



AGENDA REPORT

TO: Steven Falk
Interim City Administrator

FROM: Sofia Navarro
Interim Director,
Department of Economic
and Workforce
Development

SUBJECT: Proposition 64 Cohort 3 Grant for
Cannabis Program

DATE: May 15, 2023

City Administrator Approval

Date: May 30, 2023

RECOMMENDATION

Staff Recommends That The City Council A Resolution Authorizing The City Administrator To:

- (1) Apply For And Accept Three Million Dollars (\$3,000,000) In State Of California, Proposition 64 Public Health And Safety Grant Program Cohort Three Funds (“Proposition 64 Cohort Three Grant”); And**
- (2) Appropriate The Proposition 64 Cohort Three Grant Funds By:**
 - (A) Providing Grants In An Amount Not To Exceed One Hundred Thousand Dollars (\$100,000) Per Grant For Cannabis Applicants And Licensees, To Be Determined And Without Return To Council, To Secure Their Business Facilities And Provide Onsite Security, In A Cumulative Amount Not To Exceed Two-Million Two Hundred And Sixty Thousand Dollars (\$2,260,000); And**
 - (B) Funding One Or More Agreements To Be Awarded After A Competitive Request For Proposals Process And In An Amount Not To Exceed Two Hundred And Twenty-Five Thousand Dollars (\$225,000) For A Public Awareness Campaign To Support Equity-Owned Cannabis Businesses; And**
 - (C) Funding An Agreement To Be Awarded After A Competitive Request For Proposals Process And In An Amount Not To Exceed Eighty Thousand Dollars (\$80,000) For A Grant Evaluator; And**
 - (D) Funding Administration Of The Proposition 64 Cohort Three Grant In An Amount Not To Exceed Four Hundred And Thirty-Five Thousand Dollars (\$435,000).**

EXECUTIVE SUMMARY

In November 2016 California voters approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA), which legalized the recreational use of cannabis in California for people 21 and older. Proposition 64 also directed a portion of state cannabis tax revenue towards a grant program administered by the Board of State and Community Corrections (BSCC) to assist with law enforcement or other local programs addressing public health and safety associated with AUMA. In the fall of 2022, the BSCC released a Request for

Proposals (RFP) for Proposition 64 Public Health and Safety Grant Program Cohort Three, which offered a maximum of \$3 million over five years per local jurisdiction.

After consulting with the Cannabis Regulatory Commission (CRC), in December 2022 staff submitted a grant proposal to the BSCC requesting funding for (i) security measures for Oakland's licensed cannabis operators and (ii) a public education campaign to support Oakland equity operators. Together these efforts will support a safe and equitable regulated marketplace, allowing licensed operators to not just survive but thrive in the post-Proposition 64 landscape. In April 2023 the BSCC approved the City of Oakland's grant proposal and by adopting the proposed Resolution, the City Council will authorize the receipt of \$3 million in funding from the BSCC to implement this work.

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"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 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. Additionally, in October 2022 President Biden directed the Secretary of Health and Human services and the Attorney General to initiate the process to review how cannabis is scheduled under federal law.

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.

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 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.

Oakland Examines Equity Within Cannabis Industry

In anticipation of state legalization of the cannabis industry's supply chain and the adult use of cannabis, in 2015 and 2016, the City began exploring approaches to legalizing the cannabis industry within Oakland. 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 analysis³ 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.⁴ 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

³ <https://cao-94612.s3.amazonaws.com/documents/Equity-Analysis-and-Proposed-Medical-Cannabis-Amendments.pdf>

⁴ 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."

- Application and permit fee exemptions for equity applicants.

In the Spring of 2017, the City Council adopted 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. In 2019 the State of California began setting aside annual grant funding to support local jurisdictions' cannabis equity programs. **Table 1** outlines the amount of funding the City has received from the State of California, Oakland's ranking among local jurisdictions each year, and the total amount of funding set aside by the State of California that year.

