

# *Cannabis Regulatory Commission*

Regular Meeting

Thursday, March 7, 2019

## AGENDA

Council Chambers, City Hall, One Frank H. Ogawa Plaza

### ***Members:***

Lanese Martin	District 1	Frank Tucker	District 7
Chang Yi	District 2	Jeff Hatcher	At Large
Zach Knox	District 3	Stephanie Floyd-Johnson	Mayor
Jin Jack Shim	District 4	Vacant	City Auditor
Matt Hummel	District 5	Greg Minor	City Administrator
Derreck Johnson	District 6		

Available on-line at: <https://www.oaklandca.gov/boards-commissions/cannabis-regulatory-commission>

### ***MEETING AGENDA***

- A. Roll Call and Determination of Quorum
- B. Open Forum / Public Comment
- C. Review of the Pending List and Additions to Next Month's Agenda
  - *Use of cannabis tax revenues (since July 2017)*
  - *Annual report (since September 2017)*
- D. Approval of the Draft Minutes from the Cannabis Regulatory Commission meeting of January 2019.
- E. Reports for Discussion and Possible Action
  - 1. CRC's 2016-2018 Annual Report
  - 2. SB 1294 Local Equity Grant Program
  - 3. Cannabis Tax Rates
  - 4. Use of Cannabis Tax Revenue
- F. Announcements
  - 1. Update on Cannabis Permitting Process.
- G. Adjournment

Persons may speak on any item appearing on the agenda; however, a Speaker Card must be filled out and given to a representative of the Cannabis Regulatory Commission. Multiple agenda items cannot be listed on one speaker card. If a speaker signs up to speak on multiple items listed on the agenda, the Chairperson may rule that the speaker be given an appropriate allocation of time to address all issues at one time (cumulative) before the items are called. All speakers will be allotted 3 minutes or less – unless the Chairperson allots additional time.

♿ This meeting is wheelchair accessible. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in the meetings of the Cannabis Regulatory Commission, please contact the Office of the City Clerk (510) 238-3612. Notification two full business days prior to the meeting will enable the City of Oakland to make reasonable arrangements to ensure accessibility. In compliance with Oakland's policy for people with chemical sensitivities, please refrain from wearing strongly scented products to events.

Questions or concerns regarding this agenda, or to review any agenda-related materials, please contact the Cannabis Regulatory Commission at (510) 238-6370.

# *Cannabis Regulatory Commission*

Regular Meeting

Thursday, February 7, 2019

Council Chambers, City Hall, One Frank H. Ogawa Plaza

## MINUTES

### **Members:**

Lanese Martin	District 1	Frank Tucker	District 7
Chang Yi	District 2	Jeff Hutcher	At Large
Zach Knox	District 3	Stephanie Floyd-Johnson	Mayor
Jin Jack Shim	District 4	Vacant	City Auditor
Matt Hummel	District 5	Greg Minor	City Administrator
Derreck Johnson	District 6		

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### MEETING AGENDA

#### A. Roll Call and Determination of Quorum

*Present: Martin, Yi, Knox, Shim, Hummel, Hutcher, Floyd-Johnson, Minor*

*Absent: Johnson, Tucker*

#### B. Open Forum / Public Comment

*Lupe Schoenberger urged the City of Oakland to ensure that cannabis permit applicants moving through the building and fire permitting processes receive state provisional licenses.*

*Kaine Cherry encouraged the City of Oakland to develop a progressive cannabis tax policy that reinvests in local communities and strengthens the equity program.*

#### C. Review of the Pending List and Additions to Next Month's Agenda

- *Use of cannabis tax revenues (since July 2017)*
- *Annual report (since September 2017)*

*Member Minor mentioned upcoming grant opportunity with state SB 1294 funds and how it would be helpful if the commission/public shared its views on how best to utilize those funds. Member Hummel moved to add SB 1294 to the pending list. Member Shim seconded the motion and it passed by consensus.*

*Member Martin requested that the CRC agendaize the use of cannabis tax revenue. Member Shim seconded the motion and it passed by consensus.*

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D. Approval of the Draft Minutes from the Cannabis Regulatory Commission meeting of January 2019.

*Member Hummel moved to approve the draft minutes. Member Floyd-Johnson seconded the motion and it passed by consensus.*

E. Reports for Discussion and Possible Action

1. Brown Act and Oakland Sunshine Overview

*Deputy City Attorney Amadis Sotelo provided an overview of the Brown Act, Oakland's Sunshine Ordinance and parliamentary rules of procedure.*

*Vice-Chair Knox asked if there was an update from the City Attorney's Office on when its opinion of the CRC's authority post-Proposition 64 would be available. Deputy City Attorney Sotelo replied that he did not have a specific timeline but expected it would be soon.*

2. Councilmembers Kalb and Kaplan's Ordinance to Harmonize Cannabis Business Tax Rates

*Chair Yi offered an overview of the tax proposals. Members offered a variety of comments, including:*

- *Member Shim recommended the City lower the annual gross receipts tax rate to 3 percent*
- *Member Hutcher suggested cannabis operators implementing environmentally sustainable practices should receive a tax discount.*
- *Vice-Chair Knox suggested any new tax rate should be reviewed in five years to allow for flexibility.*
- *Member Martin encouraged there to be deferred tax payments for equity applicants and to examine different tax rates for different business types as not all may provide the same benefits to the City.*
- *Chair Yi mentioned how San Francisco exempts small businesses from taxes.*

