

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Deanna J. Santana  
Jennifer A. Maguire

**SUBJECT:** MEDICAL MARIJUANA

**DATE:** May 27, 2011

Approved

Date 5/27/11

## RECOMMENDATION

(A) Approve the following amendments to the 2011-2012 Proposed Operating Budget in the General Fund:

- 1) Increase the Estimate for 2011-2012 Beginning Fund Balance by \$1,120,000;
- 2) Increase the estimate for Licenses and Permits in the amount of \$1,337,184;
- 3) Increase the revenue estimate for Business Tax by \$2,500,000;
- 4) Increase the Personal Services appropriation to the City Attorney's Office in the amount of \$578,801;
- 5) Increase the Personal Services appropriation to the Finance Department in the amount of \$476,186;
- 6) Increase the Personal Services appropriation to the City Manager's Office in the amount of \$230,850;
- 7) Increase the Non-Personal/Equipment appropriation to the City Manager's Office in the amount of \$25,000;
- 8) Increase the Personal Services appropriation to the Planning, Building, and Code Enforcement Department in the amount of \$125,931;
- 9) Increase the Personal Services appropriation to the Police Department in the amount of \$583,992;
- 10) Establish a Medical Marijuana Program Administration city-wide appropriation to the City Manager's Office in the amount of \$150,000; and
- 11) Increase the 2012-2013 Future Deficit Reserve in the amount of \$2,786,424 or distribute the funding as part of the 2011-2012 Budget process.

(B) Amend the 2011-2012 Proposed Schedule of Fees and Charges to:

- 1) Establish a Medical Marijuana Collective ("Collective") Annual Operating Fee in the amount of \$134,223 per Collective selected;
- 2) Establish a Medical Marijuana Collective Renewal Registration Fee at \$4,182;
- 3) Establish a Medical Marijuana Collective Amendment Fee at \$1,303;
- 4) Establish the Medical Marijuana Collective Application Receipt Fee in the amount of \$192 per application;
- 5) Amend the Medical Marijuana Collective Application Processing Fee from \$4,975 to \$4,182; and
- 6) Amend the Police Hourly Investigation Fee from \$167 per hour to \$126 per hour.

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(C) Approve the following position additions to the 2011-2012 Proposed Operating Budget:

- 1) 1.0 Senior Deputy City Attorney (limit dated to June 30, 2012), 1.0 Legal Analyst (limit dated to June 30, 2012), 0.50 Deputy City Attorney (limit dated to June 30, 2012), and 0.50 Legal Administrative Assistant (limit dated to June 30, 2012) to the City Attorney's Office.
- 2) 3.0 Accountant I/II's (2.0 limit dated to June 30, 2012) and 1.0 Investigator Collector I (limit dated to June 30, 2012) to the Finance Department;
- 3) 1.0 Assistant to the City Manager and 0.5 Administrative Assistant to the City Manager's Office;
- 4) 1.0 Code Enforcement Inspector II (limit dated to June 30, 2012) in the Planning, Building and Code Enforcement Department; and
- 5) 1.0 Police Sergeant and 2.0 Police Officers to the Police Department.

(D) Adopt a resolution to amend the Administrative Citation Schedule of Fines to establish fines for various violations related to Title 6, Business Licenses and Regulations, Chapter 6.88 (Medical Marijuana Collectives) and repeal Resolution No. 75689.

**BACKGROUND**

On April 19, 2011, as part of various actions related to the regulation of Medical Marijuana, the City Council directed staff to issue a Manager's Budget Addendum ("MBA") to establish the appropriate 2011-2012 budget actions required to implement and sustain the amendments to Title 6 (Medical Marijuana Regulations) and Title 20 (Land Use/Zoning Regulations), related to Medical Marijuana such as: (1) Staffing Plan, (2) Amendments to the Schedule of Fees and Charges, and (3) Amendments to the Schedule of Fines. This MBA brings forward staff's recommendations to: support the collection and implementation of City Council action related to the Marijuana Business Tax; administer the Application Process for Medical Marijuana establishments to register with the City; and, sustain the Medical Marijuana Regulatory Program reflected in the amendments to Title 6 and Title 20 of the San José Municipal Code.

