

30. Commercial Cannabis Regulatory Program Update (All Wards)

Recommendation:

It is recommended that the Mayor and City Council of the City of San Bernardino, California, receive and file the oral report on the Commercial Cannabis Regulatory Program.



DISCUSSION

City of San Bernardino Request for Council Action

Date: June 5, 2024

To: Honorable Mayor and City Council Members

From: Rochelle Clayton, Acting City Manager;
Gabriel Elliott, Director of Community Development and Housing

Department: Community Development & Housing

Subject: **Commercial Cannabis Regulatory Program Update
(All Wards)**

Recommendation:

It is recommended that the Mayor and City Council of the City of San Bernardino, California, receive and file the oral report on the Commercial Cannabis Regulatory Program.

Executive Summary

This agenda item is an overview of the status of the City of San Bernardino's Commercial Cannabis Program. There is no fiscal impact associated with this item. It is recommended that the Mayor and City Council receive and file the Annual Update on the Commercial Cannabis Regulatory Program.

Background

The San Bernardino Municipal Code (SBMC) Chapter 5.10 establishes the regulations and standards for Commercial Cannabis Business (CCB) activities in the City. The City Council initially adopted Chapter 5.10 through Ordinance MC-1464 in March 2018. In October 2018, the City Council amended Chapter 5.10 with Ordinance MC-1503. The City Council then adopted Resolution 2018-227 to place Ordinance MC-1503 on the November 2018 ballot for voter approval. In November 2018, the voters approved Ordinance MC-1503.

Under Chapter 5.10 of the SBMC, to operate a Commercial Cannabis Business in the City, a person must obtain a valid CCB Permit from the City and a valid license from the California Department of Cannabis Control (SBMC § 5.10.060). The City offers six

types of permits: cultivation; distribution; manufacturing; microbusiness; retail; and testing. (SBMC § 5.10.060). Chapter 5.10 currently caps the number of Commercial Cannabis Business Permits that the City may issue at 17 retail, and unlimited for all other license types.

Discussion

Current Status of Permits

Currently, the City has 16 commercial cannabis businesses, comprised of eight (8) retail locations, six (6) microbusinesses with a retail component, and two (2) cultivation facilities. Additionally, there is one unopened business under construction.

The business that is currently under construction has experienced extenuating circumstances that have caused delays in the process. Staff are actively working with the applicant and outside resources to assist with project completion, including mitigating concerns with electrical service. The applicant anticipates being issued a Cannabis Business Permit to operate towards the end of this year (2024).

On November 28, 2023, staff issued a revocation of the Cannabis Business Permit (CBP) 20-001 to Empire Connect / Herban Kulture. The revocation was issued for failure to remain current on Cannabis Tax Reporting and Remittance. Similarly, the City's Business Registration division also issued a revocation for the Operator's Business License. On December 6, 2023, an appeal request form was received and on December 28, 2023, an appeal hearing was conducted. On January 11, 2024, an Administrative Hearing Decision and Order was received upholding the revocation.

On March 27, 2024, staff issued a Letter of Forfeiture for Commercial Cannabis Business (CCB) Permit 18-0048 issued to 14 Four. Subsequently, on March 28, 2024, staff issued a Letter of Forfeiture for CCB 18-0012 to Orange Show Cultivators. In accordance with the "Failure To Take Further Actions" guidelines adopted by Mayor and City Council through Resolution No. 2020-253, both letters were issued due to the lack of pursuing and obtaining their permits to operate.

On April 3, 2024, staff was notified that Have a Heart, DBA Hightimes, located at 590 S. E Street, had closed its doors as of March 25, 2024, and may be surrendering its cannabis license to the Department of Cannabis Control (DCC). If they do not surrender their license, it will automatically expire on June 13, 2024. By surrendering it to or allowing the license to expire with the DCC, they will simultaneously be surrendering their permit, CBP 22-001, with the City of San Bernardino. This comes after months of non-compliance in reporting and remittance of their Cannabis Tax and non-payment of their 2024 Annual Regulatory fee. Staff is currently working in conjunction with DCC on the surrender/expiration of this license.

