

**CITY OF OAKLAND**  
**AGENDA REPORT**

TO: Public Safety Committee  
FROM: Office of the City Manager  
DATE: October 28, 2003

**RE: A FOLLOW-UP REPORT FROM THE CITY MANAGER  
PROVIDING RECOMMENDATIONS OF THE MEDICAL  
CANNABIS WORKING GROUP PERTAINING TO THE  
“CITY OF OAKLAND POLICY REGARDING ENTITIES  
THAT DISTRIBUTE CANNABIS”**

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Attached is the Follow-Up Report providing recommendations of the Medical Cannabis Working Group pertaining to the “City of Oakland Policy Regarding Entities That Distribute Cannabis.” After reviewing the policy and the standards contained therein, staff submits the following additional recommendations:

**ADDITIONAL RECOMMENDATIONS**

1. Operating Hours: That entities that distribute cannabis operate daily from 7:00 a.m. to 8:00 p.m. Rationale: Presently, there are 7-11 entities that distribute cannabis operating in the downtown area. It appears that most of these entities close at 8:00 p.m. or earlier, and there are no adverse impacts on police resources. However, without a standard pertaining to operating hours, some or all of these entities could extend their operating hours. The extended operating hours could create possible adverse impacts on police resources that currently monitor sideshow activities and cabarets in the downtown area. By creating this standard, the City will eliminate these potential adverse impacts by ensuring that several hundred additional medical patients and primary caregivers are not in the downtown area during late night hours.
2. Background Investigations: That entities that distribute cannabis conduct background investigations of all employees, except those that medical cannabis patients, to ensure that no persons with criminal convictions are hired as employees. Rationale: To ensure the safety of the medical patients, their primary caregivers, employees of the entities that distribute cannabis, and the general public, entities should not hire employees with criminal convictions. The involvement of employees with criminal convictions in the distribution of

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cannabis also creates a high level of temptation and opportunity to engage in unlawful acts. By not having employees with criminal convictions, the temptation and opportunity for unlawful conduct is primarily removed, and the safety of medical patients and employees is enhanced.

3. Prohibition of ABC Licenses and Operation of Businesses that Sell Alcoholic Beverages: That entities that distribute cannabis shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. Rationale: Businesses that sell alcoholic beverages often have substantial adverse impacts on surrounding businesses and police resources. Currently, the City maintains oversight over retail and other businesses that sell alcoholic beverages through the "Deemed Approved" program, which is administered by the Oakland Police Department's Alcoholic Beverage Action Team (ABAT) and the City Planning Department of the Community & Economic Development Agency. Entities that distribute cannabis should not be allowed to combine the purchase of medical cannabis with the sale of alcohol. This standard would help prevent potential adverse impacts on police resources and the safety of medical patients and primary caregivers by eliminating the occurrence of both activities inside of a cannabis facility or adjoining retail business.
4. Audit: That entities that distribute cannabis should allow the City Manager or his/her designee to have access to the entities' books, records, accounts, and any and all data relevant to its financial activities for the purpose of conducting an audit or examination. Rationale: The City Manager or his/her designee shall the right to audit and examine the books, records, accounts, and any and all data relevant to its financial activities in order to determine whether the entity is paying all of the required City of Oakland business taxes. Further an audit or examination may be necessary to assess compliance with the "City Policy Regarding Entities That Distribute Cannabis."
5. Consideration of Additional Staff to Monitor and Provide Oversight of Entities that Distribute Cannabis: Presently, there are 7-11 entities that distribute cannabis in the Central Downtown area of Oakland. Should the Council allow the existing number or some other number or no limit on entities that distribute cannabis, it should consider potential fiscal impacts created by the potential need for additional staff to monitor and provide oversight over such entities. Rationale: Currently, the City does not monitor or provide oversight of the 7-11 entities that distribute cannabis. Should the City adopt the proposed policy with standards for entities that distribute cannabis, monitoring and oversight of entities that distribute cannabis will be required. Further the City will be required to respond to complaints pertaining to such entities. The Administrative Hearing Officer is currently facilitating this matter. Depending on the policy determination made by the Council, it may be necessary to hire additional staff to monitor and provide oversight of entities that distribute cannabis.

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Staff concurs with the recommendations submitted by the Medical Cannabis Working Group pertaining to the "City of Oakland Policy Regarding Entities That Distribute Cannabis," and recommends that the City Council add the additional recommendations submitted above to this policy.

