

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Planning Session Worksheet

Presentation Date: May 23, 2018 **Approx Start Time:** 9:30 AM **Approx Length:** 2 hours

Presentation Title: Clackamas County: Marijuana Services Summary /
Program Development Proposal

Department(s): Transportation and Development (DTD); Health, Housing and Human Services (H3S); Sheriff's Office (CCSO), District Attorney (DA), County Counsel (CC)

Presenters: DTD – Dan Johnson, H3S – Richard Swift, CCSO – James Rhodes; DA – Chris Owen; CC – Stephen Madkour

Other Invitees: CC – Stephen Madkour and Nathan Boderman, H3S - Rod Cook, DTD - Mike McCallister and Scott Caufield

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

No action is requested from the Board at this time. The intent of this session is to update the Board on the role and responsibilities of each county program impacted by the legalization of recreational marijuana, the challenges faced and suggestions for how to respond. This background will provide the foundation for a discussion about the allocation of marijuana tax revenue expected to be received by the county.

EXECUTIVE SUMMARY:

Oregon's legalization of the retail production and sale of marijuana has created challenges for local government surrounding regulation and enforcement, community and neighborhood acceptance, and increased exposure and ease of access to juvenile youth. Approved by voters in 2014, Oregon Ballot Measure 91 authorizes and regulates the use of recreational marijuana. The personal use allowances portion of this act became effective July 1, 2015. The remainder of the Act – to allow commercial production, processing, wholesaling and retailing – became effective in January 2016 following rule-making by the Oregon Liquor Control Commission (OLCC).

Regulation challenges

The regulation of the new recreational marijuana industry is left largely to the OLCC and the local government to regulate and enforce. Medical marijuana is regulated by the Oregon Health Authority (OHA) and the production of hemp is regulated by the Oregon Department of Agriculture (ODA). This separated regulatory structure can cause challenges due to the dynamic nature of the industry, ongoing amendments to state law and through the implementation of administrative rules.

Tax implementation

Following the legalization of recreational marijuana is the implementation of state and local taxes on the industry. In 2016 Clackamas County implemented its own 3% sales tax with funds committed to code enforcement, law enforcement, addiction treatment, and related public health efforts and safety needs.

In addition to the local tax revenue, the county receives a portion of the 17% state sales tax. Thought there were initial limitations on the use of those funds, amended statute removed any limitations to the use of these funds.

The collective revenues for FY 2018-19 are estimated at \$1.08m (\$504,000 – County/ \$580,000 – State). Currently there is a policy level proposal moving forward through the budget process to facilitate dispersal of available funding. To inform this discussion on revenue allocation, our departments have collaborated to develop a more comprehensive suite of services to meet the needs of our community.

Attachment A (Marijuana Tax Revenue: Draft Distribution Proposal) outlines costs for a proposed expansion to our scope of services including a strategy phased approach to implementation and an estimate for ongoing costs in future fiscal years.

Roles and responsibilities

Over the last four years Clackamas County has worked to develop policies and practices in this changing dialogue around marijuana to responsibly facilitate this emerging market while meeting the needs and concerns our local community. Clackamas County has a wide range of roles related to marijuana ranging from permitting to prosecution. The county's marijuana related services fall into the following departments:

- Transportation and Development (DTD): Permitting, Code Enforcement, and Prevention;
- Health, Housing and Human Services (H3S): Prevention;
- Sheriff's Office (SO): Law Enforcement; and
- District Attorney's Office (DA): Prosecution.

Attachment B (Clackamas County: Marijuana Services Summary) provides a general outline of those departments, a summary of the current issues they are dealing with, and proposals for moving forward.

Attachment C (State of Oregon: Marijuana Services Summary (Licensing Only)) provides a summary of roles and responsibilities for the OLCC, OHA and ODA.

Agency representatives are hopeful this planning session will provide a forum to discuss the various challenges they face, concerns they hear from the public, and to answer any questions the Board may have in this changing environment around the legalization of marijuana.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? \$1 million (approximate estimated annual tax revenue)

What is the funding source? State and county marijuana sales taxes

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department's Strategic Business Plan goals?

This is a multi-department, multi-agency issue that aligns with our commitment to code enforcement, law enforcement, addiction treatment, and related public health efforts and safety needs.

- How does this item align with the County's Performance Clackamas goals?

This item aligns with the county's Performance Clackamas goal to *grow a vibrant economy* because the marijuana industry has the potential to create family wage jobs.

