



HOW THE MARIJUANA INDUSTRY IS SHAPING OUR CITY FINANCES

Presenters

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Marijuana – Shaping City Finances

Key Topic

- Introducing Marijuana Revenues into City Coffers
- Roadblocks to Banking Marijuana Taxes and Fees
- Key Steps to Finding and Keeping Your Bank
- Coordination of Collecting Marijuana Businesses Funds



Note: The following information is for general use and is not legal advice. Please seek the opinion of your city attorney.



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Legal Timeline

- ◉ 1970 Marijuana List as a Class 1 Drug
- ◉ 1996 Prop 215 Compassionate Use Act (CUA)
- ◉ 2003 SB 420 Medical Marijuana Program
- ◉ 2011 City of Oakland Taxes Medical Marijuana
- ◉ 2012 CO and WA pass Recreational Use
- ◉ 2013 US AG Issues Cole Memo Guidelines
- ◉ 2014 Congress defunds DEA Prosecutions
- ◉ 2015 CA Adopts (MMRSA/MCRSA)
- ◉ 2016 Proposition 64 Passes in November 2016



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City of Salinas



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City of Salinas

- Incorporated 1874
- Population 161,042
- 34th largest in the state



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MONTEREY County Map, California



- Monterey County
- Largest City in County
- County Seat

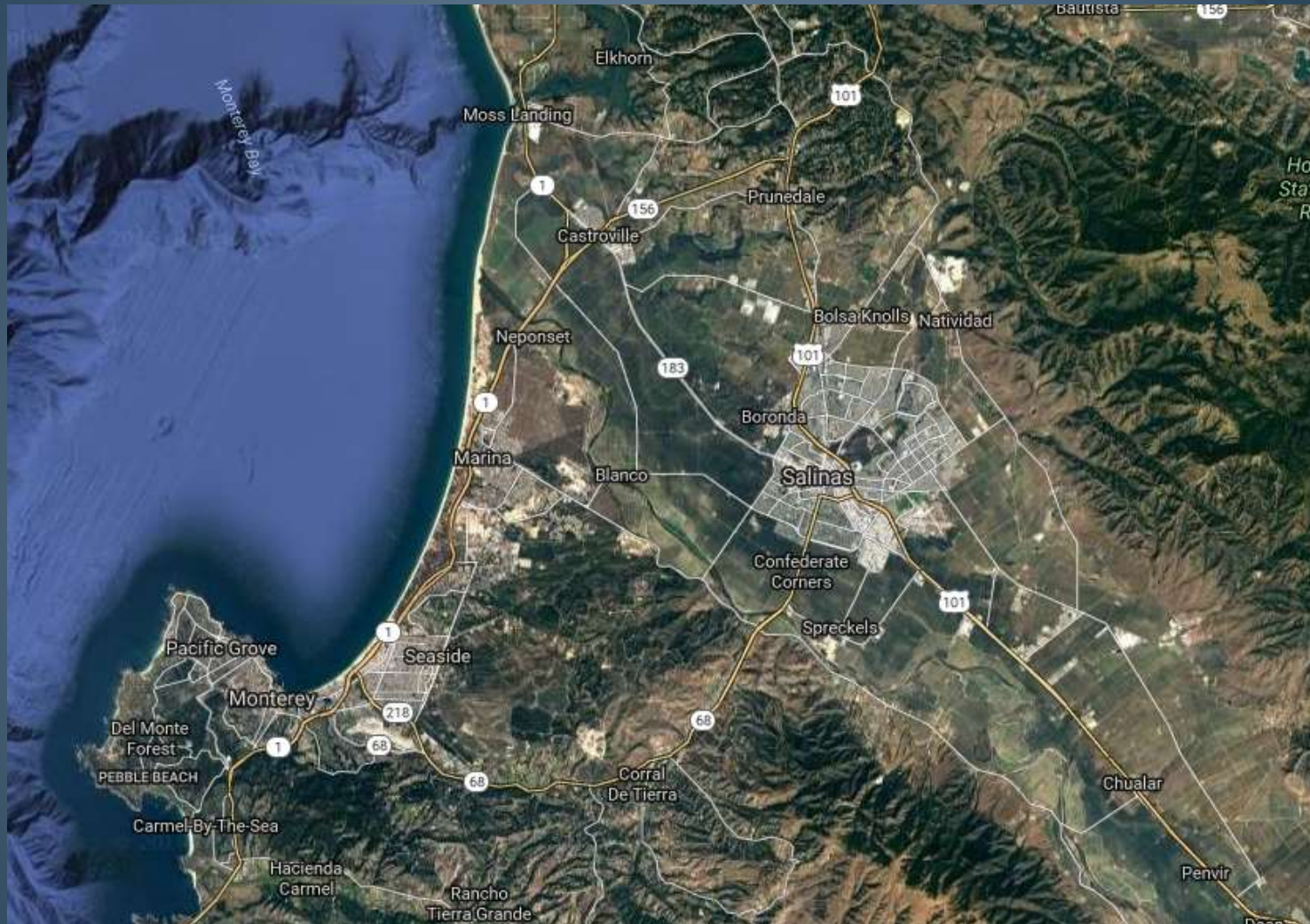


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23 square miles



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Surrounded by a sea of agriculture

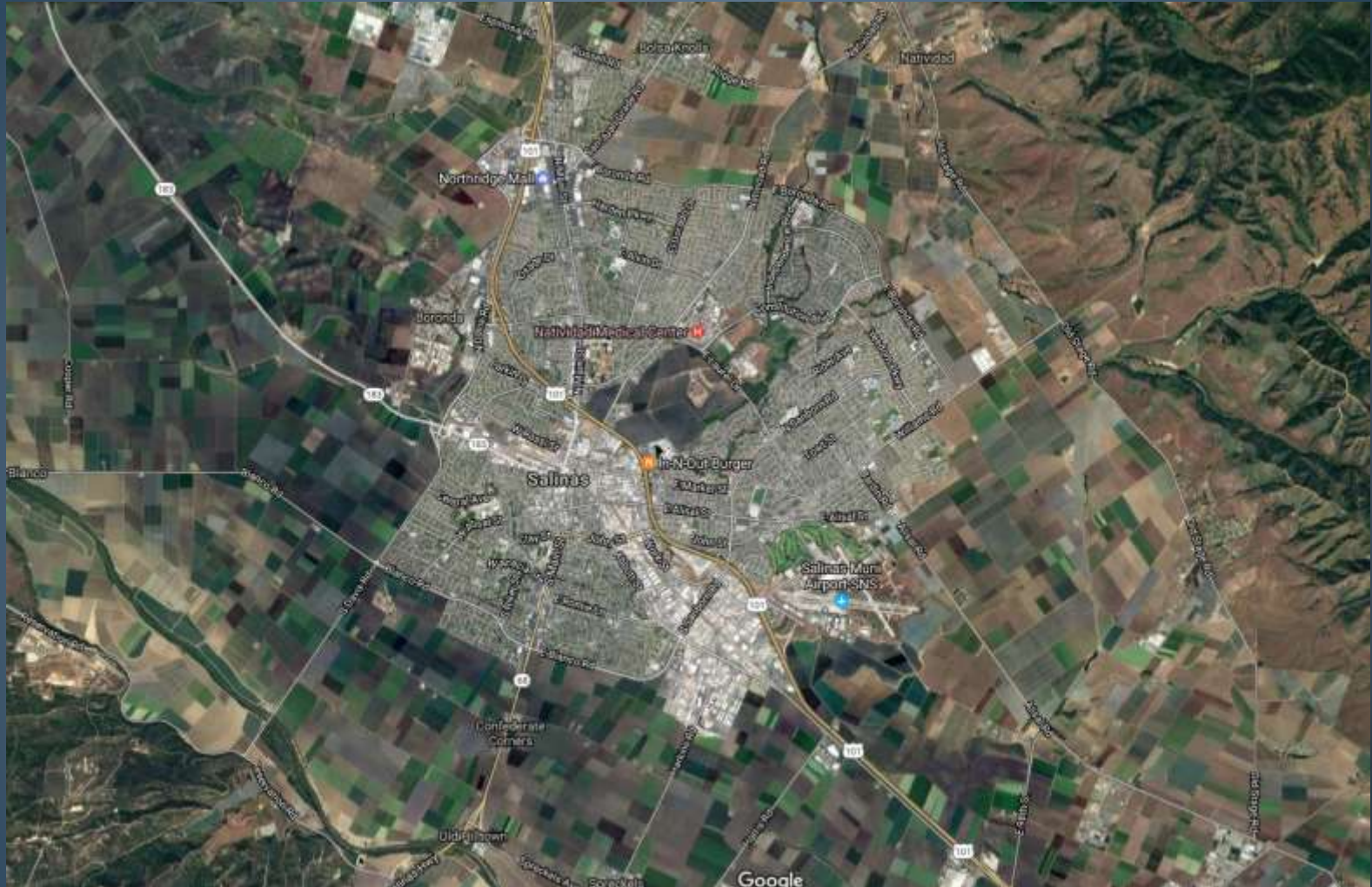


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Surrounded by a sea of agriculture