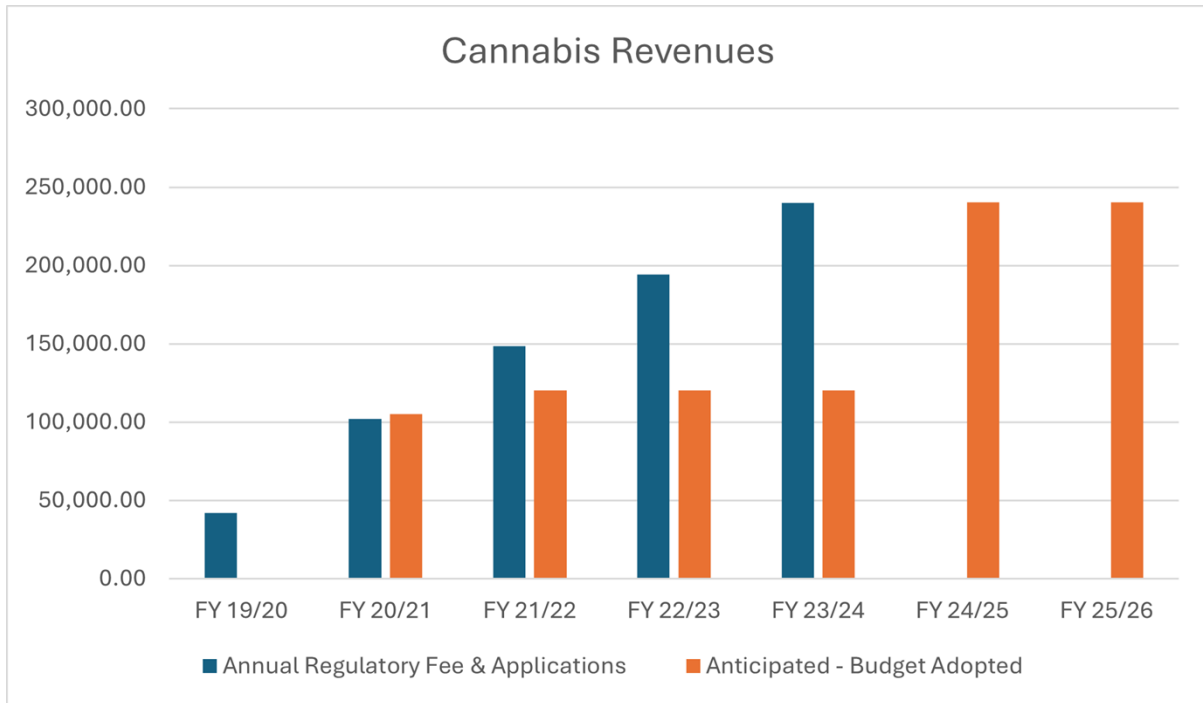
The table below provides a list of the cannabis businesses in the City and the location and status of each one.

CBP#	Business Name	DBA	Address	License Type	Issued
20-004	Jiva	Cookies	494 W. Orange Show Lane	Retail	9/2020
21-002	Captain Jacks		100 W. Hospitality Lane	Retail	9/2021
21-003	Shatter		350 W. 5 th Street	Retail	9/2021
22-003	RD San Bernardino	Higher Ground	240 E. Redlands Blvd	Retail	6/2022
22-004	PTRE Management	Culture	225 S. Airport Drive	Retail	7/2022
23-002	EEL Holdings	Catalyst	506 W. Inland Center Drive	Retail	8/2023
23-003	SB Pharma	The Row House	1975 Diners Court	Retail	10/2023
23-004	Ashe Society	ASHE	444 N. H Street	Retail	2/2024
19-001	Blunt Bros / Ikanik Farms	PACKS	2211 S. Hunts Ln. (K – O)	Micro (R)	10/2019
20-002	Pure Dispensaries	Haven	164 W. Redlands Blvd.	Micro (R)	7/2020
20-003	Nibble Easy	Stiiizy	1181 S. E Street	Micro (R)	8/2020
21-001	Nibble 390H	Stiiizy	390 N. H Street	Micro (R)	1/2021
22-002	Central Avenue Nursery	Sky Club	723 S. Allen Street	Micro (R)	5/2022
24-002	SOCA Farms		654 S. Lincoln Avenue	Micro (R)	3/2024
22-005	GWC Real Estate	Joshua's Healing Garden	741 S. Lugo Avenue	Cultivation	12/2022
23-001	Accessible Options		151 N. E Street	Cultivation	6/2023
Total 16					
"Use It or Lose It" (Reso 2020-253)					
18-0035	RZNHEAD		1090 S. Arrowhead Ave	Micro (R)	
Forfeitures & Revocations					
18-0012	Orange Show Cultivators	Forfeited	764 S. Inland Center Drive	Micro	
18-0048	14 Four	Forfeited	435 E. Park Center Circle	Cultivation	
20-001	Empire Connect / Herban Culture	Revoked	764 S. Inland Center Drive.	Retail	
22-001	Have a Heart	Hightimes	590 S. E Street	Retail	2/2022

