



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Alexa Jeffress  
Director, Department of  
Economic and Workforce  
Development

**SUBJECT:** Cannabis Local Jurisdiction  
Assistance Grant

**DATE:** February 7, 2022

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City Administrator Approval

Date: Mar 3, 2022

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## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt The Following Legislation:**

**A Resolution Authorizing The City Administrator To:**

- (1) Apply For And Accept Nine Million Nine-Hundred And Five Thousand And Twenty Dollars (\$9,905,020) In State Of California, Local Jurisdiction Assistance Grant Program Funds; And**
- (2) Appropriate The Local Jurisdiction Assistance Grant Funds By:**
  - (A) Funding Staff Positions In The Economic And Workforce Development, Planning and Building, And Fire Departments In The Amount Of Four Million Seven-Hundred And Ninety-Nine Thousand Seven Hundred And Nine Dollars (\$4,799,709); And**
  - (B) Funding Permit Technology Systems In The Amount Of Four-Hundred And Thirty Thousand Dollars (\$430,000); And**
  - (C) Award Grants To Support The Transition To Annual State Licenses For Cannabis Equity Applicants In An Amount Not To Exceed Two-Hundred And Fifty Thousand Dollars (\$250,000) Per Grant To Be Determined And Without Return To City Council In A Cumulative Amount Of One Million Seven Hundred And Twenty-Two Thousand Six-Hundred And Fifty-Five Dollars And Fifty Cents (\$1,722,655.50);**
  - (D) Award Grants For Business Security Purposes To Provisionally Licensed Cannabis Applicants In An Amount Not To Exceed Two-Hundred And Fifty Thousand Dollars (\$250,000) Per Grant To Be Determined And Without Return To City Council In A Cumulative Amount Of One Million Seven Hundred And Twenty-Two Thousand Six-Hundred And Fifty-Five Dollars And Fifty Cents (\$1,722,655.50);**
  - (E) Allocating Funding In The Amount Of One Million Two Hundred And Thirty Thousand Dollars (\$1,230,000) For Consultants To Be Selected Through Competitive Request For Proposal Processes To Administer Grant**

City Council  
March 15, 2022

**Programs And Provide Technical As Well As Legal Assistance To Cannabis Equity Applicants In The Amount Of One Million Two Hundred And Thirty Thousand Dollars (\$1,230,000).**

**And**

**Ordinance Changing Permitting Requirements For Cannabis Businesses By:**

- 1. Amending Oakland Municipal Code Sections 5.80.050 And 5.81.060 To Allow A Cannabis Business Permit Applicant Who Previously Met The Income And Oakland Residency Criteria To Qualify As An “Equity Applicant” To Receive Equity Assistance Program Services Up To Eight Years From The Date Such Applicant Was Verified As An Equity Applicant, Regardless Of The Applicant’s Current Income Or Residency; And**
- 2. Adopting CEQA Exemption Findings**

**EXECUTIVE SUMMARY**

The State of California Budget Act of 2021 set aside \$100 million in total funding statewide over the next three years for the Local Jurisdiction Assistance Grant Program, which provides local governments with resources to streamline the permitting of cannabis businesses. The goal of this program is to support legacy and equity cannabis applicants to transition into the regulated cannabis marketplace while ensuring compliance with the California Environmental Quality Act (CEQA) and local permitting requirements, such as the building and fire code.

The Local Jurisdiction Assistance Grant Program has made available \$9,905,020 in funding for the City of Oakland (City) through March 2025. The State arrived at this figure based on a formula that determined the City merited \$4,400,293 due to the number of state cannabis licensees in Oakland and \$5,504,727 due to the City’s cannabis equity program.

An interdepartmental team has developed a proposal to utilize these grant funds, which includes much needed staff and technological resources to expedite cannabis permitting and grants to Oakland cannabis operators with a provisional state license. Staff presented its proposal to the Cannabis Regulatory Commission (CRC) over multiple meetings in 2021 and 2022 and staff has incorporated feedback from the CRC in the proposed Resolution. Staff recommends approval of the recommended action to allow staff to deploy these critical resources to support the processing of hundreds of cannabis permit applications and advance the establishment of a safe and sustainable cannabis industry in Oakland.