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City of Salinas

- Known as and for:
 - Salad Bowl of the World
 - Clean air



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Salinas Home to:



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Salinas Home to:



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Home to:



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Mazda RACEWAY

LAGUNA SECA



FERRARI CHALLENGE

MAY 12-14, 2017

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SPRING CLASSIC

MAY 19-21, 2017

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SUPERBIKE WORLD CHAMPIONSHIP

JULY 7-9, 2017

[READ MORE](#)

CONTINENTAL TIRE MONTEREY GRAND PRIX, POWERED BY MAZDA

SEPTEMBER 21-24, 2017

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ROLEX MONTEREY MOTORSPORTS REUNION

AUGUST 17-20, 2017

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PIRELLI WORLD CHALLENGE

OCTOBER 12-15, 2017

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What has Salinas done and why

• January 2016 – Ordinance – To Regulate Cannabis

- Permitted a limited number of commercial cannabis businesses
- Prevent nuisance conditions
- Provide effective controls
- Enable medical cannabis patients to obtain cannabis from safe sources
- Provide appropriate permitting and revenue for the City

• November 2016 Election – Cannabis Business Tax



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What has Salinas done and why

◉ January 2016 – Ordinance

- Permitted a limited number of commercial cannabis businesses
 1. Cultivation facilities
 2. Manufacturing facilities
 3. Delivery services (retail sale – only by delivery (no store))
 4. Dispensary (retail sale out of a store)



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What has Salinas done and why

◉ January 2016 – Ordinance

- Prevent nuisance conditions
- Provide effective controls
- Enable medical cannabis patients to obtain cannabis from safe sources



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What has Salinas done and why

● January 2016 – Ordinance

- Provide appropriate permitting and revenue for the City
 - Requires a City of Salinas business license
 - Comply with all applicable provisions and requirements of that license



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What has Salinas done and why

- ◉ November 2016 Election – Cannabis Business Tax
 - Cannabis Business Tax Ordinance established
 - Business categories
 - Medical cannabis cultivation
 - Medical cannabis manufacturing
 - Medical cannabis delivery service
 - Medical cannabis dispensary
 - Non-medical cannabis businesses
 - Rates for each category
 - General Tax – 50% voter approval
 - Allow City to provide essential public services



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What has Salinas done and why

- November 2016 Election – Cannabis Business Tax
 - Cannabis Business Tax Ordinance established
 - Rates for each category

	Business Category	
	Cultivation	Manufacturing Dispensary Delivery
Initial rate for years 1-3	\$15 / sf.	5%
After year 3	\$25 / sf.	10%

Note: After the first 3 years, City Council may increase the business license tax up to \$25/sf. or 10% on gross receipts



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What has Salinas done and why

◉ November 2016 Election – Cannabis Business Tax

- Cannabis Business Tax Ordinance established
 - Tax is due quarterly by the end of the month following the calendar quarter
 - 25% penalty plus interest if delinquent
 - Another 25% penalty if not paid within another month after first delinquent



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What has Salinas done and why

- ◉ November 2016 Election – Cannabis Business Tax
 - Cannabis Business Tax Ordinance established
 - Audit and examination of records and equipment
 - Keep records for three years



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What has Salinas done and why

◉ November 2016 Election – Cannabis Business Tax

- Measure L
- No campaign
- Ballot language
- Passed at 74.18%
 - Yes 27,454
 - No 9,557



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What has Salinas done and why

- ◉ List of Resources Available from Salinas
 - Ordinance for Regulating Cannabis
 - Ordinance for Business Tax
 - Related Staff Reports
 - Cannabis Business License Application Forms
 - Cannabis Business License Application Guidelines



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HdL Companies



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Industry

- ◉ 2,875 Dispensaries
- ◉ 5,200 People cultivating for dispensaries
- ◉ 10,000 – 15,000 expected (future)
- ◉ 39 cities just past a tax ballot measure
 - Do you want a MMJ
 - Do you want a recreational Marijuana
 - Do you want to tax
 - 63 tax measure
 - Only one that did not pass