Respectfully submitted,

  
DEBORAH EDGERLY

Attachment: A Follow-Up Report from the City Manager Providing Recommendations Of the Medical Cannabis Working Group Pertaining to the "City of Oakland Policy Regarding Entities That distribute Cannabis"

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**CITY OF OAKLAND  
AGENDA REPORT**

TO: Office of the City Manager  
ATTN: Deborah Edgerly  
FROM: Office of the City Manager  
DATE: September 23, 2003

**RE: SUPPLEMENTAL REPORT FROM THE CITY MANAGER  
PROVIDING ADDITIONAL BACKGROUND INFORMATION  
REGARDING MEDICAL CANNABIS PROVIDER  
ASSOCIATIONS AND RECOMMENDATION TO DESIGNATE  
ONE MEDICAL CANNABIS PROVIDER ASSOCIATION TO  
ADMINISTER THE CITY'S MEDICAL CANNABIS  
DISTRIBUTION PROGRAM**

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**ADDITIONAL BACKGROUND INFORMATION**

In response to several complaints from businesses located on Telegraph Avenue and Broadway Street near 17<sup>th</sup> Street, the City Manager's Office and Oakland Police Department conducted cursory investigations of several entities that allegedly were distributing medical cannabis. These cursory investigations revealed the existence of eight (8) entities distributing medical cannabis; none of these entities has been designated by the City Manager pursuant to Chapter 8.46 of the Oakland Municipal Code (O.M.C.) to administer the City's Medical Cannabis Distribution Program. Further it was uncertain whether the entities meet the requirements to qualify as a Medical Cannabis Provider Association under Chapter 8.46 of the O.M.C.

Chapter 8.46 authorizes the City Manager to designate one or more Medical Cannabis Provider Associations to distribute medical cannabis on the City's behalf and defines such an association as a cooperative, affiliation, or collection of persons who are qualified patients or primary caregivers and whose main purpose is the lawful production, acquisition and distribution of medical cannabis. Such an association would distribute medical cannabis only persons who meet the requirements of Proposition 215, i.e., patients who obtain a written or oral recommendation or approval from a physician to use cannabis for personal medical purposes and primary caregivers of qualified patients.

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In August 1998, the City Manager of Oakland formally designated the Oakland Cannabis Buyers' Cooperative as a Medical Cannabis Provider Association to administer the City's Medical Cannabis Distribution Program. The Oakland Cannabis Buyers' Cooperative administered the City's Medical Cannabis Distribution Program without any complaints from medical cannabis patients or their primary caregivers until a federal court enjoined the Oakland Cannabis Buyers' Cooperative from distributing medical cannabis. Subsequently, there was a proliferation of entities in downtown Oakland that allegedly distribute medical cannabis. A listing of these entities is as follows:

1. 420 Café, 1727 Telegraph Avenue
2. Lemon Drop Café, 1736 Telegraph Avenue
3. Compassionate Caregivers, 1740 Telegraph Avenue
4. Oakland Patients, 1901 Telegraph Avenue
5. Oakland Cooperative, 1733 Broadway Street
6. Bull Dog Café, 1739 Broadway Street
7. SR71, 377-17<sup>th</sup> Street
8. The Healing Center, 578 Grand Avenue

Neighboring businesses of these entities complained of the following:

- The existence of seven (7) entities distributing cannabis within a few blocks of each other
- Loss of businesses due to the existence of several such entities within a few blocks, and the large number of medical cannabis patients smoking and loitering around such facilities
- Patients smoking inside and outside of the entities' facilities
- Loitering by medical cannabis patients and others outside of the entities' facilities
- Littering by medical cannabis patients and others outside of the entities' facilities
- The lack of oversight or regulation of the entities' distribution of cannabis

In July 1998, the City Council passed Chapter 8.46 of the Oakland Municipal Code, which established the City's Medical Cannabis Distribution program and provided that the program "shall be administered" by medical cannabis provider associations designated by the City Manager. In August 1998, the City Manager designated the Oakland Cannabis Buyers' Cooperative as a medical cannabis provider association to administer its medical cannabis distribution program. As noted above, the Oakland Cannabis Buyers' Cooperative administered the medical cannabis program in an effective and efficient manner. The City attached numerous conditions to its designation pertaining to insurance, auditing, facility access, non-discrimination, sale of medical cannabis to qualified patients and their primary caregivers, facility security, loitering and littering, operating hours, quality assurance program, visitation limits, limitation of medical cannabis purchased, and smokefree facility.

