Date: August 5, 2020
To: Mayor and Members of the City Council
From: Thomas B. Modica, City Manager

Subject: Cannabis Equity Business Ownership Options

On July 7, 2020, the City Council requested staff to explore ways to further strengthen the cannabis social equity program (Equity Program) to expand equitable ownership opportunities in Long Beach. This memorandum provides a status update on the Equity Program and identifies policy options for the City Council to consider for improving cannabis ownership opportunities. In developing these recommendations, staff focused primarily on policy options that could be adopted through City Council action, and would not require voter approval through a ballot initiative.

Nexus Between Cannabis and Equity

On June 23, 2020, the City Council adopted a Resolution acknowledging Racism as a Public Health Crisis. As part of this Resolution, the City Council recognized the disproportionate impact the enforcement of cannabis laws has had on the African American community in Long Beach. The consequences of a criminal conviction and incarceration for cannabis may include the permanent loss of property, disqualification from employment opportunities, reduced earnings potential, exclusion from public benefits, such as housing assistance or student financial aid, and other impacts. The goal of social equity for the cannabis industry is to help provide communities impacted by federal cannabis drug enforcement policies an opportunity to benefit from the growth of the newly legalized industry.

Background on the Cannabis Equity Program

The Equity Program was adopted by the City Council on July 10, 2018, as part of an Ordinance authorizing recreational (adult-use) commercial cannabis activity in Long Beach. The purpose of the Equity Program is to promote opportunity in the cannabis industry for individuals and communities negatively impacted by the prior criminalization of cannabis. These opportunities include business ownership and employment in the cannabis industry. To qualify for the program, an individual must meet the following criteria:

- Have a family income below 80 percent of the Area Median Income (AMI);
- Have a net worth below $250,000;
- Satisfy at least one of the following:
  - Lived in a Long Beach census tract for a minimum of three years where at least 51 percent of current residents have a household income at or below 80 percent of the AMI;
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- Was arrested or convicted for a crime relating to the sale, possession, use, or cultivation of cannabis in Long Beach prior to November 8, 2016 that could have been prosecuted as a misdemeanor or citation under California law; and/or,
- Is a Long Beach resident currently receiving unemployment benefits.

To promote business ownership, individuals who qualify for the program are eligible to receive the following defined benefits, as approved by the City Council through the adult-use Ordinance:

- **Application Workshops** – Eligible equity applicants can meet individually with staff from the Office of Cannabis Oversight (OCO) to receive detailed information and resources on how to successfully complete the business license application and permitting process. These workshops typically last 1-2 hours, and provide the applicant an opportunity to ask specific questions from City staff.

- **Application fee waivers** – Approximately $5,900 worth of application fees are waived for Equity applicants. Fee waivers include annual regulatory fees, application review fees, background investigation fees, and other charges.

- **Plan check fee waivers** – Equity applicants are eligible to receive up to $5,000 in fee waivers during the facility plan check process. Typically, plan check fees can range anywhere from $5,000 to $10,000.

- **Incubation support** – Adult-use cannabis businesses that do not qualify for the Equity Program are required to submit a plan to the City describing how they will support Equity-owned businesses. Incubation plans are then made available to eligible Equity applicants through an online portal. Eligible equity applicants may contact licensed adult-use cannabis businesses to receive the support services identified in each incubation plan. Thus far, the City has received approximately 150 incubation plans. Incubation plans have included such proposed services as business plan guidance, product shelf space, legal support, financial support, software services, operational training, and other types of assistance.

In a memorandum dated February 14, 2020, staff provided the City Council with a status update on the cannabis Equity Program. Staff acknowledged some of the challenges with implementation of the Program, specifically as it relates to creating ownership opportunities. Since program inception, the City has verified a total of 60 individuals as eligible for equity business ownership. Among this group, approximately 30 equity workshops have been held with prospective applicants to provide them with information and assistance regarding the licensing process. Despite notable interest in the Program, the City has received only four business license applications from verified equity business owners and issued just one business license to an equity-owned business.

The primary reason for the discrepancy between interest and ownership through the Program is the substantial amount of capital necessary to start a cannabis business. Cannabis businesses typically require a minimum of $500,000 in start-up funding to complete the licensing process. This problem is further compounded by the fact that cannabis retail (dispensary) licenses are no longer available in Long Beach. Retail licenses provided the most viable pathway for equity-owned businesses, due to the limited amount of start-up capital.
necessary to construct a retail facility, relative to other business types. The remaining license types available in Long Beach (Cultivation, Manufacturing, Laboratory Testing, and Distribution) are capital intensive, highly specialized sectors of the industry. Start-up costs for these business types include, but are not limited to:

- Construction (e.g., electrical upgrades, advanced HVAC systems, etc.)
- Heavy equipment (e.g., high-intensity lights, extraction equipment, etc.)
- Professional services (e.g., architectural design, legal support, etc.)
- Business insurance (e.g., worker's compensation, general liability, etc.)
- Real estate (i.e., lease or purchase in Green Zone areas of the City)

