving or deferring state licensing fees and providing technical support to navigate the state licensing process. Further, the Governor's Office of Business and Economic Development administers the Cannabis Equity Grants Program to provide grant funding to assist local jurisdictions with their equity programs. Specifically, the program is intended to advance economic justice for individuals most harmed by cannabis criminalization

and poverty by providing support to local jurisdictions as they promote equity and eliminate barriers to entering the newly regulated cannabis industry for equity program applicants and licensees. In fiscal year 2023–24, \$15 million was available to be awarded. Local jurisdictions' equity programs may provide support such as priority application processing, assistance securing capital and business locations, reduced or waived local permit fees, assistance in paying state licensing fees, and technical training and support. By providing equity assistance to those from populations negatively impacted by cannabis criminalization, both the State and local jurisdictions can help lower some of the barriers to entry into the cannabis industry.

Of the six local jurisdictions we reviewed, only Sacramento had an operational program that issued permits to equity applicants. In May 2018, Sacramento completed a cannabis equity study, which found that certain demographics and certain areas of the city were disproportionately affected by past enforcement of cannabis laws.¹⁰ The study recommended two general categories of equity participants: those who live in low-income households and have lived in one of the identified areas for five or more consecutive years from 1990 through 2011, or those who live in low-income households and were, or are an immediate family member of someone who was, convicted of a cannabis-related crime from 1990 through 2011. In response to the study's findings, the city council adopted a resolution in August 2018 establishing the Cannabis Opportunity Reinvestment and Equity (CORE) program. The CORE program seeks to reduce the barriers of entry and participation for communities that have been negatively affected by the disproportionate enforcement of cannabis-related crimes by providing program participants with benefits such as business management training, priority processing of cannabis-related permits, and waived city fees—\$23,610 for retail applicants. Since the city council approved the CORE program in 2018,

⁹ The California Cannabis Equity Act, among other things, assists local jurisdictions with their equity programs by providing local jurisdictions with technical assistance and with grants to develop and support their equity programs.

¹⁰ Under Proposition 64 local jurisdictions may adopt and enforce local ordinances to govern any permitting process they choose to establish, and the California Cannabis Equity Act defines, for its purposes, local equity programs and lists examples of the types of services for equity applicants that may be included in a local equity program.

Sacramento has issued permits to 34 CORE applicants, and the city expanded its limit on the number of cannabis-related retail storefront permits, adding the possibility for 10 additional permits that are available only to CORE participants.

As for the remaining five local jurisdictions, Santa Barbara County and the city of South Lake Tahoe do not have equity programs, and the county of Monterey and the cities of San Diego and Fresno have nascent or early-stage equity programs. Santa Barbara County's deputy county executive officer told us that the county does not currently plan to develop an equity program and the public has not voiced a specific concern about it. South Lake Tahoe's city attorney explained that the jurisdiction's process did not have considerations for equity applicants and it does not currently plan to issue any more cannabis-related permits to new businesses. San Diego adopted its equity assessment report in October 2022; the jurisdiction conducted the assessment to create the foundation for a cannabis equity program. San Diego's development project manager indicated that the city is in the process of developing an equity program. The city of Fresno and the county of Monterey have both implemented equity programs, but neither jurisdiction has yet issued permits to equity applicants to allow them to start operating. Fresno's equity program serves to address the historical impact of federal and state drug enforcement policies on low-income communities, and the jurisdiction set aside a minimum of one out of every seven commercial cannabis retail permits for equity applicants, among other things. Monterey County's equity program includes benefits such as technical and legal assistance, access to low or no interest loans, and application and permit fee waivers.

Fees Related to Cannabis Permitting Varied

State law allows local jurisdictions to impose fees to cover the reasonable cost of any permitting process. Each jurisdiction we reviewed provided us with documentation of its calculated costs used to support setting its fees—which can vary for several reasons, including the type of cannabis business and business location—related to administering the local jurisdiction's cannabis-permitting program. The fees that applicants must pay typically include those for land-use permits and local business permits. Table 11 shows the fees for the local jurisdictions we reviewed for cannabis-related permits. For example, the land-use permit fees we reviewed varied from \$4,330 in Sacramento to \$13,390 in Fresno. Local jurisdictions charge fees to recoup the costs of administering a permitting process, though such fees can present a barrier to entry if costs are high. The fees for cannabis-related business applicants to obtain land-use permits were generally similar to the fees for obtaining land-use permits for other types of businesses. However, there are few types of processes or fees available against which we can compare the cannabis-related business permit fees.

Because these permitting fees can present a barrier to entry into the cannabis market for some applicants, particularly those from populations negatively impacted by cannabis criminalization, some jurisdictions have sought to address high fees through their equity programs. The cities of Fresno and Sacramento, and the county of Monterey have all determined that high costs are a significant barrier to entry, and

their equity programs waive some costs, such as permit fees, for approved applicants. For example, Monterey County's equity program offers waivers for various fees, including the business permit and land-use permit.