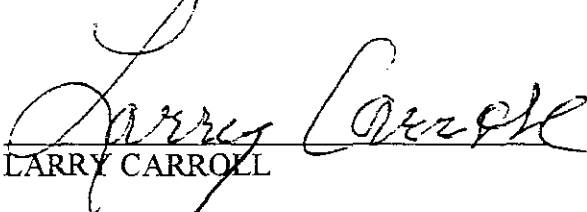
The City Manager's Office encountered no problems with only one Medical Cannabis Provider Association administering the City's Medical Cannabis Distribution Program.

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The demand for medical cannabis was adequately met by having one Medical Cannabis Provider Association administer the City's Medical Cannabis Distribution Program. Further there were no complaints from neighboring businesses regarding the Medical Cannabis Provider Association or the Medical Cannabis Distribution Program. The proliferation of entities that distribute cannabis in the City of Oakland has created substantial adverse impacts as reflected by the above complaints. As noted above, none these entities has been designated by the City Manager as a Medical Cannabis Provider Association and they therefore are not operating as Medical Cannabis Provider Associations under the City's ordinance. The ordinance provides that an entity may function as a medical cannabis provider association "only if designated by the City Manager pursuant to Section 8.46.030 of the Oakland Municipal Code."

To abate these substantial adverse impacts with existing City resources, staff recommends that the Council accept this report (including the attached conditions in Exhibit A that were imposed on the Oakland Cannabis Buyers' Cooperative when it was designated by the City Manager) and further staff recommends that the City Council amend the ordinance to provide that the City Manager may designate one Medical Cannabis Provider Association to administer the City's Medical Cannabis Distribution Program.

Respectfully submitted,

  
LARRY CARROLL

Prepared by: Larry Carroll  
Administrative Hearing Officer  
City Manager's Office

Attachment: Exhibit A-Conditions Imposed on the Oakland Cannabis Buyers' Cooperative

**APPROVED AND FORWARDED TO THE  
PUBLIC SAFETY COMMITTEE:**

  
OFFICE OF THE CITY MANAGER

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## ATTACHMENT

### CONDITIONS IMPOSED ON THE OAKLAND CANNABIS BUYERS' COOPERATIVE AFTER THE CITY MANAGER'S DESIGNATION AS THE MEDICAL CANNABIS PROVIDER ASSOCIATION TO ADMINISTER THE CITY'S MEDICAL CANNABIS DISTRIBUTION PROGRAM

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#### DEFINITIONS

- A. **Medical Cannabis Provider Association:** Medical cannabis provider association means a cooperative, affiliation, association, or collective of persons who are qualified patients or primary caregivers, the main purpose of which is to provide education, referral, or network services, and to facilitate or assist in the lawful production, acquisition, and distribution of medical cannabis.
- B. **Qualified Patient:** Qualified patient means a person who obtains a written or oral recommendation or approval from a physician to use cannabis for personal medical purposes.
- C. **Primary Caregiver:** Primary caregiver means the person or persons designated by a qualified patient who have consistently assumed responsibility for the housing, health, or safety of that qualified patient.

#### CONDITIONS

- A. **Insurance:** Medical cannabis provider association shall procure and keep in force for the duration of its existence, at medical cannabis provider association's own cost and expense, liability insurance in amount of \$2,000,000.00.
- B. **Indemnification:** The Medical Cannabis Provider Association agrees to save, indemnify, defend and hold harmless, the City, its Council Members, directors, officers, agents, and employees from any and all claims, losses and expenses (including reasonable attorney fees) or liability on account of damage of property or injury to or death of persons accruing or resulting to Medical Cannabis Provider Association, Medical Cannabis Provider Association's directors, agents, employees, contractors, material persons, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the Medical Cannabis Provider Association activities; and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged in the connection with the Medical Cannabis Provider Association's activities.
- C. **Audit:** Medical Cannabis Provider Association shall permit the City and its authorized representatives to have access to Medical Cannabis Provider Association's books, records, accounts, and any and all data relevant to its

medical cannabis activities, for the purpose of making an audit or examination. Any audit or examination shall be deemed privileged and confidential in accordance with Section 6 of Chapter 8.46 of the Oakland Municipal Code. All such audits shall be carried out by appropriate personnel (e.g. physicians, nurses, accountants, bookkeepers and auditors) for the sole purpose of determining the Medical Provider Association's compliance with the conditions to fall under the City's Low Priority Policy.