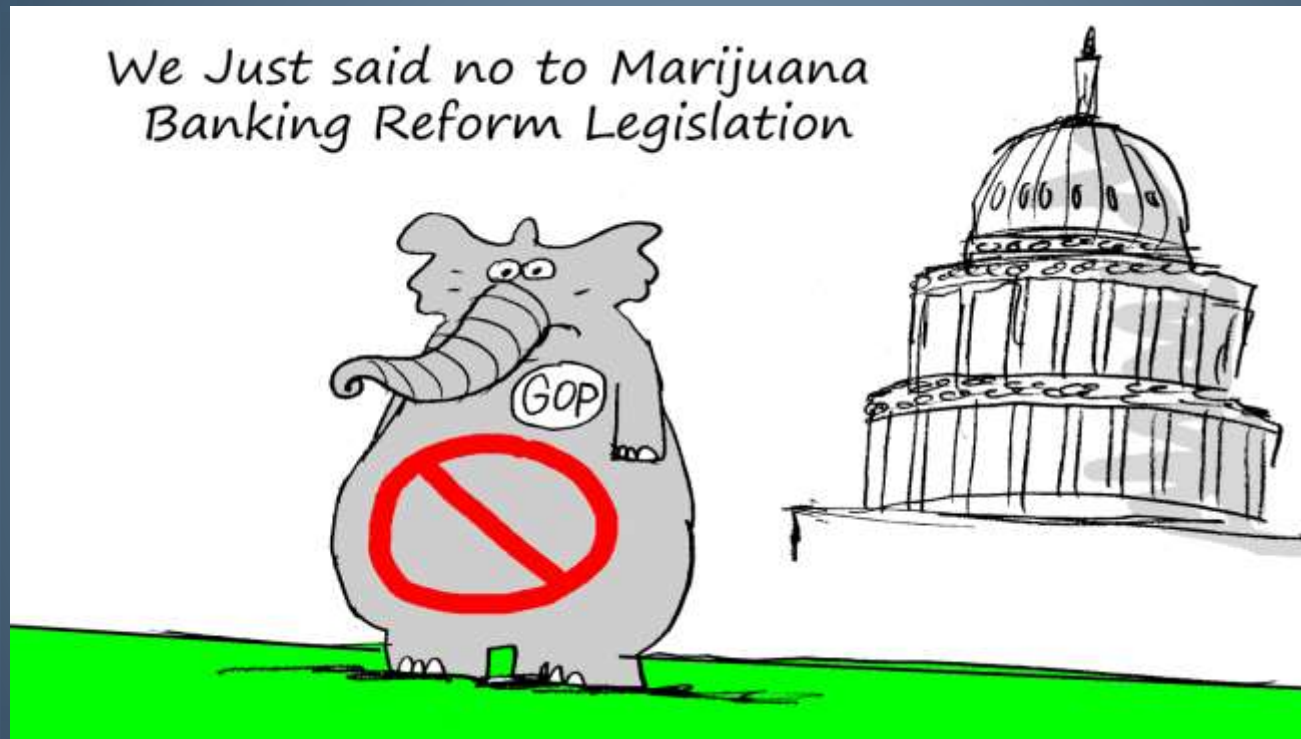


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True Roadblocks to Banking



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Its Still a Risky Business

- Banks are federally regulated and therefore, more vulnerable to facing federal charges, should they be found inadequately compliant.
- The federal Bank Secrecy Act requires banks to watch for Anti-Money Laundering (AML) law violations in customers' deposit accounts and requires them to file a Suspicious Activity Report (SAR) to FinCEN, an agency of the US Treasury, regarding a customer's suspicious or potentially suspicious activity.
- Failure to file a SAR can result in criminal and civil penalties, including incarceration for involved employees. Federal law technically says a bank is itself committing money laundering by accepting a deposit of money derived from the sale of marijuana.



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Roadblocks To Banking



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Traditional Perceived Roadblocks

- ◉ Stereotype of the Cannabis Operator
- ◉ The misconception that legalization will go away so just wait till in crashes and don't waist time trying to bank it
- ◉ Personal beliefs are influencing moving progressively to make this work for the cannabis industry
- ◉ Fears that the black market will always play a role in the industry so do not be fooled by those portraying "Good Actors"



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Other Issues to Consider

- Other customers – Oh, you do business with them
 - Cash smells like weed employees do not want to touch it
 - Black market
 - They have been arrested or have been criminals for doing this activity
 - Danger to cash and customers
 - Bringing loads of money back and forth
 - Cole Memo Compliance
 - Banking Safety Act Requirements



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Assess Your Banking Partners

- ◉ How is your current bank reacting to you allowing cannabis businesses in your community?
- ◉ How have they responded to you putting cannabis funds in their financial institution?
- ◉ Talk to your peers who do they bank with or how are they handling banking issues and what do they have to say?
- ◉ When you do a banking RFP do you ask them the question about their willingness to deposit cannabis taxes and fees?
- ◉ Look for a success story to build confidence in your bank