Table 11
Selected Fees for Local Jurisdictions' Cannabis-Related Permits

LOCAL JURISDICTION	LAND-USE PERMIT FEE*	BUSINESS PERMIT FEE†	ADDITIONAL FEES‡	ESTIMATED COST TO OBTAIN LOCAL AUTHORIZATION TO OPERATE A CANNABIS BUSINESS
Fresno	\$13,390	\$27,720	\$600	\$41,710
Monterey County§	8,020	5,100	410	13,530
Sacramento	4,330	23,610	—	27,940
San Diego	8,790	20,800	—	29,590
Santa Barbara County	8,000	6,275	—	14,275
South Lake Tahoe	5,060	14,885	20,910	40,855

Source: Local jurisdictions' fee documents.

* Land-use permits may include gaining compliance with CEQA and with additional local environmental regulations, among other things. Further, most of these fees are deposits, and therefore these fees may adjust, depending on the specifics of each project. For example, in Sacramento, if a dispensary is within 300 feet of a residential zone, a different review process is triggered that increases the land-use fee to at least \$10,542.

† Business permit fees may vary, depending on the type of cannabis business, such as cultivation, distribution, or retail.

‡ Additional fees may include, but are not limited to, fees for background checks, business tax certificates and licenses, and zoning inquiry letters.

§ Monterey County was the only jurisdiction we reviewed that does not rely on a deposit fee but rather estimates the cost of issuing the permit and charges a flat fee to cover those costs. Deposit fees cover the staff-time costs of processing the necessary permits and may require additional funds if the project requires additional staff time, but the leftover balance is then returned to the applicant. Conversely, flat fees are charged to the applicant to cover the estimated costs of staff time and processing the permit, but no additional funds are required from the applicant and no amount is returned to the applicant.

|| San Diego's \$20,800 business permit fee is an annual fee.

Audit Objective 2:

Using available information regarding permitted commercial cannabis activity in cities and counties throughout the State, as well as other relevant criteria, select six local governments for review.

KEY POINT

- Using information about size, geography, permitting process, and number of permits, we selected the counties of Monterey and Santa Barbara and the cities of Fresno, Sacramento, San Diego, and South Lake Tahoe.

We selected six local jurisdictions for this audit: the cities of Fresno, Sacramento, San Diego, and South Lake Tahoe, and the counties of Monterey and Santa Barbara. We ensured that our selection included geographical diversity, local jurisdictions with large and with small populations, local jurisdictions with a high number of state licenses and those with few state licenses, and a variety of permitting processes. Using DCC's publicly available data of local jurisdictions, we considered only those local jurisdictions that allowed at least one type of cannabis business, such as retail, distribution, manufacturing, cultivation, or testing, to operate within its jurisdiction. We further determined the size of the local jurisdictions allowing cannabis businesses using population census data from the U.S. Census Bureau. We used cannabis sales data from the California Department of Tax and Fee Administration and a DCC supplemental budget report on the total number of active annual and provisional state licenses, by jurisdiction, to identify the local jurisdictions with cannabis sales in quarter four of 2022 and active permits as of March 2023. We gained assurance that the list of local jurisdictions from which we made our selection was complete by using multiple sources of data, such as those referenced above, to verify that those local jurisdictions had cannabis activity and should be considered in the selection.

See relevant information about each jurisdiction and the factors for selection at Table 12.

Table 12

Variables We Considered for Our Selection of Six Local Jurisdictions

LOCAL JURISDICTION	TOTAL NUMBER OF ACTIVE ANNUAL AND PROVISIONAL STATE LICENSES (2022)	TOTAL POPULATION	POPULATION PER STATE LICENSE	TOTAL SALES BY JURISDICTION*	QUARTERLY SALES PER CAPITA	SIZE AND LOCATION	FACTORS FOR SELECTION	
							POPULATION RELATIVE TO NUMBER OF STATE LICENSES OR SALES PER CAPITA	TYPE OF PERMITTING PROCESS
Fresno	11	544,510	49,501	Not Available	Not Available	Large city in the central region of the State	High population-to-license ratio	Limited and competitive permitting process with procedures adopted by the city manager. [†]
Monterey County	532	107,540	202	\$17,748,310	\$165	Medium-sized county in central area of the State	Low population-to-license ratio	Ordinance does not limit number of permits. Grants the application as long as the applicant has complied with specified requirements.
Sacramento	334	525,040	1,572	62,791,869	120	Large city in the northern region of the State	High sales per capita	Retail permits are only offered in a limited capacity.
San Diego	80	1,381,610	17,270	51,427,358	37	Large city in the southern region of the State	High population-to-license ratio	Limited permitting process that involves a hearing before a hearing officer.
Santa Barbara County	2,052	137,900	67	16,355,410	119	Medium-sized county in the southern region of the State	Low population-to-licenses ratio	Ordinance limits the maximum number of retail permits and limits other permit types by acreage. Issues permit as long as there are no grounds for denial.
South Lake Tahoe	5	21,410	4,282	4,181,777	195	Small city in the northern region of the State	High sales per capita	Limited and competitive permitting process using scoring process. No longer offering licenses.

