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Staff Report for a Resolution Awarding the City of San Leandro's Third Medical Cannabis Dispensary Permit to Blum San Leandro, to be Effective on June 1, 2017.

SUMMARY AND RECOMMENDATIONS

Per the direction of the City Council provided at its September 6, 2016 and September 19, 2016 meetings, the City Manager presents to the City Council for its consideration the below analysis and attached draft resolution awarding the City's third medical cannabis dispensary permit to Blum San Leandro. The resolution awarding the permit, which includes relevant conditions of approval, would be effective on June 1, 2017. If the resolution is approved, the applicant could secure the required Conditional Use Permit, building permits, and carry out tenant improvements prior to June 1, 2017 but would not be permitted to dispense to patients until after that date.

BACKGROUND

Following extensive dialogue with the community and numerous City Council discussions over several years, in December 2013, the City Council approved a medical cannabis regulatory ordinance to facilitate the approval, regulation, and operation of one medical cannabis dispensary in San Leandro. That ordinance, in conjunction with the Medical Marijuana Regulation and Safety Act of 2015, imposes strict zoning, security, and operational requirements on the operation of medical cannabis dispensaries.

To assist in developing a process to implement that ordinance, following a publicly announced Request for Proposals, the City contracted with ICF International, an independent third-party consultant with expertise assisting governmental agencies across a wide range of subject areas, including medical cannabis program implementation, application review, business plan analysis,

public health, safety and security. ICF also directly supported the statewide medical marijuana dispensary application review process for the Commonwealth of Massachusetts. As part of its contract with the City, the ICF consultant team worked with an inter-departmental stakeholder group consisting of staff from various City Departments, including the City Manager's Office, Community Development Department, Finance Department, and the City Attorney's Office. In 2016, this team was expanded to include representatives from the Police Department.

On December 15, 2014, a request for applications from parties interested in serving as San Leandro's first dispensary operator was publicly released and 15 teams applied for the first dispensary permit. Following a comprehensive review of the 15 proposals, the following three teams (in alphabetical order) were identified as having demonstrated the optimal combination of knowledge, expertise, experience, and alignment with the Council-adopted criteria:

- Blum San Leandro
- Davis Street Wellness Center
- Harborside San Leandro

On September 8, 2015, a recommendation from the City Manager was presented to the City Council, and the City Council unanimously voted to award the first dispensary permit to Harborside San Leandro.

Based upon City Council direction provided at subsequent Council meetings in late 2015 and early 2016, on June 6, 2016, the City Council adopted various amendments to the dispensary ordinance, including a provision that allows for the issuance of a second dispensary permit. In late 2015, the City Council also directed the City Council Rules Committee to develop a process to award that second permit. Following extensive discussions by that Committee, its recommendations were presented to the City Council on February 16, 2016. At that meeting, the Council directed staff to limit the selection process for the second dispensary permit to only the two remaining teams from the list of three business teams provided above, i.e. Blum San Leandro (hereafter referred to as "Blum SL"), and Davis Street Wellness Center (hereafter referred to as "DSWC"). As part of its actions, the Council affirmed the Rules Committee's recommendation to allow these two teams to submit updated application materials, which would be scored using Council-adopted criteria. The criteria included Site Planning, Finance, Operations and Community Benefits.

Based upon this direction, an analysis of the two teams' updated proposals was presented to the City Council on July 18, 2016. That analysis included a numerical scoring of each of the applications based upon the quality of the team's responses to the various questions. The conclusion of that analysis was that both teams demonstrated the knowledge, skills, and expertise necessary to operate a successful dispensary in San Leandro. Following extensive public testimony and discussion by the City Council, the Council awarded the second dispensary permit to Davis Street Wellness Center at the July 18th meeting.

Subsequent to the above actions, on September 6, 2016, the Council directed staff to bring forward further amendments to the ordinance in order to allow for the issuance of a third permit. In light of the fact that Blum San Leandro's proposal was already extensively vetted as part of the prior permit award processes, the Council also directed staff to bring forward for its consideration a resolution awarding the third permit to Blum SL, to be effective on June 1, 2017.

On September 18, 2016, the City Council adopted the amendments to the medical cannabis

dispensary ordinance to allow for the issuance of a third dispensary permit and to eliminate the requirement that dispensaries be located at least 1,000 feet from one another. A second reading of those ordinance amendments was then conducted on October 3, 2016 meeting. Presuming a referendum on these changes is not filed, the amended ordinance will become effective on November 2, 2016.

