



AGENDA REPORT

TO: Edward D. Reiskin
Interim City Administrator

FROM: Greg Minor
Assistant to the City
Administrator

SUBJECT: Workforce Development Funds for
Cannabis Equity Applicants and
Licensees

DATE: July 23, 2020

City Administrator Approval 

Date: Jul 23, 2020

RECOMMENDATION

Staff Recommends That The City Council:

Adopt A Resolution Amending Resolution Numbers 88030 C.M.S. and 88162 C.M.S., Which Among Other Things Authorized The Acceptance and Appropriation of One-Million, Six-Hundred and Fifty-Seven Thousand, Two-Hundred and One Dollars and Sixty-Five Cents (\$1,657,201.65) In State of California, Equity Act Grant Funding And Six Million, Five Hundred Seventy-Six Thousand Seven Hundred and Five Dollars and Seventy-Six Cents (\$6,576,705.76) In State Of California, Office Of The Governor "Go-Biz" Equity Act Grant Funds To:

Authorize The City Administrator Or His Designee To Award Said Grant Funds To Local Equity Licensees And Applicants To Be Determined And Without Return To City Council: (A) In An Amount Up To Fifty Thousand Dollars (\$50,000) Per Grant To Fund The Recruitment, Training, And Retention Of A Qualified and Diverse Workforce; And (B) At A Cumulative Grant Amount For The Above-Mentioned Awards Not To Exceed One Million Dollars (\$1,000,000).

EXECUTIVE SUMMARY

The City Council established the nation's first Cannabis Equity Program (Equity Program) in the spring of 2017, following a race and equity analysis that identified strategies to promote equitable ownership and employment opportunities in the cannabis industry, and to address the disproportionate impacts of the war on drugs in marginalized communities of color. In the fall of 2019, the California Bureau of Cannabis Control (BCC) awarded the City of Oakland \$1,657,201.65 in local equity grant program funding and in the Spring of 2020 the Governor's Office of Business and Economic Development (Go-Biz) awarded the City of Oakland \$6,576,705.76 to support the City of Oakland's Equity Program. On February 4, 2020, the City Council enacted Resolution No. 88030 C.M.S. to receive and appropriate the BCC grant award and on June 16, 2020 the City Council enacted Resolution No. 88162 to accept and appropriate the Go-Biz grant award to facilitate grants and loans to equity operators, investment in shared-

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use commercial kitchens, workforce development programs within the cannabis industry, and a program analyst to assist with grant and Equity Program administration.

Staff recommends that the City Council adopt a Resolution amending Resolution No. 88030 and No. 88162 C.M.S. clarifying that the City Administrator distribute grant funding for workforce development directly to equity applicants and licensees. This clarification will better align with BCC and Go-Biz grant requirements and enable the City Administrator to both support equity-owned businesses and those most harmed by the war on drugs seeking employment within the regulated cannabis industry.

BACKGROUND / LEGISLATIVE HISTORY

Federal Cannabis Policy Unsettled but Generally Deferential to States

Cannabis remains a Schedule One controlled substance under federal law, however, since the 2013 Department of Justice “Cole Memorandum”¹ and the 2015 Fahr-Rohrbacher federal budget amendment,² state compliant medical cannabis facilities have generally been shielded from federal prosecution. The Trump Administration has 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 Initiates 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.

¹ The Cole Memorandum can be found here:

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

² 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's Cannabis Regulatory History

The City of Oakland has been a leader in regulating cannabis. Following the federal closure of Oakland Cannabis Buyers Club (OCBC), the City's initial medical cannabis provider under Oakland Municipal Code (OMC) 8.46, in 2004 the City of Oakland enacted OMC 5.80, which established the nation's first permitting process for medical cannabis dispensaries. In 2011, the City of Oakland 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 any implementation of OMC 5.81.

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 of Oakland 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.³ 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.

³ 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."

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

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 of Sacramento, the State of Massachusetts, and State of Illinois have conducted similar analyses or enacted their own equity programs.

In the fall of 2018, the State of California set aside \$10 million in one-time funding to support local jurisdictions' cannabis equity programs through Senate Bill (SB) 1294, the California Cannabis Equity Act of 2018. Of this \$10 million, the BCC awarded the City of Los Angeles and the City of Oakland the largest portions of the available funding in the fall of 2019, awarding them \$1,834,156.38 and \$1,657,201.65, respectively.⁴

On February 4, 2020, the City Council adopted Resolution No. 88030 C.M.S., to receive and appropriate the BCC funding towards grants to operators, support for shared manufacturing facilities and events featuring equity operators, workforce development programs, and a program analyst position to support grant and Equity Program administration.

Similarly, in early 2020 GO-Biz made \$30 million available to local jurisdictions with cannabis equity programs through a competitive grant solicitation. In April 2020, Go-Biz awarded the City of Oakland \$6,576,705.76, the largest out of any local jurisdiction in California. Then on June 16, 2020, the City Council adopted Resolution No. 88162 C.M.S. to receive and appropriate the Go-Biz funding towards grants and no-interest loans to operators, workforce development, as well as technical and legal assistance programs.

