

CITY OF OAKLAND

AGENDA REPORT

2010 SEP 30 PM 5:01
TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Arturo M. Sanchez
DATE: October 5, 2010

RE: Addendum to Action on a report regarding proposed Request For Permit Applications (RFPA) to operate a Medical Cannabis Cultivation Facility Pursuant to Oakland Municipal Code Chapter 5.81

Summary

On September 28, 2010 The Oakland City Council's Public Safety Committee directed staff to revise the draft Request for Permit Applications (RFPA) to reflect changes and increases to the point system that will be used to score permit applications.

The changes as directed by Committee are as follows:

Labor Practices

- Change hiring of local residents by increasing to 50 points and include language that requires facilities to hire 80% locally.
- Increase points allocated to purchasing from local businesses to between 40-50 points
- Include labor Agreements and equivalent co-ops and Employment Issues
- Eliminate some employment categories
- Ensure that entities that apply as a worker owned co-op with no employees do not lose points for not having employees. Add equivalent language for collective bargaining agreements.
- Provide more specific language for first hire provisions, Make local hire more than just a general agreement, Applicants should utilize Oakland's training facilities to hire employees.

Product Safety

- Product Testing in laboratories (Look at vulnerability of the laboratories to federal prosecution) to increase patient safety

Environmental Mitigations

- Increase points allocated to environmental Issues (i.e., Emissions and greenhouse gas)
- Increase points for energy and Climate by 20 points

Community Benefits

- Include Oakland Public Schools as a category

In addition to the changes noted above the committee members all agreed that applicants should not receive bonus points for complying with the law e.g. ADA Compliance should not result in a bonus point.

The committee also felt strongly that a Public Hearing should not be held before the four applicants are determined. They directed staff to change the language regarding public hearings to reflect that they will be held after the examination and the 4 permits have been selected or issued.

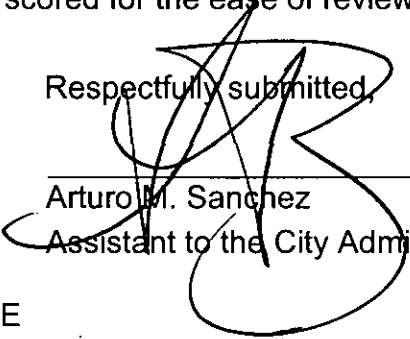
Finally the committee directed staff to include in the Definition section the following language:

"Light Manufacturing Industrial or their equivalent use" shall be defined to include areas where medical services, research services, crop raising, cultivation, and agricultural activities are permitted or conditionally permitted in the area where the Applicants property is located.

Staff has made the majority of the changes as directed by the committee and attached to this report is a second draft of the RFPA which incorporates the changes as directed as well as two changes noted by staff to the operating conditions. Staff did not change Product Safety and testing regulatory language because it will need some time to review the concerns expressed by the companies that have contacted the Council Members, as well as to determine the best way to resolve their concerns. In particular Staff will need to look at their recommendation that all testing should be initiated centrally by the City. Without having had an opportunity to fully vet this recommendation and/or its implications on staffing requirements and staffing concerns it was impractical to include such changes in this revised draft.

All changes made to the RFPA are underscored for the ease of review.

Respectfully submitted,



Arturo M. Sanchez
Assistant to the City Administrator

APPROVED AND FORWARDED TO THE
CITY COUNCIL:



Office of the City Administrator

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2010 SEP 30 PM 5:01



CITY OF
OAKLAND

THE CITY OF OAKLAND

SPECIAL BUSINESS PERMITS DIVISION
OFFICE OF THE CITY ADMINISTRATOR

MEDICAL CANNABIS INDUSTRIAL
CULTIVATION AND PROCESSING FACILITY
PERMIT

REQUEST FOR PERMIT APPLICATIONS

Mandatory Pre-meeting:
Submittal Due Date:

INTRODUCTION

This Request for Permit Applications (RFPA) is issued by the City of Oakland to identify qualified firms or individuals (Permittees), and solicit applications from such, to engage in Medical Cannabis Industrial Cultivation And Processing in order to provide safe and adequate access to patients, patient care givers, and dispensaries of medical Cannabis. Applicants will compete for one (1) of four (4) available Permits to conduct large scale cultivation of Cannabis in the City of Oakland. Selected Permittees will be required to comply with operating standards, regulations, and reporting requirements as identified by the City Administrator or designee.

