

**AGENDA
ITEM**

22



CITY COUNCIL AGENDA STAFF REPORT

DATE: May 7, 2025
TO: Mayor and City Council
APPROVED BY: Richard A. Daniels, Interim City Manager *[Signature]*
PREPARED BY: Michael Coyne, Planning & Building Director *[Signature]*
SUBJECT: Report on the Status of the City's Commercial Cannabis Permitting Program

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Recommendation:

Receive and file report on the status of the City's commercial cannabis permitting program and provide direction to staff on the Council's vision for the cannabis industry within the City.

Background:

On November 8, 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), legalizing the use and possession of cannabis and cannabis products by adults aged 21 years and older. It should be noted that in Imperial County, 54.7% of voters rejected Proposition 64. On June 27, 2017, Governor Brown signed into law Senate Bill 94, which repealed the Medical Cannabis Regulation and Safety Act ("MCRSA"), included certain provisions of MCRSA in the licensing provisions of AUMA, and created a single regulatory scheme for both medicinal and non-medicinal cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether non-commercial and commercial cannabis activities could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements. The California Department of Cannabis Control began issuing licenses to cannabis businesses beginning January 1, 2018. MAUCRSA establishes a regulatory structure for cultivation, processing, manufacturing, tracking, quality control, testing, inspection, distribution, and retail sale of commercial cannabis, including medicinal and adult-use cannabis. The Act designates applicable responsibilities for oversight of cannabis commerce to State agencies.

On July 5, 2017, the City Council adopted Ordinance No. 1177 allowing commercial cannabis cultivation, manufacturing, testing, and distribution within a restricted geographic area identified as the Cannabis Overlay Zone (Attachment No. 1). On the same date, Ordinance No. 1178 was also adopted,

which created a regulatory permit scheme for commercial cannabis businesses. Initially, City regulations only permitted non-retail cannabis businesses. However, on December 19, 2018, the City Council adopted Ordinance Nos. 1191 & 1192 which permitted up to five retail cannabis businesses to operate within the Cannabis Overlay Zone. Subsequently, in 2019 the City Council adopted ordinances to increase the number of permitted retail cannabis businesses from five to seven and then, from seven to 12. On May 15, 2019, the City Council also adopted Ordinance No. 1200 conditionally allowing cannabis testing laboratories in commercial and industrial zones outside of the Cannabis Overlay Zone. The intent of these ordinances is to regulate the testing, cultivation, manufacturing, distribution, retail sale and transportation of medicinal and nonmedicinal cannabis for adult use in the City of Calexico.

On November 6, 2018, Measure K, a Cannabis Business Tax, was passed by 73.5% of Calexico voters. Measure K imposed a maximum tax rate on cannabis businesses of up to twenty-five dollars (\$25) per square foot for space utilized in connection with a cannabis business and up to fifteen percent (15%) of gross receipts generated by a cannabis business. Measure K authorizes the City Council to set the actual tax rates, provided that the rates do not exceed the voter-approved maximum rates set by Measure K. Measure K is a “general tax” and all revenue from this tax is deposited into the City’s General Fund and can be used for general City operations and services, including police enforcement, emergency response, parks, youth and senior services, and street repair. On December 10, 2018, the City Council adopted Ordinance No. 1194 establishing the maximum business tax rates authorized under Measure K.

Discussion and Analysis:

Regulatory Framework

Chapter 3.40, Chapter 5.96, and Chapter 17.11, Article X of the Calexico Municipal Code (CMC) outline the commercial cannabis activities that may be permitted within the City and set forth the permitting and regulatory requirements, including taxation, to establish and maintain a commercial cannabis business within the City. Commercial cannabis activities that may be permitted within the City include:

- Cultivation.
- Manufacturing.
- Laboratory testing.
- Distribution.
- Retail sale (including delivery).
- Non-storefront retail.
- Microbusinesses.