- D. Reports, Information: Medical Cannabis Provider Association shall provide all reports and information reasonably requested by the City and shall immediately advise the City Manager of any complaints communicated to Medical Cannabis Provider Association, its directors, agents and/or employees and of any contacts by law enforcement personnel or agencies.
- E. Access to Premises, Inventory, Supplies, Etc.: Medical Cannabis Provider Association shall provide the City Manager, or a member of his/her staff, or a designated person, access to the premises of its operation for the purpose of inspections, quality control investigations and monitoring with or without notice during normal hours of operation.
- F. Payment of Income Taxes: Medical Cannabis Provider Association shall be responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of its medical cannabis activities. Medical Cannabis Provider Association agrees to indemnify the City for all claims, costs, losses, fees, penalties, interest or damages suffered by the City resulting from its failure to comply with this condition.
- G. Non-discrimination: Medical Cannabis Provider Association shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. Medical Cannabis Provider Association shall not discriminate against any employee, applicant, patient, primary caregiver, contractor, supplier, or other person supplying goods or services because of gender, sexual orientation, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex, or disability.
- H. Business Tax Certificate: Medical Cannabis Provider Association shall obtain and maintain a valid City business tax certificate.
- I. Facility Approvals: Medical Cannabis Provider Association shall obtain approval for its facility from the City's Building Inspector, Electrical Inspector, Plumbing Inspector, Fire Marshal, Zoning Division, and Alameda County's Health Department.
- J. Compliance with Americans with Disability Act: Medical Cannabis Provider Association's facility shall comply with all provisions of the Americans with Disability Act.
- K. Independent Contractor: It is expressly understood that the Medical Cannabis Provider Association in administering its cannabis activities is not an employee of the City and is an independent contractor. Medical Cannabis Provider Association has and shall retain the right to exercise full control and supervision over the employment, direction, compensation, and discharge of all persons assisting Medical Cannabis Provider Association in the administering of its



cannabis activities and shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for its own acts and those of its subordinates and employees.

- L. Background Investigation of Employees: Medical Cannabis Provider Association shall conduct background investigations of employees to ensure that no persons with criminal convictions are hired as employees.
- M. Operating Hours: Medical Cannabis Provider Association shall comply with the following operating hours: Monday-Saturday, 7:00 a.m. to 8:00 p.m.
- N. Qualified Patients: Medical Cannabis Provider Associations must verify all qualified patients by confirming with the medical doctors their recommendation of persons to use cannabis for personal medical purposes, and issuing an identification card to each qualified patient.
- O. Primary Caregivers: Medical Cannabis Provider Association shall verify the status of primary caregivers with the qualified patient, and have the caregiver complete a caregiver certificate form (provided by the Medical Cannabis Provider Association). In order for the caregiver to gain access to the Medical Cannabis Provider Association's facility, the qualified patient must place a phone call to the Medical Cannabis Provider Association verifying that he/she is sending his/her caregiver. The qualified patient also must send a written note stating the specific nature of his/her needs, how much medical cannabis is needed, and provide his/her member identification. The caregiver must have valid identification such as a California identification card or driver's license. Upon verification of primary caregivers, the Medical Cannabis Provider Association may issue valid identification cards.
- P. Security: Medical Cannabis Provider Association shall have at least one (1) state licensed security personnel on site during operating hours. The Medical Cannabis Provider Association shall make sure that adequate security is available during operating hours to monitor and control qualified patients, primary caregivers, and any other persons present at the facility.
- Q. Loitering and Littering: Medical Cannabis Provider Association shall take action, if necessary, to ensure that no persons loiter and litter about the facility. Signs shall be posted in a clear, sufficient, and conspicuous manner informing persons to not loiter and litter outside of the facility.
- R. Noise Nuisance: Medical Cannabis Provider Association shall inform all qualified patients, primary caregivers, and other persons appearing at the facility not to make loud and excessive noises that disturb the peace and quiet of the general public or neighboring tenants or businesses. Medical Cannabis Provider Association shall take immediate action to abate any noise nuisances created by qualified patients or primary caregivers or other persons appearing at the facility.
- S. Quality Assurance Program: Medical Cannabis Provider Association shall inspect cannabis flowers bought into its facility for molds and abnormal growth/smells, and ask questions regarding the methods and chemicals used during cultivation to ensure that only good quality cannabis is provided to its patients. Further Medical Cannabis Provider Association shall inspect every facility from which it gets cannabis. The following things should be looked for during the

