



COUNTY OF HUMBOLDT

For the meeting of: 10/4/2022

File #: 22-1192

To: Board of Supervisors

From: Planning and Building Department

Agenda Section: Departmental

SUBJECT:

Selection of Water Storage/Conservation and Renewable Energy System Projects for funding through the Department of Cannabis Control's (DCC) Local Jurisdiction Grant Assistance Program (Case # PLN-2021-17446)

RECOMMENDATION(S):

That the Board of Supervisors:

1. Receive and consider the staff report;
2. Deliberate on the submitted applications described in Exhibit A of Attachment 1;
3. Select the applications for funding in Round 1, Round 2 and Round 3 by adopting the Resolution in Attachment 1;
4. Direct Planning and Building Department staff to execute agreements with the selected Round 1 applicants based on the template agreements in Attachment 2 and approved by County Counsel and Risk Management and disburse the funding for the selected applications;
5. Direct Planning and Building Department staff when funding becomes available for Round 2, to seek Board approval of a supplemental budget and execute agreements with the applicants based on the template agreements in Attachment 2 and approved by County Counsel and Risk Management and disburse the funding for the selected Round 2 applications; and
6. Direct Planning and Building Department staff when/if funding becomes available for Round 3, to seek Board approval of a supplemental budget and execute agreements with the applicants based on the template agreements in Attachment 2 and approved by County Counsel and Risk Management and disburse the funding for the selected Round 3 applications.

SOURCE OF FUNDING:

The salary funding for preparing this staff report and the funding for the selected projects is provided by the Department of Cannabis Control's Local Jurisdiction Grant Assistance Program (1100282-701).

DISCUSSION:

The Board of Supervisors is being asked to approve allocating the grant funds received from the Department of Cannabis Control as shown in Exhibits A and B of Attachment 1. The Planning and

Building Department received \$14,908,109.60 (80%) of an \$18,635,147.00 grant earlier this year and opened a competitive application process to disburse the funds which closed on September 2, 2022. The Department received 813 applications requesting a total of \$35,645,738.00. Based on review of the applications as described later in this report, staff is recommending approval of 173 Water Storage and Conservation applications with the funds received (Round 1), and an additional 43 applications when we receive the remaining 20% of the grant (Round 2).

For the Renewable Energy Program, staff is recommending funding 84 applications with the money on hand, and 21 applications in Round 2. This leaves 190 eligible Water Storage/Conservation applications and 203 Renewable Energy applications that could be funded in a future Round 3 if the Department receives additional funding for the program.

Program Description

The \$18.6 million in funding from the state for the Local Jurisdiction Grant Assistance Program is focused on transitioning provisional cannabis license holders to annual licenses to make the state's cannabis cultivation program more stable and sustainable into the future. This purpose is quite different than the County's Project Trellis program, which is more broadly intended to assist cannabis businesses with business expenses. Within the somewhat narrow focus of the Local Jurisdiction Grant Assistance Program the Board of Supervisors on June 14, 2022 approved guidelines for the use of funds targeting two types of projects:

1. Water Storage and Conservation Grants support projects that transition water use for commercial cannabis cultivation irrigation from surface diversions and hydrologically connected wells during the low-flow periods of the year by increasing rainwater catchment, forbearance, and water conservation. Up to \$60,000 per parcel is available.
2. Renewable Energy System Grants supports projects that replace gas/diesel/propane powered generators used for cultivation operations with renewable energy systems consistent with the 2023 state transition requirements. Up to \$30,000 per parcel is available.

Eligible uses of funds

The approved guidelines for the Water Storage/Conservation Program allow funds to be used for purchase and/or installation of water storage and/or water conservation equipment including but not limited to water tanks, plumbing, drip irrigation systems, water metering devices, soil water sensors, mulch, bioswale installation, ponds, and pond equipment. Funds may also be applied toward permitting fees associated with eligible water storage and conservation projects. Other project related fees and expenses may also be included if water storage and/or water conservation benefits are documented.

The approved guidelines for the Renewable Energy System Program allow funds to be used for purchase and/or installation of renewable energy system infrastructure, engineering for renewable energy systems or to establish a property's or cultivation site's connection to the PG&E grid. Funds may be applied toward permitting fees associated with eligible renewable energy projects, and other expenses may also be funded if reductions in gas/diesel/propane powered generator use are documented.