Possession, processing, storing, and labeling of cannabis and cannabis products that is incidental to each of the above activities may also be permitted. Each activity is specifically defined in the CMC. The definitions conform to MCRSA, AUMA, and MAUCRSA.

The definitions for retail cannabis businesses are somewhat nuanced. A retailer is a permittee that sells and/or delivers cannabis or cannabis products to customers. A storefront retailer is like a dispensary, though that term is no longer used in State law. Retailers are allowed to deliver cannabis to customers in strict compliance with the CMC and State law. A non-storefront retailer means a cannabis retailer that provides cannabis exclusively through delivery. Customers are not allowed to patronize non-storefront retailers. Microbusiness means a commercial business that engages in at least three of the following commercial cannabis activities: cultivation of cannabis on an area less than 10,000 square feet, manufacturing, distribution, and/or retail sale.

All permitted commercial cannabis businesses (with the exception of testing laboratories) must operate within the Cannabis Overlay Zone, a 354-acre area in the northwestern portion of the City in the Industrial (IND), Industrial Rail Served (IR) and Commercial Highway (CH) Zones (see attached Cannabis Overlay Zone Map, Attachment No. 1).

Prior to initiating operations and as a continuing requisite to operate a commercial cannabis activity, applicants are required to obtain a validly issued Conditional Use Permit (CUP) or enter into a fully executed development agreement approved by the City Council. Each CUP or development agreement includes a condition or provision that the applicant must also obtain and maintain a Commercial Cannabis Activity Regulatory Permit (CCARP) required by the CMC. The purpose of the CCARP is to ensure proper recordkeeping, including of sales receipts and tax returns, and to provide operating and building standards to limit the potential for criminal activity, degradation of the natural environmental, electrical fire hazards, offensive odors and other potential impacts to the community.

To obtain a CUP and CCARP or enter into a Development Agreement and obtain a CCARP, applicants must provide the following as part of a comprehensive application:

- Comprehensive applicant/entity information.
- Extensive financial disclosures.
- Copies of all other state or locally issued cannabis-related permits or licenses.
- Security plan.
- Odor control plan.
- Business plan.
- Community relations plan.
- Neighborhood responsibility plan.
- Proof of adequate insurance.
- Budget.
- Authorization for Livescan fingerprinting.
- Federal, state and local background checks.

Upon submitting a complete application and internal review and comment by City staff, the CUP is presented by Planning Staff to the Planning Commission for action. Alternatively, a Development Agreement is presented to the City Council for action. Upon approval of the CUP or Development Agreement, the CCARP is issued to the applicant. With a CUP, the initial life of the permitted cannabis business is three years. With a Development Agreement, the initial life of the permitted cannabis business is on a case-by-case basis and may be beyond three years. The applicant must then obtain a license from the California Department of Cannabis Control in order to operate their City-approved cannabis business. As a prerequisite to obtaining a State license, applicants must first gain approval of the CCARP from the City. Applicants must file for a renewal of the CCARP prior to permit expiration in order maintain their City permit and State license active.

Conditions of the CUP/Development Agreement and CCARP require cannabis business operators to continuously comply with the following:

- Business License.
- Security plan.
- Odor control plan.
- Business plan.
- Community relations plan.

- Neighborhood responsibility plan.
- A 'track and trace' system that produces historical transactional and financial data for review by the City Manager for auditing purposes.
- All records must be available to the City for the past three (3) years on 24 hours' notice.
- Emergency contact with contact information and 24/7 availability.
- Community relations manager.
- Cannabis consumption prohibited at certain businesses.
- Alcohol prohibited.
- Specialized building standards.
- Regulatory permit must be displayed in a prominent location.
- City manager or designee may make periodic, unannounced inspections.
- Full compliance with state law, including maintaining state cannabis license.