**Medical Cannabis Provider Association Conditions to Fall Under the City's Low Law Enforcement Policy Priority Policy**

- inspection: 1) What type of insecticide is being used for pest control measures, 2) Other chemicals being used for growing plants, and 3) How clean is the facility, and are there any fire, health or safety hazards.
- T. Visitation Limits: Qualified patients or primary caregivers may visit the Medical Cannabis Provider Association's facility once per day.
  - U. Who Can Make Medical Cannabis Purchases: Qualified patients or primary caregivers are prohibited from making purchases for persons who are not members of the Medical Cannabis Provider Association.
  - V. Medical Cannabis Pick-Ups by Primary Caregivers: Qualified patient members who wish to have their Primary Caregiver pick up medical cannabis for them must make arrangements in advance and comply with condition number L above.
  - W. Under the Influence of Illicit Drugs or Alcohol: Qualified Patients and Primary Caregivers are prohibited from being under the influence of illicit drugs or alcohol inside of the Medical Cannabis Provider Association's facility. Qualified Patients and Primary Caregivers found to be under the influence of illicit drugs or alcohol will not be served and asked to leave the facility.
  - X. Limit of Medical Cannabis Purchased: The procurement of cannabis is limited to ¼ ounce (7 grams) per day, unless the member lives outside of the Bay Area and makes more than one visit to the Medical Cannabis Provider Association per week.
  - Y. Smokefree Facility: Qualified Patients shall not smoke inside of the Medical Cannabis Provider Association's facility. Medical Cannabis Provider Association shall post signs in a clear, sufficient, and conspicuous manner inside of the facility stating, "No Smoking Allowed."
  - Z. Loitering by Friends Outside: Members should discourage friends from waiting for them immediately outside of the front door of the Medical Cannabis Provider Association's facility to help in the abatement of loitering.

The above conditions may be revised by the City Manager at his/her discretion.

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**CITY OF OAKLAND**  
**AGENDA REPORT**

TO: Office of the City Manager  
ATTN: Deborah Edgerly  
FROM: Office of the City Manager  
DATE: September 23, 2003

RE: **A REPORT FROM THE CITY MANAGER REGARDING  
CONDITIONS TO FALL UNDER THE CITY'S LOW LAW  
ENFORCEMENT POLICY TOWARDS MEDICAL CANNABIS  
AND RECOMMENDATION TO SELECT ONE MEDICAL  
CANNABIS PROVIDER ASSOCIATION TO ADMINISTER  
THE CITY'S MEDICAL CANNABIS DISTRIBUTION PROGRAM**

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**SUMMARY**

In November 1996, the voters of the State of California passed Proposition 215, the Compassionate Use Act of 1996, to "ensure that seriously ill Californians have the right to obtain and use cannabis (marijuana) for medical purposes. The City Council found that medical cannabis helped alleviate pain and discomfort in people suffering from a variety of illness including AIDS, cancer, glaucoma, and multiple sclerosis when no other medications have been effective. In March 1996, the Council passed Resolution No. 72516 C.M.S. endorsing H.R. 2618 which allowed physicians to prescribe medical cannabis for medical purposes, insured the production of cannabis to meet the need for medical use, supported the Oakland Cannabis Buyer's Club, and declared that the investigation and arrest of individuals involved with the medical use of cannabis shall be a low priority for the City of Oakland. In June 1997, the Council passed Resolution No. 73555 C.M. S. declaring that the investigation and arrest of individuals involved in the cultivation, manufacture, and/or transportation of medical cannabis products shall be a low priority for the City of Oakland.

In July 2000, the Oakland Police Department created a memorandum detailing the City's low law enforcement policy regarding medical cannabis. On July 28, 1998, the Council passed Chapter 8.46 of the Oakland Municipal Code pertaining to medical cannabis. This chapter was passed to recognize and protect the rights of qualified patients, their primary caregivers, physicians, and medical cannabis provider associations, and to ensure access to safe and affordable medical cannabis pursuant to the Compassionate Use Act of 1996. In support of this purpose, the City of Oakland further recognized that a medical cannabis provider association (as defined therein) might provide educational information concerning access to safe, affordable, and lawful medical cannabis, and also distribute

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safe and affordable medical cannabis. Pursuant to Chapter 8.46 of the Oakland Municipal Code, the City of Oakland formally designated the Oakland Cannabis Buyers' Cooperative to administer the City's Medical Cannabis Distribution Program in August 1998. Conditions were attached to the City's designation pertaining to indemnification, insurance, audit, standard of performance, inspection, payment of income taxes, business tax certificate, non-discrimination policy, independent contractor, notice to the City regarding any changes in procedures or cooperative members, assignment, and the right to revoke the designation based on the City's sole judgment and discretion.