*Numerous public speakers spoke in favor of reducing the cannabis tax rate.*

*Member Hummel then moved for the CRC to recommend for lowered annual cannabis business tax rate of three percent that is effective retroactive to 2018 and to immediately explore tax credits to lower the tax rate to two percent for businesses that meet environmental or other goals, to exempt businesses with less than \$500k in annual gross receipts from cannabis taxes, and for this rate to be reexamined in five years. Member Hutcher seconded the motion and it passed by consensus, with Members Minor and Martin abstaining.*

*Members also encouraged people to attend the upcoming March 19<sup>th</sup> City Council Finance Committee when the issue of cannabis tax rates will be taken into consideration.*

3. CRC's 2016-2018 Annual Report

*Member Minor offered to put together an initial draft of the report and forward it to the Annual Report Subcommittee for its review prior to next meeting.*

4. Dispensary Runner-Ups

*Vice-Chair Knox highlighted that there is a gap in the City's Request for Permit Applications (RFPA) process that allows applicants who are not able to close deals after undergoing a public hearing to have an indefinite time period before opening and that there needs to be a cut off at some point.*

*Vice-Chair Knox then moved that the City revise its process to require applicants to close on their property within 90 days of receiving conditional approval by the City or else the next applicant in line gets to move forward in the process. Member Martin seconded the motion and it was approved with Members Hutcher and Yi voting no.*

5. Cannabis Special Events

*Numerous speakers spoke in support of Cloud Sesh and the City legalizing its events.*

F. Announcements

1. Update on Cannabis Permitting Process.

*Member Minor provided an update on the cannabis permitting process.*

G. Adjournment

**CANNABIS REGULATORY COMMISSION**

**ITEM E-1**



**CITY OF OAKLAND CANNABIS REGULATORY COMMISSION  
2016-2018 REPORT**

**To:** Oakland City Council Community Economic Development Committee  
**From:** Cannabis Regulatory Commission  
**Re:** 2016-2018 Report  
**Date:** TBD

**Members:** Chang Yi, Chair, District 2; Zachary Knox, Vice-Chair, District 3; Lanese Martin, District 1; Jin Jack Shim, District 4; Matt Hummel, District 5; Derreck Johnson, District 6; Frank Tucker, District 7; Jeff Hatcher, At Large; Stephanie Floyd-Johnson, Mayor; Greg Minor, City Administrator.

**I. INTRODUCTION**

Since the passage of long overdue state legislation in 2015 and 2016 that legalized the cannabis industry's supply chain and the adult use of cannabis, the Cannabis Regulatory Commission (CRC) has engaged in numerous policy debates, including several of which were presented to and considered by the City Council over the last three years. Now that this initial flurry of policy debates has passed, the CRC can reflect on its 2016-2018 activities and highlight outstanding issues for the City Council's consideration.

**II. COMPOSITION OF CANNABIS REGULATORY COMMISSION**

The CRC's membership has changed dramatically over the course of 2016-2018. Only former Chair Matt Hummel was a member of the CRC in 2016. Further, the CRC has evolved from a predominantly white commission with zero African-American members to a commission that predominantly consists of people of color, including several African-Americans.

In fall of 2018 the CRC elected a new Chair and Vice-Chair, Chang Yi and Zachary Knox, respectively. All eleven positions on the commissions are currently filled except for the City Auditor's representative. The CRC only failed to establish a quorum for its monthly meeting one time over the course of 2016-2018.

**III. 2016-2018 CANNABIS REGULATORY COMMISSION ACTIVITY**

Below the CRC has outlined its activities during each of the last three years and how the CRC's activities interacted with the local and state legislative context at the time. For a summary chart of the CRC's activities and the local and state cannabis context from 2016-2018 please see **Attachment A**.

**a. 2016**

In November 2016, the California electorate passed Proposition 64, the Adult Use of Marijuana Act (AUMA), which legalized adult use and extended the legalization of the cannabis industry's supply chain that the Medical Cannabis Regulation and Safety Act (MCRSA) had initiated in 2015. In turn, the Oakland City Council updated its cannabis permitting ordinances, Oakland Municipal Code (OMC) 5.80 and 5.81, including an initial version of the equity program, before considering various proposals to amend these ordinances and ultimately directing the City Administration to conduct a race and equity analysis of these proposals.

During this time the CRC made several recommendations that were later adopted by the State, City Council, or City Administration. These include the CRC's support of the passage of Proposition 64, modifying the qualifying police beats under the initial equity program, expanding the size allowed for personal cultivation, and allowing onsite consumption at dispensaries.

The CRC also made recommendations in 2016 that were not adopted by the State, City Council, or City Administration. These recommendations include formalizing a cannabis job training program, clarifying legal paths for disposing cannabis waste, improving banking access for cannabis businesses, expediting building and fire permitting, less criminal enforcement of cannabis offenses, and less disparate enforcement outcomes by race.

**b. 2017**

2017 was an even busier year for cannabis regulations. The State legislature consolidated medical and adult use laws by passing the Medical and Adult Use of Cannabis Regulation and Safety Act (MAUCRSA) and the State agencies regulating cannabis businesses released their initial set of regulations.