Source: DCC, California Department Tax and Fee Administration, U.S. Census Bureau, and local jurisdictions' ordinances.

* County data is for the fourth quarter of 2022, and city data is for the first quarter of 2023.

† Local jurisdiction does not limit permits for testing laboratories.

Recommendations

Under state law, the Legislature may only amend or repeal an initiative statute without voter approval if the initiative statute permits the Legislature to do so. Proposition 64 allows the Legislature to amend certain provisions of the act—including those that protect local jurisdictions' ability to exercise local control over the authorization and regulation of cannabis businesses—by majority vote as long as the amendments are consistent with and further the stated purposes and intent of the act. As the text box shows, the purposes and intent of the act include ensuring that local jurisdictions have the ability to regulate cannabis businesses. Because of this significant local control, we make our recommendations generally to all local jurisdictions that permit cannabis businesses rather than making recommendations directly to the Legislature.

All Local Jurisdictions

To prevent favoritism, ensure fairness, and reduce the risk of corruption, all local jurisdictions that permit or plan to permit cannabis businesses should adopt or amend ordinances or policies and procedures to implement the following processes:

- Consider requiring blind scoring as an additional safeguard for competitive permitting processes. Blind scoring involves removing any identifying information about an applicant from application materials before a review.
- Create an appeals process to allow applicants to appeal the denial of their permit application to an impartial decision-maker.
- Require that all individuals involved in reviewing cannabis applications sign impartiality statements or similar documents, asserting that they do not have personal or financial interests that may affect their decisions. In the interest of transparency, consider making the signed impartiality statements or the language used in the impartiality statements available to the public by potentially posting it to the jurisdictions' websites.
- Require that designated staff at the local jurisdictions review impartiality statements to ensure that staff who review applications do not have personal or business interests that may affect their decisions.
- Require separation of duties or another layer of approval in the permitting process that prevent one person from exercising control over the decision to award a permit.

The Stated Purposes and Intent of Proposition 64 Include the Purpose and Intent to Allow Local Jurisdictions To Do the Following:

- Enforce state laws and regulations for nonmedical cannabis businesses and enact additional local requirements for nonmedical cannabis businesses, but not require that they do so for a nonmedical cannabis business to be issued a state license and be legal under state law.
- Ban nonmedical cannabis businesses.
- Reasonably regulate the cultivation of nonmedical cannabis for personal use by adults 21 years and older through zoning and other local laws.

Source: State law.

To help protect public health and safety, all local jurisdictions that permit or plan to permit cannabis businesses should adopt or amend ordinances or policies and procedures to implement the following processes:

- Require the relevant law enforcement office or other relevant department to certify that all individuals passed background checks by providing a letter or other documented notification to the cannabis-permitting office, confirming the individuals' names and whether they passed the background checks. The cannabis-permitting office should keep a record of this letter or other written notification confirming that individuals passed the required background checks.
- Create a tracking and documentation process for verifying that applicants submitted a complete application. If the application is not complete, the jurisdiction should promptly notify the applicant so that the applicant can provide any missing information. The local jurisdiction should not issue a permit until it verifies that all information is complete.

To increase the transparency of the cannabis-permitting process for potential applicants and for the public, all local jurisdictions that permit or plan to permit cannabis businesses should adopt or amend ordinances or policies and procedures to implement the following processes and best practices observed at several of the local jurisdictions we reviewed:

- Publish permit-related ordinances, permit information, and permit application forms on the relevant public website.
- Create supplemental communications about the cannabis-permitting policies and procedures, such as step-by-step guides and frequently asked questions.
- Develop a web application through which applicants can apply.
- Publish cannabis-related fees on the relevant public websites.

We conducted this performance audit in accordance with generally accepted government auditing standards and under the authority vested in the California State Auditor by Government Code sections 8543 et seq. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions, based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions, based on our audit objectives.

Respectfully submitted,



GRANT PARKS
California State Auditor

March 28, 2024

Staff: Michelle Sanders, PMP, Audit Principal
John Lewis, MPA, CIA, Audit Principal
Chris Bellows, Senior Auditor
Kate Monahan, MPA
Robert Evans
Matt Strickland

Legal Counsel: Abby Maurer

Blank page inserted for reproduction purposes only.