Subsequently, the Oakland Cannabis Buyers' Cooperative ceased its administration of the City's Medical Cannabis Distribution Program pursuant to legal action initiated by federal authorities. During the last three years, several new organizations or entities have been distributing medical cannabis in the City of Oakland. None of these organizations have obtained a designation from the City to administer the City's Medical Cannabis Distribution Program.

Staff has created conditions similar to those originally imposed on the Oakland Cannabis Buyers' Cooperative that a medical cannabis provider association must meet in order to fall under the City's low law enforcement policy pertaining to medical cannabis (Exhibit A). Staff recommends that one medical cannabis provider association be selected to administer the City's Medical Cannabis Distribution Program. The City Manager will select the medical provider association within 30 days of Council's approval of this recommendation.

### **FISCAL IMPACT**

As the medical cannabis provider association must be a cooperative or non-profit entity, it is not anticipated that the City will receive any revenues from the administration of the City's Medical Cannabis Distribution Program. The medical cannabis provider association will be required to maintain a business tax certificate.

### **BACKGROUND**

Reflected in the above Summary is the legislative history of action taken by the State of California and City of Oakland to ensure that qualified patients and their primary caregivers have access to safe and affordable medical cannabis. Currently, there are in excess of eight (8) organizations in the City of Oakland distributing medical cannabis. These organizations are operating their medical cannabis distribution program for profit and without any administrative oversight by the City. Chapter 8.46 of the Oakland Municipal Code establishes a Medical Cannabis Distribution Program that shall be administered by the medical cannabis provider association designated by the City Manager.

Distribution Program. Further several conditions were attached to this designation to ensure that the medical provider association carried out its duties consistent with Chapter 8.46 and other applicable chapters of the Oakland Municipal Code and the Oakland Planning Code. The Oakland Cannabis Buyers' Cooperative ceased its administration of the City's Medical Cannabis Distribution Program three years ago due to legal action initiated by federal authorities.

To ensure that the requirements of Chapter 8.46 are met, it is necessary that the City have administrative oversight of the cooperative administering its Medical Cannabis Distribution Program. The selection of one medical cannabis provider association would facilitate oversight and compliance, and meet the demand of qualified medical cannabis patients and their primary caregivers.

### **SUSTAINABLE OPPORTUNITIES**

It is anticipated that a mild economic boost will occur as the selected medical cannabis provider association will hire several persons to assist in the administration of the City's Medical Cannabis Distribution Program. The selection of a medical cannabis provider association to administer the City's Medical Cannabis Distribution Program will make sure that qualified patients and their primary caregivers have access to safe and affordable medical cannabis.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

The selected medical cannabis provider association to administer the City's Medical Cannabis Distribution Program must comply with the Americans with Disability Act (ADA). This is one of the conditions reflected in Exhibit A.

### **RECOMMENDATION AND RATIONALE**

**RECOMMENDATION:** Staff recommends that one medical cannabis provider association be selected to administer the City's Medical Cannabis Distribution Program established in Chapter 8.46 of the Oakland Municipal Code.

**RATIONALE:** After the passage of the Compassionate Use Act of 1996, the City passed Chapter 8.46 of the Oakland Municipal Code pertaining to medical cannabis. Section 8.46.030 established a Medical Cannabis Distribution Program that shall be administered by the medical cannabis provider association designated by the City Manager. Pursuant to the authority given in Chapter 8.46, the City Manager designated the Oakland Cannabis Buyers' Cooperative to administer the City's Medical Cannabis Distribution Program. The Oakland Cannabis Buyers' Cooperative administered the City's Medical Cannabis Distribution Program for several years until federal action ceased their operation. During the last three years, there has been a proliferation of medical cannabis provider associations in the City of Oakland that are unregulated.

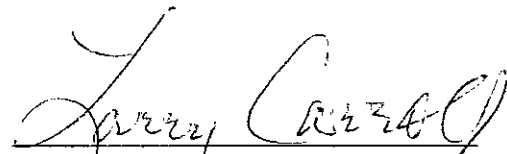
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Staff does not see the need for more than one medical cannabis provider association to meet the demand of qualified patients and their primary caregivers for medical cannabis. Additionally, the City does not have the personnel to conduct administrative oversight over more than one medical cannabis provider association.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council accept this report and the recommendation to select one medical cannabis provider association to administer the City's Medical Cannabis Distribution Program.