ANALYSIS AND POLICY ALTERNATIVES

Challenges Facing Equity Applicants

As noted in the April 9, 2019 informational report to the City Council Finance & Management Committee and the January 28, 2020 report to the Community and Economic Development Committee, the Equity Program does not exist in a vacuum. Equity applicants face many of the same challenges that confront entrepreneurs seeking to establish any business, such as securing sufficient capital, bringing a facility into compliance with building and fire codes, legal issues, scaling a business, as well as securing sales. Further, equity applicants encounter many of the same challenges that any cannabis business faces operating in the infancy of cannabis legalization, such as market uncertainty, regulatory compliance, inadequate access to

⁴ For a complete list of local equity grant funding recipients, please visit:
https://bcc.ca.gov/about_us/documents/media_20191009.pdf

banking, and security concerns. While the challenges faced by equity applicants may not be unique, these challenges likely have a disproportionate impact on equity applicants due to a web of past and present policies and actions of institutions that have resulted in disparities in business ownership and access to venture capital.

Strategies for Utilizing State Funds

The BCC and Go-Biz grants offer an opportunity to address several of the challenges confronting equity applicants and expand the Equity Program’s reach into workforce development programs. **Figure 1** and **Figure 2** offer summaries of the proposed uses of each grant. For more details, please refer to the January 28, 2020 report to the Community and Economic Development Committee and the June 16, 2020 report to the City Council.

Figure 1- Proposed Use of Bureau of Cannabis Control Grant Funds

Proposed Use of BCC FUNDING	
Grants to Operators	\$850,000
Commercial Kitchens	\$250,000
Events Featuring Equity Businesses	\$200,000
Workforce Development	\$200,000
Program Analyst Position	\$150,000
TOTAL BCC FUNDING	\$1,650,000

Figure 2- Proposed Use of Go-Biz Grant Funds

Proposed Use of Go-Biz Funds	
Grants to Operators for All Eligible Expenses	\$1,510,239
No Interest Loans to Operators for All Eligible Expenses	\$1,510,239
No Interest Loans to Purchase Property	\$1,510,239
Workforce Development	\$800,000
Loan and Grant Administration	\$350,000
Technical Assistance	\$250,000
Legal Assistance	\$165,000
City Staff Costs Administering Equity Program	\$480,987
TOTAL GO-BIZ FUNDING	\$6,576,705

Resolution to Distribute Workforce Development Funds Directly to Equity Businesses

The proposed Resolution amends the workforce development portion of earlier Resolutions accepting and appropriating the BCC and Go-Biz grant funds to directly award this funding to equity applicants and licensees. While this approach differs from typical workforce development programs in which the Workforce Development Board funds a community-based organization to provide job placement and training services, this alternative approach is in better alignment with the requirements of the BCC and Go-Biz grants to fund equity applicants and licensees and will support equity-owned business to maintain and expand their workforce. Most importantly, this funding will lower barriers of entry to employment in the regulated cannabis industry for those most harmed by the war on drugs by subsidizing the cost of training and hiring “equity employees,” individuals with cannabis convictions and residents of Oakland police beats with disproportionately high levels of cannabis enforcement.⁵

FISCAL IMPACT

There is no fiscal impact associated with this report.

PUBLIC OUTREACH / INTEREST

In advance of applying for the BCC grant and presenting Resolution No. 88030 C.M.S. to the January 28, 2020 Community and Economic Development Committee, staff conducted surveys of equity applicants in the spring and winter of 2019 and held discussions at multiple 2019 Cannabis Regulatory Commission meetings on how to utilize BCC grant funding.

Likewise, in advance of applying for the Go-Biz grant and presenting Resolution No. 88162 staff conducted public outreach through multiple discussions at the Cannabis Regulatory Commission and a survey of equity applicants on how best to utilize the Go-Biz funds.

No additional public outreach was done outside of the City’s standard agenda process for this report.

COORDINATION

The City Administrator’s Office’s Special Activity Permits Division consulted with the Department of Economic and Workforce Development, the Budget Bureau, and the Office of the City Attorney in preparation of this report.

⁵ City Council adopted the definition of an “equity employee” in 2019 as part of the Cannabis Equity Tax Rebate Program codified under OMC 5.04.481.

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 A Resolution Amending Resolution No. 88030 and 88162 C.M.S., Which Among Other Things Authorized The Acceptance and Appropriation of One-Million, Six-Hundred and Fifty-Seven Thousand, Two-Hundred and One Dollars and Sixty-Five Cents (\$1,657,201.65) In State of California, Equity Act Grant Funding And Six Million, Five Hundred Seventy-Six Thousand Seven Hundred and Five Dollars and Seventy-Six Cents (\$6,576,705.76) In State Of California, Office Of The Governor "Go-Biz" Equity Act Grant Funds To:

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

Respectfully submitted,



GREG MINOR
Assistant to the City Administrator