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Success Story-City of Oakland



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Knowing Your Cannabis Business (1 of 2)

- ◉ How is the businesses you are dealing with established today?
 - Collective/Cooperative
 - Holding Company/Ancillary Company
- ◉ Who does your cannabis business partner with as vendors?
 - Home growers today do business without a permit
 - These vendors will not be able to conduct business under MCRSA January 2018
 - Are all the commercial business they purchase or sell to permitted locally and will they be in a position to get permitted by the State



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Knowing Your Cannabis Business (2 of 2)

- ◉ Know your clients, clients
 - Even if the cannabis business which is regulated by the City is clean their vendors may be not be such good actors
- ◉ For Profit or Not For Profit - (AB 64)
- ◉ Regulator scrutiny
- ◉ Pressure for banks (bank employees personal liable for BSA violations)
- ◉ Reputation for banks



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Understanding the Rules (1 of 2)

- ◉ Understanding the Rules
 - Relationship-FinCEN (Form 8300)
 - Pertains to business or profession city is neither of these activities
 - Banking Safety Act
 - Risk-Prosecution and Fines, Consult with Legal Counsel
 - Trust-One “Bad Actor” can cause problems if not mitigated timely



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Understanding the Rules (2 of 2)

- Confidence
 - Not driven by industry
 - Good consultant that understands the issues
 - Oversight
 - Management
 - Transparency is a must
 - Compliance is a must
 - Not being late on payments
 - Law Enforcement role in the regulation or oversight process



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Collecting Taxes and Fees



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Safe Banking Collection Process

- How do you accept payment from your cannabis businesses?
- Do you allow for them to pay by cash or other means such as electronic payments or cashier checks?
- How often do you collect the tax payments?
 - Annually
 - Quarterly
 - Monthly
 - Based on total tax liability



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Safe Banking Collection Process (cont'd)

- ◉ How do they track cash
 - Internal controls
- ◉ Transparent to bank, City, but: confidentiality (bank laws)
- ◉ Reinforce
 - Willingness to work with City
- ◉ Timing when receipt – close to when armored car comes
- ◉ Who needs to know and who has a right to know
 - Not everyone needs to know; keep it quite



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Logistics of Collecting Payments

- ⦿ Random drop off times
 - Three a week
- ⦿ Keep relationship sure
 - Any concerns regarding
 - High level counterfeit machine
 - How are they accountable
 - sealed bag; include sealed in our bank; if it's short, then we need to change our process and it will cost the Company for that city service
 - Any concerns; how it is brought to you and when
 - Proper staffing to handle it
 - Backup receipt or same person



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Logistics of Collecting Payments (cont'd)

◎ Procedure

- Returns forms
- Not timely
- Incorrect or misrepresenting
- Taking advantage of loopholes
- Not following procedures
- Fee
 - Delinquency
 - Returned checks
 - Administrative procedures
 - Cash
 - Checks
 - How to handle large deposits (threshold)
 - Armored (free for multiple pickups)



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Tracking of Product and Cash



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Management Inventory Systems

- Do you requires a Point of Sale system?
- Are all your cannabis businesses using a tracking and trace software?
- What type of storage do they use to secure cash and product?
- How do they transport product and cash off-site
- Do they have security personnel present during business hours or after hours?
- What type of cash management security do they have, i.e. drop box or kiosk machines?
- What happens of there systems crashes? (MJ Freeway)



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Conducting Due Diligence

- ◉ Conduct compliance reviews for a regulatory scheme
- ◉ Conduct compliance audits on financials
- ◉ Make sure that they are properly only doing business with legitimate vendors
- ◉ Validate they are not diverting products or cash to the black market
- ◉ Create redundancy of various functions to ensure accountability



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Selecting the Right Cannabis Auditor

- ◉ Who should do your audits-professional staff who have a clear expertise and understanding of the cannabis industry
- ◉ Do not use auditors that provide services to the cannabis industry
 - City could be in violation of Bradley Burns Act (Regulation 7056)
 - May soon violate confidentiality of Excise Tax reporting requirements
 - Will create “red flags” for law enforcement
 - Will reduce cooperation to assist in criminal investigations due to the risk of leakage of confidential information



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Selecting the Right Cannabis Auditor

- Cannabis Industry can sue city for creating conflict of interest by allowing a third party firm that works for industry and government resulting from them allowing access to intellectual and proprietary information which can be shared with their competitors
- Creates distrust and willingness to cooperate with the local agency



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California Department of Business Oversight



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Questions?



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