Appendix A

SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee (Audit Committee) directed the California State Auditor to conduct an audit of local government cannabis licensing. Table A lists the objectives that the Audit Committee approved and the methods we used to address them. Unless otherwise stated in the table or elsewhere in the report, statements and conclusions about items selected for review should not be projected to the population.

Table A
Audit Objectives and the Methods Used to Address Them

AUDIT OBJECTIVE	METHOD
1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.	Reviewed state laws, rules, and regulations, and local ordinances related to licensing and permitting nonmedical adult-use cannabis businesses.
2 Using available information regarding permitted commercial cannabis activity in cities and counties throughout the State, as well as other relevant criteria, select six local governments for review.	Selected six local jurisdictions, using available information to ensure that our selection had geographical diversity, large and small local jurisdictions, local jurisdictions with a high number of licenses and those with few licenses, and a variety of permitting processes. We provide additional detail on this selection of local jurisdictions in the report.
3 For the selected local governments, determine whether: <ul style="list-style-type: none"> <li data-bbox="344 1227 747 1347">a. Cannabis business licensing and permitting policies and procedures are in place and clearly communicated to the public and potential licensees. <li data-bbox="344 1417 747 1495">b. These policies and procedures comply with relevant state and local laws and regulations. <li data-bbox="344 1628 747 1727">c. Local governments take reasonable steps to ensure fairness and prevent conflicts of interest, abuse, and favoritism. 	<ul style="list-style-type: none"> <li data-bbox="771 1227 1516 1347">Reviewed local jurisdictions' ordinances, policies, and procedures, as applicable, to determine whether each jurisdiction had cannabis business permitting policies and procedures in place. <li data-bbox="771 1347 1516 1417">Reviewed local jurisdictions' public websites to determine whether cannabis business-permitting policies and procedures were posted publicly and were therefore available to the public and to potential permittees. <li data-bbox="771 1417 1516 1607">Determined that state law allows local jurisdictions to adopt and enforce local ordinances to authorize and regulate cannabis businesses. <li data-bbox="771 1607 1516 1628">Compared each jurisdiction's policies and procedures to local ordinances, as applicable, to ensure that they aligned. When local jurisdictions did not have policies and procedures but established detailed processes in ordinances, we did not have anything from which to compare those ordinances. <li data-bbox="771 1628 1516 1839">Identified four safeguards that would help jurisdictions ensure fairness and to prevent conflicts of interest, abuse, and favoritism: <ul style="list-style-type: none"> <li data-bbox="796 1727 926 1755">o Blind scoring <li data-bbox="796 1755 975 1782">o Appeals processes <li data-bbox="796 1782 992 1809">o Financial disclosures <li data-bbox="796 1809 1008 1837">o Impartiality statements <li data-bbox="771 1839 1286 1890">Determined whether each jurisdiction used each safeguard.

continued on next page...

AUDIT OBJECTIVE	METHOD
4 For a selection of local licenses at each of the six governments, determine whether the government followed its policies and procedures when issuing the local licenses.	<ul style="list-style-type: none"> Obtained lists of permits and applicants from each jurisdiction, where possible. Selected 20 applications from each jurisdiction and 21 at South Lake Tahoe. Selections included approved and denied applications. Compared information in the application files to each jurisdiction's ordinances, policies, and procedures to assess the extent to which jurisdictions followed their policies.
5 Assess the benefits and challenges of different processes for selecting individuals and businesses and awarding local licenses, and evaluate whether some selection processes are structurally more susceptible to corruption.	<ul style="list-style-type: none"> Identified structures of cannabis-permitting processes that could be more susceptible to corruption, using cases of corruption from the U.S. Attorney's Office. Identified practices from work under Objective 3c that could help reduce the risk of corruption.
6 Review and assess any other issues that are significant to the audit.	Reviewed and described each jurisdiction's application processing time, equity policies, and fee-setting.

Source: Audit workpapers.

Data Reliability Assessment

For each of our six selected local jurisdictions, we obtained and reviewed lists of applications, including those that were approved, denied, or still in process, where possible. We assessed the completeness of the data we received by verifying the number of records and performing testing of the data, and we determined that some of the lists were incomplete. However, other than those at San Diego, where we were not able to verify the completeness, all issues were minor and we added any missing applications so that the lists from which we made our selections were complete. We were unable to verify the completeness of the list of applications at San Diego because it did not maintain a comprehensive list of applications it received for adult-use cannabis businesses. Further, San Diego did not maintain the records for applications in a cannabis-specific location in storage, which did not allow us to manually search for the applicable applications.



GEORGEANNE A. WHITE
CITY MANAGER

March 11, 2024

California State Auditor
Attn: Grant Parks*
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Subject: State of California Cannabis Permitting Audit

Dear Mr. Parks:

This letter is in response to audit report #2023-116 titled, "Local Cannabis Permitting: Cities and Counties Can Improve Their Permitting Practices to Bolster Public Confidence." The City of Fresno appreciates the time and effort your staff has taken in reviewing and understanding Fresno's cannabis ordinance and permitting process. We also appreciate the opportunities for discussion regarding the audit report draft. The City of Fresno would like to submit a response regarding a few areas of the report, to which we have previously responded, but which remain in the final report language.