BACKGROUND

The Statewide Cannabis Movement

On Nov. 6, 1996 Proposition 215, the California Compassionate Use Act, was enacted by the voters (California Health & Safety Code 11362.5). The law makes it legal for patients and their designated primary caregivers to possess and cultivate cannabis for their personal medical use given the recommendation or approval of a licensed physician. This was expanded through SB 420 on January 1, 2004 to (i) allow patients to form medical cultivation “collectives” or “cooperatives”; (ii) establish a voluntary state ID card system run through county health departments; and (iii) establish guidelines or safe harbors as to quantities patients can possess and cultivate, protecting legal patients who stay within the guidelines from arrest.

The Regulate, Control and Tax Cannabis Act, on the California ballot this November, would legalize adult recreational cannabis in California, but give localities discretion to allow, regulate and tax production and distribution.

Medical Cannabis in Oakland

On February 17, 2004, the City of Oakland adopted Ordinance No. 12585 C.M.S., permitting distribution of medical cannabis to authorized patients through four licensed dispensaries. The City process for administering these Permits and monitoring the dispensaries is considered successful, and has become a role model for the nation. In June 2009, Measure F, which taxed Oakland's medical cannabis dispensaries, passed in a special election by 80% with no formal opposition, indicating recognition of the dispensaries' role in providing a legitimate service to the community.

While Oakland, and for that matter the State, has created a method for dispensing medical cannabis, there is no established structure for its production, growth and cultivation. This, combined with the City of Oakland's low priority enforcement policy, has made it difficult for OPD to regulate production within the structure of dispensary collectives.

On July 27, 2010 the Oakland City Council Adopted Ordinance No.13033 C.M.S. creating a regulation and permit process to designate four large-scale Medical Cannabis Industrial Cultivation and Processing Facilities. The purpose was to provide a framework for the regulation of large-scale medical cannabis cultivation that would address the public health, safety, and economic impacts currently not accounted for within the city's medical cannabis system.

Number of Permits

To balance the objectives of sufficient scale and ease of implementation, the City Council approved four (4) Medical Cannabis Industrial Cultivation And Processing Facility Permits in the interim phase of the program. Following the first year of implementation, the City Administrator is to return to Council with a review of the performance and impact of cultivation, production, and manufacturing under the ordinance. Council would then have the option of developing a permanent ordinance and issuing additional Permits based on a determination of whether market demand for medical cannabis is sufficient to absorb further production, and whether the issuance of additional Permits would serve the interests of the City.

DEFINITIONS

The following words or phrases, whenever used in this RFPA and attached regulations, shall be given the following definitions:

A. "Aeroponics" is the process of growing plants in an air or mist environment without the use of soil or an aggregate medium (known as geponics). The word "aeroponic" is derived from the Greek meanings of "aero" (air) and "ponos" (labour). Aeroponic culture differs from both conventional hydroponics and in-vitro (plant tissue culture) growing. Unlike hydroponics, which uses water as growing medium and essential minerals to sustain plant growth, aeroponics is conducted without a growing medium.

B. "Applicant" as used only in this Chapter shall be any individual, firm, cooperative, association, collective, or corporations that applies for a Medical Cannabis Industrial Cultivation And Processing Facility permit via the RFPA process described herein.

C. "Batch" as used only in this Chapter shall be defined by City Administrator to mean a discrete quantity of dried cannabis or less, produced and sold together.

D. "Cannabis" or "Marijuana" as used only in this Chapter shall be the same, and as may be amended, as is defined in Section 8.46.020.

E. "Cannabis Dispensary" as used only in this Chapter shall be the same, and as may be amended, as is defined in Section 5.80.010 and is also referred to herein as "dispensary".

F. “Carbon neutrality” having a net zero carbon footprint, refers to achieving net zero carbon emissions by balancing a measured amount of carbon released with an equivalent amount sequestered or offset, or buying enough carbon credits to make up the difference.

G. “Carbon Sequestration” is defined as “The process of removing carbon from the atmosphere and depositing it in a reservoir. It may also be a geoengineering technique for long-term storage of carbon dioxide or other forms of carbon to mitigate global warming. It has been proposed as a way to mitigate accumulation of greenhouse gases in the atmosphere, which are released by burning fossil fuels.