**BACKGROUND / LEGISLATIVE HISTORY**

*Federal Cannabis Policy*

Cannabis remains a Schedule One controlled substance under federal law, however, since

the 2013 Department of Justice “Cole Memorandum”<sup>1</sup> and the 2015 Fahr-Rohrbacher federal budget amendment,<sup>2</sup> state compliant medical cannabis facilities have generally been shielded from federal prosecution. The Trump Administration had threatened to interrupt this status quo by rescinding the Cole Memorandum. Nonetheless, Congress has consistently extended the Fahr-Rohrbacher amendment and the federal government has not prioritized cannabis prosecutions.

### *California Statewide Cannabis Regulation*

Although medical cannabis has been legal in California longer than anywhere in the country, until the passage of the Medical Cannabis Regulation and Safety Act (MCRSA) in 2015, California’s system of medical cannabis was one of the least structured regulatory frameworks in the United States. MCRSA created a comprehensive regulatory framework for the cultivation, production, transportation and sale of medical cannabis in California, all overseen by a new state bureau. In November 2016, the people of California enacted the Adult-Use of Marijuana Act (AUMA) or Proposition 64, which among other actions, established a licensing and taxation scheme for the non-medical adult-use of cannabis in California. Then in June 2017, the state legislature consolidated the MCRSA and AUMA into the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). State agencies have been implementing MAUCRSA ever since, including through the issuance of multiple sets of regulations governing cannabis operations.

Under MAUCRSA the newly formed Department of Cannabis Control (DCC) issues state licenses and regulates cannabis businesses. The DCC issues annual licenses once an applicant or licensee meets all requirements. The DCC may issue a provisional state license if an applicant submits a complete state license application that confirms that compliance with CEQA and local ordinances is underway. Currently, approximately 75 percent of California’s commercial cannabis license are provisionally licensed.

### *Oakland’s Cannabis Regulatory History*

The City has been a leader in regulating cannabis. In 2004, following the federal closure of the Oakland Cannabis Buyers Club, the City’s initial medical cannabis provider under Oakland Municipal Code (OMC) 8.46, the City enacted OMC 5.80, which established the nation’s first permitting process for medical cannabis dispensaries. In 2011 the City expanded the number of available dispensary permits from four to eight and attempted to establish a permitting process for the cultivation of medical cannabis under OMC 5.81, however, threats of federal intervention and the lack of comprehensive state law prevented implementation of OMC 5.81.

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<sup>1</sup> The Cole Memorandum can be found here:

<https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>

<sup>2</sup> The Fahr-Rohrbacher amendment states: “None of the funds made available in this Act to the Department of Justice may be used, with respect to the States of... California...to prevent such States from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana.

### *Oakland Examines Equity Within Cannabis Industry*

In anticipation of state legalization of the cannabis industry's supply chain and the adult use of cannabis, the City began exploring approaches to legalizing the cannabis industry within Oakland in 2015 and 2016. Discussions at the City Council centered around one question: Who benefits from cannabis legalization?

This inquiry led the City Council in the fall of 2016 to adopt the goal of promoting equitable ownership and employment opportunities in the cannabis industry to address the disproportionate impacts of the war on drugs in marginalized communities of color and to direct the City Administration to conduct a race and equity analysis of proposed medical cannabis regulations.

In March 2017 staff returned with a race and equity analysis that identified barriers to achieving a more equitable cannabis industry and strategies to remove those barriers. For example, the analysis found disparities within the cannabis industry in access to capital and real estate as well as disparities in operators' familiarity with the "red tape" involved in governmental processes and operating a compliant cannabis business. In response, the analysis recommended the creation of several measures to prioritize lower-income Oakland residents that either had a cannabis conviction arising out of Oakland or had lived in areas of Oakland that experienced disproportionately higher levels of cannabis enforcement.<sup>3</sup> Strategies identified to prioritize equity applicants included:

- Free industry-specific and business ownership technical assistance;
- A no-interest revolving loan program funded by new cannabis tax revenue;
- A phased permitting process whereby the City Administrator must issue half of all permits under OMC 5.80 and 5.81 to equity applicants during the initial phase;
- An incubator program that prioritizes general applicants who provide three years of free space and security to equity applicants; and
- Application and permit fee exemptions for equity applicants.

In the spring of 2017, the City Council passed a legislative package (Ordinance No. 13424 C.M.S. and Resolution No. 86633 C.M.S.) enacting these recommendations and the City Administrator's Office began accepting applications for non-dispensary permits in May of 2017.