At the top of page 3 and in the chart on page 6, and throughout the report in a few different areas, the report claims Fresno has "not consistently followed their policies and procedures for ensuring background checks occurred." This is further explained in the chart on page 39, even quoting Fresno's ordinance language. The City acknowledges the recommendation that the outcome of "approved" background checks should be documented as a best practice. However, the City takes issue with the language that staff did not "follow their policies and procedures" because a background check was conducted, and a report exists for each required individual for each business. Nonetheless, there is no policy or procedure requiring that the outcomes of approved background checks be documented. The ordinance language found in Fresno Municipal Code Section 9-3318, titled "Persons Prohibited from Holding Commercial Cannabis Business Permit" exists to specify which convictions disqualify individuals, and disqualifications are documented and noticed to the applicants. If no conviction exists that is described in this section, the permit continues to move forward for consideration and ultimate approval.

(1)

(2)

City of Fresno • 2600 Fresno Street • Fresno, California 93721-3600
(559) 621-7770 • www.fresno.gov

March 11, 2024

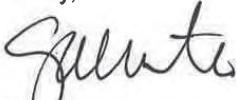
Page 2

The report goes on to discuss impartiality statements from individuals reviewing and evaluating applications in the cannabis permitting process and notes that Fresno did not require public disclosure of these statements. It is the City's perspective that posting these statements to the City's website was not necessary because they would be available through any public records act (PRA) request process relating to the cannabis permitting. The City received a significant number of PRA requests relating to the cannabis permitting.

- ① Finally, in Table 11 on page 59, the report refers to Fresno's cannabis permit fee as \$7,920.00. This dollar amount is actually Fresno's cannabis permit application fee. The business permit fee is a separate fee that is charged at the time of final permit issuance and reflects a different fee amount set forth in the City's Master Fee Schedule.
- ③

Thank you for the time and effort spent reviewing the City of Fresno's cannabis permitting process and for compiling this report. I look forward to reviewing the final document.

Sincerely,



Georgeanne A. White
City Manager

Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE CITY OF FRESNO

To provide clarity and perspective, we are commenting on the response to our audit report from Fresno. The numbers below correspond with the numbers we have placed in the margin of Fresno's response.

We provided a redacted copy of the draft report to Fresno for review. Therefore, the page numbers that the city references in its response do not align with those in the final report. (1)

Our conclusion related to how Fresno handled background checks is accurate. As we note in Table 7 on pages 23-25, Fresno requires all operators, owners, investors, and managers of a cannabis business to submit information for a background check and requires that an application be denied if the applicant was convicted of activities related to controlled substances or other crimes. As we further note in Table 7, because Fresno only documents failed background checks, it cannot demonstrate to objective third parties—such as during an audit—that it consistently followed its policies when approving cannabis permits for those who “passed” a background check but nevertheless had a conviction. For example, one of the applicants we reviewed had a conviction for battery yet the applicant with the conviction still received approval for a cannabis-related permit. We had expected to see an analysis or explanation from Fresno for why this conviction was not a disqualifying offense. Our primary critique of Fresno is that its documentation practices with respect to conducting background checks are limited and prevent third parties from ensuring the city is applying its procedures consistently across all applications. (2)

During Fresno's review of the redacted draft audit report, we identified that the cannabis business permit and application fees totaled \$27,720 and updated the amount accordingly in Table 11 on page 38. (3)

Blank page inserted for reproduction purposes only.



March 11, 2024

Grant Parks*
California State Auditor
621 Capital Mall, Suite 1200
Sacramento, CA 95814

Re: City of Sacramento Response to State Audit Report

Dear State Auditor Parks:

The City of Sacramento's Office of Cannabis Management (OCM) acknowledges receipt of the California State Auditor's report on statewide local jurisdiction permitting best practices and thanks the Auditor and staff for their work.

Since the City of Sacramento (City) first began a nascent cannabis permitting process for medicinal storefront dispensaries in 2010, much has changed in both the State and the City's cannabis regulatory landscape. Medicinal and adult-use cannabis regulations have been created, implemented, and revised; permit types created, and those permits issued; processes created, reviewed, revised, and streamlined; and a social equity program and benefits created and utilized by those disproportionately affected by the War on Drugs to start and operate regulated cannabis businesses. The City now has 284 permitted cannabis business. With all the policy development and processes necessary to reflect the fast-moving and often changing regulatory landscape, OCM welcomes the California-wide local jurisdiction permitting best practices identified by the Auditor and continues to work to improve the City's own cannabis permitting program.