As stated at the April 12 and 19 City Council meetings, the number and costs of positions for the staffing plan required updating, since last December, to remain consistent with the assumptions used in the 2011-2012 Proposed Operating Budget including but not limited to: total compensation concessions as directed in the Mayor's March Budget Message; increased retirement cost as a result of the retirement floor; revised indirect overhead cost rate(s), and an assessment of anticipated workload associated with administering and reporting the Medical Marijuana Regulatory Program. Consistent with the City Council approved direction, this reflects a full cost recovery Medical Marijuana Regulatory Program including all of the resources required to successfully implement and sustain the program during a time of significant resource reductions and layoffs.

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**ANALYSIS**

This section provides information on the fees and resources required to implement the City Council's direction related to the regulation of Medical Marijuana and specifically includes discussion on: Marijuana Business Tax ("MBT"); Medical Marijuana Annual Operating Fee and Ongoing Regulatory Fees; Medical Marijuana Fees Related to Selection Process; and, Schedule of Fines.

**Marijuana Business Tax**

Implemented on March 1, 2011, the City's MBT places a 7% tax on the gross receipts on all marijuana businesses operating in San José. This tax is collected monthly by the Finance Department. As of May 10, 2011, the City has received approximately \$290,000, from 73 marijuana businesses, for the first month of tax remittance. Based on the limited collection data, it is estimated that approximately \$1.12 million will be collected in the last four months of 2010-2011. This MBA recommends that the estimated revenue anticipated in 2010-2011 be recognized and allocated to the 2012-2013 Future Deficit Reserve or made available for use during the 2011-2012 budget process.

Future revenue estimates from the MBT will be impacted by the City Council's approval of land use regulations determining where Medical Marijuana establishment can be legally located within the City, implementation of the Medical Marijuana Regulatory Program which caps the number of Medical Marijuana establishments that can legally operate in the City at 10, and other enforcement action directed by the City Council. Based on these factors, the total 2011-2012 revenue estimated to be collected is recommended at \$2,500,000. Roughly \$1.2 million of these funds are recommended to be used in 2011-2012 to maintain oversight of the closure of those Medical Marijuana establishments that are not registered with the City as required by the Medical Marijuana Regulatory Program, including the collection of MBT owed from these facilities. It is estimated that there are currently over 100 Medical Marijuana establishments in the City; staff believes that approximately only 75% of those establishments are remitting the MBT to the City.

The City Council has issued several directives related to the closure of non-registered medical Marijuana establishments. For example, in December 2010, the City Council directed staff to obtain financial audits from these establishments and ensure proper auditing and compliance so that the revenue due to the City is collected, noting that these efforts would facilitate the closure of non-compliant establishments. Additionally, in April 2011, the City Council issued the following directive: "Police and Code Enforcement directed to shut down all remaining [collectives] who have not filed an application upon the submittal period's deadline" (motion by Vice Mayor Nguyen).

The City Council has repeatedly inquired about staff's ability to enforce direction related to closing the existing Medical Marijuana establishments, or enforcing Council's previously adopted land-use guidelines, and the Administration agrees that there are not sufficient resources in place to support these enforcement efforts. With the implementation of the Medical Marijuana Regulatory Program, there will be a greater need for enforcement and legal defense resources that

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the City will not have in place during 2011-2012. The Administration has determined that the significant workload associated with implementing the above Council direction and said program requires additional resources in the City Attorney's Office and the Departments of Police, Finance, and Planning, Building, and Code Enforcement. Given the significant budget reductions proposed for 2011-2012, no resources remain in departments to absorb these additional duties. There are currently no additional resources budgeted to support the above Council direction, or other enforcement or litigation needs to address the closure of non-registered Medical Marijuana establishments. This situation will severely impact the overall success of the Medical Marijuana Regulatory Program.