At the local level, the City Administration presented its race and equity analysis, which led to the Oakland City Council adopting a revised equity permit program and funding technical and financial assistance to equity applicants through new incoming cannabis tax revenue. Later in the year the City Council further amended OMC 5.80 and 5.81 to incorporate adult use of cannabis and local authorizations for a temporary state license. The City Administration also began receiving applications for non-dispensary operations and for eight additional dispensary permits.

In 2017 the CRC's recommendations for establishing a permitting process for temporary cannabis events, expanding the methods for documenting one's residency or income under the equity program, and for allowing cannabis businesses to share space were adopted at both the local and state levels.



In contrast, the CRC's recommendations that the City formally adopt the CRC's advisory role on all cannabis matters, expand the areas where cannabis businesses are allowed, and remove the numeric limit on the dispensary permits were not adopted.

#### **c. 2018**

In 2018 cannabis regulations continued to evolve at both the state and local level. State agencies updated their regulations multiple times and the State legislature passed several cannabis related bills, including the California Cannabis Equity Act of 2018. The City Administration processed hundreds of cannabis permit applications and selected eight new dispensary operators. The Oakland City Council amended OMC 5.80 and 5.81 to protect live-work and residential premises and incorporate clean-up amendments. The City Council also placed Measure V on the ballot to authorize the City Council to reduce the tax rate for adult use cannabis businesses. Oakland voters then overwhelmingly approved Measure V.

The CRC's recommendation to protect work-live and residential uses from being displaced by cannabis businesses was adopted by the City Council. Likewise, the City Administration adopted the CRC's recommendations to decrease the amount of criminal enforcement of cannabis offenses and to extend the hours of operation for dispensaries.

On the other hand, the CRC's recommendations that the City eliminate taxes for compassion programs and formally establish Oakland as a sanctuary city for cannabis were not adopted, and disparities across racial groups for cannabis enforcement remain.

#### **IV. OUTSTANDING ISSUES**

Below the CRC has highlighted outstanding issues for the City Council's consideration.

##### **a. Extent of Cannabis Regulatory Commission's Authority**

The extent of the CRC's authority continues to be an unresolved issue.

In its 2004 Impartial Analysis of Measure Z, the City Attorney's Office determined that Sections five and eight of Measure Z, which required the City of Oakland to regulate adult use of cannabis if state law changed and to advocate for changes in state law, were unconstitutional because they did not enact a law (for the actual text of Measure Z see **Attachment B**). The City Attorney's Office also interpreted the undefined term of "private adult cannabis offenses" to mean cannabis use, cultivation, sale, possession, and

distribution that takes place in one's home. The City Council later formally adopted this interpretation by Resolution.

These interpretations limited the CRC's formal authority to just advising the City Council regarding the lowest law enforcement priority for private adult cannabis offenses. However, since the December 2014 City Council Public Safety Committee directed the City Administration to consult the CRC regarding proposed amendments to the City's cannabis permitting ordinances, the CRC has become the de facto advisory commission for all cannabis policy matters. Further, the CRC has requested an updated opinion from the City Attorney's Office regarding the extent of the CRC's authority in light of the passage of Proposition 64. As of the date of this writing, the CRC is still waiting on this updated analysis.

### **b. Use of Cannabis Tax Revenue**

Part of the reason the CRC has requested an updated opinion from the City Attorney's Office regarding the CRC's authority is because the commission is interested in exercising its stated authority under Measure Z Section 7 (d), "[to] oversee the disbursement of revenues generated through the sale of cannabis by licensed cannabis businesses to ensure that funds go to vital city services such as schools, libraries and youth programs." As of the date of this writing, the CRC has not received any clarification from the City Attorney's Office on its authority to oversee the expenditure of cannabis tax revenue.

Additionally, in 2017 the City Council directed the future use of cannabis tax revenues via Resolution 86633, which provided funding for the equity applicant revolving loan program, two years of consultants to administer the loan program and provide technical assistance, and directed that twenty percent of any remaining cannabis tax revenue go towards job training services, blight abatement, and loans to low income cannabis operators (Resolution 86633 is available as **Attachment C**).

### **c. Ensuring Success of Equity Program**

The CRC is also interested in ensuring the cannabis equity program is successful in fostering equity cannabis businesses that are compliant, operational, and sustainable. The CRC has been and will continue to be a forum for operators and advocates to discuss issues related to the equity program. The CRC will continue to work with the City Administration on any administrative recommendations related to the equity program, and the CRC will forward legislative recommendations for the City Council's consideration.

**d. Disparities in Criminal Enforcement of Cannabis Offenses**

Although the overall amount of criminal cannabis enforcement in the City of Oakland has dropped considerably since the passage of Proposition 64, racial disparities remain with African-Americans and other people of color still being cited and arrested at disproportionately higher rates (see OPD Report on Citations and Arrests for 2017 Cannabis Offenses in **Attachment D**). The CRC expects OPD to continue working with the commission on developing and implementing policies until these disparities are resolved.