### *Growth of a Larger Movement and State Grant Awards for Equity Program*

Oakland's pioneering race and equity analysis of the cannabis industry and creation of an Equity Program inspired jurisdictions across the country to pursue and support similar programs. For example, the City and County of San Francisco, the City of Los Angeles, the City

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<sup>3</sup> OMC 5.80.010 and OMC 5.81.020 define an "Equity Applicant" as "an Applicant whose ownership/owner: 1. Is an Oakland resident; and 2. In the last year, had an annual income at or less than 80 percent of Oakland Average Medium Income (AMI) adjusted for household size; and 3. Either (i) has lived in any combination of Oakland police beats 2X, 2Y, 6X, 7X, 19X, 21X, 21Y, 23X, 26Y, 27X, 27Y, 29X, 30X, 30Y, 31Y, 32X, 33X, 34X, 5X, 8X, and 35X for at least ten of the last twenty years or (ii) was arrested after November 5, 1996 and convicted of a cannabis crime committed in Oakland, California."

of Sacramento, and the States of Massachusetts, Illinois, New Jersey, and New York have conducted similar analyses or enacted their own equity programs.

Since 2019 the State of California has set aside funding to support local jurisdictions' cannabis equity programs and the City has received annual grants in the amounts of \$1,657,201.65, \$6,576,705.76, \$2,434,712.51, and a forthcoming award of \$5,435,140.82. Oakland has frequently received the largest grant award out of any local jurisdictions in California. These awards are an acknowledgement of the City's groundbreaking work establishing and implementing the nation's first cannabis Equity Program.

#### *Challenges with Local Cannabis Permitting Process*

Oakland's cannabis permitting process requires operators to obtain approvals from different City and County agencies to ensure the businesses locate in an appropriate zone and operate safely. The largest obstacle facing cannabis applicants within the City's permitting processes is compliance with building and fire permitting requirements, particularly for cultivators and manufacturers upgrading buildings without fire sprinkler systems and in need of electrical system upgrades. These obstacles require applicants to hire architects, engineers, and licensed contractors, all while waiting for heavily burdened City engineers and inspectors to review their plans and inspect their facilities, respectively. These obstacles also require capital to cover the costs of construction and related work. Even if an operator is not undergoing construction, the permitting process requires navigating City bureaucracy, including multiple City departments. The cannabis permitting process also includes security requirements, which have become increasingly important due to caravans of armed burglars targeting cannabis facilities. These security measures- both physical improvements to a cannabis facility and private security guards - can be expensive, raising another challenge for operators. Ultimately, cannabis operators must overcome these obstacles and complete the City's permitting process to qualify for an annual state license.

### **ANALYSIS AND POLICY ALTERNATIVES**

The Local Jurisdiction Assistance Grant offers an opportunity to address the permitting challenges highlighted above and streamline the City's cannabis permit process. Specifically, this state grant will add key staff positions, augment existing staff resources, invest in needed technology, provide targeted support to equity applicants, offset the cost of security requirements, and fund consultants to provide technical and legal assistance to equity applicants. Deploying these resources will support Oakland cannabis operators to help them complete the City's permitting process and transition from provisional to annual state licenses. Approval of the requested action advances the Citywide priority of **housing, economic, and cultural security**.

**Figure 1** offers a summary of the proposed uses of Local Jurisdiction Assistance Grant funds and the level of funding proposed for each use.

**Figure 1- Proposed Use of Local Jurisdiction Assistance Grant Funds**

<b>LOCAL JURISDICTION ASSISTANCE GRANT BUDGET</b>		
<b>PROPOSED USE</b>	<b>COST IN YEAR ONE</b>	<b>COST OVER THREE YEARS</b>
Grants to Provisionally Licensed Equity Applicants	\$574,218.50	\$1,722,655.50
Special Activity Permit Technician	\$166,810	\$500,430
Planning CEQA Review	\$9,237	\$27,710
Program Analyst for Processing Grants	\$198,640	\$595,920
Process Coordinator II in Building Bureau	\$175,696	\$527,088
Overtime for Civil Engineers to Review Plans	\$591,075	\$1,773,224
Overtime for Code Enforcement	\$78,115.80	\$234,347
Hazardous Materials Inspector II	\$193,546	\$580,638
Overtime for Fire Plan Engineers to Review Plans	\$73,760	\$221,280
Overtime for Fire Code Enforcement	\$61,824.00	\$185,472
Overtime for Municipal Code Enforcement Officers for Security Inspections	\$50,000	\$150,000
Annual CPTED Training for Municipal Code Enforcement Officers	\$1,200	\$3,600
Establishing/Maintaining Accela Module for Cannabis Permit Tracking	\$310,000	\$430,000
Grants to Meet Security Requirements	\$574,218.50	\$1,722,655.50
Consultant TBD to Administer Loan/Grant Programs	\$160,000	\$480,000
Consultant TBD to Provide Legal Assistance to Equity Applicants	\$125,000	\$375,000
Consultant TBD to Provide Technical Assistance to Equity Applicants	\$125,000	\$375,000
<b>TOTAL</b>	<b>\$3,468,341</b>	<b>\$9,905,020</b>