This item also aligns with the county's goal to *ensure safe, healthy and secure communities* by regulating an industry that may have negative effects on public health and safety.

- This item aligns with the county's goal to *build public trust through good government* through coordination of all county departments and services impacted by the marijuana industry and business.

LEGAL/POLICY REQUIREMENTS:

These are enumerated above.

PUBLIC/GOVERNMENTAL PARTICIPATION:

There has been extensive outreach in the past with the general public, people in the marijuana business, the business community in general and other jurisdictions.

OPTIONS:

While this is an information item, we would appreciate hearing comments from the BCC on next steps related to further actions about marijuana-related regulations and enforcement, and planning the best, most effective use of marijuana tax revenue.

RECOMMENDATION:

N/A - information item only.

ATTACHMENTS:

- Attachment A – Marijuana Tax Revenue: Draft Distribution Proposal
- Attachment B – Clackamas County: Marijuana Services Summary
- Attachment C – State of Oregon: Marijuana Services Summary (Licensing ONLY)

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval _____

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Dan Johnson at 503-742-4325.

Clackamas County
Marijuana Tax Revenue: Draft Distribution Proposal

May 23, 2018

Department Program Name	Source		Estimated Program Cost				
	S	L	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
Transportation & Development (DTD)							
Land Use (0.5 FTE)		x	\$ 64,836	\$ 66,781	\$ 68,785	\$ 70,848	\$ 72,974 *
Traffic Safety		x	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000
Code Enforcement (1 FTE)	x	x	\$ 184,054	\$ 132,998	\$ 136,988	\$ 141,097	\$ 145,330 *
Clackamas County Sheriff's Office (CCSO)							
Neighborhood Response Team (NRT) (1 FTE)	x	x	\$ 236,695	\$ 169,089	\$ 174,161	\$ 179,386	\$ 184,768 *
NRT - Year Two (1 FTE)				\$ 236,695	\$ 169,089	\$ 174,386	\$ 179,380
Health, Housing & Human Services (H3S)							
CYF - Drug Coalition Prevention Strategies	x	x	\$ 300,000	\$ 300,000	\$ 309,000	\$ 318,270	\$ 327,818
Prevention Coordinator (1 FTE)	x	x	\$ 127,000	\$ 130,810	\$ 134,734	\$ 138,776	\$ 142,939 *
District Attorney							
LEAD (w/ CCSO)	x	x	\$ -	\$ 169,950	\$ 175,049	\$ 180,300	\$ 185,709 *
Contingency							
			\$ 165,000				
Estimated Annual Expenses			\$ 1,102,585	\$ 1,231,323	\$ 1,192,805	\$ 1,228,064	\$ 1,263,918

Sources: S = State Taxes, L = Local Taxes

Beginning Program Balance	\$ -	\$ 779,827	\$ 660,248	\$ 606,981	\$ 546,943
State Collections (01/01/2016 - 06/30/2017)	\$ 797,783	\$ -	\$ -	\$ -	\$ -
Estimated State Collections, Annual	\$ 580,159	\$ 594,663	\$ 609,529	\$ 624,768	\$ 640,387 **
Estimated Local Collections, Annual	\$ 504,470	\$ 517,081	\$ 530,008	\$ 543,259	\$ 556,840 **
Ending Program Balance	\$ 779,827	\$ 660,248	\$ 606,981	\$ 546,943	\$ 480,252

* Includes FTE costs; ongoing program cost has been increased by 3% each year to reflect personal service costs.

** Revenues have been increased by 2.45% each year to reflect CPI.

Clackamas County: Marijuana Services Summary

May 23, 2018

Department of Transportation and Development – Land Use

The Current Situation: Because the County has not “opted out”, state law requires that all categories of marijuana land use (production, processing, wholesaling and retailing) be allowed somewhere in the County, and production must be allowed in the Exclusive Farm Use (EFU) zone. In addition, we are permitted to adopt “reasonable” regulations for most marijuana-related land uses.

In response, the Board adopted ordinances identifying time, place and manner provisions regulating the marijuana industry to reduce impacts to established neighborhoods and implement the will of the citizens of Oregon.

- In December 2015, the Board adopted new Zoning and Development Ordinance (ZDO) regulations for marijuana-related land uses, including production, processing, wholesaling and retailing.
- , For recreational marijuana retailing and all categories of recreational marijuana land use, these regulations took effect on January 4, 2016
- For medical marijuana production and processing, these regulations took effect on March 1, 2016,
- Subsequently, two additional changes were adopted by the Board to address standards for “processing” facilities: fencing requirements and other clarifying amendments.