OCM appreciates the Auditor's review of the City of Sacramento's permit review and issuance process that is utilized to ensure fairness and prevent conflicts of interest, abuse, and favoritism. OCM is proud of its work in this area as in addition to blind scoring for capped permits and an appeal process for denials, we require review and agreement that permit application documents are complete and the permit is ready to be issued by three different permitting staff members before a permit issues. Any work for non-City employers must be disclosed and approved by OCM management and Human Resources. Finally, the only two OCM staff members with the power to issue a permit are Form 700 filers and required to disclose gifts and financial interests. In light of

City Hall | 915 I Street, Second Floor | Sacramento, CA 95814-2604 | 916-808-8955

Letter to State Auditor

Page 2

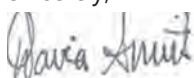
the Auditor's identified best practice of also having a signed impartiality statement requirement, OCM will discuss this idea with the City's Labor Relations Division.

OCM respects the manner in which the Auditor sought to understand that processes have changed over time in how local jurisdictions perform their tasks, particularly in light of the COVID pandemic and its challenges for local government. An example of this is the description in the report on the changes OCM instituted in how it obtained and retained information that an applicant had passed a background check. Prior to the COVID pandemic, OCM would email the City department with Department of Justice authorization to review and obtain background check results in order to find out if an applicant had passed. That department would email back the names of those who passed and OCM would enter their name into a "background check approved" spreadsheet. Once OCM began getting more permit applications, different people with the same names became an issue, so a birthdate was sometimes inputted to differentiate people. As the Auditor points out, six of the permits they reviewed were approved during this time, and OCM did not retain the emails listing when they passed livescan once their names were inputted on the "background check approved" spreadsheet. These applicants were issued a local permit, as well as a State license, indicating that they had also passed the State's background check.

Similarly, during the COVID pandemic, background check results began taking significantly longer to come back and in response, OCM changed its policy and began issuing permits conditioned upon livescan results coming back as cleared, checking at permit renewal to ensure the background check had been cleared, and using a new tracking method. As the Auditor notes, OCM did follow up on two of the Auditor-reviewed permits that were approved during our COVID policy and still in their first year of operation; therefore, they had not been checked yet by OCM during renewal to determine if they had cleared their background check. Both passed the background check prior to renewal. Once the COVID emergency ended and background checks were no longer delayed, OCM returned to the previous policy of not issuing a permit until background checks were cleared.

As the cannabis industry matures and the City continues to evolve its policy and procedural structures for permitting in the often challenging and frequently changing cannabis landscape, we thank the Auditor for the inquiry into our processes and the work in highlighting statewide best practices for local jurisdictions.

Sincerely,



Davina Smith

Cannabis Program Manager

Comment

CALIFORNIA STATE AUDITOR'S COMMENT ON THE RESPONSE FROM THE CITY OF SACRAMENTO

To provide clarity and perspective, we are commenting on the response to our audit report from Sacramento. The number below corresponds with the number we have placed in the margin of Sacramento's response.

To clarify Sacramento's response, as we note on page 23, we found that Sacramento lacked clear documentation demonstrating that eight—not six—applicants had passed background checks. ①

Blank page inserted for reproduction purposes only.

DocuSign Envelope ID: 8742C7F8-783E-4B52-A195-FD9575F8CE6B



COUNTY EXECUTIVE OFFICE

Mona Miyasato, County Executive Officer
Nancy Anderson, Assistant County Executive Officer
Jeff Frapwell, Assistant County Executive Officer
Tanja Heitman, Assistant County Executive Officer
Wade Horton, Assistant County Executive Officer

March 11, 2024

Mr. Grant Parks
California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Dear Mr. Parks:

Thank you for the opportunity to review and respond to the draft report regarding local jurisdiction cannabis permitting. We appreciate the time and effort the auditor's team put into this audit.

We understand that the report does not contain specific recommendations for the County of Santa Barbara but rather provides general guidance on best management practices to ensure fairness and bolster public confidence. We acknowledge the value in assessing and enhancing processes related to issuing local permits where appropriate that foster accountability and transparency. The following are specific responses related to the general findings and recommendations in the report:

1. Ensuring fairness and preventing conflict of interest, abuse, and favoritism

The County permitting and licensing processes are extensive and require several departments' approval before final issuance. Several key staff are currently required to file financial disclosure statements and our policies adhere to current State law. While the current conflict of interest reporting requirements are intended to protect the process from favoritism and abuse, we recognize that implementing additional impartiality statements for all staff involved in the application review process would enhance protections against potential abuse.

2. Following policies and procedures when issuing local licenses

The County has a consistent process in place for required applicant background checks to be verified and held by the Santa Barbara County Sheriff's Office (SBSO). License issuance does not occur without recommendation of approval from several County departments including the Sheriff's Office. We acknowledge the benefit of enhancing the documentation process to include additional recorded evidence with the Cannabis Administration Division of the County Executive Office that specifically reflects approved background checks consistent with the files held by the Sheriff's Office.