H. “City Administrator” as used only in this Chapter shall mean the City Administrator for the City of Oakland.

I. “Collective” is any association, Medical Cannabis Association, cooperative, affiliation, or collective of persons where three or less “qualified patients” and/or “primary care givers”, in possession of an identification card, or written recommendation, issued by the county of Alameda, or the state of California, or another agency recognized by the city of Oakland pursuant to California Health and Safety Code Section 11362.7 et seq, collectively or cooperatively join to provide education, referral, or network services, and facilitation or assistance in the lawful production, acquisition, and distribution of medical cannabis.

J. “Cultivation Area” as used only in this Chapter hereinafter shall mean the actual area in use for the entire cultivation process of cannabis plants (including seedling production, vegetation, and maturation), as well as reasonable walking space, such that, for example, two trays used for maturation, each measuring 10 square feet and stacked vertically on top of each other shall be counted as 20 square feet of cultivation area.

K. “Efficient Energy Use, sometimes simply called Energy Efficiency” using less energy to provide the same level of energy service. For example, insulating a home allows a building to use less heating and cooling energy to achieve and maintain a comfortable temperature. Efficient energy use is achieved primarily by means of a more efficient technology or processes rather than by changes in individual behavior.

L. “Excessive profits” means the receipt of consideration of a value substantially higher than the reasonable costs of operating the facility.

M. “Hydroponics (From the Greek words hydro, water and ponos, labor)” a method of growing plants using mineral nutrient solutions, in water, without soil. Terrestrial plants may be grown with their roots in the mineral nutrient solution only or in an inert medium, such as perlite, gravel, mineral wool, or coconut husk.

N. “HVAC” is an acronym that stands for the closely related functions of “Heating, Ventilating, and Air Conditioning”—the technology of indoor or automotive environmental comfort. HVAC is particularly important in the design of medium to large

industrial and office buildings such as skyscrapers and in marine environments such as aquariums, where safe and healthy building conditions are regulated with temperature and humidity, as well as "fresh air" from outdoors.

O. "Industrial Cannabis Cultivation, Processing, Manufacturing Facility" hereinafter "cultivation and manufacturing facility" as used only in this Chapter shall mean any facility used by any association, medical cannabis association, cooperative, affiliation, or collective, or other entity authorized under, in possession of identification cards, or written recommendations, issued by the county of Alameda, or the state of California, or another agency recognized by the City of Oakland pursuant to California Health and Safety Code Section 11362.7 et seq., and in conformance with California and local law, for the possessing, cultivating, growing, processing, and/or manufacturing of cannabis in an area greater than more than ninety six (96) square feet of cultivation area, and/or possessing more than forty-eight (48) ounces of dried processed, and/or packaged Cannabis, in One Parcel of Land, for subsequent transfer to a licensed medical cannabis dispensary that supplies to qualified patients or primary caregivers. Any establishment engaged in, permitted to be engaged in or carrying on any medical cannabis cultivation, processing, or manufacturing or other activity mentioned in this chapter shall be deemed an Industrial Cannabis Cultivation and Manufacturing Facility as described in section 5.81.040.

P. "Leadership in Energy & Environmental Design (LEED)" is an internationally recognized green building certification system, providing third-party verification that a building or community was designed and built using strategies intended to improve performance in metrics such as energy savings, water efficiency, CO2 emissions reduction, improved indoor environmental quality, and stewardship of resources and sensitivity to their impacts.

Q. "Light Manufacturing Industrial or their equivalent use" shall be defined to include areas where medical services, research services, crop raising, cultivation, and agricultural activities are permitted or conditionally permitted in the area where the Applicants property is located.