Available Funding

The County received \$14,908,109.60 on March 2, 2022, which is 80% of the total grant amount awarded (\$18,635,137.00). According to the DCC's program guidelines, the remainder of the awarded grant will be provided after the County "has substantially met the goals and intended outcomes provided in the Annual Plan, and at a time determined by the Department (DCC) prior to March 31, 2025." Of the \$14.9 million received by the County, \$9,702,400 is available for Round 1 of the Water Storage Grant Program and \$2,480,000 for Round 1 of the Renewable Energy System Grant Program.

The remainder of the \$14.9 million received by the County is targeted for a hydrographic assessment of watersheds to identify the baseline groundwater supply for each of the twelve (12) watersheds in the County. This study will inform how deep the wells being used for cannabis cultivation "should be", describe the impacts of approved and submitted permits/licenses, and identify a baseline related to hydrology for evaluation of other projects.

Recruitment of applicants for both the Water Storage/Conservation and Renewable Energy Programs was highly successful - far more applications were received than the current funding can support. A total of 447 applications were received for Water Storage/Conservation grants and 366 applications were received for Renewable Energy grants.

Eligibility Criteria for Applications

To be eligible for either program, applicants must meet all of the following criteria:

1. Applicant is a Humboldt County cannabis cultivation permit holder or interim permit holder and State of California cannabis cultivation license holder.
2. The applicant's Humboldt County cannabis cultivation taxes are current.
3. The applicant's County cannabis cultivation permit fees are current.
4. Costs for eligible improvements must have been incurred after January 21, 2022.
5. Projects require no tree removal.

The individual programs also have additional eligibility criteria that must be met:

- Water Storage/Conservation Program: The approved irrigation water source for the applicant's commercial cannabis cultivation is a well or surface water diversion.
- Renewable Energy System Program: The area used for commercial cannabis cultivation is not connected to the commercial electrical power grid.

Most of the applications (82%) are eligible for funding.

Application Submittal and Review Process

To assist applicants and to create a fair, open and transparent application process, the Department developed web pages for both the Water Storage/Conservation program <https://humboldt.gov/3313/Water-Storage-and-Conservation-Grant-Pro> and Renewable Energy System program <https://humboldt.gov/3314/Renewable-Energy-Grant-Program>. These websites provide detailed descriptions of what types of projects could be funded, links to the Notice of Funding Availability (NOFA), a mock application, a Frequently Asked Questions document, links to

the online application forms and staff contact information (telephone number and email).

A press release was published August 10, 2022 announcing the grant program, upcoming application acceptance period and directing interested parties to the websites for further information and for submitting the applications. Direct notification was also sent to all the farmers holding active permits or interim permits with the County. Dedicated staff were assigned to respond to all customer phone calls and emails, and those that came in to the office.

Applications were accepted for a two-week period from August 22, 2022, through September 2, 2022, via the online application form accessed through websites. An application kiosk was also set up in the main lobby of the office for applicants needing staff assistance, although this resource was not utilized. Most of the applications were submitted either early in the open application period or at the very end of it with almost 40% of all the applications being submitted on the last day.

All applications and supporting documents were reviewed by Planning and Building Department staff to ensure each applicant meets the eligibility criteria described above. Each day of the open application period the submitted applications were evaluated for eligibility and missing information, and considerable effort was made to notify applicants of these errors or deficiencies in time to allow for correction.

Review of applications began the day after the first ones were submitted using the following procedures:

1. *Completeness Check.* Applications were checked for completeness and applicants that submitted incomplete applications were notified by email.
2. *Eligibility Criteria Review.* Applications were reviewed against current databases for paid County taxes and permit fees, active County permits or interim permits, and state cultivation licenses to determine eligibility. All applications deemed to be ineligible were notified either during the open application window or immediately after it was closed and were allowed to provide documentation showing they were eligible for the program. Five were re-instated onto the list of eligible applications through this process.

Project Scoring and Ranking. After all the eligibility criteria were sorted through and a final list of eligible applications was provided, staff used the procedures described below for scoring and ranking them. Since the overall purpose of this DCC grant program is to facilitate the transition from provisional state licenses to annual licenses, those with provisional licenses are heavily favored in the scoring of both programs.