Respectfully submitted,

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CHANG YI  
Chair  
Cannabis Regulatory Commission

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ZACHARY KNOX  
Vice-Chair  
Cannabis Regulatory Commission

**Attachments:**

- A: Cannabis Regulatory Commission 2016-2018 Summary Chart**
- B: Text of Measure Z**
- C: Resolution 86633**
- D: OPD Report on Citations and Arrests for 2017 Cannabis Offenses**



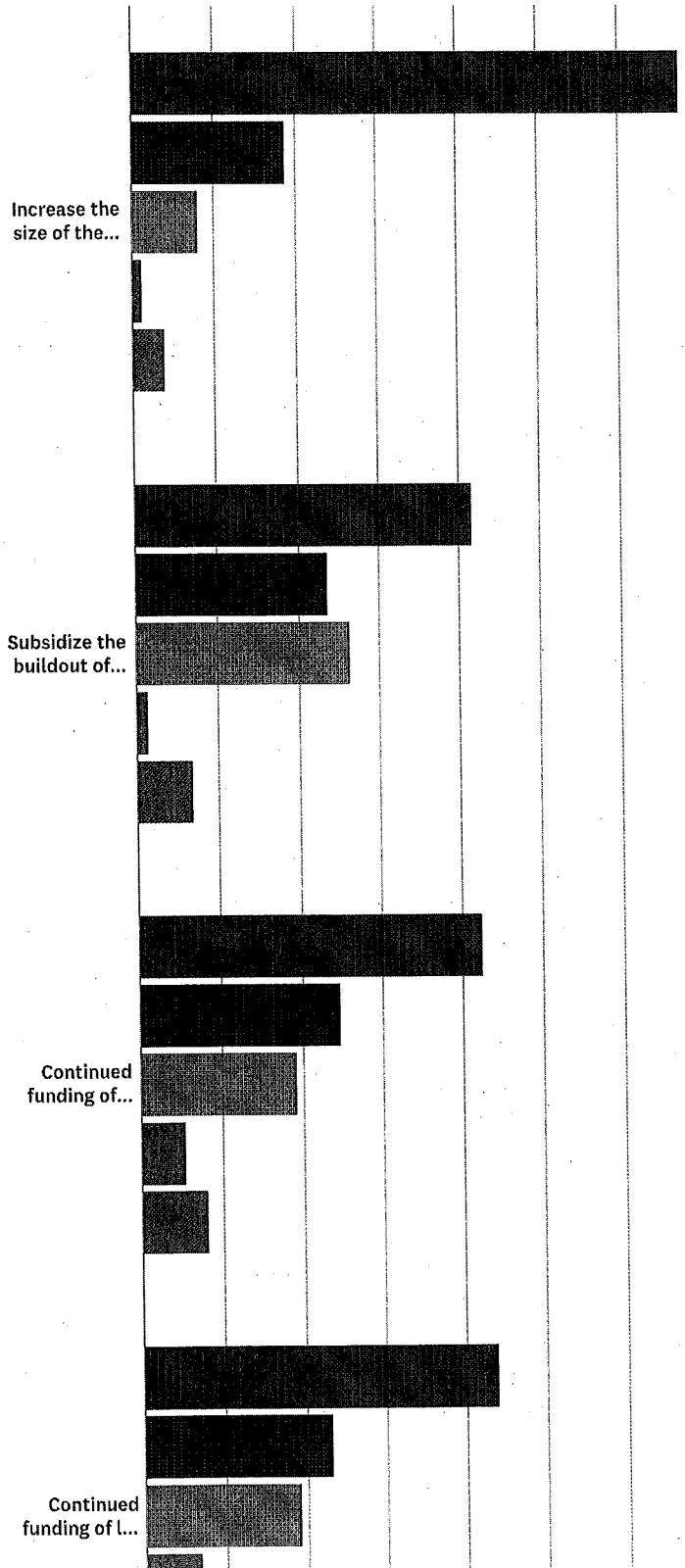
**CANNABIS REGULATORY COMMISSION**

**ITEM E-2**

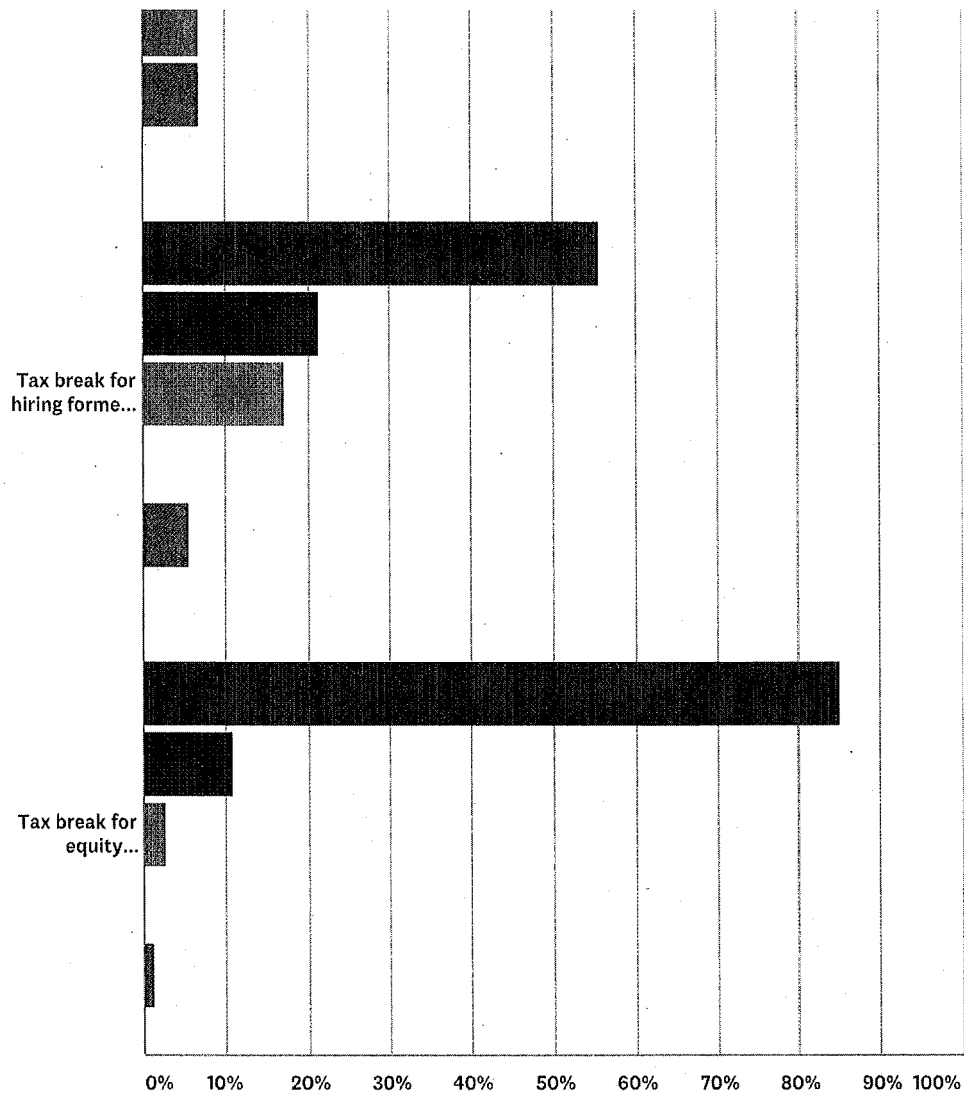


# Q15 How Do You Feel About the Following Approaches for Using State Funds?

Answered: 74 Skipped: 3



## 2019 Equity Applicant Survey



Strongly Like
  Like
  Neutral
  Dislike
  Strongly Dislike

	STRONGLY LIKE	LIKE	NEUTRAL	DISLIKE	STRONGLY DISLIKE	TOTAL
Increase the size of the loan program	67.57% 50	18.92% 14	8.11% 6	1.35% 1	4.05% 3	74
Subsidize the buildout of commercial kitchens	41.67% 30	23.61% 17	26.39% 19	1.39% 1	6.94% 5	72
Continued funding of technical assistance program consultant	42.47% 31	24.66% 18	19.18% 14	5.48% 4	8.22% 6	73
Continued funding of loan program consultant	43.84% 32	23.29% 17	19.18% 14	6.85% 5	6.85% 5	73
Tax break for hiring formerly incarcerated Oakland residents	55.71% 39	21.43% 15	17.14% 12	0.00% 0	5.71% 4	70
Tax break for equity businesses	85.14% 63	10.81% 8	2.70% 2	0.00% 0	1.35% 1	74



# **LOCAL EQUITY GRANT PROGRAM**

## **PROGRAM GUIDELINES**



**March 2019**

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The Bureau of Cannabis Control (Bureau) is pleased to announce the availability of funding authorized by The California Cannabis Equity Act of 2018 (Equity Act) established by Senate Bill 1294 (Bradford 2018). The Equity Act allows for direct assistance to local jurisdictions' commercial cannabis equity programs that provide assistance to local equity applicants or local equity licensees.

### **Available Funding**

The Bureau has been appropriated ten million dollars (\$10,000,000) for these grants to be distributed no later than June 30, 2019. All applicants that meet the eligibility requirements for grant funding will received a minimum grant of one-hundred thousand dollars (\$100,000), unless a lesser amount is requested. After the minimum grant funds are subtracted from the total amount of appropriated funds, the remaining funds will be dispersed as described below.

