

TO: Jestin D. Johnson FROM: Sofia Navarro City Administrator Interim Director, Department of Economic and Workforce Development SUBJECT: Annual Governor's Office of Business **DATE:** February 26, 2024 and Economic Development Grant for Cannabis Equity Program City Administrator Approval Date: Mar 14, 2024 Gra Mar 14, 2024 22:39 PDT) Jestir

RECOMMENDATION

Staff Recommends That The City Council Adopt The Following Pieces Of Legislation:

1. A Resolution Authorizing The City Administrator To:

(1) Apply For, Accept, And Appropriate Three Million Dollars (\$3,000,000) In State of California, Governor's Office Of Business And Economic Development (GO-BIZ) Equity Act Grant Funds; And

(2) Expend And Administer The Go-Biz Grant By:

(A) Providing Grants For Business Start-Up And Ongoing Costs In An Amount Not To Exceed Two-Hundred And Fifty Thousand Dollars (\$250,000) Per Grant For Cannabis Equity Applicants And Licensees, To Be Determined And Without Return To Council ; And (B) Covering Staffing And Other Administrative Costs For The City's Cannabis Equity Program.

And

2. A Resolution Amending Resolution No. 89681 C.M.S., Which Among Other Things Authorized An Increase In Funding For The Professional Services Agreement With 4Front Partners To Administer Cannabis Equity Grant And Loan Programs By Seventy-Eight Thousand Nine Hundred And Seventy-Nine Dollars And Seventy-Five Cents (\$78,979.75), By:

(1) Further Increasing The Funding Amount Of The Three-Year Professional Services Agreement With Front Partners To Administer Cannabis Equity Grant And Loan Programs, By Forty-Five Thousand Dollars (\$45,000), For A Total Contract Amount Not To Exceed Six Hundred And Ninety-Three Thousand Nine Hundred And Thirty-Six Dollars And Eleven Cents (\$693,936.11); And

(2) Waiving The Request For Proposals/Qualifications Process For The Proposed Funding Increase Of The Agreement With 4Front Partners

EXECUTIVE SUMMARY

The City Council established the nation's first Cannabis Equity Program (Equity Program) in the spring of 2017 following <u>a race and equity analysis</u> 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. This City of Oakland (City) 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 has made funding available on an annual basis for local jurisdictions with cannabis equity programs. In February of this year Go-Biz awarded the City \$3,000,000, the maximum amount per local jurisdiction this funding cycle, to support the City's Equity Program over the next year.

This funding offers an opportunity to continue building upon the foundation the City has established for its Equity Program. Specifically, Go-Biz funds will provide equity applicants with capital via grants to support their businesses' start-up and ongoing costs as well as a portion of the costs of administering the Equity Program.

In addition to accepting and appropriating the latest Go-Biz grant, staff recommends reallocating unspent administrative funds from the prior Go-Biz grant to increase the contract with 4Front Partners (4Front) by \$45,000. This re-structuring will provide 4Front with the necessary funding to finish distributing grants and loans to equity applicants funded from the prior Go-Biz grant and ensure a smooth transition of information as staff prepares to internally administer the next round of grants to equity applicants.

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.

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

¹ The Cole Memorandum can be found here:

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.

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.

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

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

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
- Application and permit fee exemptions for equity applicants.

In the Spring of 2017, the City Council passed a legislative package (<u>Ordinance No. 13424</u> <u>C.M.S.</u> and <u>Resolution No. 86633 C.M.S.</u>) 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. Then starting in 2019 the State of California has set 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.

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
Go-Biz	FY 2023-2024	\$3,000,000	Tied-1st	\$15 million

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

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

ANALYSIS AND POLICY ALTERNATIVES

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

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 cannabis businesses face operating in the infancy of cannabis legalization, such as market uncertainty, regulatory compliance, inadequate access to 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. For an overview of current challenges facing equity applicants, please see **Attachment A**, 2024 Cannabis Equity Program Survey.

Strategies for Utilizing Go-Biz Funds

The Go-Biz grant offers an opportunity to address the number one challenge confronting equity applicants, access to capital. **Table 2** offers a summary of the proposed uses of Go-Biz funds and the level of funding proposed for each use.