Water Storage/Conservation applications

Eligible water storage/conservation applications were assigned to one of three groups:

- A. Applications within Impacted or Refuge watersheds **and** provisional state licenses.
- B. Applications within Impacted or Refuge watersheds **or** provisional state licenses.

C. Applications outside Impacted or Refuge watersheds and annual state licenses.

Within these groups, applications were ordered so the those with the largest reductions in water use scored highest. Finally, the whole set was ranked from top to bottom, so all the Group A applications are ranked higher than all those in Group B, and within the groups, those that store/conserves the most water (measured as the number of gallons) score higher than those that store/conserves less water.

Renewable Energy program applications

Ranking eligible Renewable Energy applications began by first assigning them into two groups which again favored provisional license holders consistent with the DCC's guidelines:

- A. Applications with provisional state licenses, or
- B. Applications with annual state licenses.

Like the Water Storage/Conservation ranking, applications within these groups were ordered so the applications with the largest reductions in fuel use are ordered highest. Finally, the whole set was ranked from top to bottom, so applications in Group A are ranked higher than all those in Group B, and within the groups, those that reduce fossil fuel consumption the most (measured as the number of gallons) are ranked higher than those that save less fuel.

If it was needed, the date/time of submission of applications could have been used for tie breakers, where all other items being equal, applications submitted earlier are ranked higher, but in the end, no applications were tied at the "cut" lines between those that fell into Round 1 or Round 2 so the date of submission was not a factor used to decide which applications made it into Round 1 or Round 2.

Analysis of Submitted Applications

The ranked applications are presented in Attachment 1 with the highest ranked applications at the top of the list. There are 177 Water Storage/Conservation applications recommended for funding in Round 1 for a combined total of \$9,683,174.00, which will result in an increased water storage capacity of 28,256,700 gallons. When the remaining 20% of the total grant award is received, an additional 43 applications will be funded (Round 2), and another 128 applications could receive funding in Round 3 if additional funds related to this grant become available from DCC.

With the money already received, 84 Renewable Energy applications are recommended for funding for a total of \$2,468,607.00. These will achieve a reduction of 185,168 gallons of fuel consumed annually. When the remaining 20% of the total grant award is received, an additional 21 applications will be funded (Round 2), and another 190 applications could receive funding in Round 3 if additional funds related to this grant become available from DCC.

Potential Future Funding

The DCC already provided 80% of the total funding available and is expected to send the County the

remaining 20% after DCC determines the County's program is operating in conformance with the grant agreement and program guidelines. This will provide an additional round of funding for both programs - \$2,337,622 for Water Storage/Conservation projects and \$608,620 for the Renewable Energy projects. Staff recommends the Board direct Planning Department staff upon receipt of the remaining funds from DCC, to enter into agreements and provide Round 2 funding for the next group of eligible applicants identified in Group B. Staff recommends this same process be used to grant money to any eligible unfunded applicants from Group C in Round 3 funding in the event funds related to this grant become available from DCC.

The County has positioned itself well to receive additional funding for the Round 3 applications. After the County spends all the existing funds it was awarded, the Department will request additional funds from DCC referencing the documented need of the unfunded projects on the list. If that additional request is granted, the Department will then initiate funding the Round 3 applications pending approval of a supplemental budget request.

On 9/23/2022 14 Water Storage applications were identified that had not been pulled over with the daily downloads from the Website online application. The application dates and times were after 5pm on 8/30/22 and 8/31/22. Of these 14, 4 were determined to be ineligible due to no DCC License, and/or Unpaid Department Billing Fees, and/or Unpaid Measure S Taxes for the 1st installment of 2020 or prior.

Of the remaining 10 applications, they were eligible to be ranked. Of those 10, 2 are ranked within Round 1 of funding, 4 are ranked within Round 2 of funding, and 4 are ranked in the unfunded category.

Version 2.0 of titled "Master DCC Water Grant Submittals 2.0" was created as of 9/29/22 to preserve the original rankings.

Separate from the 14 identified, one additional application was voluntarily withdrawn and moved out of ranking.

FINANCIAL IMPACT:

Round 1: As described above, this item will result in \$9,683,174.00 the County received from the state being disbursed to 173 Water Storage/Conservation applicants and \$2,468,607.00 disbursed to 84 Renewable Energy applicants from budget unit 1100282-701.