R. "Local" – means residing in the Oakland City proper limits.

S. "Medical cannabis collective, association, or cooperative" as used only in this Chapter shall be the same, and as may be amended, as is defined in OMC 5.80.010

T. "Primary caregiver" as used only in this Chapter shall be the same, and as may be amended, as is defined in OMC 5.80.010

U. "Qualified patient" as used only in this Chapter shall be the same, and as may be amended, as is defined in OMC 5.80.010

V. "Serious medical condition" shall have the same definition as California Health and Safety Code Section 11362.7 et seq, and as may be amended, including but not limited to:

1. Acquired immune deficiency syndrome (AIDS);
2. Anorexia;
3. Arthritis;
4. Cachexia;
5. Cancer;
6. Chronic pain;
7. Glaucoma;
8. Migraine;
9. Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis;
10. Seizures, including, but not limited to, seizures associated with epilepsy;
11. Severe nausea;
12. Any other chronic or persistent medical symptom that either:
 - a. Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336); or
 - b. If not alleviated, may cause serious harm to the patient's safety or physical or mental health.

W. "Written recommendation" as used only in this Chapter shall be the same, and as may be amended, as is defined in OMC 5.80.010

X. "Zero Waste" a philosophy that encourages the redesign of resource life cycles so that all products are reused. Any trash sent to landfills is minimal. The process recommended is one similar to the way that resources are reused in nature. In industry this process involves creating commodities out of traditional waste products, essentially making old outputs new inputs for similar or different industrial sectors.

PURPOSE

The purpose of this Request for Permit Applications, hereinafter RFPA is to solicit applications for large scale Medical Cannabis Industrial Cultivation And Processing Facility Permits.

The RFPA will consider 6 key components and 4 categories for bonus points.

1. Business Plan
2. Building Construction – Plans and Schedule
3. Security Plan
4. Fire Protection Plan
5. Environmental Plan
6. Capitalization

4 Bonus Categories:

1. Labor & Employment Practices
2. Environmental Mitigations
3. Product Safety
4. Community Benefits

PHASE I

Application

All Applicant groups will be required to submit an application form, with required attachments, and non refundable application fee of \$5,000. Attachments to application will include, but may not be limited to: 1) Address of proposed facility for mapping purposes (Staff will work with planning department to map proposed site). Facility must be located in an area zoned for Light Manufacturing Industrial; 2) Live scan submission for all business partners and managers operating the facility; 3) Business Plan; 4) Building and Construction Plan; 5) Security Plan; 6) Fire prevention plan; 7) Environmental Plan; 8) Proof of Capitalization; 9) Proof of Insurance; and 10) Incorporation documents, if applicable.

Complete applications submitted by the deadline will all be redacted, assigned a reference number, and submitted to a panel of subject matter experts in the fields of building/construction, business development, revenue, Fire, public safety, and environmental planning, with Special Business permit staff acting as a second reviewer of all applicants. Staff's review will be conducted in a blind manner with no reviewer knowing the identity of the applicants.

The top six (6) applications will proceed to Phase II.

PHASE II

Examination

All 6 finalists will be required to designate a member applicant to take a Cannabis Cultivation Facility exam. The member applicant should be a managing member of the Applicant's Collective. In instances where there will be sub lessees, the City reserves the right to require a managing member of any sub lessee to take the exam as well.

The exam will test the applicant's familiarity with Oakland and California law, as well as the Attorney General's guidelines on Medicinal Cannabis. Scores will be added to original score total and 4 Applicant awardees will be selected based on total number of points.

The four (4) awardees will then be required to go through a public hearing process through which the community will be allowed to present concerns and/or support and provide additional considerations for potential permit conditions that will be created by staff.

Public Hearing

The four (4) awardees will be scheduled for public hearings. Prior to public hearings, all proposed facility sites will be inspected by a building official to ascertain current condition of facility. All Applicant facilities will be subject to a public hearing noticed to the community where the proposed facility is located. Hearing decisions, recommendations, and conditions will be based primarily on community input, site inspection results, business feasibility, and the viability of the proposed location.

Permits would be issued January 2011.

SUBMITTAL REQUIREMENTS

Please submit one (1) copy of the completed proposal and transmittal letter to the City Administrator's Office, Special business Permit Division, 1 Frank H. Ogawa Plaza, 11th Floor, Oakland, CA 94612, no later than 5:00 p.m., TBD, 2010. The City reserves the right to accept or reject any or all proposals received not received on time, without appropriate attachments, or submitted at the incorrect location.

All proposals submitted via US Mail or common carrier must be delivered in a sealed package and must reference the RFP, Applicant's location, submittal date, time and location of the proposals on the outside of the package or the documents **may not be** accepted.