Therefore, it is recommended that the following additional resources for one year at a cost of \$1.2 million:

- **Legal Defense/Code Enforcement Litigation** – 1.0 Senior Deputy City Attorney, 0.5 Deputy City Attorney, 1.0 Legal Analyst, 0.5 Legal Administrative Assistant; to close down establishments that are not registered under the Medical Marijuana Regulatory Program, as well as litigation required to defend the proposed program against anticipated legal challenges;
- **Fiscal Audits/Compliance** – 3.0 positions in the Finance Department (1.0 Accountant II, 1.0 Accountant I, 1.0 Investigator Collector) to monitor tax remittances, identify non-remitters, assess penalties and interest, conduct site visits, and generate management reports (statistics) regarding the MBT;
- **Code Enforcement** – 1.0 Code Enforcement Inspector II staff to conduct code enforcement activities for non-registered establishments; and
- **City-Wide Funding (law enforcement, regional coordination, unanticipated need/costs)** – \$150,000 in city-wide funding to support 1,000 Police overtime hours for enforcement and/or investigation work; regional coordination with other public agencies; state coordination with the Attorney General's Office and/or Department of Justice; supplies, training, public noticing, media purchases, community and stakeholder outreach; and unanticipated/unbudgeted costs associated with the unknown outcomes of beginning the process of closing down non-registered Medical Marijuana establishments and implementing the Medical Marijuana Regulatory Program.

Historical revenue data trend information is currently unavailable and, therefore, the MBT will be monitored closely and should adjustments be necessary, staff will recommend adjustments in the 2011-2012 Mid-Year Budget Review to more accurately reflect the revenue estimate, monthly tax remittance information, and additional information to support the efforts regarding staffing levels to support these directives.

**Medical Marijuana Annual Operating Fee & Ongoing Regulatory Fees**

There are three fees related to the ongoing, cost-recovery approach required to sustain the Medical Marijuana Regulatory Program, which are the:

- (1) Annual Operating Fee;

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- (2) Annual Renewal Registration Fee; and
- (3) Registration Amendment Fee.

**Annual Operating Fee** – As stated in December 2010 and April 2011, the Administration requested the opportunity to update the staffing plan that was originally provided to the City Council in June 2010 for 2010-2011. A multi-department staffing plan is recommended that reflects the professional responsibilities and expertise to implement and sustain the Medical Marijuana Regulatory Program. The revised staffing plan and costs are reflective of the full scope of the City Council’s policy direction and total cost and associated overhead for each position in addition to \$25,000 in general non-personal/equipment funding. In order to ensure that the staffing plan is adequately funded for 2011-2012, staff will be requiring that all Medical Marijuana establishments seeks to register with the City submit the total Annual Operating Fee as a condition to finalizing their registration.

Table 1 represents proposed resources totaling \$1.4 million for 12 months based on the April 19, 2011 direction and proposed amendments to Title 6 and Title 20 of the Code. Given the recent delays in the implementation timeline (see Implementation Section for further detail), the first year of the Annual Operating Fee will be prorated based on an 11-month average cost for staff resources and, thus, will be slightly decreased for one year (2011-2012). The revised amount for 2011-2012 is recommended at \$134,223 per Medical Marijuana establishment, assuming that the maximum number of establishments allowed to register with the City remains capped at ten (10).

**Table 1: Medical Marijuana Cost Recovery Staffing Plan**

<b>Staff Classification</b>	<b>Level (FTEs)</b>	<b>Cost</b>
<b><u>Citywide Policy Coordination, Implementation, and Sustainment</u></b>		
Assistant to the City Manager	1.0	\$180,527
Administrative Assistant	0.5	\$50,323
Deputy City Manager (portion of existing position)	0.2	\$58,614
<b><u>Law Enforcement and Investigation</u></b>		
Police Officer	2.0	\$405,040
Police Sergeant	1.0	\$232,041
<b><u>Financial</u></b>		
Accountant II	1.0	\$111,542
<b><u>Legal</u></b>		
Deputy City Attorney	0.2	\$42,778
<b>Non-Personal/Equipment</b>		\$25,000
<i>Sub-Total</i>		<i>\$1,105,865</i>
Indirect Overhead Costs		\$307,348
<b>Total Cost</b>		<b>\$1,413,213</b>
<b>Total Annual Operating Fee Per Collective (10 total)</b>		<b>\$141,321</b>
<b>2011-2012 Cost (Prorated based on 11-month average staff costs)</b>		<b>\$134,223</b>

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The City Manager's Office will assume oversight responsibility for implementing the Medical Marijuana Regulatory Program, which requires coordination of multiple departments. Attachment A provides greater detail of the staff responsibilities. The above table reflects only a portion of the staff that has worked on Medical Marijuana policy development over the past eighteen months. The complex nature of this policy has required significant resources, and proper implementation of the Medical Marijuana Regulatory Program will require the above staffing plan. It should be noted that there are several unknown issues that may further impact the proposed staffing plan, such as: (1) non-compliance with the program; (2) changes in the patient population, or (3) activity taken by surrounding cities that result in impacts to San José operations. These issues will be closely monitored and reported to the City Council.