Recently, the City was awarded grant funds from the State of California (State) to assist equity applicants with start-up costs. As previously authorized by the City Council, grant funds will be used to provide direct grants, fee waivers, and direct technical assistance to equity applicants. Specifically, the following grants have been made available to equity applicants as they complete each phase of the application process:

- Equity status verification - $5,000
- Equity workshop attendance - $5,000
- Submittal of a business license application - $20,000
- Completion of Conditional Administrative Use Permit - $35,000
- Issuance of a Building Permit - $50,000
- Issuance of a Certificate of Occupancy - $20,000
- Issuance of a Cannabis Business License - $80,000

The one-time infusion of grant funds will be available to equity applicants until they are exhausted, or until the State-mandated expiration of the grant program on August 31, 2021, whichever occurs sooner. Staff anticipates that some additional grant funds may be made available by the State in FY 21. However, it is unclear whether Equity Program grants to local jurisdictions will be extended thereafter.

Due to ongoing barriers to entry into the cannabis industry and the temporary availability of the grant program, staff cautions that the additional resources may not result in a significant increase in the number of equity-owned businesses without further changes to the Equity Program. Recognizing this challenge, staff has identified ways to further strengthen the Program to increase pathways to ownership for equity applicants.

**Community Feedback**

Before discussing options identified by staff, it is important to first acknowledge the general feedback received from equity applicants, and from members of the community through the Framework for Reconciliation sessions held in July 2020, relating specifically to cannabis business ownership. This feedback helped form the basis of identifying options for the City.
Council on ways to expand cannabis ownership opportunities in Long Beach. A summary of community feedback on cannabis business ownership is as follows:

- **Increase the availability of cannabis retail licenses** – The City maintains a limit on the total number of available cannabis retail licenses. That limit of 32 was reached in 2017 through the selection process established by the medical cannabis voter driven ballot initiative (Measure MM). As a result, there are currently no opportunities available for equity applicants to obtain a cannabis retail license in Long Beach.

- **Allow for shared-use manufacturing in Long Beach** – Shared-use (Type S) manufacturing is a license type authorized by the State, that is currently not permitted in Long Beach. Type S manufacturing is similar in concept to a shared commercial kitchen, in that it allows multiple businesses to operate out of a single facility at designated times. The Type S license creates opportunities for equity businesses to share in the cost of operating a facility, or to utilize existing licensed cannabis facilities in Long Beach, with the approval of the business owner.

- **Offer direct grants or loans to equity applicants** – The cost to construct a cannabis facility can be prohibitive for most equity applicants. Equity applicants requested access to funds to offset a portion of the costs for building a cannabis business.

- **Assist with securing Green Zone property** – Cannabis businesses are authorized to operate in defined areas of Long Beach, often referred to as “Green Zones.” Property owners in Green Zones typically charge a premium to lease or purchase their property to cannabis businesses. This premium has effectively priced many equity owned businesses out of the real estate market.

- **Expand access to technical assistance and business accelerator/incubation programs** – The City currently offers workshops to help equity applicants understand and navigate the application process. These workshops are hosted by City staff, and focus primarily upon the regulatory process. However, as stated earlier, many applicants lack access to other services, including architectural design, legal support, commercial real estate brokerage, accounting, and other professional services. Third-party business incubation programs could address these areas, and also be used to qualify applicants for State grant funds.

- **Greater community involvement in shaping the Equity Program** – Applicants and community members requested the ability to provide further input into the design of the Equity Program, as the City Council considers any potential policy or programmatic changes.

- **Identify sustainable funding sources to support the Equity Program** – Funding can be used for business investment, inclusive entrepreneurial support, and workforce training.

- **Other regulatory changes to the cannabis program** – Explore other regulatory changes to expand opportunities for cannabis entrepreneurship, such as issuing licenses to cannabis delivery, special events, consumption lounges, and other business types, with licenses earmarked for social equity applicants.
Options to Expand Cannabis Ownership Opportunities

Staff have initially identified three options to expand cannabis ownership opportunities. A description of each initial option is provided below. In addition, City staff are seeking further input from the City Council on ways to improve equity ownership outcomes beyond the initial options identified in this memorandum.

**Option #1: Shared-Use Manufacturing – Direct staff to work with the City Attorney’s Office to prepare an Ordinance to allow shared-use manufacturing in Long Beach.**

In 2018, the California Department of Public Health (CDPH) issued regulations for a shared-use manufacturing license, which allows license holders to conduct manufacturing operations out of a shared-use facility. Shared-use operators are limited to the following activities:

- Infusing cannabis concentrates directly into a product;
- Packaging and labeling of cannabis products; and,
- Extracting the essential oils from the cannabis plant, using butter or food-grade oil.

The shared-use manufacturing license is comparable to a shared-commercial kitchen, whereby multiple businesses can rent a single facility, at separate times, to prepare their products for consumers. The advantage of this license type is that it provides small start-up businesses with the opportunity to manufacture products, without having to invest significant up-front capital to construct a facility. In addition, due to the low-intensity nature of shared-use activities, these operations are unlikely to have land-use impacts beyond the existing manufacturing license types already permitted in Green Zones.