Table 1: Oakland's Receipt of Local Equity Grant Funding

State Funding Agency	Fiscal Year (FY)	Amount of Funding Received	Oakland's Ranking Among Local Jurisdictions	Total Amount of Funding Available Statewide
BCC ⁵	FY 2019-2020	\$1,657,201.65	2nd	\$10 million
Go-Biz	FY 2019-2020	\$6,576,705.76	1st	\$30 million
Go-Biz	FY 2020-2021	\$2,434,712.51	1st	\$15 million
Go-Biz	FY 2021-2022	\$5,435,140.82	2nd	\$35 million
Go-Biz	FY 2022-2023	\$1,996,487.50	1st	\$15 million

Proposition 64 Public Health and Safety Grant Program

California voters established the Proposition 64 Public Health and Safety Grant Program through the passage of Proposition 64. Proposition 64 directs a portion of state tax revenue generated from the cultivation and retail sale of cannabis and cannabis products towards grant programs to mitigate the impacts resulting from the legalization of recreational cannabis. Specifically, the Revenue and Taxation Code directs the BSCC to make grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the AUMA.

In 2021 the City Council approved receipt of a three-year \$997,694 Proposition 64 Cohort Two Grant from the BSCC via [Resolution No. 88735 CMS](#). The Proposition 64 Cohort Two Grant provided resources for (i) a youth prevention campaign, (ii) adult public awareness campaign to support equity businesses, and (iii) overtime for an OPD officer to hold security workshops and inspections.

⁵ Initially the Bureau of Cannabis Control, the predecessor to the Department of Cannabis Control, dispersed Local Equity Grant funding.

Implementation of the Proposition 64 Cohort Two Grant has revealed the challenges of addressing three diverse projects with a relatively modest amount of funds. Additionally, staff has seen the opportunities and challenges of increasing public awareness of equity-owned cannabis businesses after launching an inaugural [Equity Week](#) to highlight equity-owned cannabis businesses in November 2022.

Accordingly, when the BSCC released an RFP for the Proposition 64 Cohort Three Grant, staff's grant proposal focused on two core needs: (1) improving the security of cannabis businesses and (2) improving public support of equity-owned businesses.

ANALYSIS AND POLICY ALTERNATIVES

Approval of the requested action advances the Citywide priority of **housing, economic, and cultural security** by promoting business ownership opportunities, particularly for historically marginalized entrepreneurs.

Program Need

Proposition 64 established a legal market for the adult use of cannabis that features a mountain of obstacles for licensed operators to overcome. From high taxation, federal restrictions on banking and tax deductions, and competition with the unregulated market, licensed cannabis operators have struggled to succeed in the regulated marketplace.

Oakland operators that have managed to build a compliant business have found their business torn apart by armed burglars seeking to obtain cannabis to sell on the unregulated market or cash stored onsite due to cannabis operators' limited access to the banking system. Whereas between 2004 and 2017 there was only one successful burglary of an Oakland permitted dispensary, between 2019-2021 there were 440 reported burglaries of Oakland cannabis businesses and over 130 in 2022. The burglaries of cannabis businesses take place at night when there are fewer eyes on the street and the Oakland Police Department (OPD) is often busy responding to crimes involving potential loss of life.

Burglaries undermine licensed cannabis businesses' ability to participate in the regulated market. Burglaries result in a large financial loss for cannabis businesses as they often are left to cover the cost of repairing their place of business, stolen product, and stolen cash all without the support of insurance companies. Given the weight of the regulated market's taxation and compliance requirements, burglarized cannabis businesses often cease operations or consider returning underground to operate in the unregulated market.