***Annual Renewal Registration Fee*** – An Annual Renewal Registration Fee, recommended at \$4,182 per collective, is required to sustain Section 6.88370 (Renewal of Registration) of the new Chapter 6.88, added to Title 6 of the Code and to cover the cost of the City renewing each establishment's registration on an annual basis. Annual Renewal of a Registration will require staff time to properly review, coordinate, and/or investigate any changes related to registration, which will at the very least require the thirty (30) hours of staff time needed to review an application and confer with other City departments.

***Registration Amendment Fee*** – A Registration Amendment Fee, recommended at \$1,303, is also required to sustain Section 6.88.360 (Change in Location and Updated Registration Forms) of the new Chapter 6.88, added to Title 6 of the Code and to cover the cost of the City reviewing any information submitted by an establishment to memorialize any changes in the establishment's operations. Amendments will require staff time to properly review, coordinate, and/or investigate any changes related to registration. Given that the nature of the amendment may vary, and is not known at the time that the City receives the amendment, City staff has established that a minimum of ten (10) hours of City Manager's Office staff time is needed to evaluate and make determinations about the requested amendment. Should any amendment require Police Department investigation, the Hourly Investigation Fee set at \$126 would be applied based on actual hours required.

***Medical Marijuana Fees Related to Selection Process***

Based on the City Council's direction to establish a "Time Stamped" selection methodology where applications are reviewed based on a first-come, first-served approach, staff has determined that there are three fees required to implement this approach:

- (1) Application Submission Fee;
- (2) Application Processing Fee; and,
- (3) Hourly Investigation Fee.

***Application Submission Fee*** – The Council directed "time stamped" methodology sets a premium on being first or early to submit an application. With this approach, more resources are needed to support a "date and time" scenario when applications will be received at a certain location. Given the high level of interest already received from potential applicants or operating

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establishments, this approach will no doubt draw crowds and media attention. Additional resources will be needed to maintain order, safety, and fairness on the day that applications are received and “time stamped” by the City Clerk.

The Application Submission Fee is recommended to be \$192 per application to reflect the larger role of the Office of the City Clerk and City Manager’s Office staff on the day that applications are received and is estimated to conservatively generate \$3,000 in cost recovery assuming the submittal of 15 applications. This fee assumes that 15 minutes per application is needed to allow two staff members to concurrently fulfill their respective administrative/processing tasks. Staff anticipates two “submittal desks” staffed by two staff members each the day that the applications are received. The administrative tasks associated with the Application Submission Fee and administrative process is generally:

- Time to make contact with each applicant to ensure the necessary contact information has been placed on the application;
- Verify attendance at a mandatory conference, if included as part of the application process to be determined at a later date;
- City Clerk official time-stamp of application; and,
- Issuance of a receipt to the applicant noting the “time stamped” and recordation of the order of each establishment in line waiting to submit an application to register in an official log (“priority list”) of all the applications received.

This effort will be accompanied by Police Department resources (equivalent in composition to one Metro Team) for the day that applications are received. The City cannot recover the costs associated with the law enforcement needed for the “time stamped” approach because the City can only set fees associated with the staff time expended to support the transactions related to the application submittal process. The anticipated crowd control scenario is not a part of the application submittal process but rather an outcome of the selection process methodology.

***Application Processing Fee*** – On April 19, 2011, the City Council approved an Application Processing Fee of \$4,975 which would be collected from the ten Medical Marijuana establishments that are selected as approved by the City Council to be able to operate in San José. The Application Processing Fee is recommended to be modified from \$4,975 to \$4,182 – reducing anticipated cost recovery previously assumed in the 2011-2012 Proposed Operating Budget by \$7,926.