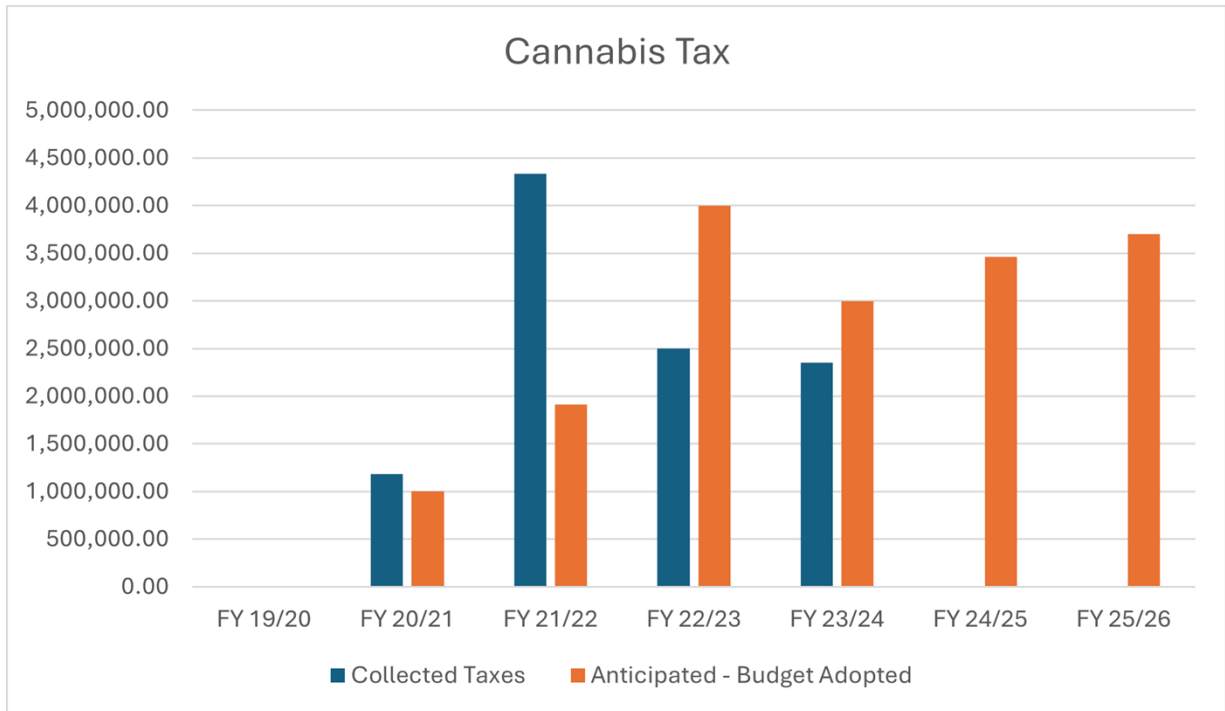
Revenues

The Commercial Cannabis Regulatory Program requires applicants to pay fees to recover the City's costs in processing applications, permits, inspections and audits. The program also requires quarterly Cannabis Tax payments that are incorporated into the General Fund and get allocated to projects where it is most needed in the community, such as police services, road repairs, parks, and libraries.

Since the beginning of Fiscal Year 2019/2020, and as of May 6, 2024, the Commercial Cannabis program has drawn in just over \$726,477 in Application and Annual Regulatory Fees. It was anticipated that the City would collect just over \$255,000 in FY 23/24, however, with the unanticipated closure of Hightimes, the City came in slightly under the annual projection. In Fiscal Years 24/25 and 25/26, the City will start to see a steady flow of revenue projections as it maintains the number of operators within the City.