The percentage of state commercial cannabis licensees for each local jurisdiction applicant will be calculated by determining the total number of valid state commercial cannabis licenses issued within the local jurisdiction, and the local jurisdiction's percentage of the total state commercial cannabis licensees on March 1, 2019, for all local jurisdictions applying for grant funds. Each local equity program will receive the percentage of remaining funds equivalent to the percentage of state commercial cannabis licenses within the local jurisdiction up to the amount of grant funds requested. If additional funds remain, the Bureau may disperse these funds to local equity programs that received less than the amount of grant funds that the local equity program requested.

An example of the calculation follows:

$$\frac{1,500 \text{ state licensees issued in the local jurisdiction}}{5,000 \text{ total number of state issued licenses in all jurisdictions applying for grant funding}} = 30\%$$

### **Definitions**

- (a) "Eligible local jurisdiction" means a local jurisdiction that has adopted or operates a local equity program.
- (b) "Local equity applicant" means an applicant who has submitted, or will submit, an application to a local jurisdiction to engage in commercial cannabis activity within the jurisdictional boundaries of that jurisdiction and who meets the requirements of that jurisdiction's local equity program.
- (c) "Local equity licensee" means a person who has obtained a license from a local jurisdiction to engage in commercial cannabis activity within the jurisdictional boundaries of that jurisdiction and who meets the requirements of that jurisdiction's local equity program.
- (d) "Local equity program" means a program adopted or operated by a local jurisdiction that focuses on inclusion and support of individuals and communities in California's cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization. Local equity programs may include, but are not limited to, the following types of services:
  - (1) Small business support services offering technical assistance to those persons from economically disadvantaged communities that experience high rates of poverty or communities most harmed by cannabis prohibition, determined by historically high rates of arrests or convictions for cannabis law violations.
  - (2) Tiered fees or fee waivers for cannabis-related permits and licenses.
  - (3) Assistance in paying state regulatory and licensing fees.
  - (4) Assistance securing business locations prior to or during the application process.
  - (5) Assistance securing capital investments.