To date, the county has received approximately 311 applications for marijuana-related land uses:

- 229 for production/growing,
- 65 for location approvals (growing, processing in industrial zoning districts),
- 11 retail and
- 6 for processing.

We have not encountered any significant issues with administering the current regulations.

Amendments to state statutes and administrative rules dealing with marijuana land uses (recreational and medical) and hemp have been occurring regularly since we adopted our regulations. The current standards essentially represent a compromise between the concerns of marijuana advocates and opponents, and staff believes this compromise is reasonable given the diversity of opinion.

Any new code amendments the Board would want to initiate in response to new laws or other policy objectives will require various types of public notice (e.g., newspaper, Oregon Department of Land Conservation and Development, community planning organizations and

cities within the county). Individually-mailed notices to property owners are required if for any proposal that includes the restriction or prohibition of the use of land. The degree to which property owner notice is required depends upon the scope of the proposal. Public hearings are required before the Planning Commission and Board of County Commissioners. The process of crafting and adopting the current regulations was complex and controversial, requiring a significant commitment of staff resources and several large public hearings. Public opinion on the issues was passionate on both sides. Staff anticipates any future amendments to marijuana land uses will continue to be controversial and require significant staff resources. Funding from marijuana tax revenue, in lieu of general fund dollars, should be considered for any future marijuana land use amendments to the Comprehensive Plan and ZDO.

Industrial hemp differs from marijuana in that it does not produce psychotropic effects due to the absence or greatly reduced levels of THC, the psychoactive compound contained within the marijuana plant. As such, industrial hemp is considered an agricultural product and is regulated by the Oregon Department of Agriculture (ODA). Oregon's Right to Farm Law prohibits counties from regulating hemp. ODA requires hemp growers to obtain a handlers / registration permit.

Our Proposal: To assist with the processing of code amendments; responding to inquiries from the public, board, and partnering agencies, and to provide assistance to code enforcement; the funding requested for Land Use Planning would be sufficient to support 0.5 FTE.

Department of Transportation and Development – Building Codes

The Current Situation: The Building Codes Division is responsible for administering the State Building Code for most buildings used for the production, processing and retailing of marijuana. The marijuana regulations have not influenced the Building Divisions standard operating procedures or process. However, an increase in questions about marijuana-related permits has impacted staff workloads. Buildings utilized in the production, processing, and retailing of marijuana that require a building permit are processed like all other buildings. However, certain buildings used for the production (growing) and processing of marijuana and hemp may qualify for an agricultural exemption. As such, agriculturally exempt buildings are not subject to structural codes or fire codes and cannot be regulated in the same way as permitted buildings. In any case, the exemption from building codes does not extend to plumbing, electrical and mechanical codes; thus, the County can still regulate building systems as in other permitted buildings.

Department of Transportation and Development – Traffic Safety

The Current Situation: The problem of impaired drivers continues to grow. According to the Centers for Disease Control and Prevention, the number of self-reported marijuana users nationwide increased by 7,000 per day in 2014 -- before Oregon and several other states legalized recreational marijuana. Nighttime and weekend use for drivers under the influence of marijuana also grew, and marijuana is the drug most often linked to drugged driving. Marijuana

negatively affects driving skills with slower reaction time, reduced ability to make decisions, impaired coordination and distortion of reality.

The county's *Drive to Zero* program has a mission to eliminate fatal and serious injury crashes, including those attributed to driving under the influence of drugs. Here are some of the issues related to marijuana-impaired driving:

Roughly a third of teens and a quarter of parents of licensed teen drivers think it is legal to drive under the influence of marijuana in states that permit recreational use of the drug for adults. (Source: *Status Report: Insurance Institute for Highway Safety, November 2017*) This misconception can lead to crashes and citations that carry heavy fines, loss of licensure and possible jail time.

- Nearly half of 11th graders who currently use marijuana who drive a car report having driven within three hours of using marijuana in the past month.
- Of all 11th grade students, 5% of girls (one in 20) and 7% of boys (one in 15) had driven within three hours of marijuana use in the past 30 days.
- More 11th grade students (48%) drove within three hours of marijuana use than drove after drinking alcohol (12%) in the past month.