Assessment of Cannabis Activities

With the initial roll out of the City's cannabis permitting program in 2017, the City received five commercial cannabis applications in 2017 and one in 2018. The initial applications were primarily for cultivation as the City initially did not permit retail cannabis businesses. After adoption of Ordinance Nos. 1191 & 1192 in December 2018, which opened commercial cannabis applications to retail activities, the City saw a significant influx of new cannabis applications, with 23 applications received in 2019 alone. It should be noted that Calexico was the first City in the Imperial Valley to permit retail cannabis businesses. After 2019, the submission of new cannabis applications to the City tapered significantly, with four received in 2020, three in 2021, and two in 2022. No new cannabis applications have been received to date. Of the 37 cannabis applications received since 2017, the City granted 30 regulatory permits to cannabis applicants. Of these cannabis applicants for which the City issued permits, 10 were able to obtain licenses to operate from the California Department of Cannabis Control. However, to date only two cannabis licenses remain active – one for a commercial retailer and one for cultivation, both of which continue to legally operate within the City. A full list of cannabis applications received to date by the City is provided in Attachment No. 2. A Code Enforcement case has been opened for a formerly permitted and licensed commercial retailer that continues to operate within the City despite having its cannabis license revoked by the state. Code Enforcement is coordinating with the Imperial County Department of Environmental Health, Police Department, and California Department of Cannabis Control to bring the business into compliance or have it cease operations.

The trajectory of tax revenue received by the City from permitted cannabis activities has mirrored the decline in active cannabis businesses, particularly retail businesses. Tax revenues peaked in 2021, with the City collecting \$290,317.14 and have steadily fallen year after year, with the City collecting \$202,758.80 in 2022, \$170,956.00 in 2023 and \$155,735.80 in 2024. In addition to fewer active cannabis businesses operating in the City, the reduction in revenues may be explained by market saturation, as surrounding jurisdictions, including the County of Imperial and the City of El Centro have rolled out their own commercial cannabis programs, with numerous new retail outlets opening in those jurisdictions that may be competing with Calexico cannabis businesses and leading to market cannibalization. Monitoring and auditing of cannabis businesses sales receipts, manifests, tax returns, and financial statements by the City has also been lax due to staffing constraints.

Considerations

The City chose to geographically limit cannabis activities (cultivation, manufacturing, transportation, and retail storefronts) to a limited single area. Whereas that may be appropriate for cannabis cultivation and product manufacturing, it fails to understand the needs of cannabis retail businesses. Like all retail businesses, they need to be readily accessible to the shopping public. However, it is important to weigh

the unique and special externalities that limit their acceptability. As such, should the City consider expanding the areas where cannabis activities may be permitted? The process for establishing a cannabis business in the City is also convoluted, with the requirement for a CUP or Development Agreement AND a regulatory permit. Many jurisdictions have set up a regulatory scheme with a single permit process. Should the City also look at modifying the permitting process?

The key to regulating the cannabis industry is to regularly conduct site inspections, with occasional unannounced inspections, completing records checks on current inventories, comparisons to the last visit, demonstration of compliance with the state's tracking and manifest system on all sales, cash register receipts for all retail sales with video recordings and 90-day histories, proof of licensed transportation companies used, proof of livescan certifications for all employees and owners, and proof of 100% video coverage inside and outside of the facility. Adequate Code Enforcement staffing, training and certification on inspecting and monitoring cannabis businesses is necessary for successful regulation of the industry. To assist with regulating cannabis businesses, the City also has the option to contract with a firm that specializes in monitoring cannabis businesses by completing on-site compliance inspections and auditing financial records. Should the City look into this option which may require the allocation of funding?

Fiscal Impact:

None.