(6) Assistance with regulatory compliance.

(7) Assistance in recruitment, training, and retention of a qualified and diverse workforce, including transitional workers.

(e) "Local jurisdiction" means a city, county, or city and county.

(f) "State commercial cannabis license" means a license issued pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act by the Bureau, the California Department of Public Health, or the California Department of Food and Agriculture.

(g) "Transitional worker" means a person who, at the time of starting employment at the business premises, resides in a ZIP Code or census tract area with higher than average unemployment, crime, or child death rates, and faces at least one of the following barriers to employment: (1) is homeless; (2) is a custodial single parent; (3) is receiving public assistance; (4) lacks a GED or high school diploma; (5) has a criminal record or other involvement with the criminal justice system; (6) suffers from chronic unemployment; (7) is emancipated from the foster care system; (8) is a veteran; or (9) is over 65 years of age and is financially compromised.

### **Application Timeline**

The Equity Act grant funding application process will be conducted through an online portal. The portal is accessible from March 1, 2019, through April 1, 2019.

<b>Event</b>	<b>Date</b>
NOFA Release	March 1, 2019
On-line Portal Open for Application Submission	March 1, 2019
Deadline for Application Submission	April 1, 2019
Grant Award Notification Period	April 1 – May 1, 2019
Distribution of Grant Funds Period	April 1 – June 30, 2019

### **Application Submission Process**

All applications must be completed and submitted electronically through an online portal which can be found at [https://www.dca.ca.gov/webapps/bcc/equity\\_grant\\_app.php](https://www.dca.ca.gov/webapps/bcc/equity_grant_app.php). The application does not have a save feature to allow partial completion and submission at a later time. Once the application is successfully submitted, the applicant will receive a confirmation email that includes a copy of the data submitted with the application, a tracking number, and a list of required documents that must be submitted to the Bureau. The applicant must reply to the email and attach all of the required documents on the list for the application to be deemed complete.

### **Eligible Applicants**

Local jurisdictions must meet the definition of eligible local jurisdiction and the following criteria to receive grant funds:

- (a) Whether the local jurisdiction has adopted or operates a local equity program;
- (b) Whether the local jurisdiction has identified a local equity applicant or a local equity licensee that the local jurisdiction could assist through use of grant funding;
- (c) Whether the local jurisdiction has demonstrated the ability to provide, or created a plan to provide, services; and

- (d) The number of existing and potential local equity applicants and local equity licensees in the local jurisdiction.  
(Business and Professions Code section 26244.)

### **Eligible Uses**

Grant funds are for the purpose of assisting local equity applicants and local equity licensees in that local jurisdiction to gain entry to, and to successfully operate in, the state's regulated cannabis marketplace. Assistance and services that grant funds may be used for including, but are not limited to:

- (1) Providing a loan or a grant to a local equity applicant or local equity licensee to assist the applicant or licensee with startup and ongoing costs. For purposes of this paragraph, "startup and ongoing costs" include, but are not limited to, rent, leases, local and state application and licensing fees, regulatory adherence, testing of cannabis, equipment, capital improvements, and training and retention of a qualified and diverse workforce.
- (2) Supporting local equity program efforts to provide sources of capital to local equity applicants and local equity licensees.
- (3) Providing direct technical assistance to local equity applicants and local equity licensees.
- (4) Assisting in the administration of local equity programs.
- (5) Providing small business support services offering technical assistance to those persons from economically disadvantaged communities that experience high rates of poverty or communities most harmed by cannabis prohibition, determined by historically high rates of arrests or convictions for cannabis law violations.
- (3) Tiered fees or fee waivers for cannabis-related permits and licenses.
- (4) Assistance in paying state regulatory and licensing fees.
- (5) Assistance securing business locations prior to or during the application process.
- (6) Assistance securing capital investments.
- (7) Assistance with regulatory compliance.
- (8) Assistance in recruitment, training, and retention of a qualified and diverse workforce, including transitional workers.

No more than 10 percent of the grant funds may be used for administration, including employing staff or hiring consultants to administer the local equity program.

### **Award Process**

Once applications have been reviewed and a funding determination has been made by the Bureau, an award letter and standard agreement will be sent to the applicant directed to the person who submitted the application on behalf of the local jurisdiction.

To receive grant funding, a resolution is required from the local jurisdiction's governing body authorizing the applicant to enter into the standard agreement with the Bureau and designating by title the person who is authorized to sign the agreement on behalf of the local jurisdiction. Once notified of selection, it is important that the applicant place a resolution request on the local board or council agenda immediately to avoid funding delays. A sample resolution is provided with this guidance. The resolution must contain all of the components found in the sample resolution.