Since the beginning of Fiscal Year 2019/2020, and as of April 30, 2024, Commercial Cannabis Taxes have brought in just over \$10.3 million. The spike in collected Tax Revenues occurring in FY 21/22 is attributed to the influx of taxes paid as a close out to an agreement reached with Captain Jack's and Shatter. The difference in collected and anticipated Tax Revenues in FY 23/24 is attributed to the revocation of Empire Connect and the closure of Hightimes.



Cannabis

Crime

Stats

The Police Department, through the Crime View Dashboard database, tracks crime statistics throughout all 219 reporting districts within the City limits. Staff maintain contact with the Police Department as it relates to confirming crime at the City's current active and operating CCBs as part of meeting the Commercial Cannabis Regulatory program requirements.

The Police Department ran an incident analysis report from July 2022 to April 2024, and the calls consisted mainly of false alarms, collision reports, vandalism, and other unrelated calls not associated with the cannabis operations themselves. In nearly two years, there have only been two significant calls for service for theft at a licensed dispensary.

Since the inception of the Cannabis Task Force, the Code Enforcement Division, along with the San Bernardino Police Department in collaboration with the California Department of Tax & Fee Administration, have investigated and closed 48 illegal marijuana dispensaries, "seshs" and indoor grows. There are currently nine open and ongoing investigations.

Process Updates

Staff have effectively implemented enhancements to the City's operational procedures, application protocols, and overall process flow. These improvements are designed to streamline future operations, ensuring efficiency and ease for all stakeholders.

On October 19, 2022, staff brought a Development Code Amendment before City Council that streamlined the land use tables contained within the Development Code to reflect cannabis land uses more accurately. Updating the land use table assists in

being able to find the most suitable locations for the different types of cannabis license types.

Financial and Compliance Audits

Staff are working with the Cannabis Consultant, SCI Consulting, to conduct Financial and Compliance Audits for all licensed Commercial Cannabis operators. Staff anticipate the completion of these audits by October 2024. This initiative underscores our commitment to regulatory excellence and transparency.

Program Maintenance and Operator Success

Staff's recommendation is to continue the current Commercial Cannabis Program structure. The focus will continue to remain on strengthening partnerships with existing operators and providing them with the support needed to thrive and adhere to all regulatory requirements. This includes the timely reporting and remittance of Regulatory Fees and Cannabis Taxes, which are vital to the program's integrity and success.

2021-2025 Strategic Targets and Goals

The Annual Update on the Commercial Cannabis Regulatory Program is consistent with Key Target No 1: Improved Operational & Financial Capacity. Specifically, the multiple streams of revenue through Regulatory Fees, Cannabis Tax and Cannabis Sales Tax provide a long-term revenue source. Commercial Cannabis Regulatory Program Applicants are required to pay application fees to recover the City's costs in processing permits, conducting inspections, along with Cannabis Tax and Cannabis Sales Tax. The Cannabis Tax Revenue stream goes to improvements throughout the city as allocated through the budget process.

Fiscal Impact

Commercial Cannabis Regulatory Program Applicants are required to pay application fees to recover the City's costs in processing the permits, along with Cannabis Tax and Cannabis Sales Tax.

Conclusion

It is recommended that the Mayor and City Council of the City of San Bernardino, California, receive and file the oral report on the Commercial Cannabis Regulatory Program.

Attachments

Attachment 1 - Commercial Cannabis Update PowerPoint

Ward:

All Wards

Synopsis of Previous Council Actions:

March 17, 2018, Mayor and City Council adopted Ordinance MC-1464 establishing regulations and standards for Commercial Cannabis.

August 1, 2018, Mayor and City Council adopted Resolution No. 2018-277 placing Ordinance No. MC-1499 establishing Cannabis Tax on the November ballot which was approved by the voters.

August 17, 2022, Mayor and City Council received and filed an Annual Update on the Commercial Cannabis Regulatory Program.