Coordinated With:

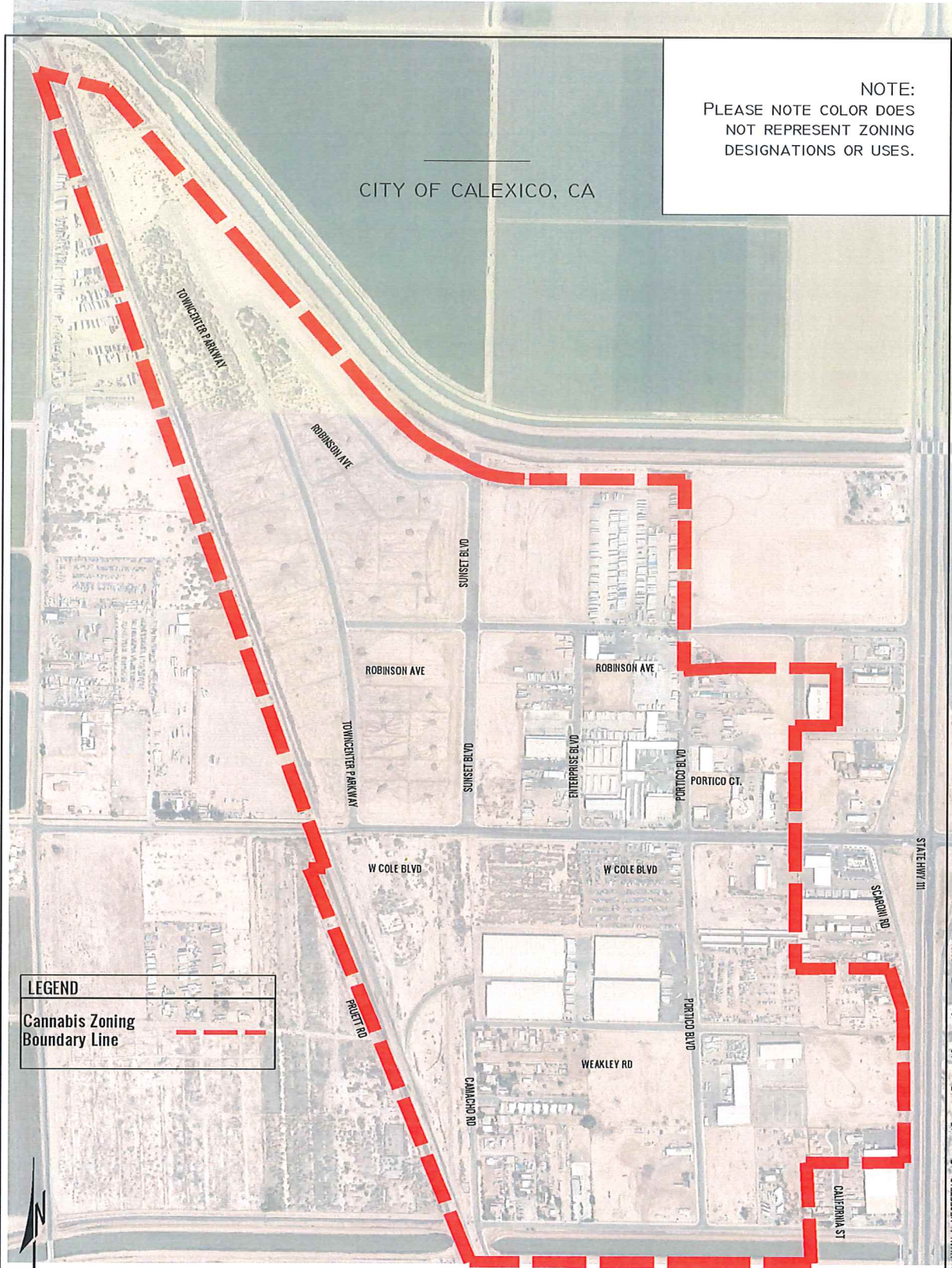
Richard A. Daniels, Interim City Manager

Attachment(s):

1. Cannabis Overlay Zone Map
2. List of Cannabis Applications

ATTACHMENT NO. 1

CANNABIS OVERLAY ZONE MAP



NOTE:
PLEASE NOTE COLOR DOES NOT REPRESENT ZONING DESIGNATIONS OR USES.