3. Equity Programs

As noted in the report, state law does not require that local jurisdictions conduct equity assessments nor develop an equity program intended to lower some of the barriers to entry into the cannabis industry. While staff, during the interviews, indicated that the County has not identified a necessity for an equity assessment or program to-date, the Board of Supervisors may consider these in the future if deemed necessary.

DocuSign Envelope ID: 8742C7F8-783E-4B52-A195-FD9575F8CE6B

We value the work the State Auditor's Office does to ensure that local governments provide fair, effective, and transparent services. Thank you again for the opportunity to provide our response to this report.

Sincerely,

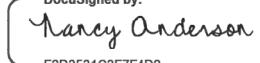
DocuSigned by:

F2D3531C3F7F4D2...
Nancy Anderson
Chief Assistant Executive Officer

Exhibit G

orig. C. Hiff
cc: SK

RECEIVED

AUG 28 2024

PRESIDING

THE CITY OF SAN DIEGO



TODD GLORIA

MAYOR

August 28, 2024

Honorable Maureen F. Hallahan
Presiding Judge of the Superior Court
1100 Union Street, 10th Floor
San Diego, CA 92101

Re: Grand Jury Report: "Cannabis in San Diego - How is it Going?"

Dear Judge Hallahan:

Pursuant to California Penal Code Section 933.05(a), (b), and (c), the City of San Diego provides the attached response to the findings and recommendations included in the above-referenced Grand Jury Report.

If you require additional information or have any questions, please do not hesitate to contact Kohta Zaiser, Council Affairs Advisor, at 619-236-6330.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Gloria".

TODD GLORIA

Mayor
City of San Diego

Attachments:

1. City of San Diego Response to San Diego County Grand Jury Report Titled "Cannabis in San Diego - How is it Going?"

cc: Jonathan Vinoskey, Foreperson, 2023/2024 San Diego County Grand Jury
Honorable Council President Sean Elo-Rivera and Members of the City Council
Honorable City Attorney Mara Elliot
Charles Modica, Independent Budget Analyst
Paola Avila, Chief of Staff, Office of the Mayor
Eric Dargan, Chief Operating Officer
Christiana Gauger, Chief Compliance Officer

**City of San Diego Response to
San Diego County Grand Jury Report Titled
“Cannabis in San Diego – How is it Going?”**

Pursuant to California Penal Code Section 933(c), the City of San Diego provides the following response from the Mayor to the applicable findings and recommendations included in the above referenced Grand Jury Report.

RESPONSE TO FINDINGS:

Finding 1: *City cannabis tax revenues are negatively impacted by unlicensed cannabis delivery services and smoke shops selling “enhanced CBD,” operating throughout the City.*

Response: The Mayor agrees with the Grand Jury’s finding.

The sale of intoxicating hemp-derived products in retail outlets that do not require a conditional use permit or any other special permits has increased significantly over the past year and may be a primary reason why cannabis sales have decreased, as evidenced by the significant drop in cannabis tax revenue to the City—from approximately \$22.8 million in Fiscal Year 2022 to only \$17.2 million in projected revenues by the end of Fiscal Year 2024.

However, the Development Services Department’s cannabis inspector has been working to address the sale of intoxicating hemp-derived products by educating smoke shop staff and ownership about what state law allows; inspecting smoke shops to document the products for sale and verify permits, licenses, and tax certificates; and providing additional informational resources and contact information from the California Department of Public Health so that smoke shop owners can direct any questions they may have about specific products their stores may be carrying. In addition, cannabis inspectors inform smoke shop owners that any future complaints received regarding the availability of intoxicating hemp-derived products at their store will be referred to the San Diego Police Department (SDPD) for further enforcement action. The cannabis inspector works closely with SDPD’s Narcotics Unit and will conduct site visits to stores where SDPD may have responded to citizen complaints that allege the sale of intoxicating hemp-derived products. Finally, as the availability of intoxicating hemp-derived products continues to expand beyond inhalables, such as edible gummies, chocolates, and infused drinks, the City will continue to expand its outreach to include those markets that carry these products.

Finding 2: *Current Law Enforcement efforts against unlicensed delivery services and “enhanced CBD” are not effective.*

Response: The Mayor disagrees with the Grand Jury’s finding.

The San Diego Police Department (SDPD) has a dedicated marijuana enforcement team, which includes two detectives—one of which is an expert in this field—who have successfully eliminated hundreds of unlicensed storefront dispensaries in the city. The

team is now focused on unlawful CBD and delivery service operations. These investigations have led to 35 arrests, 20 successful prosecutions, and the seizure of approximately \$2 million in cash and assets, 1,500 pounds of marijuana, and 10 firearms.