The obstacles described above have a disproportionate impact on equity businesses, who already face an uphill struggle to participate in the regulated cannabis marketplace. Since cannabis is still federally illegal, cannabis entrepreneurs cannot obtain loans from banks to start their business. This places corporate cannabis businesses at a further advantage due to their network of wealthier contacts. In turn this creates a vicious cycle where large operators only become larger; corporate operators can afford to operate at a large scale and produce products at a price dispensaries prefer, which then results in consumers preferring these products since they are the most carried by dispensaries.

Project Description

In light of the above challenges, staff has developed a proposal to improve the safety of Oakland's licensed cannabis businesses and enhance public awareness of equity businesses. Specifically, the Proposition 64 Cohort Three Grant will enable the City of Oakland to fund (1) security measures at licensed cannabis businesses and (2) an ongoing public education campaign to increase consumer awareness of how they can support Oakland equity businesses.

A. Security Measures: An Ounce of Prevention is Worth a Pound of Cure

The funding of security measures will consist of grants to licensed operators for either (1) physical and technological improvements to secure their business locations or (2) private overnight security at licensed retailers and properties that benefit multiple cannabis operators, such as shared-use manufacturing facilities. The first category of funds will follow the principles of Crime Prevention Through Environmental Design (CPTED) to deter burglaries by making licensed cannabis business locations hard targets for burglars. For example, the installation of commercial grade doors, locks, safes, security bars, bollards, and vaults will make it more difficult for burglars to enter licensed business locations to steal cannabis products or cash. The more difficult it is for a burglar to enter a location, the longer it will take them to enter, and the more likely law enforcement can respond in time to disrupt the criminal activity. Additional technological features, such as cameras, alarms, and remote monitoring systems will complement physical enhancements and improve licensed operators' communication with law enforcement. While not a panacea, the CTPED and technological features will encourage burglars and robbers to reconsider targeting Oakland cannabis businesses when identifying their victims.

Similarly, funding onsite private security at retailers and shared-use manufacturing facilities will provide an additional deterrent for burglars targeting cannabis businesses. Licensed security guards offer real-time eyes on the street to disrupt attempted burglaries and contact law enforcement in a timely fashion. Overnight onsite private security has proven effective at discouraging burglaries at Oakland cannabis businesses; a review of 2022 reported burglaries at cannabis businesses in Oakland revealed that all burglaries took place at locations lacking onsite security. However, the high cost of overnight private security, approximately \$6,000-\$7,000 a month, has deterred many operators from investing in this expense.

The Proposition 64 Cohort Three Grant offers an opportunity for the City of Oakland to offset the full cost of private security, minimizing the burden on licensed operators. That said, given that Oakland has over 280 unique licensed cannabis businesses, the City of Oakland plans on focusing overnight security funds on retailers and shared-use manufacturing facilities. Brick and mortar retailers are open to the public making them more vulnerable to burglars than cannabis businesses further up the supply chain. Shared-use manufacturing facilities serve multiple businesses, often equity manufacturers, at the same location. Thus by funding overnight private security at retailers and shared-use manufacturing facilities, the City of Oakland can improve safety at vulnerable and key cannabis businesses that support multiple employees and businesses.

B. Public Awareness Campaign: Enabling Consumers to Spend Their Money in Line With Their Values

Despite existing local and state efforts to support equity businesses, a large gap remains between equity and non-equity products available at dispensaries. However, pilot programs, such as black or equity-owned menus at dispensaries and online platforms as well the [City of Oakland's 2022 Equity Week](#) have demonstrated that consumers prefer supporting products made by historically marginalized communities if they are made aware of that option.

Accordingly, staff proposes building on these innovative efforts by utilizing Proposition 64 Cohort Three Grant funds to support events that feature equity businesses and coordinate a certification program to educate consumers on which cannabis products are equity made and equity-owned. The City of Oakland will select a consultant through an RFP process to lead both efforts at the start of fiscal year 2023-2024. The certification program will involve coordinating with existing dispensaries on a consistent label or presentation for equity products (similar to labels on organic food or fair-trade coffee). Events featuring equity businesses will attract consumers and public attention that will resonate beyond the events themselves. The certification program and events will reference each other to reinforce messaging and build momentum.