2024 Cannabis Update

Presented by: Gabriel Elliott, Community Development & Housing Director
Stephanie Castro, Economic Development Project Manager



Current Status

16 Commercial Cannabis Businesses

- 8 Stand Alone Retail
- 6 Micro with Retail
- 2 Cultivation

1 Revocation

2 Forfeitures

1 Pending Surrender

CBP#	Business Name	DBA	Address	License Type	Issued
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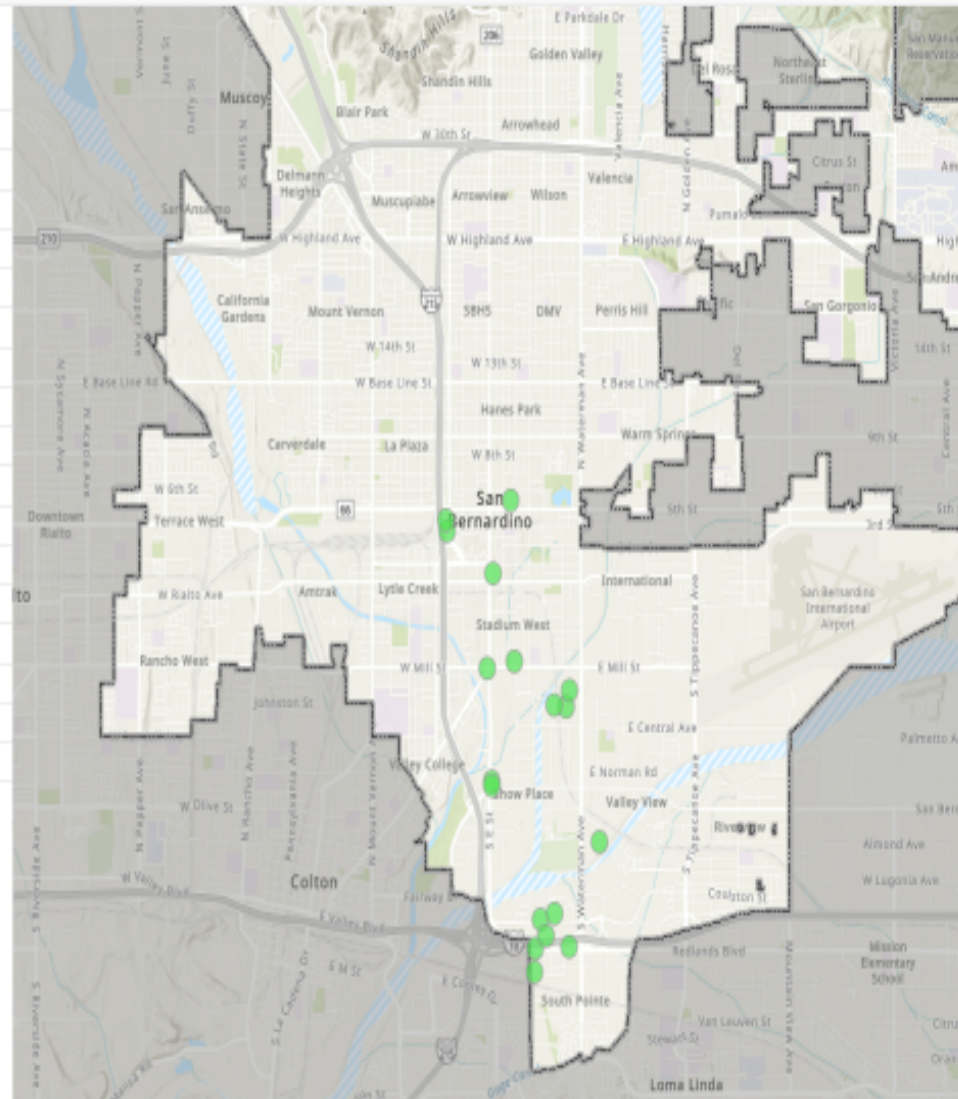


Current Status

City of San Bernardino Development Projects

Commercial Cannabis

14 Four
Accessible Options
Ashe Society
Captain Jacks
Catalyst
Central Avenue Nursery
Cookies
Culture
Haven
Higher Ground
Joshua's Healing Garden
Packs
RZNHEAD
Shatter
Soca Farms
Stillzy
Stillzy
The Cake House