After the resolution has been adopted and the standard agreement has been signed, the applicant must submit the resolution and standard agreement to the Bureau. The Bureau will then distribute the funds which will be issued directly to the local jurisdiction in one disbursement.

If an applicant selected for funding fails to provide the executed standard agreement provided by the Bureau and the required resolution by the date indicated by the Bureau, the Bureau in its sole discretion may determine that the applicant is no longer eligible for the grant funds.

The Bureau's determination as to eligibility for grant funding, or the amount of grant funding awarded, is not subject to appeal.

Applicants selected for funding will be required to be in compliance with the Drug-Free Workplace Certification and Nondiscrimination Compliance Statement as required by the Bureau.

All grant funds must be used within one year of the date of the funds are disbursed. The Bureau may require that any funds not expended within the one-year period be returned to the Bureau.

### **Documentation and Reporting Requirements**

Recipients of grant funding must be able to demonstrate that the grant funds were expended for eligible uses and consistent with the activities identified in their application. The Bureau may require the grant fund recipient to return to the Bureau any funds not expended as required. In addition to the annual reporting requirements below, reporting requirements include contract expenditures and requirements contained in the standard agreement.

As required by Business and Professions Code section 26244, a local jurisdiction awarded grant funds in 2019 shall submit an annual report to the Bureau on or before January 1, 2020, and annually thereafter for each year that grant funds are expended. At a minimum, the annual report to the Bureau shall include all of the following information:

- (1) How the local jurisdiction disbursed grant funds;
- (2) How the local jurisdiction identified local equity applicants or local equity licensees, including how the local jurisdiction determines who qualifies as a local equity applicant or local equity licensee;
- (3) The number of local equity applicants and local equity licensees that were served by the grant funds;
- (4) Demographic data on equity applicants, equity licensees, and other applicants and licensees in the jurisdiction, including, but not limited to, race, ethnicity, gender, sexual orientation, income level, prior convictions, and veteran status. This information will be consolidated and reported without the individual's identifying information;
- (5) The number of local equity applicants applying for and receiving licenses from the local jurisdiction; and
- (6) The number of non-equity applicants applying for and receiving licenses from the local jurisdiction.

All applicants awarded a grant must maintain records detailing the expenditure of all grant funds for a period of seven years and shall provide this information to the Bureau upon request.

# SAMPLE RESOLUTION

## RESOLUTION OF [INSERT NAME OF LOCAL GOVERNING BODY] STATE OF CALIFORNIA, EQUITY ACT GRANT FUNDS

The [insert name of local governing body] finds:

WHEREAS, the members of the California Legislature have recognized the need for equity grant funding;

WHEREAS, funding has been provided to the Bureau of Cannabis Control to provide grant funds to local governments pursuant to the California Cannabis Equity Act of 2018;

WHEREAS, [insert name of local government body] has adopted or operates a local equity program for commercial cannabis activity;

WHEREAS, [insert name of local government body] has determined that it will use grant funds from the Bureau of Cannabis Control to assist local equity applicants and licensees through its local equity program for commercial cannabis activity as described in its application for grant funds;

NOW, THEREFORE, BE IT RESOLVED that the [insert designated official by title only] of the [insert city or county name] is authorized to execute on behalf of [insert name of local government body] the attached standard agreement, including any extensions or amendments thereof and any subsequent contract with the State in relation thereto.

IT IS AGREED that any liability arising out of the performance of this contract, including civil court actions for damages, shall be the responsibility of the grant recipient and the authorizing agency. The State of California, Department of Consumer Affairs, Bureau of Cannabis Control disclaims responsibility for any such liability.

I hereby certify that the foregoing is a true copy of the resolution adopted by the [insert name of governing body] in a meeting thereof held on [insert date] by the following:

Vote:

Ayes:

Nays:

Absent:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Typed Name and Title: \_\_\_\_\_

ATTEST: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Typed Name and Title: \_\_\_\_\_





**CANNABIS REGULATORY COMMISSION**

**ITEM E-3**





OAKLAND CITIZENS FOR EQUITY & PROSPERITY

*OCEP is an expanding trade association of over 40 Oakland cannabis businesses, labor organizations, law firms, and community non-profits that formed in March 2017 committed to equity and prosperity in the cannabis economy.*

*OCEP Chair James Anthony can be reached at 510-207-6243, James@AnthonyLaw.Group*

## **Position on Merging Separate Cannabis Tax Rates for Medical & Adult Use: Response to RMB Staff Report**

January 29, 2019

1. The 10% Gross Receipts Adult Use (Non-Retail) Tax Rate Has Never Been Implemented; It is Not Survivable and Must Be Lowered As OCEP Has Documented Since November 2017. Oakland is Out of Synch with the State Which No Longer Distinguishes Between Medical and Adult Use for Wholesale Regulation.
2. Now That Measure V Has Passed, Council Should Set a Reasonable, Workable Tax Rate to Ensure the Survival and Prosperity of Oakland's Cannabis Industry, Including Both our General *and our Equity Applicants*.
3. RMB Knew Starting in 11/2017 that the *Industry Could Not Pay* a 10% Gross Receipts Tax, and Knew Starting in 2/2018 that *City Council Would Lower the Tax* to the "Sweet Spot" (Which Conservatively Could Not Have Been Higher than 5%).

