



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Greg Minor
Assistant to the City
Administrator

SUBJECT: Governor's Office of Business and
Economic Development Grant for
Cannabis Equity Program

DATE: April 12, 2021

City Administrator Approval 

Date: Apr 21, 2021

RECOMMENDATION

Staff Recommends That The City Council Adopt Two Pieces of Legislation As Provided Below:

(A) A Resolution Authorizing The City Administrator Or Designee To:

(1) Apply For And Accept Two Million Four Hundred Thirty-Four Thousand Seven Hundred And Twelve Dollars And Fifty-One Cents (\$2,434,712.51) In State Of California, Office Of The Governor, "Go-Biz," Equity Act Grant Funds;

(2) Appropriate The Go-Biz Grant Funds By:

(A) Providing Grants And/Or Loans In An Amount Not To Exceed One-Hundred And Fifty Thousand Dollars (\$150,000) Per Grant Or Loan For Cannabis Equity Applicants And Licensees, To Be Determined And Without Return To Council, For Businesses' Start-Up And Ongoing Costs In A Cumulative Amount Not To Exceed One Million Nine Hundred And Forty-Eight Thousand Four Hundred And Seventy-Five Dollars And Forty-One Cents (\$1,948,475.41); And

(B) Funding Direct Technical Assistance To Cannabis Equity Applicants And Licensees In An Amount Not To Exceed Two-Hundred And Forty-Three Thousand Four Hundred And Seventy-One Dollars And Twenty-Five Cents (\$243,471.25); And

(C) Funding Administration Of The Cannabis Equity Program In An Amount Not To Exceed Two-Hundred And Forty-Three Thousand Four Hundred And Seventy-One Dollars And Twenty-Five Cents (\$243,471.25).

(B) A Resolution:

(1) Authorizing The City Administrator Or Designee To:

(A) Negotiate And Award A New Professional Services Agreement With "4Front Partners" To Administer The Loan And Grant Programs For Cannabis Equity

Applicants And Licensees In An Amount Not To Exceed One Hundred And Sixty Thousand Dollars (\$160,000);

(B) Negotiate And Award A New Professional Services Agreement With “Knox And Ross” To Provide Legal Services To Cannabis Equity Applicants And Licensees In An Amount Not To Exceed One Hundred And Twenty-One Thousand Five Hundred Dollars (\$121,500);

(C) Negotiate And Award A New Agreement With “Make Green Go” To Provide Technical Assistance To Cannabis Equity Applicants And Licensees In An Amount Not To Exceed One Hundred And Twenty-One Thousand Five Hundred Dollars (\$121,500); And

(2) Waiving The Request For Proposals/Qualifications Process For The Three Professional Services Agreements Referenced Above.

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 to address the disproportionate impacts of the war on drugs in marginalized communities of color. The City of Oakland’s action led to the creation of California’s Cannabis Equity Grants Program for Local Jurisdictions administered by the Governor’s Office of Business and Economic Development (Go-Biz) that made \$15 million available statewide for local jurisdictions with cannabis equity programs in 2021. On March 15, 2021 Go-Biz awarded the City of Oakland \$2,434,712.51 in Cannabis Equity Grants Program funding, the largest such award in the state for the second year in a row (**See Attachment A**, Grant Agreement).

This funding offers an opportunity to continue building upon the foundation the City of Oakland has established for its Cannabis Equity Program. Specifically, state funding will facilitate grants and no-interest revolving loans to equity operators to support their businesses’ start-up and ongoing costs, grants for equity manufacturers to utilize shared-use facilities, free technical assistance and legal assistance, as well as cover a portion of the costs of administering the Equity Program.

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.

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

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.

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

from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana.

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.

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 2019 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

Similarly, in early 2020 the Governor's Office of Business and Economic Development (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. This award was an acknowledgement of the City's groundbreaking work establishing and implementing the nation's first cannabis Equity Program and an exciting opportunity to elevate the City's existing Equity Program.

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."

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

Most recently, Go-Biz made another \$15 million available statewide to support local cannabis equity programs. Go-Biz again awarded the City of Oakland the largest individual grant, though with less overall funding available and more jurisdictions applying for these funds, Oakland's 2021 Go-Biz grant is less than half of the amount received in 2020.

ANALYSIS AND POLICY ALTERNATIVES

Challenges Facing Equity Applicants

As noted in prior reports, 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 banking, and security concerns (For a list of barriers experienced by equity applicants, review the 2021 Equity Applicant Survey Results, Question 9, available here: <https://cao-94612.s3.amazonaws.com/documents/April-17-2021-Equity-Survey-Results.pdf>). 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 Go-Biz grant offers an opportunity to address several of the challenges confronting equity applicants. **Figure 1** offers a summary of the proposed uses of Go-Biz funds and the level of funding proposed for each use.