Finding 3: *The City does not report all revenue, expenses, and impacts associated with cannabis legalization, leaving citizens unaware of the full fiscal impact of Measure N.*

Response: The Mayor disagrees in part with the Grand Jury's finding.

The City's Cannabis Business Tax is a general tax; general taxes are placed in the City's General Fund and are allocated through the City's annual budget process. The revenue from Cannabis Business Taxes, and the fees associated with the issuance of Conditional Use Permits and Operating Permits, are tracked via the City's financial system. The revenue is also reported publicly in the City's financial reports, which are available on the City's website. These reports provide insight into the revenue generated from cannabis businesses, reflecting one significant aspect of the financial implications of cannabis legalization.

However, the Grand Jury is correct that the City does not currently provide a comprehensive report detailing expenditures and other impacts associated with cannabis legalization. Although cannabis legalization has impacted various aspects of society, including health, education, and safety, there are several reasons why the City does not agree that a comprehensive report is necessary, as explained in the response to Recommendation 2.

Finding 4: *The County does not report the non-financial costs (e.g., health and law enforcement impacts) of legalized cannabis, leaving citizens unaware of the full non-fiscal impacts of cannabis legalization.*

This finding applies to the County of San Diego. Therefore, a response is not provided.

Finding 5: *Legalized cannabis has had significant health impacts on school-aged children and senior citizens.*

This finding applies to the County of San Diego. Therefore, a response is not provided.

RESPONSE TO RECOMMENDATIONS:

Recommendation 1: *The San Diego Police Department and San Diego County Sheriff's Department should collaborate to develop and implement strategies to target unlicensed delivery services and smoke shops selling enhanced CBD products.*

Response: The recommendation has been implemented.

Both the San Diego Police Department and the San Diego County Sheriff's Department use similar enforcement techniques that have been developed through collaboration between the two departments. SDPD's marijuana enforcement team has worked with the San Diego County Sheriff's marijuana enforcement team on cases of unlicensed marijuana dispensaries, delivery services, and enhanced CBD shops, especially when the illegal operator has multiple businesses spanning both county and city jurisdictions. Both departments continue to work cases of mutual interest while using the strategies developed in collaboration with each other.

Recommendation 2: *The San Diego Mayor should direct the city staff to develop and publish reports that document the fiscal and law enforcement impacts of cannabis legalization.*

Response: The recommendation will not be implemented because it is not warranted.

The City disagrees with this recommendation. In summary, the development of comprehensive reports on the fiscal and law enforcement impacts of cannabis legalization would require considerable resources to produce and would likely not provide information that differs from the reports already produced by the State of California. Further details regarding the City's position are provided below.

First, given the current budgetary constraints and pressing priorities the City is facing, the resources needed to produce such reports would be better allocated towards more immediate and critical needs, such as public safety and infrastructure maintenance. Second, there are already numerous studies and reports available at the state and national levels that provide detailed analyses of the impacts of cannabis legalization. The California Bureau of Cannabis Control, for example, regularly publishes comprehensive reports that cover various aspects of cannabis regulation, including fiscal impacts and law enforcement issues. Rather than duplicating these efforts, the City proposes leveraging existing data to inform local policy decisions. Third, the legal and regulatory environment surrounding cannabis is rapidly evolving. Any report produced today might quickly become outdated as new laws, regulations, and market dynamics emerge. It is more practical to continuously monitor and adapt to these changes through a flexible, responsive approach rather than committing to a static reporting process. Finally, addressing the impacts of cannabis legalization is a complex issue that requires collaboration across multiple levels of government and with various stakeholders, including law enforcement agencies, public health organizations, and community groups. The City believes that fostering these collaborative efforts and participating in broader, statewide initiatives would be more effective than isolated, city-specific reporting.

Recommendation 3: *The San Diego Mayor should direct the city staff to create a public education campaign that details the impacts of cannabis use on children and seniors.*

Response: The recommendation will not be implemented because it is not warranted.

This recommendation is not warranted as there are already public education campaigns created by government agencies in place to detail the impacts of cannabis use. Specifically, the California Department of Public Health has the [Youth Cannabis Prevention Initiative](#), which uses public health data to analyze the legal, social, and environmental impacts of youth and adult cannabis use. Through this initiative, the Cannabis Education and Youth Prevention Program provides health education and prevention to reduce the negative impacts and consequences of cannabis use. As the City does not directly have access to public health data, it would not be feasible for City staff to create a public education campaign at the local government level. Instead, the City suggests that this recommendation be reviewed by the County of San Diego, since the County is the lead Health and Human Services agency for the region and may have direct access to public health data for use in creating the recommended public education campaign.

Recommendation 4: *The San Diego County Board of Supervisors should direct the county staff to develop reports that document the health and law enforcement impacts of cannabis legalization.*

This recommendation applies to the County of San Diego. Therefore, a response is not provided.