Proposed Use	Amount of Funds
A. Grants to Operators for Start-Up and Ongoing Costs	\$2,851,952.50
B. Half of a Program Analyst III	\$148,047.50
TOTAL	\$3,000,000

Table 2: Proposed Use of Go-Biz 5 Grant Funds

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

Staff recommends that the City commit over \$2.8 million to grants to operators for start-up and ongoing costs. Grants 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. In a recent survey (see **Attachment A**), equity applicants identified lack of capital as the principal barrier to establishing a compliant cannabis business. Grants 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. Notably, over seventy-five percent of recently surveyed equity businesses stated that the funding they received from the City allowed them to stay in business and another fifteen percent stated that this funding allowed their businesses to grow. In short, the capital support provided from Go-Biz is critical to equity businesses' survival and growth.

Staff also recommends distributing just grants and not loans this cycle as it streamlines the program and simplifies the administrative resources needed to distribute Go-Biz funds. Similarly, consistent with prior grant cycles, staff recommends the City Council authorize the disbursement of grants to equity applicants that meet the grant program criteria rather than having to return to City Council for approval of each individual grant, which would prove extremely cumbersome for staff and equity applicants alike.

B. Administration of Equity Program

Go-Biz funds also offer an opportunity to cover a portion of staff costs administering the various components of the Equity Program plus the costs of a consultant administering the grant programs for equity applicants. Specifically, staff recommends directing Go-Biz funds towards half of the cost of a Program Analyst III who will be responsible for administering the grant program, tracking use of Go-Biz funds, and compiling quarterly and annual reports to Go-Biz.

Increased Funding for 4Front to Finish Disbursing Go-Biz 4 Funds

In addition to accepting the Go-Biz 5 grant, staff recommends repurposing the unspent administrative costs from the Go-Biz 4 grant towards 4Front Partners (4Front), the City's existing consultant, to finish administering Go-Biz 4 funded grants and loans for equity operators. The City no longer needs the full amount of funds budgeted for City staff under the Go-Biz 4 grant due to a staff vacancy. At the same time, 4Front, a small local business that the City selected following a competitive Request for Proposals process in 2022, needs additional funding to finish disbursing grants and loans to equity applicants. Additionally, as the Citytransitions from a consultant administering cannabis equity loan and grant programs to processing grants and loans in house, this funding will allow for a smooth transition of information from 4Front to City staff. Accordingly, staff recommends repurposing \$45,000 from City staff costs towards 4Front as outlined in **Table 3** below.

Proposed Use	Original Use of Funds	Proposed New Use of Funds
A. Grants/Loans to Operators for Start-Up and		
Ongoing Costs	\$1,796,838.75	\$1,796,838.75
B. Half of a City Administrator Analyst	\$120,669.00	\$75,669.00
C. Consultant Administering of Grant/Loan Programs	\$78,979.75	\$123,979.75
TOTAL	\$1,996,487.50	\$1,996,487.50

Table 3: Original and Proposed Use of Go-Biz 4 Grant Funds

FISCAL IMPACT

Staff recommends the acceptance and appropriation of the Go-Biz grant of \$3,000,000 to continue the City's support of cannabis equity operators. The purpose and requirements of the Go-Biz grant require that almost all of the funding be distributed externally. Accordingly, only \$148,047.50 of the Go-Biz grant will go towards City expenses, and the Program Analyst position has always been funded via grants, so none of the Go-Biz grant will replace existing

City costs or funding of the Equity Program. The Go-Biz grant funds will be deposited in the State of California Grant Fund (2159), Cannabis Organization (85621), Miscellaneous State Grant Revenue Account (46229), in Go Biz 5 Project (TBD).

Likewise, the adjustments to Go-Biz 4 Grant have no fiscal impact on the City as they do not alter the overall grant amount and the proposed increase in funding for a consultant administering loan and grant programs will utilize unspent City funds that are available due to a staff vacancy.

PUBLIC OUTREACH / INTEREST

Staff's recommendations are based on survey responses of equity applicants and years of interactions with equity businesses. Additionally, staff presented its recommendations on how to utilize the Go Biz funds at the March 2024 Cannabis Regulatory Commission (CRC) and the March equity stakeholder meeting.