Figure 1- Proposed Use of Go-Biz Grant Funds

Proposed Use of Go-Biz Funds	
Grants and/or No-Interest Revolving Loans to Operators for All Eligible Expenses	\$1,448,475.41
Grants to Utilize Shared-Use Manufacturing Facilities	\$500,000
Loan and Grant Administration	\$160,000
Technical Assistance	\$121,500
Legal Assistance	\$121,500
Portion of City Administrator Analyst Position	\$83,237.10
TOTAL GO-BIZ FUNDING	\$2,434,712.51

A. Grants and/or Loans to Operators to Assist with Start-Up and Ongoing Costs

Grants and loans to equity operators provide access to capital, the fundamental barrier confronting equity applicants as they seek to gain entry and successfully operate in the state's regulated cannabis marketplace. A recent survey of equity applicants confirmed as much, with over ninety percent of equity applicants identifying lack of capital as a barrier they are experiencing as they establish a compliant cannabis business. Grants and loans address this barrier and provide operators with flexibility to cover the variety of expenses they encounter initiating and growing their business, from completing construction, to purchasing insurance, to covering state licensing fees.

It is no surprise then, that recently surveyed equity applicants ranked grants and loans as the most helpful use of Go-Biz grant funds (See Equity Applicant Survey, Question 28 here: <https://cao-94612.s3.amazonaws.com/documents/April-17-2021-Equity-Survey-Results.pdf>). In regards to whether the City should provide grants vs. no-interest revolving loans, a majority of equity applicants prefer the option of both grants and no-interest loans. (See Equity Applicant Survey, Question 29). Accordingly, the attached Resolution requests authority to disperse both grants and loans. Staff will determine the overall amount available for grants and loans provided by the Go-Biz grant based on equity applicant demand for grants versus loans and after the conclusion of the City Council budget process in case the City Council elects to supplement the Go-Biz grant by providing City funding for cannabis equity loans or grants.

B. Grants to Utilize Shared-Use Manufacturing Facilities

In addition to broad assistance with all eligible expenses, Go-Biz funds offer an opportunity for targeted investment, such as grants for equity manufacturers to utilize shared-use manufacturing facilities. Manufacturing edible or topical cannabis products prior to the legalization of the cannabis industry had few barriers to entry, as many produced these products from their homes. In contrast, manufacturing cannabis within the regulated environment has been significantly more expensive as the construction of a commercial kitchen can cost hundreds of thousands of dollars and these facilities are only allowed in industrial areas that generally consist of large warehouses that can be expensive to rent or own. After recognizing these challenges, in 2020 the City utilized Bureau of Cannabis Control and Go-Biz funds to subsidize 16 equity manufacturers' use of two shared-use manufacturing facilities. While equity manufacturers are now using these spaces to develop and produce products, it took time to bring these facilities into compliance before manufacturers could begin operating. Accordingly, additional funding is needed to provide equity manufacturers a full year to utilize these facilities and grow their businesses on a path towards self-sufficiency.

C. Loan and Grant Administration

In order to provide equity operators with access to capital through grants and loans, staff recommends continuing to fund 4Front Partners, dba Elevate Impact Oakland (Elevate Impact). The City Administrator's Office selected Elevate Impact via a competitive Request for Proposals (RFP) process in the summer of 2018 to develop and administer a revolving loan program and again in the summer of 2019 via another RFP process to continue administering the loan

program. In addition to administering the revolving loan program, last year Elevate Impact added a grant program, a loan modification program to support loan borrowers who had fallen behind on loan payments, and a business coaching program. Additionally, Elevate Impact and City staff have held monthly meetings with equity applicants to provide updates on these programs and receive feedback on how to improve implementation.

In terms of statistics, between the launch of the revolving loan program on November 1, 2018 and April 6, 2021, the City has lent \$3,268,000 to 54 unique borrowers, 28 of whom were repeat borrowers, for an average of \$60,518 per loan. In terms of demographics, eighty percent of these no-interest loan recipients are African Americans (**See Attachment B, Equity Grants and Loans Race and Gender Statistics**). Likewise, since launching a grant program in the summer of 2020 and April 6, 2021, the City has provided \$1,115,000 in funding to 32 grantees for an average of \$34,844 per grant, with African Americans comprising eighty-one percent of grant recipients. More information on these programs is available at <https://www.elevateimpactoakland.com>.

Given the critical need to provide funding to equity operators and avoid a disruption in services, staff recommends initiating a new contract with Elevate Impact at the expiration of their current contract. This will allow Elevate Impact and City staff to build on existing programs and continue providing much needed capital to equity businesses. Accordingly, staff recommends initiating this new contract and waiving an additional RFP process (**See Attachment C, Elevate Impact Proposed Budget**).

D. Technical Assistance

After undergoing competitive RFP processes in 2017, 2018, and 2019, Make Green Go has served as the technical assistance consultant to the Equity Program. In 2017 Make Green Go focused on preparing equity applicants for the dispensary application process and matching equity applicants with general incubators. Subsequently, Make Green Go has concentrated on assisting equity applicants' compliance with local and state requirements. Make Green Go's services consist of one-on-one consultations, an online portal of entrepreneurship courses, standard operating procedures, cannabis compliance resources, and workshop videos. Make Green Go conducts workshops on various topics which have included budgets and financials, securing funding, marketing, packaging and labeling compliance, taxes and insurance, state licensing requirements, seed-to-sale compliance and the cannabis supply chain.