Respectfully submitted,

  
LARRY CARROLL

Prepared by: Larry Carroll  
Administrative Hearing Officer  
City Manager's Office

Exhibit A: Medical Cannabis Provider Association Conditions to Fall Under the City's Low Law Enforcement Policy for Medical Cannabis

**APPROVED AND FORWARDED TO THE  
PUBLIC SAFETY COMMITTEE:**

  
OFFICE OF THE CITY MANAGER

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September 23, 2003~~

## ATTACHMENT

### MEDICAL CANNABIS PROVIDER ASSOCIATION CONDITIONS TO FALL UNDER THE CITY'S LOW LAW ENFORCEMENT POLICY

#### DEFINITIONS

- A. Medical Cannabis Provider Association: Medical cannabis provider association means a cooperative, affiliation, association, or collective of persons who are qualified patients or primary caregivers, the main purpose of which is to provide education, referral, or network services, and to facilitate or assist in the lawful production, acquisition, and distribution of medical cannabis.
- B. Qualified Patient: Qualified patient means a person who obtains a written or oral recommendation or approval from a physician to use cannabis for personal medical purposes.
- C. Primary Caregiver: Primary caregiver means the person or persons designated by a qualified patient who have consistently assumed responsibility for the housing, health, or safety of that qualified patient.

#### CONDITIONS

- A. Insurance: Medical cannabis provider association shall procure and keep in force for the duration of its existence, at medical cannabis provider association's own cost and expense, liability insurance in amount of \$2,000,000.00.
- B. Indemnification: The Medical Cannabis Provider Association agrees to save, indemnify, defend and hold harmless, the City, its Council Members, directors, officers, agents, and employees from any and all claims, losses and expenses (including reasonable attorney fees) or liability on account of damage of property or injury to or death of persons accruing or resulting to Medical Cannabis Provider Association, Medical Cannabis Provider Association's directors, agents, employees, contractors, material persons, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the Medical Cannabis Provider Association activities; and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged in the connection with the Medical Cannabis Provider Association's activities.
- C. Audit: Medical Cannabis Provider Association shall permit the City and its authorized representatives to have access to Medical Cannabis Provider Association's books, records, accounts, and any and all data relevant to its medical cannabis activities, for the purpose of making an audit or examination. Any audit or examination shall be deemed privileged and confidential in accordance with Section 6 of Chapter 8.46 of the Oakland Municipal Code. All

such audits shall be carried out by appropriate personnel (e.g. physicians, nurses, accountants, bookkeepers and auditors) for the sole purpose of determining the Medical Provider Association's compliance with the conditions to fall under the City's Low Priority Policy.

- D. Reports, Information: Medical Cannabis Provider Association shall provide all reports and information reasonably requested by the City and shall immediately advise the City Manager of any complaints communicated to Medical Cannabis Provider Association, its directors, agents and/or employees and of any contacts by law enforcement personnel or agencies.
- E. Access to Premises, Inventory, Supplies, Etc.: Medical Cannabis Provider Association shall provide the City Manager, or a member of his/her staff, or a designated person, access to the premises of its operation for the purpose of inspections, quality control investigations and monitoring with or without notice during normal hours of operation.
- F. Payment of Income Taxes: Medical Cannabis Provider Association shall be responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of its medical cannabis activities. Medical Cannabis Provider Association agrees to indemnify the City for all claims, costs, losses, fees, penalties, interest or damages suffered by the City resulting from its failure to comply with this condition.
- G. Non-discrimination: Medical Cannabis Provider Association shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. Medical Cannabis Provider Association shall not discriminate against any employee, applicant, patient, primary caregiver, contractor, supplier, or other person supplying goods or services because of gender, sexual orientation, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex, or disability.
- H. Business Tax Certificate: Medical Cannabis Provider Association shall obtain and maintain a valid City business tax certificate.
- I. Facility Approvals: Medical Cannabis Provider Association shall obtain approval for its facility from the City's Building Inspector, Electrical Inspector, Plumbing Inspector, Fire Marshal, Zoning Division, and Alameda County's Health Department.
- J. Compliance with Americans with Disability Act: Medical Cannabis Provider Association's facility shall comply with all provisions of the Americans with Disability Act.
- K. Independent Contractor: It is expressly understood that the Medical Cannabis Provider Association in administering its cannabis activities is not an employee of the City and is an independent contractor. Medical Cannabis Provider Association has and shall retain the right to exercise full control and supervision over the employment, direction, compensation, and discharge of all persons assisting Medical Cannabis Provider Association in the administering of its cannabis activities and shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security, withholding



and all other regulations governing such matters, and shall be solely responsible for its own acts and those of its subordinates and employees.

