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**CITY OF LOS ANGELES  
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**EXECUTIVE OFFICES**  
221 N. FIGUEROA STREET, SUITE 1245  
LOS ANGELES, CA 90012  
(213) 978-0738

CAT PACKER  
EXECUTIVE DIRECTOR

MICHELLE GARAKIAN  
ASSISTANT EXECUTIVE DIRECTOR

JASON KILLEEN  
ASSISTANT EXECUTIVE DIRECTOR

<http://cannabis.lacity.org>

Date: November 9, 2018

Council District: All  
Council File No. 14-0366-S5

To: Honorable Members of the Rules, Elections, and Intergovernmental Relations  
Committee

From: Cat Packer  
Executive Director, Department of Cannabis Regulation

Subject: **TIER 3 SOCIAL EQUITY APPLICANT IN-LIEU FEE**

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**RECOMMENDATION**

That the Council, subject to the approval of the Mayor, request the City Attorney, with the assistance of the Department of Cannabis Regulation (DCR), to prepare and present an ordinance establishing the Tier 3 Social Equity Applicant In-Lieu Fee (In-Lieu Fee) as described in this report.

**SUMMARY**

On October 19, 2018, the Chair of the Rules, Elections and Intergovernmental Relations Committee requested a report back on an In-Lieu Fee to supplement Chapter X, Article 4, Section 104.20 (Sec. 104.20) of the Los Angeles Municipal Code (LAMC). Currently, Tier 3 Social Equity Applicants receiving priority processing pursuant to Sec. 104.08 must provide one or more Tier 1 Social Applicants either: 1) rent-free access to their property and prorated utilities for three years; or 2) provide an equivalent or greater amount of property at a different location in the City. The recommended In-Lieu Fee provides a third option which represents the estimated cost of providing comparable space to Tier 1 Social Applicants under the specific license conditions outlined in Sec. 104.20 for 36-months. The purpose of the In-Lieu Fee is not to impose an additional "fee", but to provide a voluntary option for applicants having difficulty meeting the existing incubation requirements because of site constraints, financial feasibility, or both.

The City should include in the ordinance certain provisions designed to clarify expectations around the program while ensuring that the City has the flexibility to implement and manage the program in the most effective manner possible. The fees shall only be utilized for rent, utilities, facilities improvements, or construction of new facilities in support of Tier 1 Social Equity commercial

cannabis businesses. DCR shall determine the distribution of the fees after considering factors including but not limited to: the order of applications received; an applicant's financial resources; an applicant's readiness to proceed through the application process, any other factor that would enable a fair and efficient distribution of fees.

## **TYPE OF FEE**

The In-Lieu Fee shall be strictly voluntary in nature. A Tier 3 Social Equity Applicant shall only pay the fee if they choose not to provide all or a portion of the required access to rent-free property on-site or off-site. The reasonable relationship between the In-Lieu Fee amount, revenue generated, and the proposed use of that revenue is intended to fulfill Tier 3 Social Equity Applicants' responsibility to provide Tier 1 Social Equity Applicants access to property with no rent and prorated utilities for a minimum of three years. More specifically, this methodology demonstrates that the In-Lieu Fee is not arbitrarily based, but rather calculated on two key factors: the estimated cost of providing comparable space under the specific license conditions in the City; and the ability of the fee (determined by comparing leased land value to market prices of land on a per square foot basis) to provide a voluntary option for applicants having difficulty meeting incubation requirements because of site constraints, financial feasibility, or both. The In-Lieu Fee shall be a per license fee.

## **FEE AMOUNT**

It is recommended that the In-Lieu fee level be set at the greater of:

- A) The actual monthly cost per square foot of leased space at the Tier 3 Social Equity Applicants' Business Premises multiplied by the required amount of space pursuant to Chapter X, Article 4, Section 104.20 of the Los Angeles Municipal Code (LAMC) multiplied by 36 months;
- B) The arithmetic mean of the cost per square foot of leased space for the 10 closest commercial cannabis businesses authorized by the Department of Cannabis Regulation for the same commercial cannabis activity to the Tier 3 Social Equity Applicants' Business Premises multiplied by the required amount of space pursuant to Chapter X, Article 4, Section 104.20 of the LAMC multiplied by 36 months; or,
- C) The highest cost per square foot for a) commercial, b) industrial, or c) manufacturing space within the City adjusted annually based on the US Commercial Real Estate Index ("CREI") multiplied by the required amount of space pursuant to Chapter X, Article 4, Section 104.20 of the LAMC multiplied by 36 months.

## **PAYMENT OPTIONS**

It is recommended that the City allow Tier 3 Social Equity Applicants to choose between one of two payment options: an upfront, one-time payment, or a 3-year installment plan (three annual payments or 36 monthly payments). The installment option would include an additional fee for annual processing and administrative costs.