(Source: *Marijuana Report: Marijuana use, attitudes and health effects in Oregon; Oregon Health Authority, January 2016*)

The behavior does not stop with our youth. A 2016 national survey of drivers 18 and older found that driving after using marijuana was not perceived as negatively as driving after consuming alcohol. The survey also reported:

- Nearly two-thirds of adults (63%) don't know when it is legal to drive after using marijuana.
- 19% of all marijuana users, 36% of frequent users and 7% of less frequent users drive within approximately three hours after using marijuana or hashish.
- Three in four (75%) adults know that driving under the influence of marijuana increases the risk of a traffic crash.
- Approximately half (48%) of Oregon adults report they have ever used marijuana. One in 10 (11%) report they currently use marijuana, and 29% of current users reported using marijuana all 30 days.

(Source: *Marijuana Report: Marijuana use, attitudes and health effects in Oregon; Oregon Health Authority, January 2016*)

Alcohol and marijuana may show different physical and mental effects for drivers, but all are dangerous. Marijuana can slow reaction time, impair coordination, distort perception and effect decision making. Marijuana is now more potent with THC levels as high as 37% versus 3-4% in the 1990's (with an average of 13%). This increased strength can lead to greater and longer durations of impairment. Current marijuana trends include new methods of ingestion (vaporizing, edibles, dabbing and tinctures), which makes education about driving and other risk taking while high more important than ever before.

No matter what causes impairment, drivers should never operate a vehicle under the influence. They should know how marijuana effects driving, what the consequences are for driving under the influence and restricting access to minors.

Our Proposal: *Drive to Zero* would like to engage in a prevention campaign to educate drivers about the risks of impaired driving and encourage safe options. The campaign would be supported by the county's Traffic Safety Commission and Public & Government Affairs staff. It would include the development of messaging and outreach in local media such as billboards, vehicle wraps and banners, as well as social media.

The goal of the campaign would be to:

- Reinforce the fact that driving under the influence of marijuana is illegal and has significant negative impacts.
- Encourage pre-planning and ride options before using marijuana.
- Education about the effects of driving under the influence of marijuana, including that it is not "less serious" than drunk driving.
- Stress the importance of restricting marijuana access to minors.

Additional funding could be used to support placing messages in marijuana retail establishments to expand the outreach.

Department of Transportation and Development – Code Enforcement

The Current Situation: Code Enforcement (CE) enforces various codes and ordinances within the County. The job of the CE Specialist is to receive and respond to complaints from residents and other sources regarding building code, zoning and solid waste violations. Typical complaints include accumulation of solid waste or household garbage, construction activity without required permits, and various violations of the Zoning and Development Ordinance (ZDO) such as setback violations and the use of property contrary to the approved zoning.

More recently, CE staff also enforces marijuana-related code violations. Staff review allegations about marijuana-related violations, interpret applicable code sections and perform marijuana-related site inspections to determine compliance. Where appropriate, CE staff also coordinates with the Sheriff's Office and other departments and agencies to ensure compliance. Typical marijuana-related complaints involve allegations of illegal activities, license violations, odor, noise and the operation of marijuana-related businesses without land use authorization.

Regardless of the type of violation, CE staff first seek voluntary compliance to resolve a complaint and afford every possible opportunity to the property owner to resolve a violation. If staff is unable to obtain voluntary compliance, they move on to additional enforcement actions up to and including issuing citations, imposing fines and administration fees and referring cases to a third-party Hearings Officer or where necessary, County Counsel.

CE has an evolving and challenging role related to marijuana-related enforcement. Since marijuana regulation is relatively new for the County, CE does not have the breadth of

experience in enforcement of marijuana-related rules as with other, more established zoning and building codes.

Additionally, the enforcement of marijuana-related ordinances and rules poses new challenges. Unlike other enforcement topics, marijuana remains a highly emotionally-charged issue with social stigmas that continue to inform the public's expectations and demands for enforcement. This is especially true in the area of improper marijuana licensing and perceived clandestine business practices, both of which fall entirely outside of the scope of the CE enforcement and inside the scope of law enforcement and state agencies.

CE enforces Title 12 of the ZDO, under Section 841 Marijuana Production, Processing, and Retailing. These rules allow for County enforcement action on wholesale and retail sales, processing, and the producing/growing of marijuana in different zoning areas. Section 841 also includes requirements that must be met by marijuana operations related to odor control, lighting, security, waste management, minimum separation distances from schools, water, access, and hours of operations.