LEGEND
Cannabis Zoning Boundary Line

REVISION *	SIZE B	 CITY OF CALEXICO	DRAWN BY IVAN N. DATE 05/08/2019	PROJECT DESCRIPTION: CANNABIS ZONING	SHEET TITLE: SATELLITE LOCATION MAP	SHEET: A03
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ATTACHMENT NO. 2

COMMERCIAL CANNABIS APPLICATIONS

APPLICATION NO.	PROJECT ADDRESS	BUSINESS NAME	PROJECT DESCRIPTION	APPROVAL DATE	STATUS
UA2017-10	2421 ENTERPRISE BLVD	TRINITY 341, LLC:	CUP-CANNABIS CULTIVATION AND MANUFACTURING	10/28/19	REVOKED
UA 2017-19	APN: 059-343-016	DESERT VALLEY PARTNERS, LLC	CUP TO OPERATE, CULTIVATE, AND ,ANUFACTURE RECREATIONAL AND MEDICAL CANNABIS.	N/A	WITHDRAWN
UA 2017-20	2421 ENTERPRISES BLVD	CALEXICO DISTRIBUTION CO	CUP-CANNABIS TRANS PORTATION AND DISTRIBUTION FACILITY	10/28/19	REVOKED
UA 2017-21	APN: 059-343-006	COLE BOULEVARD ADVISORS, LLC	CUP TO OPERATE, CULTIVATE, AND MANUFACTURE RECREATIONAL AND MEDICAL CANNABIS.	N/A	WITHDRAWN
UA 2017-22	APNs: 059-343-000/059-543-014	BARRINGTON	CUP-CANNABIS CULTIVATION AND MANUFACTURING	N/A	WITHDRAWN
UA 2018-10	2421 PORTICO BLVD	KOOKIEKING CANNABAKE EDIBLES BAKERY	CUP-CANNABIS MANUFACTURING	03/25/19	REVOKED
UA 2019-02	344 WEAKLY ST	VALLEY GREENS	CUP-CANNABIS DISTRIBUTION	06/10/19	REVOKED
UA 2019-03	2431 ENTERPRISE BLVD		CUP-CANNABIS DISTRIBUTION	03/25/19	REVOKED
UA 2019-04	338 WEAKLY RD	IMPERIAL GREENS	CUP-CANNABIS	06/10/19	REVOKED
UA 2019-06	VAN DE GRAFF	MOCOVAN	CUP-CANNABIS	03/25/19	REVOKED
UA 2019-07	2405 VAN DE GRAFF	ELEMENTAL HOLISTIC	CUP-CANNABIS	06/10/19	REVOKED
UA 2019-08	551 HIGHWAY 111	HEADSTASH/DOBLE A	CUP-CANNABIS	12/02/19	REVOKED
UA 2019-C-09	2420 PORTICO BLVD #C	VALLEY HOLISTIC	CUP-CANNABIS STOREFRONT RETAIL FACILITY	01/13/20	REVOKED
UA 2019-09	2251 PORTICO BLVD	JJ PHARMA	CUP CANNABIS CULTIVATION	01/10/19	REVOKED
UA 2019-C-10	2420 PORTICO BLVD #A	TRUELEAF WELLNESS	CUP-CANNABIS	01/13/20	REVOKED
UA 2019-11	501 3RD ST	IMPERIAL VALLEY ENVIRONMENTAL LABORATORY	CUP-CANNABIS	08/05/19	REVOKED
UA 2019-C-11	565 SCARONI RD	THREE GREENS COLLECTIVE	CUP-CANNABIS	01/13/20	REVOKED
UA 2019-C-12	2411 ENTERPRISE BLVD	CALEXICO DISPENSARY	CUP-CANNABIS	02/10/20	REVOKED