COORDINATION

The Special Activity Permits Division in the Economic and Workforce Development Department consulted with the Budget Bureau 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 Pieces Of Legislation:

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(2) Waiving The Request For Proposals/Qualifications Process For The Proposed Funding Increase Of The Agreement With 4Front Partners

For questions regarding this report, please contact Greg Minor, Deputy Director, Economic and Workforce Development Department, at (510) 238-6370.

Respectfully submitted,

SOFIA NAVARRO Interim Director, Economic and Workforce Development Department

Prepared by: GREG MINOR Deputy Director, Economic and Workforce Development Department

Attachments (1): Attachment A: 2024 Cannabis Equity Program Survey

2024 Oakland Equity Applicant Survey



3. Please select the top reason why you are not operating. If you select "Other," please explain.



4. How many individuals do you currently employ? For this question, an employee is someone who works at least 35 hours a week.



5. Have you added or reduced staff in the last 12 months?



6. What barriers are you encountering as you establish a compliant cannabis business (please select all that apply)? If you select "Other," please explain.



7. Which of the following City departments/outside agencies have been a barrier as you establish your business? Please select all that apply.



8. Has your business or staff experienced any burglaries or robberies?



9. How much have burglaries/robberies cost your business financially?



10. After the burglary/robbery, did your business do any of the following? Please select all that apply and please describe if you select "other."



11. After the burglary/robbery, did your business file an insurance claim, and if so, did your business receive a payout from your insurance company?



12. Can you please explain why you did not file an insurance claim?



14. Now that the City Council has approved equity applicants transferring their permits to general applicants, do you plan on selling your business and transferring your permit(s) to another business?



15. Have you received a grant or loan from the City of Oakland?



16. What impact did receiving funding from the City have on your business?



17. Have you received a loan from the City of Oakland?



18. Now that the City Council has authorized equity applicants converting unpaid loans into grants, do you plan on converting any of your outstanding loan balance into a grant? Please note any loan amount that is converted to a grant will reduce your future grant eligibility by that amount.



19. How do you recommend that the City provide capital to operators: grants, interest-free revolving loans, or both? Please note that while loans must be repaid, loans are not taxable and loan repayments provide future funds for equity applicants. On the other hand, grants need not be repaid, but they are taxable and provide no future funds to equity applicants.



20. The City is looking for strategies to streamline grant/loan processing going forward and ensure funds are used most effectively. By clicking on the up or down arrows, please prioritize the below options for funding (1=top priority for funding; 6=lowest priority).



21. What strategies do you recommend for streamlining loan/grant funding going forward?



24. Do you have any comments or suggestions regarding Knox and Ross?



51-60

Over 60

Decline to state

7

5

4

30. Do you have any comments or suggestions regarding Elevate Impact?

31 Responses		Latest Responses "To be more responsive." "They were helpful, entire team was reachable and always willing to help! " "Great Program "			
. How can the	e City of Oakland b	atter support your business?			
		Latest Responses			
41 Responses		"Assist EA's with connecting with reputable	"Assist EA's with connecting with reputable business partners."		
		"keep up the good work! I appreciate	you Oakland "		
		"Marketing opportunities	"Marketing opportunities "		
. What else w	ould you like to sa	about operating a cannabis business in Oakland?			
		Latest Responses			
	41	"I think it's a great program, I just need to get more looped in."			
	Responses	"It's easy to navigate thanks to the support that we	have from the City of Oa		
	"It's been long and hard but I love my business."				
. Please select	t your age or the a				
. Please select	t your age or the a	erage age of your business' partners/owners/board			
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10

8

6 4

2 0 35. Please select all gender options below that represent your business' owners/partners/board members.



36. Please select all sexual orientation options below that represent your business' owners/partners/board members.



 Please select all race and ethnicity options below that represent all of your business' owners/partners/board members.



38. Please select the level(s) of education that represent(s) all of your business' owners/partners/board members.



39. Does one or more of your business' owners/partners/board members have a disability?



40. Please select the annual personal income level(s) that represent(s) all of your business' owners/partners/board members.



41. Has any owner/partner/board member of your business or any immediate family members (parent, sibling, spouse, child) been convicted of or incarcerated for any cannabis related charges?



42. Has any of your business owners/partners/board members served or are currently active in the military?