CE works cooperatively with the Clackamas County Sheriff's Office (CCSO) on enforcement in marijuana cases where illegal activity may be present. CE is currently seeking additional partnering opportunities with the CCSO to further our enforcement efforts and to create efficiencies in responding to code violations related to marijuana. We are currently discussing using an approach similar to the County's highly successful *Neighborhood Livability Project* (NLP) which involves multiple county agencies pooling resources to enhance safety and gain compliance with a unified, coordinated approach.

CE also works with both the Oregon Liquor Control Commission (OLCC) and the Oregon Health Authority (OHA) for enforcement of recreational and medical marijuana complaints. OLCC is responsible for the licensing and enforcement of the recreational marijuana industry, including recreational marijuana producers, processors, wholesalers and retail businesses. They also issue licenses for marijuana workers. When CE receives complaints regarding illegal activity associated with recreational marijuana, we forward them to OLCC for additional enforcement.

The Oregon Health Authority is responsible for the Oregon Medical Marijuana Program (OMMP). OMMP is responsible for enforcing state rules and statutes related to patients, growers, processors, dispensaries, physicians and laboratories. When CE receives complaints regarding illegal activity associated with medical marijuana grows, we forward them to OHA for additional enforcement.

Unfortunately, neither state agency shares information about their enforcement actions. Once we have given them information, we do not receive follow-up information from them regarding status or outcome. The OHA cannot provide information related to medical marijuana cases, since such information is protected under HIPAA rules.

Our Proposal: To increase the resources available to address the increasing demands and concerns of our citizens, Code Enforcement would request funding for 1.0 FTE to be used primarily for marijuana code enforcement. This individual, along with other CE staff, would receive specialized training to address issues commonly faced when dealing with marijuana-related code enforcement. Furthermore, this individual will act as a multi-agency representative for DTD/CE on marijuana-related activities.

Health, Housing and Human Services (H3S)

The Current Situation: Changes in marijuana laws have created a vulnerable landscape for our youth to navigate. Oregon has prime conditions for successful marijuana growing and, as a result, Oregonians have greater access to marijuana.

Clackamas County data shows 24% of 11th grade students have used marijuana within the past 30-day period. The average age of earliest use is 14 years of age. Youth in our county are using substances more regularly and in more dangerous ways than their counterparts across the state.

The number of marijuana dispensaries is increasing throughout the County.

- According to the OLCC, there are 191 retailers in Clackamas County licensed to sell recreational marijuana.
- The Oregon Medical Marijuana Program allows up to 18 plants per property with its own complex system of regulations.
- Residents are allowed to grow up to 4 plants on their own property for personal consumption and, since there is no registration process for this, there is no way to know how many personal grow sites exist or how well they are secured.

H3S recognizes the conditions are prime for an early onset of marijuana use and associated high risk behaviors that lead to Substance Use Disorders and adverse childhood experiences that could affect social wellbeing and overall health for a lifetime. We have the readiness and expertise to create a system to support healthy communities throughout the County by mitigating the impact of marijuana availability.

Our Proposal: To prevent youth exposure to substance abuse in Clackamas County, we propose to use a multi-disciplinary strategy based on existing partnerships and targeted community-based programming. Working with the Prevent Net School Intervention system, Drug/Alcohol Prevention Community Coalitions networks and partnerships with local youth social service providers and schools, we can implement a prevention strategy aligned with the drug suppression, adjudication and monitoring components of the system being formulated to address misuse of marijuana and other drugs.

H3S believes in meaningful engagement with the community and we successfully embrace the coalition model. Our local Coalitions have a demonstrated history of harnessing the community's power to create change. Our coalitions engages residents, law enforcement, schools, nonprofit organizations, the faith community, youth and other key groups to work in tandem to address community concerns. This funding creates a sustainability that allows coalitions to ensure action on pervasive community problems that have eluded simple solutions. This model promotes a partnership between County and Coalitions that provide a venue for the voice of our constituency enabling residents to contribute and create change using political will to influence development and implementation of lasting policy and healthy community conditions.

Funding will be strategically invested through a formal Notice of Funding Opportunity, offering local entities the opportunity to compete for community grants to be distributed and managed through the Children, Youth & Families Division. Coalitions and/or local non-profits would propose their unique interventions within the context of the larger Marijuana Initiative using evidence-based services that complement the work of Code Enforcement, District Attorney and the Sheriff's Office including but not limited to: Retailer Surveillance, Community Education, School and City Park policies.

Clackamas County Sheriff's Office (CCSO)

The Current Situation: Oregon's legalization of the retail production and sale of marijuana has created challenges for local government surrounding regulation and enforcement, community and neighborhood acceptance, and increased exposure and ease of access to juvenile youth.