A. Required Proposal Elements And Format

1. Transmittal Letter

- a. Addressed to Mr. Arturo M. Sanchez, Assistant to the City Administrator, Special Business Permits Division.
 - b. Signed by an officer of the Applicant Corporation, Association, Cooperative, or Collective and who is a Patient/Patient Care giver member. In case of joint venture or other joint-prime relationship, an officer of each venture partner shall sign.
2. Applicant Business Plan
- a. In response to this RFPA, the primary contact/applicant shall be a patient/patient care giver as defined pursuant to the California Health and Safety Code.
 - b. Include incorporation documentation, and/or documentation establishing valid Cooperative, Association, or Collective in conformance with the Attorney General's guidelines.
 - c. Sub-lessee/contractor: In instances where the proposed business includes sub-lessee Dispensaries, Cooperatives, Associations, or Collectives list addresses, telephone numbers and qualifications as patient/patient care giver for each sub lessee entity. Briefly describe the project responsibility of each team member. All managing members will be required to go through Live Scan process.
 - d. Identify proposed site and provide proof of ownership, lease, and or letter of landlord's commitment to lease upon issuance of a permit to this site.
 - e. Identify all proposed managers and executives of the business and submit Live Scan applications for each person identified.
- B. Submit all of the following documents with your proposal.**
1. Business Plan
 2. Building and Construction – detailed description
 3. Security Plan – detailed description
 4. Fire Plan – detailed description
 5. Environmental Plan
 6. Proof of Capitalization
- C. A proposal will be rejected for any of the following reasons:**
1. The proposal is delivered to the wrong location by TBD, 2010 at 5:00 p.m. local time;
 2. The proposal is received at designated location after designated time;
 3. The proposal is not in compliance with the City of Oakland's RFPA requirements and/or any of the required Schedules are missing, proposed Applicants fail to

submit all eligible member managers for Live Scan background check by application deadline;

4. The proposal does not contain the required elements or is not organized in the required format;
5. The proposal contains a disclaimer;

Once the final award is made, all RFPA responses, except financial and proprietary information, become a matter of public record and shall be regarded by the City as public records. The City shall not in any way be liable or responsible for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act or the City of Oakland Sunshine Ordinance.

EVALUATION OF PROPOSALS

General Criteria

Applications for the Medical Cannabis Industrial Cultivation and Processing Facility Permits received by the deadline set forth above will be reviewed for completeness. Application will be voided if Applicant fails to submit all of the required information, including but not limited to: 1) Address of proposed facility for mapping purposes (Staff will work with planning department to map proposed site). The proposed location must be located in areas where Light Manufacturing Industrial, or their equivalent use, is permitted as such use is described in the Oakland Planning Code, as may be amended; 2) Live scan submission for all business partners and managers operating the facility; 3) Business Plan; 4) Schematic drawing of facility and proposed construction; 5) Security Plan; 6) Fire Plan; 7) Proof of Capitalization; 8) Proof of Insurance, and 9) non-refundable application fee in the amount of \$5000.00.

The City of Oakland is seeking in particular submissions that identify the best "green" cultivation practices, while employing "sustainable" energy and waste solutions, and implement the "best practices" available in the agricultural and industrial cultivation arenas. The best submissions will be forward thinking and deploy solutions designed to reduce and address any actual or potential concern the City may have.

No late submissions will be accepted. Incomplete submission will not advance to Phase I consideration and be voided.

1. All proposals will be evaluated by a panel composed of City staff and other parties, such as security experts, with expertise or experience in business, fire inspection, police and Community Policing Through Environmental Design (CPTED), Revenue, Nuisance, Building and Construction design. The panel will rank and score all complete applications in their respective areas of expertise. The evaluation of the proposals shall be within the sole judgment and discretion of the panel.

2. Proposals will be numerically ranked. The top six (6) proposals will be submitted in rank order to the City Administrator's designee for examination and determination of the four (4) awardees.
3. A public hearing will be held for the four (4) awardees, upon completion of hearing a permit will be issued with appropriate conditions and Permittees may proceed with implementation.

