



Contra  
Costa  
County

To: Board of Supervisors  
From: John Kopchik, Director, Conservation & Development Department  
Date: December 8, 2020

Subject: Policy for Allocating Community Benefit Funds Received from Approved Commercial Cannabis Businesses

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### **RECOMMENDATION(S):**

DETERMINE process for approving expenditures of community benefits funds to be received from commercial cannabis businesses.

### **FISCAL IMPACT:**

If each of the commercial cannabis businesses selected by the Board through the RFP process is ultimately approved and successfully commences operation, after several years, the total annual amount of community benefit funds to be received by the County will be approximately \$650,000 (there is significant uncertainty on the amount as some payments are linked to actual revenues and this could be a high estimate as it is partially based on the applicants forecasts). This will be in addition to the revenue the County will receive from the County's Cannabis Business Tax, sales tax, and other sources.

### **BACKGROUND:**

In December of 2019, the Board of Supervisors selected applicants to apply for land use permits for commercial cannabis cultivation and retail storefronts. The selection process was required as part of the County's cannabis regulations and was completed by way of a Request for Proposal (RFP) process. The RFP process was initiated in February 2019 and

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

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Action of Board On: **12/08/2020** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

See Addendum

### **VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Diane Burgis, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: December 8, 2020

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Ruben Hernandez  
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cc:

completed on December 10, 2019 when the Board selected four project proponents to apply for land use permits for storefront retail cannabis businesses and seven to apply for land use permits for commercial cannabis cultivation. Six of the proposals, including all of the

## BACKGROUND: (CONT'D)

proposals for storefront retail, included proposed financial contributions to benefit the community, in some instances providing more detail on the type of actions and community organizations proposed to be funded.

To memorialize community benefit commitments identified in the proposals, the Department of Conservation and Development has been working with applicants to develop a Community Benefit Agreement (CBA) to be signed by the applicant prior to approval of their land use permit. The CBA will require that the cannabis business operator make the community benefit financial contributions directly to the County. The County will be responsible for disbursing the funds. Once applicants have agreed to a CBA, the CBA will be presented to the Board for approval. Two retail storefront land use permits were recently approved and the associated CBA's will be brought to the Board soon.

In general, community benefit funds will be paid to the County several months after the end of the first year of operation for each business. The first community benefit payment is not expected to be submitted to the County until 2022 at the earliest.

Below please find a rough summary and estimate of the annual community benefit contributions that may be provided by the cannabis businesses that have pledged such contributions, should all six of these land use permits ultimately be approved, the other required County and state approvals be received, and the businesses successfully begin operations. Please note that these estimates are very rough and will depend upon a host of factors, including when the businesses start operations and how their actual revenues compare to those they have projected. The annual contribution amounts offered by the proposed businesses may be based on a percentage of sales or net profits, be determined by a set contribution schedule, or may be calculated by some combination of these approaches and include either a ceiling on contributions, a floor on contributions or both. Staff is working to include inflation adjustments to fixed amounts where appropriate.

- Artist Tree, proposed retail storefront in El Sobrante (approved land use permit): escalating annual contribution from about \$92,000 in year one to \$144,000 per year in the seventh and later years (could be higher or lower, depending upon actual revenues).
- Authentic 925, proposed retail storefront in the Pacheco area (approved land use permit): \$150,000 per year (could be higher, depending upon gross profits).
- EMBARC, proposed retail storefront in an unincorporated area north of Martinez (land use permit application under review): annual contribution of 1% of overall retail revenue plus an additional 1% of revenue from sales of in-house brand (roughly estimated from the applicant's pro forma to be about \$80,000 in year one and about \$146,000 per year by year three).
- Element 7, proposed retail storefront in Bay Point (land use permit application under review): annual contribution tied to revenues roughly estimated from the applicant's pro forma to be about \$58,000 in year one and about \$104,000 per year by year three (the proposal also includes an indemnified equity or share of net profits component).
- Lifted Spirit, proposed commercial cultivation business east of Brentwood (land use permit application under review): once business is operating profitably, escalating annual contribution from \$30,000 in year one to \$75,000 per year in the third and later years.
- 703 Chesley, proposed commercial cultivation business in North Richmond (land use permit application under

review): annual contribution of 0.5% of net revenue, roughly estimated from the applicant's pro forma to be about \$38,000 in year one to about \$87,000 per year by year three.

In total, if each of these six businesses is ultimately approved and operates successfully, total annual community benefit revenues in several years can be roughly estimated at \$650,000 per year (this could be a high estimate since some of community benefit contributions are tied to sales and the applicants' pro formas may be overly optimistic). In addition, these businesses will generate revenue for the County under its Cannabis Tax ordinance and some will also generate sales tax. The Cannabis Business Tax rate on cannabis retailers is four percent of gross receipts; for cultivation businesses the tax rate ranges from two to seven dollars per square foot of canopy space (depending upon the type of cultivation, outdoor, mixed light or indoor). Based on an examination of the pro formas submitted by the applicants, total Cannabis Business Tax revenue from the four retail storefront businesses could be approximately \$1.2 million to \$2.1 million per year, if their sales projections are accurate. It should be noted that the study prepared by HDL Companies for the County in 2017 assumed cannabis retailers would generate gross receipts of \$2.5 million each per year, meaning four retail operations would generate a combined \$400,000 per year in tax. When revenue from all potential cannabis business are considered (cultivation, delivery, manufacturing, distribution as well as retail storefront), based on that study, the County estimated the Cannabis Business Tax would generate \$1.7 to \$4.4 million annually.

### **Allocation of Community Benefit Funds**

Staff recommends the Board determine a process for approving expenditures of community benefit funds to be received from commercial cannabis businesses. Two options are presented below for Board consideration:

- a. The Supervisor whose district contains the cannabis business brings recommendations to the Board on the expenditure of community benefit funds originating from that business, with the expenditure to benefit the immediate community.
- b. Each of the five Supervisors brings recommendations to the Board on the expenditure of one-fifth of the community benefit funds originating from all the business, with the expenditures to benefit the entire County.

Both of these options have precedent in the County. Option (a) is similar to the approach that has been used for community benefit agreements with industrial projects as well as for solid waste facilities (e.g. Keller Canyon Landfill and the transfer facility in North Richmond). Option (b) is similar to the approach used with the Livable Community Trust fund that receives revenue from the construction of homes in the Alamo Creek and Intervening Properties projects east of Danville.

### **CONSEQUENCE OF NEGATIVE ACTION:**

The process for allocating community benefit funds from commercial cannabis uses would not be established.

### **CLERK'S ADDENDUM**

**The Supervisor whose district contains the cannabis business brings recommendations to the Board on the expenditure of community benefit funds originating from that business, with the expenditure to benefit the immediate community.**