



## STAFF REPORT

**SUBJECT:** Consider approving Resolution 2022-68 which extends the term of the existing commercial cannabis development agreements and temporarily reduces the production fee

**MEETING DATE:**

Dec. 1, 2022

**SUBMITTED BY:** Alan Flora, City Manager, and Ryan Jones, City Attorney

**PURPOSE OF REPORT:**  Information only  Discussion  Action Item

### WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to consider approving a resolution which would extend the term of the existing commercial cannabis development agreements by seven years and will temporarily reduce the production fee from 5% to 1% during CY 2023.

### BACKGROUND/DISCUSSION:

Over the past several years, the City has developed a process for regulating commercial cannabis operations. The City has modified its ordinances relative to commercial cannabis in order to adjust to best practices and changes in the industry and community needs.

Pursuant to Clearlake Municipal Code Section 5.25.030, before a cannabis business facility may operate, it must first obtain both a regulatory permit and a development agreement. The available types of cannabis businesses in the City include cultivation, manufacturing, distribution, dispensaries, testing laboratories, and micro-businesses. Currently, nine commercial cannabis businesses have a regulatory permit and development agreement with the City, for a total of 27 permits in the City. The reason that there are more permits than operators is that some businesses have multiple permits for different types of commercial cannabis activities. For example, cultivation and manufacturing require two separate permits.

Pursuant to Section 3.2 in each of the development agreements, which are identical for each business, it provides that the agreements are valid for a term of three years, which can be extended for seven additional years by resolution of the City Council provided there is a finding that the businesses are not in default of their agreement and the business is compatible with the community. Staff finds that all of the businesses meet those standards, and are worthy of the extension. The extension would be for seven years from the date the initial three-year term of the development agreement expires.

In addition to extending the agreements, staff believes that a temporary reduction in the production fee, as outlined in Section 4.3 of the agreement, is appropriate. The production fee is currently set at 5% of gross sales of operations. It is staff's opinion that the rate is high as compared to other

jurisdictions and is pricing out cannabis businesses in light of other taxing requirements on the industry. Accordingly, the attached Resolution proposes to temporarily reduce the production fee from 5% to 1% for Calendar Year 2023, at which point it will return to 5%, unless a new rate is approved. Please note that the City's facility fee as outlined in Section 4.5 of the development agreements will remain at \$2 per gross square foot of the project facility.

The City would intend to work with permitted cannabis businesses during calendar year 2023 and develop a new fee structure that is sustainable.

**OPTIONS:**

1. Move to adopt the attached Resolution
2. Consider modifications to the Resolution and approve a modified resolution
3. Other direction

**FISCAL IMPACT:**

None       \$      Budgeted Item?  Yes  No

The modification of the production could result in less revenues to the City, but there is also the potential that lowering the rate could increase overall production. This is part of the reason why staff wants to do a temporary lowering of the rate to monitor how it impacts revenues.

Budget Adjustment Needed?  Yes  No      If yes, amount of appropriation increase: \$

Affected fund(s):  General Fund    Measure P Fund    Measure V Fund    Other:

Comments:

**STRATEGIC PLAN IMPACT:**

- Goal #1: Make Clearlake a Visibly Cleaner City
- Goal #2: Make Clearlake a Statistically Safer City
- Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities
- Goal #4: Improve the Image of Clearlake
- Goal #5: Ensure Fiscal Sustainability of City
- Goal #6: Update Policies and Procedures to Current Government Standards
- Goal #7: Support Economic Development

**SUGGESTED MOTIONS:**

- Attachment:**      1) Resolution No. 2022-68