Table 2 offers a summary of the proposed uses of Proposition 64 Cohort Three Grant funds and the level of funding proposed for each use.

Table 2: Proposed Use of Proposition 64 Cohort Three Grant Funds For Fiscal Years (FY) 2023-2028

USES	YEAR 1 FY 23-24	YEAR 2 FY 24-25	YEAR 3 FY 25-26	YEAR 4 FY 26-27	YEAR 5 FY 27-28	TOTAL
Half of Program Analyst III	0	\$100,000	\$105,000	\$110,000	\$115,000	\$430,000
Equity Public Awareness Consultant	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$225,000
3rd Party Evaluator	0	\$20,000	\$20,000	\$20,000	\$20,000	\$80,000
Grants to Secure Facilities	0	0	\$200,000	\$200,000	\$200,000	\$600,000
Grants to Support Onsite Security	\$332,000	\$332,000	\$332,000	\$332,000	\$332,000	\$1,660,000
RFP Advertising	\$5,000					\$5,000
TOTAL	\$382,000	\$497,000	\$702,000	\$707,000	\$712,000	\$3,000,000

The budget outlined in **Table 2** phases in certain projects due to the respective project's scope and existing resources. For example, funding for the Program Analyst position begins in the

second year of the grant as this position is funded through and focused on completing other grants in Fiscal Year 2023-2024. Likewise, funding for the Grant Evaluator begins in the second year of the grant as the first year will be spent on selecting an evaluator and getting them under contract. Finally, the first two years of the budget focuses on private security as opposed to grants for securing facilities as the City has funding in place under the [Local Jurisdiction Assistance Grant](#) (Resolution No. 89064 CMS) to cover the cost of physical security requirements for provisionally licensed Oakland cannabis operators for the next two years.

FISCAL IMPACT

Acceptance and appropriation of the Proposition 64 grant of \$3,000,000 will not supplant existing resources, but rather enable City staff to initiate new projects over the next five years to support cannabis businesses. Of the total Proposition 64 Cohort Three Grant funds, \$435,000 of will go towards City expenses, including half of a Program Analyst III position. The existing source of funding for the Program Analyst III position will soon expire. Accordingly, the Proposition 64 grant will allow this position to continue, particularly if combined with additional grant funding in the future.

The Proposition 64 grant funds will be received and appropriated for spending in the State of California Fund (2159), Cannabis Organization (85621), Project (TBD), Administration Program (IP03), State Grant Miscellaneous Revenue Account (46229).

PUBLIC OUTREACH / INTEREST

Staff conducted public outreach regarding how best to utilize the Go Biz funds at the November 2022 Cannabis Regulatory Commission (CRC) meeting. After hearing a proposal to direct Proposition 64 Cohort Three Grant resources on OPD staff, the CRC rejected the proposal to fund OPD and instead adopted a motion for the City of Oakland to apply for funding for grants to operators to fortify their spaces and for businesses that have been burglarized.

COORDINATION

The Special Activity Permits Division in the Economic and Workforce Development Department (EWDD) consulted with the Police Department, the Budget Bureau, and the Office of the City Attorney in preparation of this report and resolution.

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 Authorizing The City Administrator To:

- (1) Apply For And Accept Three Million Dollars (\$3,000,000) In State Of California, Proposition 64 Public Health And Safety Grant Program Cohort Three Funds (“Proposition 64 Cohort Three Grant”); And
- (2) Appropriate The Proposition 64 Cohort Three Grant Funds By:
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For questions regarding this report, please contact Greg Minor, Deputy Director, Economic and Workforce Development Department, at (510) 238-6370.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'SN', is positioned above a horizontal line.

SOFIA NAVARRO
Interim Director, Economic and Workforce
Development Department

Prepared by:
Greg Minor
Deputy Director, Economic and Workforce
Development Department