It should be noted that this revised figure maintains the 30 staff hours originally proposed to review an application. The proposed reduction reflects revised costs for employee total compensation (salary, fringe, and retirement) and indirect overhead cost rates, consistent with the assumptions used in the 2011-2012 Proposed Operating Budget. As stated in April, all applicants will be required to submit an Application Processing Fee, but to clarify, only those applications that are actually reviewed will be assessed the Application Processing Fee. Fee payments submitted with an application that is not reviewed will be returned to the applicant.

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**Hourly Investigation Fee** – The City Council approved a Police Department Hourly Investigation Fee of \$167 (which also includes amendments to existing registration) \$126. The proposed reduction reflects revised costs for employee total compensation (salary, fringe, and retirement) and indirect overhead cost rates, consistent with the assumptions used in the 2011-2012 Proposed Operating Budget.

**Schedule of Fines**

Staff has proposed a Schedule of Fines pertaining to violations of the Medical Marijuana Regulatory Program, specifically, the new Chapter 6.88 found in Title 6 of the Code. No revenue is forecasted because staff cannot anticipate the number of violations and associated fines at this time. This will be monitored and reported to the City Council as part of the regular reports related to implementation and sustainment. A Resolution setting forth the proposed fines for violating various sections of the Medical Marijuana Regulatory Program will be posted separately by the City Attorney’s Office.

**TIMELINE FOR IMPLEMENTATION**

Below is a preliminary timeline for program implementation that has been updated since the May 13, 2011 Information Memo. The Planning Commission hearing on Title 20 has been postponed from June 8 to June 22 as a result of the time required by staff to complete the CEQA analysis and provide the required 21-day public notice for review. The 21-day public notice period began on May 18, CEQA study and designation was completed between April 20 and May 18. Staff had pursued a Special June 15 Planning Commission meeting to consider these ordinances, but a quorum could not be achieved. As such, the first reading of Title 6 and Title 20 will now occur in August 2011. Staff may be able to make applications available as early as late August/early September while holding a goal of selecting Medical Marijuana establishments by October/November. Given this delay, staff has adjusted the Annual Operating Fee for an 11-month period because efforts to implement and sustain the Medical Marijuana Regulatory Program will now begin in August. Table 2 below provides greater detail of the schedule and key milestones over the next weeks.

**Table 2: Preliminary Implementation Schedule**

<b>Date</b>	<b>Milestone/ Deliverable</b>
<b>June 14</b>	City Council Approves/Amends Mayor’s June 2011 Budget Message/2011-2012 Budget
<b>June 22</b>	Planning Commission hearing on Title 20, Land Use/Zoning Regulations
<b>August 2</b>	First reading of Title 6—Regulations First Reading of Title 20—Land Use/Zoning
<b>August 9</b>	Second Reading of Title 6 and Title 20
<b>August/September</b>	Application Process Implemented
<b>September 9</b>	Title 6 and Title 20 Effective Date
<b>October/November</b>	GOAL: Select 10 Establishments and Process Registration with the City



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**COORDINATION**

This MBA was coordinated with the City Attorney's Office, City Clerk's Office and Departments Police, Finance, and Planning, Building and Code Enforcement.

**COST IMPLICATIONS**

In 2011-2012, a total of \$4.9 million is estimated to be generated from the Medical Marijuana Regulatory Program; \$3.6 million from the MBT and \$1.3 million through fees. As noted in this memorandum, no revenue is forecasted for the Hourly Investigation Fee, Registration Amendment Fee, Annual Renewal Registration Fee, or the Schedule of Fines pertaining to violations of the program because these fees can only be cost recovery and are calculated to cover only the actual cost to the City of running the program.

These revenues are recommended to be offset by approximately \$2.2 million for the addition of necessary resources including 12.7 positions (7.0 positions are one-year limit dated positions) to administer this program and ensure compliance. Remaining revenues of \$2.8 million are recommended to be allocated to the 2012-2013 Future Deficit Reserve or would be available for allocation during the 2011-2012 budget process if the City Council chooses. On an ongoing basis, total revenues of \$4.0 million are anticipated, partially offset by \$1.0 million in related expenditures, resulting in net General Fund revenues of \$2.9 million to be allocated on an ongoing basis.