Revenues

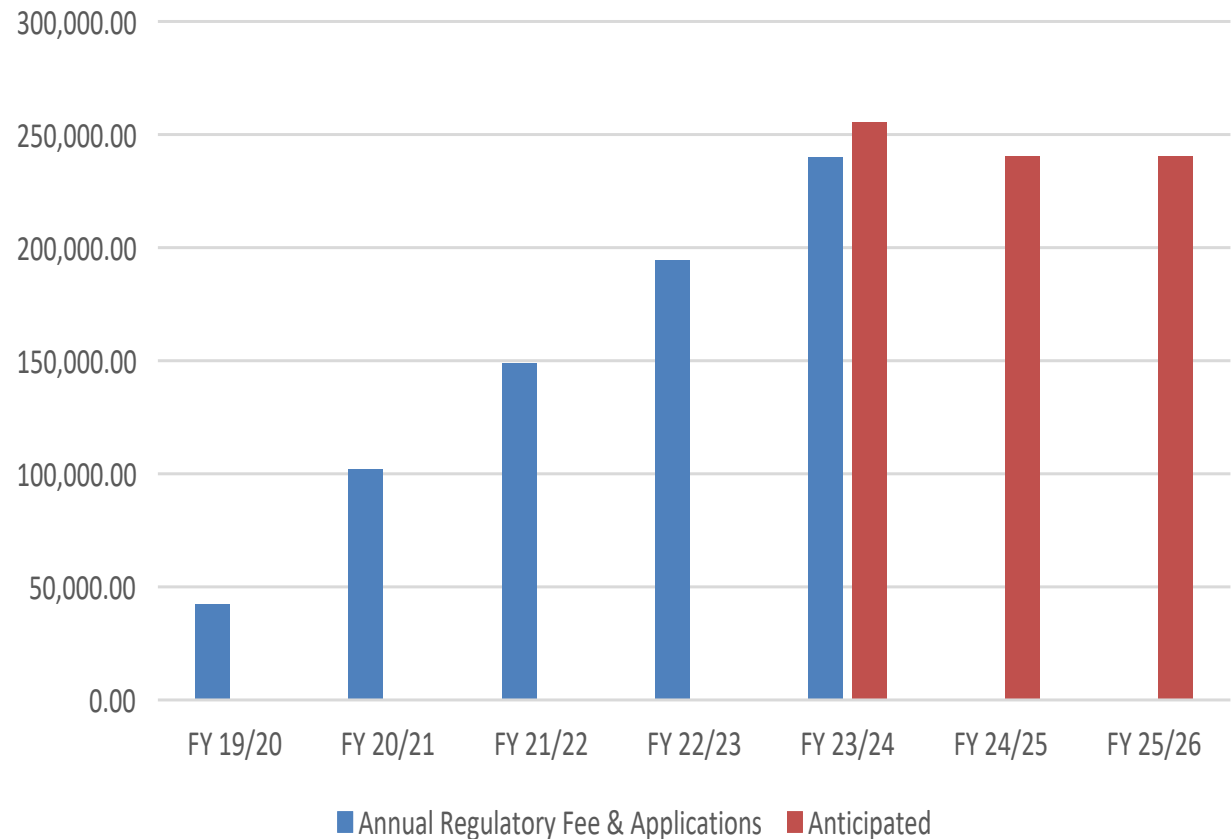
Since FY 19/20 - \$726,477

- Applications
- Live Scans
- Background Checks
- Annual Regulatory Fees

FY 23/24 – Came in under the anticipated \$255,000 due to closures

FY 24/25 into FY 25/26 – will stabilize

Cannabis Revenues





Revenues

FY 19/20 – No Tax Collected

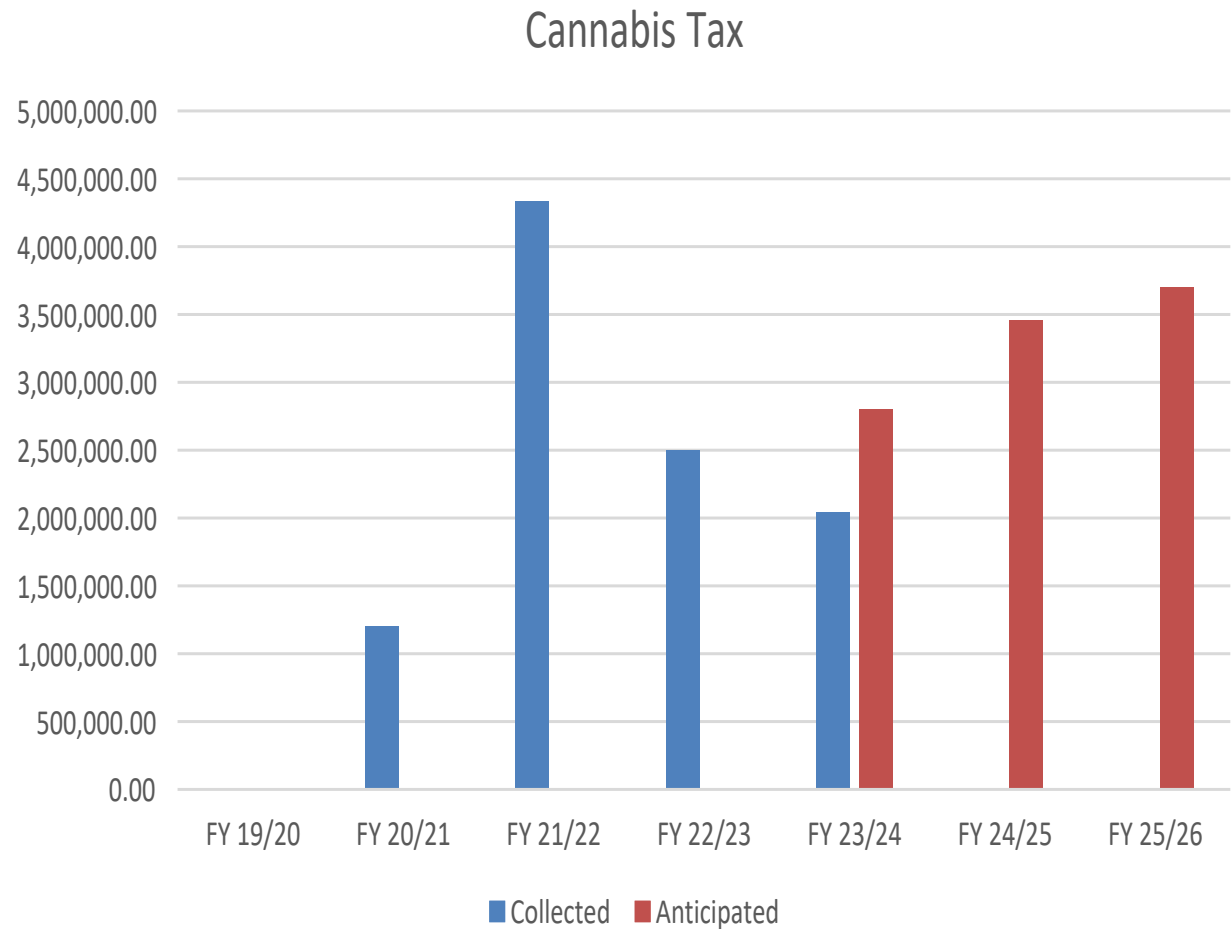
FY 20/21 – \$1.2M

FY 21/22 - \$4.3M

FY 22/23 - \$2.5M

FY 23/24 – \$2.0M Collected
& \$2.8M Anticipated

FY 24/25 into FY 25/26 –
projected \$3.7M





Cannabis Taxes

Cannabis Tax Ordinance MC-15-01

August 2018 - The amount of revenue generated for the General Fund is approximately \$810,000 to \$2,475,000 annually according to industry trends, however, impacted by considerable variations including the number and types of issued licenses, pricing, and productivity of operators.

FY 24/25 – The City will have surpassed the original projections in Cannabis Tax Collections.



Crime Stats

219 Reporting Districts within City Limits

16 Permitted Locations

130 Total Calls for Service

False Alarms, Collision Reports, Vandalism and other related calls

20 Reports Taken

2 incidents of theft at a licensed dispensary



Task Force

48 Elicit & Illegal Closures

- Marijuana Dispensaries
- “Seshs”
- Indoors Grows

Work done in collaboration with San Bernardino Police Department and other State agencies, including the California Department of Tax & Fee Administration (CDTFA)

- 9 open and ongoing investigations



Updates

Overall Process

- Development Code Amendment – October 2022
Streamlined Land Use Tables within the Development Code

Financial & Compliance Audits

- Audits anticipated to be completed by October 2024

Program Maintenance & Operator Success

- Focus on current program
- Strengthening partnerships with existing operators
- Provide needed support to remain compliant



Recommendation:

It is recommended that the Mayor and City Council receive and file this update.



QUESTIONS?