The regulation of the new marijuana industry is left largely to the Oregon Liquor Control Commission and local government code enforcement to regulate and enforce. Many marijuana retail and production businesses operate within regulation; however, there is opportunity for these legitimate businesses to mask criminal sale and transport of marijuana. The limited staffing of OLCC and increased demand upon Clackamas County Code Enforcement has left a resource gap to conduct compliance checks, enforce rules/regulations, and identify and investigate criminal conduct by and within these businesses.

The increased growth of marijuana production farms and retail stores has revealed conflict with neighborhoods and community members. Clackamas County residents regularly file complaints targeting these establishments related to overly loud sounds, obnoxious odors, excessive vehicle and foot traffic, unlawful sales to minors and presumed criminal activity. Clackamas County has limited resources to address these concerns.

The prolific production and retail sale of marijuana has created more opportunity for exposure and ease of access to the youth in Clackamas County. There are rules and regulations that prohibit sale to minors, and other rules and regulations to limit the exposure of juveniles to marijuana sale/use, but there are very limited resources to monitor compliance with these regulations and rules. This unregulated industry has gaps in compliance that go unnoticed and unaddressed.

The legalization and thus creation of a marijuana production and sale industry in Oregon has created a burden on local government to address compliance, regulation and criminal enforcement. With limited resources to address these problems, the community finds frustrations with the new industry. Failure to monitor and enforce compliance with established rules and regulations also increases the risk to expose youth to the unlawful use of marijuana.

Our Proposal: To increase the resources capable of addressing these demands, the CCSO proposes the funding of a *Neighborhood Response Team (NRT)* to address concerns of regulation, compliance, neighborhood engagement and the protection of youth. This team would

work in a multi-disciplinary model in cooperation with H3S, Code Enforcement, the District Attorney's Office, County Counsel and the Oregon Liquor Control Commission (OLCC). This team would represent a front-line public-facing entity to engage directly with members of the community and the owners/operators of retail production and sales establishments.

Neighborhood Response Teams are deployed by many surrounding jurisdictions. These teams have demonstrated and recognized success in community engagement, real results and community satisfaction. Within Clackamas County this team would work very closely with the existing Neighborhood Livability Project (NLP), a highly successful, nationally awarded and locally recognized project that demonstrates great success in the multi-disciplinary engagement of resources to solve neighborhood concerns surrounding livability issues. The NRT would be the tip of the spear for the deployment of the new Clackamas County Law Enforcement Assisted Diversion program (LEAD) and remain a multi-disciplinary resource for Code Enforcement and OLCC to increase compliance and regulation of the marijuana industry. Working with and in support of the NLP, the new NRT would be the additional resource needed to address the increased burdens of public acceptance and complaints regarding marijuana.

Clackamas County will soon be developing a Clackamas County Law Enforcement Assisted Diversion program (LEAD). This criminal diversion program uses a multidisciplinary approach to primarily address drug possession cases in a manner that emphasizes treating the cause of the problem and preventing future offenses. The NRT would be LEAD-trained and the first boots-on-the-ground deploying the LEAD principles. LEAD programs have been successful in the Northwest addressing the repeated low level criminal drug use conduct that is often related to homelessness and other petty crimes. Our community often attributes and associates many of these related issues with marijuana use and thus, the marijuana industry. The NRT would be a force multiplier for the LEAD program.

The NRT would work closely with local partners including County Counsel, Code Enforcement, the District Attorney's Office and OLCC to help identify and enforce criminal conduct by marijuana production and sale businesses. NRT would be a front line resource where failure to comply with regulations and rules transgresses to criminal conduct. Working closely with our partners the NRT could be the first point of contact where concerns of criminal activity occurs. The NRT could also coordinate sting operations targeting the unlawful sale of marijuana to minors, similar to sting operations conducted for the unlawful sale of alcohol to minors.

The NRT would consist of two Sheriff's Deputies, supported by a criminal analyst, working in conjunction with the Sheriff's Office Patrol Division, the Clackamas County Interagency Task Force (CCITF) and the Sheriff's Investigations Division. The NRT would be the first responders to handle neighborhood concerns and address the needs of County partners. The NRT would then coordinate uniformed patrol responses for large scale operations and concerns, incorporate CCITF for large scale criminal drug investigations and support the Investigations division with criminal enterprise investigations.