**1. The 10% Gross Receipts Adult Use (Non-Retail) Tax Rate Has Never Been Implemented; It is Not Survivable and Must Be Lowered As OCEP Has Documented Since November 2017. Oakland is Out of Synch with the State Which No Longer Distinguishes Between Medical and Adult Use for Wholesale Regulation.**

10% of gross receipts is far and away the highest local tax rate in the state. And it is 83 times higher than Oakland's business tax rate for almost all other businesses! (0.12%.) Remember that to eliminate retail gun shops in Oakland, all the City had to do was raise the tax rate to 2.5% and that was it: they all left.

Berkeley's rate is half of Oakland's 10% (and half again for medical, as it is the only other in the Bay that still has separate rates). Emeryville is only 3%—and even less on manufacturing (2%) and distribution (1%). Santa Rosa is 3% retail and even lower on manufacturing (1%) and 0% on distribution. West Sacramento imposes a 2.5% Development Agreement "fee".

More than 80 local jurisdictions passed cannabis business taxes in November 2018. Oakland is no longer special, and is rapidly falling behind. This is especially true in wholesale supply chain (non-retail) businesses: cultivation, manufacturing, and

distribution. Canny local governments are luring those businesses by taxing their activities at much lower special rates: Los Angeles (cult: 2%; mfrng: 2%; distrib: 1%); Contra Costa County (cult: \*%—\$4/SF (Square Foot); mfrng: 2.5%; distrib: 2%); Sonoma County (cult: \*%—\$4.50/SF; mfrng: 3%; distrib: 0%); Union City (cult: \*%—\$6/SF; mfrng: 4%; distrib: 2%); Willits (cult: \*%—\$4/SF; mfrng: 2.5%; distrib: 2%); San Francisco (cult: 1.5%; mfrng: 1.5%; distrib: 1.5%).

Oakland's 10% rate is a death sentence for both its Equity Applicants and their General Applicant incubators.

**2. Now That Measure V Has Passed, Council Should Set a Reasonable, Workable Tax Rate to Ensure the Survival and Prosperity of Oakland's Cannabis Industry, including both our General and our Equity Applicants.**

Very soon, OCEP will propose a progressive taxation scheme with brackets like San Francisco's, that is the fairest, best and most equitable "Equity Assistance Program" possible because it gives the smallest businesses a complete tax break on the first \$1M in revenue, a 50% break on the second \$1M, and requires full tax only on revenue above \$2M. (And we will recommend the SF across-the-board maximum rate of 1.5%, and that a significant percentage be spent on reparations to communities harmed by the war on drugs.) This approach will increase overall Oakland cannabis survival, economic activity, jobs, payroll, secondary economic benefits, and tax revenue.

But before we begin that conversation, **we ask that you immediately unify the tax rates, bringing them to parity at 5% of gross receipts.** *The distinction between Medical and Adult Use has been rejected at the state level as administratively too complex.* All local governments have rejected it also, except Oakland and one other jurisdiction in the Bay Area (and one other in Southern California, for only two others statewide out of 540 local governments). In doing so, please direct RMB to immediately apply the 5% rate across the board for 2018. That will greatly reducing the complexity of their related workload. And it will serve as an interim placeholder until you determine what system of rates achieves the *sweet spot* to best balance Oakland's desires for an equitable and prosperous cannabis industry, jobs, and tax revenue in 2019.

**3. RMB Knew Starting in 11/2017 that the Industry Could Not Pay a 10% Gross Receipts Tax, and Knew Starting in 2/2018 that City Council Would Lower the Tax to the "Sweet Spot" (Which Conservatively Could Not Have Been Higher than 5%).**

Starting in November 2017, OCEP raised this issue with City Council which then directed RMB to analyze the issue for a Finance Committee meeting in February 2018. At that meeting, the Chair of the Finance Committee stated that the 10% rate would have to come down to find the "sweet spot" to balance competing needs of industry survival and city tax revenue.

Shortly after that, the City Council, in collaboration with RMB, put Measure V on the ballot *to empower them to lower the 10% tax rate.* RMB chose to make budget projections based on a 10% tax rate that had never before been used, even though they had been clearly warned by both OCEP and the City Council that it was not a tenable policy and that it would be changed soon, logically before it was ever implemented. A more cautious and conservative budget projection would have been based on a tax estimate no higher than 5% at the very highest. The staff report admits that RMB baselessly assumed that a 10% rate would ever be implemented. It's now up to Council to address the reality of the situation and craft a workable policy.

**CANNABIS REGULATORY COMMISSION**

**ITEM F-1**



	GENERAL NOT INCUBATING	INCUBATOR	EQUITY	TOTAL
<b>NEW ANNUAL PERMITS BY BUSINESS TYPE</b>				
Dispensary	0	1	1	2
Delivery	10	1	14	25
Cultivator (Indoor)	0	2	2	4
Cultivator (Outdoor)	0	0	0	0
Distributor	1	4	4	9
Mfg. Volatile	0	1	0	1
Mfg. Non-Volatile	0	0	1	1
Transporter	0	0	2	2
Lab Testing	0	0	0	0
<b>GRAND TOTALS</b>	<b>11</b>	<b>9</b>	<b>24</b>	<b>44</b>

<b>OVERALL TOTAL</b>	<b>44</b>
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3/4/2019