Round 2: In combination with approval of a (future) supplemental budget request, this item will result in \$2,337,622 the County expects to receive from the state being disbursed to for 43 Water Storage/Conservation applicants and \$608,420 for 21 Renewable Energy applicants from budget unit 1100282-701.

Round 3: In the event DCC provides additional funding beyond what has already been awarded for Round 1 and Round 2, and in combination with approval of a future supplemental budget request, this item will result in up to \$6,387,545 for 128 more Water Storage/Conservation applicants and up to \$5,403,040 for 190 Renewable Energy applicants. Additional funds will be administered by the Advanced Planning unit of the Planning and Building Department in budget unit 1100282-701.

These funds will support cannabis farmers in a transition from provisional to annual state licenses which will help stabilize their operations into the future so they can continue to provide economic benefits for the County, business owners and residents.

The Renewable Energy program has the added benefit of reducing fuel costs for cannabis farmers into the future. Information submitted with the applications recommended for approval indicates Round 1 will result in a reduction of 185,168 gallons of fuel consumed for cannabis cultivation purposes. Assuming fuel costs of \$5/gallon, Round 1 funding alone has the potential to reduce the cost of cannabis farming operations by close to \$930,000 annually. Additional funding rounds of the program will provide additional cost savings to cannabis farmers.

The DCC grant provides a total of \$288,759.20 for staffing Round 1 and Round 2 over a 3 ½ year term. Staff costs and other expenses related to implementing the DCC program as of 9/1/22 are \$54,263.42 or 19% of the total. This program has no direct impact to the County's General Fund because the grant covers 100% of the funds distributed to applicants and all Planning and Building Department staff costs to administer the grant. Indirectly the cost of processing of payments to the approved applicants by the Auditor will be supported by the General Fund.

The program has had another positive financial impact on the County's General Fund. Eligibility criteria for the applications include a requirement for full payment of all outstanding invoices due to the Planning and Building Department, and any delinquent cultivation taxes. While the specific dollar amount paid to the County by applicants to become eligible for the program has not been calculated, there has recently been an uptick in past due invoice payments to both the Tax Collector and the Planning and Building Department that can likely be attributed to this program.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by seeking outside funding sources to benefit Humboldt County needs .

OTHER AGENCY INVOLVEMENT:

Department of Cannabis Control, County Counsel, Auditor Controller, Risk Management, Tax Collector's Office.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

If the Board determines the procedure used in application review and scoring does not substantially conform to the program guidelines approved by the Board, the Board could decide to not approve any applications at this time and direct Planning and Building Department staff to return with a revised ranking of applications, providing specific direction on the modified parameters used for ranking purposes to better align with the approved program guidelines.

Staff does not recommend further consideration of this alternative because the ranking process used by Planning and Building Department staff aligns well with both the DCC and the Board-approved program guidelines, and it was fair, open and transparent in the following important ways:

- when feasible, applicants were notified in real time of errors or deficiencies in their applications so they could be fixed before the application period closed;
- applicants determined to be ineligible for the program were provided an opportunity to

demonstrate their applications were in fact eligible which led to several applications being placed back on the list of ranked applications, and

- all eligible applicants were notified where their application was ranked on the list and in which round of funding they are being recommended.

Also, staff recommends against this alternative because it will increase the cost of developing the ranked list for selecting which projects are selected for funding in which rounds. As mentioned previously, the cost to develop the ranked list in Attachment 1 so far is more than \$59,000, and if substantial costs are incurred to create another ranked list, that may decrease the amount of funding available to applicants.

The Board could also elect to require a new application period to be opened for any additional funding that will be received from DCC in the future. While this may provide an opportunity for new applicants to be considered, this option is not recommended. The applications received to date far exceed the amount of the existing grant. The staff hours that would be required to open a new application period and undertake the ranking process will consume a significant amount of hours and administrative cost that would reduce the amount of funding available to cultivators.

ATTACHMENTS:

Attachment 1: Resolution Approving Selected Water Storage/Conservation and Renewable Energy System Applications

Attachment 2a: Water Conservation Grant Agreement

Attachment 2b: Renewable Energy Grant Agreement

Attachment 3: Water Storage/Conservation Ranking List

Attachment 4: Renewable Energy Ranking List

PREVIOUS ACTION/REFERRAL:

Board Order No.: J-1

Meeting of: November 2, 2021

File No.: 21-1540