*Adding Staff Resources*

The addition of new staff and overtime for existing staff in the Planning and Building and Fire Departments will help to expedite building and fire approvals and improve the monitoring of these processes. For example, overtime for building and fire plan engineers will allow cannabis permit applicants to have their projects reviewed promptly, which will shorten the overall time needed for cannabis applicants to obtain building and fire approvals for a cannabis permit. Similarly, funding a Hazardous Materials Inspector II will expedite review of cannabis cultivation and extraction operations, the two permit types that have taken the longest to process. The addition of a Process Coordinator II will eliminate miscommunication between City departments and between cannabis applicants and City staff, as well as enable proactive monitoring of

cannabis permit applications within the Building Bureau and Fire Department. Overtime for code enforcement staff will complement improvements to the permitting process by ensuring non-compliant cannabis operators are encouraged to move forward in the permitting process.

Likewise, adding a Permit Technician and a Program Analyst in the Economic and Workforce Development Department (EWDD) will expedite both cannabis permitting and the processing of grants to equity applicants and provisionally licensed operators. The Special Activity Permits Division in EWDD has processed more than a thousand cannabis permit applications and millions of dollars in loans and grants to equity applicants since 2017 with only a fraction of the staff of comparable jurisdictions. Additional staff will ease the burden on existing staff, expedite outcomes for the public, and allow staff to be proactive as opposed to reactive. Lastly, overtime and training for Municipal Code Enforcement Officers will ensure there is constant staffing available to conduct security inspections of cannabis businesses and allow for the potential transition of this function from sworn personnel staff per the recommendation of the CRC.

### *Improving Technology*

The Local Jurisdiction Assistance Grant will also fund the creation and maintenance of a module within Accela, the online permitting platform utilized by the Department of Planning and Building, for the Special Activity Permits Division. This will improve interdepartmental communication regarding the status of cannabis permit applications and automate progress reports to better monitor permitting trends.

### *Resources for Equity Applicants*

The Local Jurisdiction Assistance Grant also offers an opportunity to dedicate resources to cannabis equity applicants to support their transition from a provisional to an annual state license. The proposed Resolution provides equity applicants with grants to cover costs involved in building out facilities and obtaining local and state approvals. In addition, the Resolution will fund consultants to administer the grant program for equity applicants, provide free legal resources to equity applicants as they encounter legal issues in the course of operating their businesses, and free technical support for establishing a compliant and successful cannabis businesses.

### *Support Addressing Security Requirements*

Lastly, the Local Jurisdiction Assistance Grant provides funding to improve the safety of cannabis businesses by supporting the cost of security measures, such as physical improvements to their places of business and private security guards to monitor cannabis business locations. In recent months cannabis businesses have been targeted by armed burglars. On December 21, 2021 the Oakland City Council responded to this crime wave by adopting Resolution No. 88982, which directed the City Administrator to pursue funding and assistance to support businesses harmed by armed burglaries and to prevent future incidents. Funding cannabis businesses' security measures will discourage future burglaries and fulfill the direction of Resolution No. 88982.

*Extending Equity Applicant Eligibility For Equity Assistance Program*

Finally, to support equity applicants to thrive and not just survive, staff recommends allowing previously verified equity applicants who no longer qualify as an equity applicant either due to earning more than eighty percent of the average median income or no longer residing in Oakland continued access to Equity Assistance Program services for eight years since the initial date the City verified their equity applicant status. This will allow equity applicants that are beginning to succeed continued access to grants, loans, fee waivers, and free technical and legal assistance as they work to establish sustainable businesses. This also avoids penalizing equity applicants who have been displaced from Oakland due to the rising cost of living. Accordingly, staff recommends amending the City's cannabis permitting ordinances, OMC sections 5.80 and 5.81, to allow equity applicants with continued access to Equity Assistance Program services and access to Local Jurisdiction Assistance Grant funds over the next three years.