Overview of Blum SL's proposal

As outlined in the July 18, 2016 staff report and in the attached application materials, Blum SL submitted a detailed proposal that effectively responded to the City's questions. Blum SL's responses demonstrated that it had the capability and capacity to operate a successful dispensary in San Leandro. As part of that proposal, the applicants proposed to purchase real property at 1925-1927 Fairway Drive. The site complies with the distance requirements outlined in the dispensary ordinance and is located in an industrial zone that is appropriate for the proposed use. In addition, Blum SL's proposed site would provide in excess of 30 parking spaces, which exceeds the minimum parking standards required by the San Leandro Zoning Code. Blum SL's proposed dispensary operations would utilize approximately 5,000 square feet of the 13,300 square foot building. Blum SL is also interested in either relocating its laboratory and manufacturing operations to San Leandro, or expanding into manufacturing edibles in the remaining 8,300 square feet.

Finances

Based on current registered Blum Oakland patients who live in San Leandro or nearby communities, Blum SL expects to begin serving approximately 60 patient visits per day in the first quarter of operations, gradually increasing over the next three years to approximately 300 patient visits per day. According to its pro forma, Blum SL will generate approximately \$2.6 million in revenue in its first full year of operation; approximately \$5.4 million in Year 2, and approximately \$7.3 million in Year 3. However, it should be noted that these projections were based upon the anticipated existence of only two dispensaries in San Leandro. Given that the Council is now considering awarding three permits, it is conceivable that these projections could be impacted by the existence of three dispensaries instead of two.

Operations

Blum SL proposes a tested, traditional model of dispensing medical cannabis that is informed by its four years of experience operating a dispensary in Oakland, and more recently in Las Vegas. Blum SL's application includes photos of the Las Vegas location, which will be the model for the San Leandro dispensary. Blum SL will be structured as a new community collective, although managed by many of the same executive team members who manage Blum Oakland. As a result of Blum Oakland's merger with a publicly traded company -- Terra Tech Corporation - Blum SL states that it will have greater access to "working capital, state of the art equipment, grow technology, human resources services, community partners, and industry expertise." Blum SL states that the merger increased levels of transparency through more stringent financial and performance auditing requirements, which resulted in stricter operating standards.

Blum SL proposes that it will employ 21 employees in year 3 and operate up to 10 patient stations to handle 300 patients per day. All employees at Blum SL would be offered access to a medical plan, dental, vision, employee assistance, 401(k) retirement match, and various other employee benefits upon hiring. Blum SL also plans to handle vendor purchases at its Oakland location and transport product to San Leandro as needed. Blum SL would also like to relocate its laboratory and manufacturing operations for its IVXX brand to the remaining 8,300 square feet of the site.

Community Benefits

As part of its community benefits program, Blum SL offers to self-impose a five percent (5.0%) gross receipts fee that it will voluntarily provide to the City's General Fund. Blum SL further states that if San Leandro voters adopt a local cannabis business tax (such as Measure NN), that it will fully comply with the tax in lieu of the voluntary gross receipts percentage contribution. Blum SL also offers to create a community grants program that will "provide grants to programs and institutions in which the City of San Leandro has already invested."

Local Cannabis Tax Discussion

The City's first and second dispensary permits that were awarded to Harborside San Leandro (HSL) and Davis Street Wellness Center contained conditions of approval stating that their community benefits commitments would be nullified if San Leandro voters approved a measure to impose a medical cannabis business tax. A similar condition of approval is incorporated into the attached resolution. As such, if San Leandro voters authorize Measure NN as part of the upcoming November 2016 election, the above community benefits commitments would be nullified. The permit awarded to HSL also contained a provision that if the City were "to award more than one medical cannabis dispensary permit, all subsequent medical cannabis dispensary permits awarded or approved by the City shall include no less than that which is required or conditioned by this resolution." Given that Blum SL offered a robust community benefits package that meets or exceeds the community benefits package offered by HSL, this condition is addressed through the following condition of approval that is included in the attached draft resolution:

"Permittee shall comply with, effect, and further all of the commitments, statements of intent, and promises, including but not limited to its community benefits commitments, contained in its application to operate a medical cannabis dispensary, which are incorporated herein and made a part hereof as an attachment to this resolution."

Conclusion

Blum SL demonstrated that it has the knowledge, skills, expertise, and access to capital to operate a successful dispensary in San Leandro, in addition to committing to provide extensive benefits to the San Leandro community.

Fiscal Impacts

The City will collect a \$60,000 annual dispensary permit fee 30-days after Blum SL commences dispensary operations. The permit fee is designed to off-set the City's costs in regulating the dispensary's operations.

The facility will also generate annual sales tax receipts, of which the City will receive 1.5%, as well as a 5% voluntary contribution to the City's General Fund. If San Leandro voters authorize Measure NN as part of the upcoming November 2016 ballot, the City Council would have the authority to impose a tax of up to 10% of the dispensary's annual gross receipts.

ATTACHMENTS

- Blum San Leandro Application Materials and Overview of Proposal
- Application Scoring Sheet

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