Through the Annual Operating Fee, funding for the equivalent of 5.9 positions will be paid by the 10 registered Medical Marijuana establishments on an annual basis. The recommended fee ensures full cost recovery for the Medical Marijuana Regulatory Program, and will be reviewed annually and amended each year as part of the budget process. It should be noted that 0.20 Deputy City Attorney is included in this calculation and the remaining portion of this position is funded with the MBT. Due to the fractional portion of a position, this position is recommended to be limit dated consistent with the Business Tax Support. Funding resources equivalent to 0.20 Deputy City Attorney remain in the Annual Operating Fee for the City Attorney's Office ongoing though no position is identified on an ongoing basis. As part of the 2012-2013 budget process and ongoing solution for necessary resources will need to be reviewed and a solution brought forward.

Additionally, the MBT recommended resources for one year, at a cost of \$1.2 million and the addition of 6.8 positions, provides a comprehensive approach to implement the City Council's direction and ensures resources for enforcement and defense/litigation in 2011-2012 with the addition of limit dated positions.

Table 3 summarizes the estimated revenues and recommended expenditures related to the Medical Marijuana Program.

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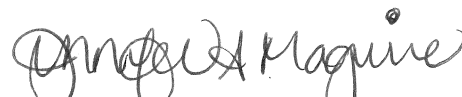
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**Table 3: Medical Marijuana Program Cost Overview**

<b>Medical Marijuana Program</b>	<b>2011-2012</b>		<b>Ongoing</b>	
	<b>FTE</b>	<b>Funding</b>	<b>FTE</b>	<b>Funding</b>
<b><i>Program Revenues</i></b>				
Business Tax Revenue				
2010-2011 Marijuana Business Tax (Beginning Fund Balance)		1,120,000		0
2011-2012 Marijuana Business Tax		2,500,000		2,500,000
<i>Subtotal Business Tax</i>	<i>0.00</i>	<i>3,620,000</i>	<i>0.00</i>	<i>2,500,000</i>
Marijuana Licenses and Fees				
Application Submission Fee		2,880		0
Application Processing Fee		(7,926)		0
Hourly Investigation Fee		0		0
Registration Amendment Fee		0		0
Annual Renewal Registration Fee		0		41,824
Annual Operating Fee		1,342,230		1,413,213
<i>Subtotal Licenses and Fees</i>	<i>0.00</i>	<i>1,337,184</i>	<i>0.00</i>	<i>1,455,037</i>
<b>Total Revenues</b>	<b>0.00</b>	<b>4,957,184</b>	<b>0.00</b>	<b>3,955,037</b>
<b><i>New Expenditures</i></b>				
Business Tax Support				
Finance Department	3.00	358,595	0.00	0
Planning, Building, Code Enforcement	1.00	125,931	0.00	0
City Attorney's Office	2.80	539,588	0.00	0
City-Wide Program Administration	0.00	150,000	0.00	0
<i>Subtotal Business Tax</i>	<i>6.80</i>	<i>1,174,114</i>	<i>0.00</i>	<i>0.00</i>
Marijuana Licenses and Fees				
Annual Operating Fee	5.90	996,646	5.70	1,047,251
<i>Subtotal Licenses and Fees</i>	<i>5.90</i>	<i>996,646</i>	<i>5.70</i>	<i>1,047,251</i>
2011-2012 Future Deficit Reserve or distribute as part of the 2011-2012 budget process	0.00	2,786,424	0.00	2,907,786
<b>Total Expenditures</b>	<b>12.70</b>	<b>4,957,184</b>	<b>5.70</b>	<b>3,955,037</b>

  
 DEANNA J. SANTANA  
 Deputy City Manager

  
 JENNIFER A. MAGUIRE  
 Budget Director

*For more information, please contact Deanna J. Santana, Deputy City Manager,  
 at 408-535-8280.*

# ATTACHMENT A

## Medical Marijuana Program Implementation

Below is discussion of key areas of responsibility for each of the proposed functions:

**Policy/Evaluation Review:** At the Police Department's suggestion, the City Manager's Office will now oversee implementation of the Medical Marijuana Regulatory Program. The change from Chief of Police review to City Manager review was initiated to acknowledge that it was more appropriate for the City Manager's Office to be responsible for overall coordination and oversight with the variety of City departments required to confirm compliance with the Code. The City Manager's Office will maintain oversight of city-wide policy implementation and monitor the total program.