To ensure equity applicants continue to receive technical assistance as they navigate the regulated cannabis marketplace and avoid a disruption in services, staff recommends initiating a new contract with Make Green Go at the expiration of their current contract and waiving an additional RFP process (**See Attachment D, Make Green Go Proposed Budget**).

E. Legal Assistance

Staff also recommends initiating a new contract with the law firm Knox and Ross, who for the last three plus years has assisted equity operators with the legal issues that arise as they create and expand their businesses. In a recent survey, more than eighty percent of equity applicants that utilized Knox and Ross found their services as either very helpful or helpful (See Equity

Applicant Survey, Question 22). Considering Knox and Ross has already undergone multiple RFP processes via Make Green Go⁵ and the need to avoid service disruption, staff recommends waiving any additional RFP process for providing legal assistance to equity applicants (**See Attachment E, Knox and Ross Proposed Budget**).

F. Staff Costs Administering Equity Program

Likewise, staff recommends utilizing available Go-Biz funding to cover Elevate Impact's administration of the loan and grant programs and a portion of staff's cost administering the equity program. As equity applicants are exempt from all City application and permit fees, the City's general fund currently supports all of staff's time administering the equity program. Staff costs include reviewing applications, responding to public inquiries, scheduling inspections, processing loan and grant payments and agreements, gathering and analyzing data, and the Equity Program's overall design and implementation. Since Go-Biz caps the amount of grant spent on administration to ten percent of the overall grant, the Go-Biz grant can only cover a fraction of the City's expenses. Accordingly, staff recommends allocating ten percent of the Go-Biz funds towards Elevate Impact's administration of the loan and grant programs and a portion of a City Administrator analyst position.

FISCAL IMPACT

Acceptance and appropriation of the Go-Biz grant of \$2,434,712.51 will continue the City of Oakland's support of cannabis equity operators. Only \$83,237.10 of the Go-Biz grant will go towards City expenses, and the City Administrator Analyst position has always been funded via grants, so none of the Go-Biz grant will replace existing City of Oakland costs or funding of the Equity Program.

The Go-Biz 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 Go-Biz grant through discussions at the Cannabis Regulatory Commission and a recent survey of equity applicants.

COORDINATION

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

⁵ In 2017-2019, Knox and Ross provided legal services to Oakland equity applicants as a subcontractor to Make Green Go who competed in multiple RFP processes.

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 Two Pieces of Legislation As Provided Below:

(A) A Resolution Authorizing The City Administrator Or Designee To:

- (1) Apply For And Accept Two Million Four Hundred Thirty-Four Thousand Seven Hundred And Twelve Dollars And Fifty-One Cents (\$2,434,712.51) In State Of California, Office Of The Governor, "Go-Biz," Equity Act Grant Funds;
- (2) Appropriate The Go-Biz Grant Funds By:
 - (A) Providing Grants And/Or Loans In An Amount Not To Exceed One-Hundred And Fifty Thousand Dollars (\$150,000) Per Grant Or Loan To Cannabis Equity Applicants And Licensees, To Be Determined And Without Return To Council, For Businesses' Start-Up And Ongoing Costs In A Cumulative Amount Not To Exceed One Million Nine Hundred And Forty-Eight Thousand Four Hundred And Seventy-Five Dollars And Forty-One Cents (\$1,948,475.41); And
 - (B) Funding Direct Technical Assistance To Cannabis Equity Applicants And Licensees In An Amount Not To Exceed Two-Hundred And Forty-Three Thousand Four Hundred And Seventy-One Dollars And Twenty-Five Cents (\$243,471.25); And
 - (C) Funding Administration Of The Cannabis Equity Program In An Amount Not To Exceed Two-Hundred And Forty-Three Thousand Four Hundred And Seventy-One Dollars And Twenty-Five Cents (\$243,471.25).

(B) A Resolution:

- (1) Authorizing The City Administrator Or Designee To:
 - (A) Negotiate And Award A New Professional Services Agreement With "4Front Partners" To Administer The Loan And Grant Programs For Cannabis Equity Applicants And Licensees In An Amount Not To Exceed One Hundred And Sixty Thousand Dollars (\$160,000);

(B) Negotiate And Award A New Professional Services Agreement With “Knox And Ross” To Provide Legal Services To Cannabis Equity Applicants And Licensees In An Amount Not To Exceed One Hundred And Twenty-One Thousand Five Hundred Dollars (\$121,500);

(C) Negotiate And Award A New Agreement With “Make Green Go” To Provide Technical Assistance To Cannabis Equity Applicants And Licensees In An Amount Not To Exceed One Hundred And Twenty-One Thousand Five Hundred Dollars (\$121,500);
And

(2) Waiving The Request For Proposals/Qualifications Process For The Three Professional Services Agreements Referenced Above.

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

Attachments (5):

Attachment A: Grant Agreement

Attachment B: Equity Grants and Loans Race and Gender Statistics

Attachment C: Elevate Impact's Proposed Budget

Attachment D: Make Green Go's Proposed Budget

Attachment E: Knox and Ross' Proposed Budget