**FISCAL IMPACT**

Acceptance and appropriation of the Local Jurisdiction Assistance Grant of \$9,905,020 will enhance the City's support of cannabis businesses and improve cannabis business' ability to comply with City permitting requirements over the next three years. \$4,480,358.10 of the total grant will go towards City staff costs. At the conclusion of the three-year grant, any new positions funded through the grant will need to be funded through either permit fees or subsidized by the General Fund. Likewise, the maintenance of technology platforms, such as Accela, will also need to be funded through either permit fees or subsidized by the General Fund after the three-year grant period.

The Local Jurisdiction Assistance Grant funds will be deposited in the State of California Fund (2159), Special Activities (02113), Project (TBD), State Grant Miscellaneous (46229).

**PUBLIC OUTREACH / INTEREST**

Staff has conducted public outreach regarding how best to utilize the Local Jurisdiction Assistance Grant through multiple discussions at the CRC in 2021 and 2022. At the August 2021 CRC meeting, the CRC expressed support for staff's initial proposal but questioned an initial proposal to fund overtime for a police officer to conduct security inspections and recommended the utilization of non-sworn personnel instead. Staff then incorporated this suggestion and replaced overtime for sworn staff with overtime and training for Municipal Code Enforcement Officers, non-sworn staff in EWDD, to conduct security inspections of cannabis facilities. Staff presented this updated proposal at the October and November 2021 CRC meetings. Following the rise in armed burglaries of cannabis businesses, at the January 2022 CRC meeting staff further adjusted the proposed use of the Local Jurisdiction Assistance Grant to include funding for security measures, which the CRC approved.



## **COORDINATION**

The Special Activity Permits Division in the EWDD consulted with the Budget Bureau, the Department of Planning and Building, the Fire Department, the Oakland Police Department, and the Office of the City Attorney in preparation of this report.

## **SUSTAINABLE OPPORTUNITIES**

**Economic:** Establishing a pathway to equitable cannabis industry growth will generate economic opportunities for Oakland residents.

**Environmental:** Encouraging local employment and business ownership can reduce commutes and related greenhouse gas emissions.

**Race and Equity:** Promoting equitable ownership and employment opportunities in the cannabis industry can decrease disparities in life outcomes for marginalized communities of color and address disproportionate impacts of the war on drugs in those communities.

## **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt The Following Legislation:

A Resolution Authorizing The City Administrator To:

1. Apply For And Accept Nine Million Nine-Hundred And Five Thousand And Twenty Dollars (\$9,905,020) In State Of California, Local Jurisdiction Assistance Grant Program Funds; And
2. Appropriate The Local Jurisdiction Assistance Grant Funds By:
  - (A) Funding Staff Positions In The Economic And Workforce Development, Planning and Building, And Fire Departments In The Amount Of Four Million Seven-Hundred And Ninety-Nine Thousand Seven Hundred And Nine Dollars (\$4,799,709); And
  - (B) Funding Permit Technology Systems In The Amount Of Four-Hundred And Thirty Thousand Dollars (\$430,000); And
  - (C) Award Grants To Support The Transition To Annual State Licenses For Cannabis Equity Applicants In An Amount Not To Exceed Two-Hundred And Fifty Thousand Dollars (\$250,000) Per Grant To Be Determined And Without Return To City Council In A Cumulative Amount Of One Million Seven Hundred And Twenty-Two Thousand Six-Hundred And Fifty-Five Dollars And Fifty Cents (\$1,722,655.50);
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(E) Allocating Funding In The Amount Of One Million Two Hundred And Thirty Thousand Dollars (\$1,230,000) For Consultants To Be Selected Through Competitive Request For Proposal Processes To Administer Grant Programs And Provide Technical As Well As Legal Assistance To Cannabis Equity Applicants In The Amount Of One Million Two Hundred And Thirty Thousand Dollars (\$1,230,000).

And

Ordinance Changing Permitting Requirements For Cannabis Businesses By:

- (1) Amending Oakland Municipal Code Sections 5.80.050 And 5.81.060 To Allow A Cannabis Business Permit Applicant Who Previously Met The Income And Oakland Residency Criteria To Qualify As An "Equity Applicant" To Receive Equity Assistance Program Services Up To Eight Years From The Date Such Applicant Was Verified As An Equity Applicant, Regardless Of The Applicant's Current Income Or Residency; And
- (2) Adopting CEQA Exemption Findings

For questions regarding this report, please contact Greg Minor, Assistant to the City Administrator, at (510) 238-6370.

Respectfully submitted,



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ALEXA JEFFRESS  
Director, Economic and Workforce  
Development Department

Prepared by:  
GREG MINOR  
Assistant to the City Administrator