Working closely with NLP, LEAD, H3S, Code Enforcement, the DA's Office, County Counsel and OLCC, the Neighborhood Response Team would coordinate a multi-disciplinary response to the issues facing the neighborhoods and communities of Clackamas County, including issues generated by the creation of a legal recreational marijuana industry.

Clackamas County District Attorney's Office (CCDA)

The Current Situation: CCDA is responsible for prosecuting matters pertaining to the unlawful possession, manufacture or distribution of any controlled substance, including marijuana. Specifically, the CCDA has the following roles and duties pertaining to this area of prosecution and advising community partners:

- Evaluating information and evidence developed during law enforcement investigations to determine whether a person should be charged with a criminal offense. This includes, but is not limited to, assessing search and seizure issues and applying the facts to law to determine whether a criminal offense can be proven beyond a reasonable doubt.
- If the evidence is sufficient, charging both misdemeanor and/or felony controlled substance offenses through either filing of misdemeanor information or submitting the case to the Clackamas County Grand Jury for consideration of a felony charge.
- Pre-trial negotiations with defendants charged with any of the aforementioned crimes and developing standards to maintain a proportionate response to the charged offense. If the matter is not resolved by way of plea negotiation, the CCDA is responsible for trying the criminal offense before a judge or jury.
- When requested, the CCDA assists law enforcement during unlawful manufacture or delivery investigations in areas pertaining to preparation and approval of search warrants and/or offering advice as to how aspects of the investigation will impact any subsequent prosecution. If it is a larger scale manufacture or distribution investigation, this may include working with federal law enforcement in determining the appropriate venue for any subsequent prosecution. The CCDA has Deputy District Attorneys specifically assigned to work with the Clackamas County Interagency Task Force (CCITF), which commonly handles larger scale investigations.
- While the CCDA Juvenile Unit engages in many of the same types of evidentiary evaluations as with adult offenders, the Juvenile Unit works closely with the Clackamas County Juvenile Department to craft case resolutions consistent with the principles of juvenile justice and with an emphasis on treatment and prevention.
- The CCDA acts as an informational resource for all community partners and agencies concerning issues relating to the unlawful possession, manufacture or distribution of controlled substances, including marijuana.

Our Proposal:

To further strengthen our support of the communities and individuals most impacted by drug addiction, the CCDA is attempting create a new program with law enforcement and social service partners that designed to address addiction through the criminal justice system in a manner that emphasizes treatment on the front end of the criminal justice process. This

program is known as the Law Enforcement Assisted Diversion Program (LEAD). Additionally, we are proposing to strengthen and expand the very successful existing program known as the Neighborhood Livability Project (NLP). Both programs are designed to have direct, tangible impacts on quality of life for law abiding citizens impacted by drug addiction in their community, as well as attempting to provide front end treatment for individuals who are found to unlawfully possess user amounts of highly addictive controlled substances.

LEAD is a pre-charging diversion program that seeks to reduce future criminal behavior by individuals involved in low level drug offenses and those experiencing chronic homelessness in a targeted geographical area. The Clackamas County Sheriff's Office, the Clackamas County DA's Office and H3S have already committed to this partnership and we are hoping LEAD will be operational within six months.

The LEAD program will provide case management to program participants via two processes for entry into the program. The first process is a diversion wherein individuals are arrested for a qualifying crime. Instead of being taken to jail, the offenders are diverted to the program for services in lieu of being booked and charged. The second process for entry is a social contact referral where participating deputies connect individuals who are at high risk of future arrest for qualifying crimes. Target crimes are PCS charges not involving substantial quantities or commercial drug activity and there are other program exclusions depending on a number of other factors (on probation, open criminal case, etc).

After determination by participating deputy that the individual is LEAD qualified, a referral will be made with a LEAD case manager. The defendant must complete an in-depth assessment as directed by the case manager within 14 days of referral and sign a release of information allowing information to be shared by LEAD partners.

The LEAD deputy will write an arrest report and forward it to the DA's Office for review. The assigned DDA will review the report as soon as practicable for compliance with the diversion criteria. If the defendant completes the in-depth assessment, and the DDA determines the defendant meets the LEAD criteria, no criminal charges will be filed on the individual case.

Funding of this project should consider reimbursing expenditures already made by partner agencies as well as on-going operations.