- L. Background Investigation of Employees: Medical Cannabis Provider Association shall conduct background investigations of employees to ensure that no persons with criminal convictions are hired as employees.
- M. Operating Hours: Medical Cannabis Provider Association shall comply with the following operating hours: Monday-Saturday, 7:00 a.m. to 8:00 p.m.
- N. Qualified Patients: Medical Cannabis Provider Associations must verify all qualified patients by confirming with the medical doctors their recommendation of persons to use cannabis for personal medical purposes, and issuing an identification card to each qualified patient.
- O. Primary Caregivers: Medical Cannabis Provider Association shall verify the status of primary caregivers with the qualified patient, and have the caregiver complete a caregiver certificate form (provided by the Medical Cannabis Provider Association). In order for the caregiver to gain access to the Medical Cannabis Provider Association's facility, the qualified patient must place a phone call to the Medical Cannabis Provider Association verifying that he/she is sending his/her caregiver. The qualified patient also must send a written note stating the specific nature of his/her needs, how much medical cannabis is needed, and provide his/her member identification. The caregiver must have valid identification such as a California identification card or driver's license. Upon verification of primary caregivers, the Medical Cannabis Provider Association may issue valid identification cards.
- P. Security: Medical Cannabis Provider Association shall have at least one (1) state licensed security personnel on site during operating hours. The Medical Cannabis Provider Association shall make sure that adequate security is available during operating hours to monitor and control qualified patients, primary caregivers, and any other persons present at the facility.
- Q. Loitering and Littering: Medical Cannabis Provider Association shall take action, if necessary, to ensure that no persons loiter and litter about the facility. Signs shall be posted in a clear, sufficient, and conspicuous manner informing persons to not loiter and litter outside of the facility.
- R. Noise Nuisance: Medical Cannabis Provider Association shall inform all qualified patients, primary caregivers, and other persons appearing at the facility no to make loud and excessive noises that disturb the peace and quiet of the general public or neighboring tenants or businesses. Medical Cannabis Provider Association shall take immediate action to abate any noise nuisances created by qualified patients or primary caregivers or other persons appearing at the facility.
- S. Quality Assurance Program: Medical Cannabis Provider Association shall inspect cannabis flowers bought into its facility for molds and abnormal growth/smells, and ask question regarding the methods and chemicals used during cultivation to ensure that only good quality cannabis is provided to its patients. Further Medical Cannabis Provider Association shall inspect every facility from which gets cannabis. The following things should be looked for during the inspection: 1) What type of insecticide is being used for pest control measures, 2)

**Medical Cannabis Provider Association Conditions to Fall Under the City's Low Law Enforcement Policy Priority Policy** **Page 4 of 4**

- Other chemicals being used for growing plants, and 3) How clean is the facility, and are there any fire, health or safety hazards.
- T. Visitation Limits: Qualified patients or primary caregivers may visit the Medical Cannabis Provider Association's facility once per day.
  - U. Who Can Make Medical Cannabis Purchases: Qualified patients or primary caregivers are prohibited from making purchases for persons who are not members of the Medical Cannabis Provider Association.
  - V. Medical Cannabis Pick-Ups by Primary Caregivers: Qualified patient members who wish to have their Primary Caregiver pick up medical cannabis for them must make arrangements in advance and comply with condition number L above.
  - W. Under the Influence of Illicit Drugs or Alcohol: Qualified Patients and Primary Caregivers are prohibited from being under the influence of illicit drugs or alcohol inside of the Medical Cannabis Provider Association's facility. Qualified Patients and Primary Caregivers found to be under the influence of illicit drugs or alcohol will not be served and asked to leave the facility.
  - X. Limit of Medical Cannabis Purchased: The procurement of cannabis is limited to ¼ ounce (7 grams) per day, unless the member lives outside of the Bay Area and makes more than one visit to the Medical Cannabis Provider Association per week.
  - Y. Smokefree Facility: Qualified Patients shall not smoke inside of the Medical Cannabis Provider Association's facility. Medical Cannabis Provider Association shall post signs in a clear, sufficient, and conspicuous manner inside of the facility stating, "No Smoking Allowed."
  - Z. Loitering by Friends Outside: Members should discourage friends from waiting for them immediately outside of the front door of the Medical Cannabis Provider Association's facility to help in the abatement of loitering.

The above conditions may be revised by the City Manager at his/her discretion. Medical Cannabis Provider Associations that are not in compliance with the above conditions do not fall under the City's Low Priority Policy, and should cease its operations immediately. Enforcement action will be taken against Medical Cannabis Provider Associations not in compliance with the above conditions pertaining to the City's Low Priority Policy.

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Public Safety Committee  
September 23, 2003