The success of these regulations require coordination of multiple departments and close tracking of policy issues over the first years of implementation. Specifically, the program requires that 1.0 Assistant to the City Manager be allocated in the City Manager's Office. An Assistant to the City Manager position in the City Manager's Office is a high-level position in the City Manager's Office that is typically assigned with overseeing complex City functions and programs that need the City Manager's Office direct support and oversight. The Assistant to the City Manager position would serve a key managerial function in convening the internal working group and tracking the policy issues over the first year associated with implementation or support of the ordinances and will be developing policy reports to the City Council. This position will also serve as a City point of contact to the 10 Collectives. In addition, this position would coordinate the public outreach processes, including maintaining community engagement, receiving community complaints, and addressing non-law enforcement components of the Regulatory Program to ensure that non-sworn staff is appropriately supporting law enforcement duties. Since the Annual Operating Fee requires that the funding be disbursed to multiple departments, the Assistant to the City Manager would be responsible for the fiscal management of this city-wide appropriation and ensuring that revenue and costs are assigned appropriately.

Included in this multi-departmental coordination effort is the requirement of a 0.5 Administrative Assistant position to support with the day-to-day administrative functions associated coordinating these complex, multi-department ordinances. This includes maintaining and updating content on the City's Medical Marijuana Website, information sharing and inter-departmental coordination, facilitating response to stakeholder inquiries through multiple communication outlets, compiling and preparing data for reports, and community coordination. This position will also require attendance at all meetings with staff and/or stakeholders, and will require the development of agendas, follow-up notes/direction for staff. Generally, the Administrative Assistant position will also follow-up and inform the Assistant to the City Manager or Deputy City Manager of any special concerns requiring his/her attention. The proposal also covers 20% of the total cost an existing Deputy City Manager, which reflects the amount of time that will be dedicated to support hiring, training, and overall strategic administration and guidance to successfully implement these ordinances. This Deputy City Manager will have executive oversight of the implementation of the ordinances, and will ensure alignment with the overall Citywide policy strategy. As such, this position will also serve as a direct liaison to answer inquires from the Mayor and City Council. Each year, staff will reevaluate the program's stability and make a determination on whether to

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continue City Manager's Office staffing or to accordingly distribute the duties at the department level. Given that the proposed staffing levels in the 2011-2012 Operating Budget, remaining resources are unable to absorb the above tasks assigned to the Assistant to the City Manager or 0.5 Administrative Assistant.

**Law Enforcement & Investigation:** Two Police Officers would be responsible for performing the day-to-day regulation of the Collectives, including conducting investigations, issuing citations, regulating and taking action against Collectives if they are not in compliance with the adopted ordinance. Because of the nature of the work and the potential problems that may arise, it is staff's professional opinion that the daily enforcement and inspections of Collectives should be performed by two Police Officers.

A Sergeant would be responsible for the overall management and coordination of the law enforcement and investigative work performed by the Police Department, along with supervising the two Police Officers. Additionally, given staff resources, the Sergeant would provide back-up support when officers are not available due to training, court obligations, vacation or other authorized absences. The Sergeant would also be charged with developing, implementing and administering internal policies and procedures and training staff on such procedures and would be responsible for coordinating department-wide notifications/communications of this Regulatory Program through the appropriate internal structure. The Sergeant would serve as a liaison between the District Attorney's Office and law enforcement agencies.

Given the extent of the work required to regulate the collectives, the Department is unable to absorb these additional law enforcement tasks and requires the addition of 3.0 sworn positions as detailed above.

**Financial and Compliance Review:** The 1.0 Accountant II position, would review the financial records of all collectives and coordinate with the Police Department on financial investigations of the Collectives to ensure fiscal compliance with the ordinance. In addition, this position will help to identify non-remitters, assess penalties and interest, conduct site visits of Collectives to ensure compliance with the MBT ordinance and validate the gross receipts reported to the City. This position would be assigned to the Finance Department, who are unable to absorb the required resources to support the implementation of financial requirements noted in Title 6.

**Legal:** For the annual operations of the 10 collectives, 0.2 Deputy City Attorney would work to provide legal advice and support in interpreting the regulatory ordinances and train staff on the implementation of the ordinances. Given that the 2011-2012 Operating Budget recommended reductions in legal support, the City Attorney's Office can not absorb this work and these resources would be funded through the Annual Operating fee.