The NLP is an existing partnership between several county agencies and community partners, most notably the Clackamas County Sheriff's Office, Code Enforcement, the Clackamas County DA's Office, Clackamas County Counsel and H3S. Squatters, many of whom are drug addicted, frequently take up residence in abandoned or foreclosed homes and cause significant issues for the law abiding residents in these neighborhoods. The citizen in turn witness an increase in crime and watch the properties turn into dumps filled with garbage, needles and waste. The NLP works to identify these properties, navigate the complicated process to speed up foreclosure process, increase law enforcement presence and activity near these nuisance homes, and eventually clean up the properties.

The NLP has had recognized success in addressing these problem properties and engaging in community outreach. The positive response from the neighborhoods serviced by the NLP has been overwhelming. To date over 90 chronic nuisance homes have been closed. To date, there has been no dedicated source of funding of this project and has been kept afloat within the existing infrastructure of the partner agencies. The program could also be used to address

nuisance properties that are proven to be engaged in large scale illegal marijuana grow operations.

Any funding dedicated to this project should consider the efforts and time of each partner agency, administrative oversight as well as payment of independent contractors for clean-up costs of these blighted properties.

State of Oregon: Marijuana Services Summary (Licensing ONLY)

May 23, 2018

Oregon Liquor Control Commission (OLCC)

OLCC is responsible for licensing all aspects of the use of recreational marijuana in Oregon. OLCC's role and scope of services generally include the following:

- Licensing challenges, including changes to state law, limited staffing leading to backlog, delayed license renewal and license changes
- Industry stakeholders concerned with oversupply and rescinding of Cole memo (drafted by US Attorney General James Cole in 2013) by US Attorney General Jeff Sessions in 2018.
- Enforcement is primarily complaint-based
- Continued analysis of Marijuana Enforcement Tracking and Reporting Compliance (METRC) system
- Enforcement process is evolving to a more proactive approach including regular compliance visits, additional staff to monitor METRC and minor decoy operations.
- License renewals provide a means of enforcement and education
- Updating coordination efforts with state and local law enforcement

Oregon Health Authority (OHA)

OHA is responsible for licensing all aspects of the use of medical marijuana in Oregon. The following is a general summary of OHA's role and scope of services:

- Medical marijuana program stated in 1998.
- Medical marijuana dispensaries are allowed by State Law.
- Confidentiality standards for nondisclosure of grow site locations established by Oregon Revised Statute (ORS) 457B.
- SB 56 provided local jurisdiction hotline for officials to obtain individual grow site location information. Previously, only law enforcement could obtain this information.
- Health Insurance Portability and Accountability Act (HIPAA) nondisclosure protection provided for doctor's prescription.
- Inspections for dispensaries are required prior to registration and annually thereafter.
- Grow sites are inspected when a complaint is received.
- There are currently 5 staff inspectors statewide.
- 3,700 grow sites statewide are required to submit a monthly online report on quality produced. Reporting may move to Cannabis Tracking System in June 2018.
- Inspections are announced to improve efficiency and reduce the time commitment of inspectors per property. If not announced, an inspector may find no one is available to provide access. Inspectors have found a high rate of compliance and have not had issues with access to properties.
- Regulatory oversight authority and testing was established in 2016.
- To the best of our knowledge there is no authority to verify if a grow site is no longer in production after expiration or surrender of a registration. Inspections are only allowed for registered sites.

Oregon Department of Agriculture (ODA)

ODA is responsible for regulating all aspects of hemp production in Oregon. The following is a general summary of ODA's role and scope of services:

- The term "cannabis" includes both marijuana and hemp. Hemp is just one of many crops regulated by ODA. Similar to other agricultural crops on lands zoned for exclusive farm use, state law does not allow local land use regulations for industrial hemp cultivation.
- Industrial hemp is defined as less than 0.3% THC as an average for the entire crop at the time of harvest. A hemp producer must have their product tested for THC levels no more than 28 days in advance of harvest.
- There were approximately 233 registered hemp growers in Oregon in 2017. As of May 2018 there are 321 registered growers and the registrations continue to be submitted.
- ODA regulates pesticides, agricultural water quality, food safety, and weights and measures, and provides some pest identification and plant pathology services for a fee.
- There are no routine pesticide inspections for crops. Hemp requires pesticide testing, just like marijuana. There are no pesticides specifically labeled for cannabis. ODA has a guide list of pesticide products not illegal for use on cannabis.
- There are no indications that cannabis has any greater impact on water quality than any other crop.
- A hemp handler's license is required for hemp processing and requires a Land Use Compatibility Statement (LUCS) approved by the county to ensure location / zoning is appropriate for its use.