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Diane F. Boyer-Vine, Legislative Counsel  
State of California, Office of Legislative Counsel  
Room 3021, State Capitol  
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RE: *Request for Assistance in Drafting Language of Proposed Cannabis Initiative*

Dear Legislative Counsel:

The instant letter is jointly presented to you by California lawyers and independent sole practitioners Heather Burke and Omar Figueroa, and is supported by at least twenty-five electors. Pursuant to Government Code § 10243, the undersigned electors humbly request the assistance of the Office of the Legislative Counsel in drafting an initiative measure that would legalize cannabis for adults and create a system for regulating the cultivation and distribution of cannabis under California law.

We humbly request the assistance of the Office of the Legislative Counsel in crafting an initiative which would address the eight federal enforcement priorities set forth by the United States Department of Justice on August 29, 2013 in a memorandum for all United States Attorneys entitled "Guidance Regarding Marijuana Enforcement" by creating "strong and effective regulatory and enforcement systems" under California law.<sup>1</sup>

There is a reasonable probability that such an initiative measure will be submitted to the voters of the State of California. Indeed, a Tulchin Research poll released in October of 2013 indicates that nearly two-thirds (65%) of California voters would support a proposal to legalize, regulate, and tax cannabis.<sup>2</sup> Thus, the electors humbly request your assistance in drafting the language of a proposed cannabis legalization initiative pursuant to Gov. Code § 10243.

According to the United States Department of Justice memorandum, the federal government will focus federal enforcement efforts on the following activities in states (such as California) where marijuana is legal under state law:

- The distribution of marijuana to minors;
- Revenue from the sale of marijuana going to criminal enterprises, gangs and cartels;
- The diversion of marijuana from states where it is legal under state law in some form to other states;

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<sup>1</sup> Available at the following URL:  
<http://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>

<sup>2</sup> Available at the following URL:  
<http://www.tulchinresearch.com/wp-content/uploads/2013/10/ACLU-CA-MJ-Poll-225-K-2016-Public-Memo-10-13-Final.pdf>

- State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Violence and the use of firearms in the cultivation and distribution of marijuana;
- Drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;
- Preventing marijuana possession or use on federal property.

The undersigned hereby jointly request that the Office of Legislative Counsel of the State of California draft a proposed initiative which would address the above-noted federal concerns while creating “strong and effective regulatory and enforcement systems” to legalize, regulate, and tax cannabis in California.

We respectfully request that the proposed initiative advance the following policy objectives:

- 1) Avoid creating any new cannabis crimes (such as per se DUI offenses that criminalize driving with microscopic quantities of cannabis in one’s system regardless of actual impairment);
- 2) Legalize cannabis possession and cultivation for adults;
- 3) Recognize and protect California’s world-famous geographical cannabis appellations (e.g. Humboldt County, Mendocino County, etc.) in a manner similar to the wine appellations now recognized as American Viticultural Areas;
- 4) Encourage the development of well-regulated cottage industries, including the production of cannabis and cannabis products, in a manner similar to the California Homemade Food Act, Government Code § 51035 et seq.;
- 5) Set forth a certification program for organic cannabis producers compatible with the California Organic Products Act of 2003, Food & Agricultural Code § 46000, et seq.;
- 6) Require the mandatory disclosure of any genetically modified organisms (GMOs);
- 7) Allow the taxation of adult, non-medical cannabis sales while exempting medical cannabis from taxation;
- 8) Strengthen existing medical cannabis laws and expand the protections available to medical cannabis patients, caregivers, and members of collectives and cooperatives, by providing immunity from arrest and prosecution for any cannabis-related offense.

The Statewide Initiative Guide published by the California Secretary of State makes clear that the proponents of an initiative may obtain assistance from the Office of the Legislative Counsel in drafting the language of a proposed initiative:

The first step in the process of qualifying an initiative measure is to write the text of the proposed law. The initiative measure's proponent(s) may obtain assistance from the Office of the Legislative Counsel in drafting the language of the proposed law. Proponent(s) must obtain the signatures of 25 or more electors on a request for a draft of the proposed law; proponent(s) must then present the idea for the law to the Legislative Counsel. If the Legislative Counsel determines that there is a reasonable probability the initiative measure will eventually be submitted to the voters, the Legislative Counsel will draft the proposed law. (Government Code § 10243.) Proponent(s) may also seek the assistance of their own private counsel to help draft the text of the proposed law, or they may choose to write the text themselves.

Statewide Initiative Guide, Chapter I, The Initiative Process.<sup>3</sup>

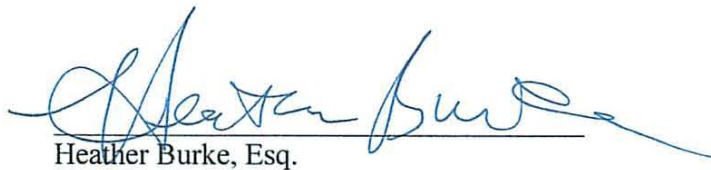
Government Code § 10243 states that the Legislative Counsel shall cooperate with the proponents of an initiative measure when there is a reasonable probability that the measure will be submitted to the voters:

The Legislative Counsel shall cooperate with the proponents of an initiative measure in its preparation when: (a) Requested in writing so to do by 25 or more electors proposing the measure; and (b) In the judgment of the Legislative Counsel there is reasonable probability that the measure will be submitted to the voters of the State under the laws relating to the submission of initiatives.

Therefore, we respectfully request your cooperation in preparing an initiative measure that would legalize cannabis for adults and create "strong and effective regulatory and enforcement systems" under California law. Please let us know if you have any questions. We look forward to hearing from you soon.

Sincerely,

  
Omar Figueroa, Esq.

  
Heather Burke, Esq.

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<sup>3</sup> Available at the following URL:  
<http://www.sos.ca.gov/elections/ballot-measures/initiative-guide.htm>