On July 2, 2019, the City Council directed staff to prepare a feasibility analysis on licensing shared-use manufacturers in Long Beach. The feasibility analysis was released on July 31, 2020. For equity applicants, the shared-use manufacturing license type provides a viable pathway to licensure with a much lower barrier to entry than other cannabis license types currently available in Long Beach. In addition, this license type would allow existing cannabis manufacturing facilities in the city to rent their space out to other businesses, including equity applicants.

**Option #2: Non-Storefront (Delivery-Only) Retail – Direct staff to research the feasibility of licensing and regulating non-storefront (delivery-only) cannabis retail facilities in Long Beach, and refer findings to the City Council for input and policy direction.**

The City currently maintains a cap of 32 cannabis retail licenses citywide. This limitation was first established by Long Beach voters in 2016 through Measure MM, which authorized commercial medical cannabis activity in Long Beach. In 2018, the City Council adopted an Ordinance to apply the same 32 license limit to adult-use cannabis retailers. At that time, the primary reason for maintaining the cap was to limit any potential negative impacts from the overconcentration of cannabis retailers in the city, while still providing consumers with sufficient access to the medical and adult-use cannabis market.
However, because the Equity Program was approved in 2018, after Measure MM had already taken effect, equity applicants were effectively locked out of the cannabis retail market. This has created challenges for the Equity Program, as other cannabis business types require significantly more up-front capital and technical expertise than retail businesses. Non-retail license types – which include cultivation, manufacturing, distribution, and laboratory testing – have proven to be difficult market segments for equity applicants to break into.

The City Council has the authority to issue more adult-use cannabis retail licenses. However, it is important to note that many Long Beach residents continue to have concerns about the overconcentration of storefront cannabis retail in the city. Recognizing these concerns, while still seeking to create retail opportunities for equity applicants, the City Council may consider allowing adult-use non-storefront (also called delivery-only) retail activity in Long Beach.

Non-storefront retail businesses are authorized to sell cannabis goods to customers exclusively through delivery. Because these businesses must remain closed to the public, non-storefront retailers have less impact on the surrounding community than do storefront retailers. In addition, these business types require less up-front capital to build out, given their smaller footprint than other business types.

If the City Council were to authorize non-storefront retail opportunities in Long Beach, staff cautions against setting a cap on the number of available licenses, to be consistent with how the City treats most other cannabis business types. Local jurisdictions that have attempted to set a cap on the number of available licenses, and restrict those licenses to equity applicants only, have found it difficult to maintain the overall integrity of the licensing program. Specifically, these jurisdictions have uncovered predatory agreements and other unfair business practices utilized by individuals seeking to partner with equity applicants, who would otherwise not qualify for a business license without that partnership. The best way to avoid these challenges is to adopt a non-storefront retail program that does not place a cap on the number of available licenses, thus eliminating any incentive to engage in this type of behavior. Under such a licensing model, the total number of businesses would be determined by local consumer demand for cannabis delivery.

**Option #3 – Storefront Retail** – Provide staff with general input and policy direction on allowing additional adult-use cannabis storefront retail locations in Long Beach.

In addition to non-storefront retail, the City Council also has the authority to issue more adult-use storefront retail licenses in Long Beach. Any new storefront locations would be in addition to the 32 medical and adult-use cannabis storefront retail locations already identified in the city. However, unlike the existing 32 retail locations, any new cannabis storefront retailers approved by the City Council would only be able to sell adult-use cannabis. This is because Measure MM set a cap on the number of medical cannabis retailers in Long Beach. The maximum number of medical cannabis retail locations in the city could only be changed through voter approval.
One factor for the City Council to consider when determining whether to issue more adult-use cannabis storefront retail licenses is the significant workload involved in developing and overseeing a competitive application process, whereby multiple businesses seek to gain access to a finite number of licenses. For comparison, the process the City implemented in 2017 to determine which businesses would be eligible to obtain a medical cannabis retail license required the support of multiple staff from different departments. That process has still not been completed. Of the 32 businesses identified as eligible to obtain a license, 25 have received a license to operate, 6 are still under construction, and 1 is undergoing final inspection. The City has a deadline of October 1, 2020 for these businesses to obtain a license. Any business unable to obtain a license by October 1, 2020 will have their application deemed null and void. The City will refer to the Public Lottery “Pending/Ineligible” list to determine which replacement applications will be able to proceed through the licensing process, until the cap of 32 cannabis storefront retail licenses has been reached. Staff intends to provide the City Council with more information on the deadline policy, and options available to amend this policy, prior to October 1, 2020.

Given the complexity of the storefront retail licensing process, staff is seeking general input and policy direction from the City Council on whether to allow additional adult-use cannabis storefront retail locations in Long Beach. City Council input may include whether this policy option is worth pursuing, the number of licenses that might be made available, the type of competitive process that could be used to select businesses as eligible to receive a license, and other important policy considerations. General direction from the City Council in this area will allow staff to develop more specific recommendations for the City Council to consider at a future date.

If you have questions, please contact Kevin Jackson, Deputy City Manager, at (562) 570-5028 or via email at Kevin.Jackson@longbeach.gov.

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