UA 2019-12	559-565 SCARONI RD	UL CALEXICO, LLC DBA: URBAN LEAF/KEYSTONE INDUSTRIES LLC DBA: CATALYST CANNABIS CO.	CUP-CANNABIS RETAIL BUSINESS	03/25/19	REVOKED
UA 2019-13	559 SCARONI RD	SUPREME GREENS	CUP-CANNABIS	03/25/19	REVOKED
UA 2019-C-14	2024 PORTICO BLVD STE #A	AMG DYNAMIC ENTERPRISES INC. DBA: TRUELEAF DISTRIBUTORS	CUP-CANNABIS MANUFACTURING AND DISTRIBUTION	03/25/19	REVOKED
UA 2019-24	551 HWY 111	HEADSTASH/DOBLE A	CUP-CANNABIS MANUFACTURING AND DISTRIBUTION	10/14/19	REVOKED
UA 2019-23	374 CAMACHO ROAD	CALEXICO DYNAMICS VENTURES LLC	CUP-CANNABIS CULTIVATION FACILITY	10/14/19	REVOKED
UA 2019-25	374 CAMACHO ROAD	CALEXICO GROUP	CUP-CANNABIS MANUFACTURING AND DISTRIBUTION	10/14/19	REVOKED
UA 2019-26	2421 PORTICO BOULEVARD	VALLEY MADE	CUP-CANNABIS MANUFACTURING AND DISTRIBUTION	09/23/19	REVOKED
UA 2019-27	2421 ENTERPRISE BLVD	CALEXICO DISTRIBUTION COMPANY LLC	CUP RENEWAL-CANNABIS DISTRIBUTION AND MANUFACTURING	10/28/19	REVOKED
UA 2019-30	300 W COLE BLVD	CR MANUFACTURING CA INC DBA: ORCHID FARMS COMMERCIAL CANNABIS	CUP-CANNABIS CULTIVATION	N/A	WITHDRAWN
UA 2019-31	565 SCARONI RD	THREE GREENS	CUP-CANNABIS DISTRIBUTION	10/28/19	REVOKED
UA 2019-31-B	300 W COLE BLVD	PURE ROOTS, INC	CUP-CANNABIS RETAIL	09/28/20	REVOKED
UA 2020-05	2403 VAN DE GRAAF AVE	CALEXICO HOLISTIC CARE GROWTH CORP	CUP-MICROBUSINESS (CULTIVATION/MANUFACTURING/DISTRIBUTION)	06/17/20	REVOKED
UA 2020-08	559-565 SCARONI OR HWY 111	KEYSTONE INDUSTRIAL CALEXICO, LLC DBA: WELLGREENS DISPENSARY	CUP- CANNABIS RETAIL	N/A	WITHDRAWN
UA 2020-13	200 W COLE BLVD	A&M ELITE COMMERCE, LLC	CUP-CANNABIS RETAIL DISPENSARY	03/08/21	REVOKED
UA 2020-16	APN 059-543-001 (TOWNCENTER)	LUSSO, LLC	CUP-CANNABIS CULTIVATION FACILITY	N/A	WITHDRAWN
UA 2021-09	2420 PORTICO BLVD STE# A	AMG DYNAMIC ENTERPRISE DBA LA BOTICA	CUP-MICROBUSINESS (CULTIVATION/MANUFACTURING/DISTRIBUTION/RETAIL)	06/13/22	ACTIVE
UA 2021-10	2421 PORTICO BLVD SUITE B	VALLEY LLC	CUP-CULTIVATION, DISTRIBUTION AND RETAIL (ADDED MICROBUSINESS OPERATIONS)	11/8/2021	REVOKED
UA 2021-15	200 W COLE BLVD	CALEXICO PRIME LLC	CUP-COMMERCIAL CANNABIS CULTIVATION	10/28/21	ACTIVE
UA 2022-05	200 W COLE BLVD	CALEXICO PIONEER, LLC	CUP-CANNABIS MANUFACTURING	N/A	INCOMPLETE