Specific Criteria

A. The following specific criteria will be used in evaluating and rating the proposals:

1. Overall quality of the proposal including responsiveness and conformance to RFPA requirements for content and format;
2. Quality and appropriateness of proposed Applicant team, professional; experience and background of prime Applicants and key sub lessees;
3. Appropriate personnel principals, project location, and other key personnel with required experience and skills relevant to this project;
4. Prime Applicants experience and ability to manage operations of proposed facility, scheduling of work and implementation necessary to operate, cost estimating and budget management;
5. Primary makeup of applicant corporation's board, and prior ability to work with local government agencies;
6. Quality and appropriateness of proposed project site, business model, organization, and their knowledge and experience in working with specific legal codes and regulations.
7. Applicants use and implementation of "sustainable" energy and waste solutions, "best practices" available in the agricultural and industrial cultivation arenas, and deployment of solutions designed to reduce and address any actual or potential concerns of the City and its residents.

B. Submissions will be reviewed to determine how the applicant meets the following 6 major categories.

CATEGORIES FOR APPLICATION

1) Overall Business Plan – Each applicant should submit a business plan generally¹ describing their business model and plans. Plans will provide a description of proposed operation and completely detail the overall make up of the corporate entity that will be operating pursuant to the permit. Each plan should detail and articulate all scope of work proposed, partnerships, property and location, relationship to owner, and provide as much detail as possible into the day to day operation of the facility. The plan should identify types of cultivation that will be conducted aeroponics, hydroponics, greenhouse, as well

as whether facility will be organic, and provide a copy of their Integrated Pest Management (IPM) Plan. Business plan should also identify how clients, purchases, and product will be tracked and monitored. Applicants should identify methods and manners in which they will provide information required by the City to track product in order to prevent diversion. The plan should also articulate how Applicants business will conform to the regulations of the City of Oakland and the State of California, including but not limited to operating as a not for profit entity or other accepted business model as recognized by the Attorney general's guidelines.

2) Building and Construction – Applicants should submit a narrative outlining the elements of proposed construction and improvements; timeline for proposed construction and improvements; detailing type and number of anticipated building and construction permits that may be required and factoring in time for acquiring building and construction permits into implementation schedule. Any proposed public right of way improvements for access and safety of employees and customers shall be clearly identified; proposed sewer improvements that may be deemed necessary to meet demands of proposed facility; proposed sidewalk improvements (if any); proposed traffic engineering improvements anticipated to be needed to mitigate impact to traffic and or neighborhood; proposed lighting improvements designed to improve visibility and safety in conjunction with overall safety and fire plan. Reviewers recognize that these items may be subject to change once permit applications are submitted to building services. Such improvements will be a significant element to a winning proposal if facility is located in an existing industrial area with aging infrastructure.

If the facility is already constructed then proof that work was done with such building and construction permits and approved by building services (if possible), all construction (new or existing) should meet building code. All facilities will be subject to initial inspection for viability by building official.

Attached to narrative should be a copy of design plans which include diagrams of proposed construction, electrical, plumbing, fire and security elements.

3) Security Plan – Applicants should provide a detailed description of their security plan that includes an assessment of site security by a qualified security consultant, this assessment may be required every two years prior to renewal of any permit awarded. The following items are broken down into operational and facility security categories. Appropriate plans will have considered all potential security threats and planned for any contingency needed for these situations. A successful Applicant will have both written and physical mechanisms in place to deal with each specific situation. A detailed schematic diagram of alarm systems and placements that also details by when all security measures will be operational will be required.

Operational Security

Applicants will detail their operational security including but not limited to general security policies for the facility, employee specific policies, training, sample written

policies, transactional security, visitor security, 3rd part contractor security, and delivery security. This list is not intended to fully capture all areas for applicant consideration but to guide applicants into thinking about all possible security concerns related to the operation of a cultivation facility. Operational portions of a security plan will be scored based on the level of consideration applicant has given to every possible scenario and response to scenario.

Facility Security

Applicants should provide a description and detailed schematic of the overall facilities security. In particular the applicant should address ingress and egress access, perimeter security, product security (at all hours), internal security measures for access (area specific), types of security systems (alarms and cameras), and security personnel that will be employed.

4) Fire Plan - Any proposed facility with a group U occupancy (agricultural buildings & greenhouses) and group F-1 occupancy (assembling, packaging, manufacturing hemp products) classifications for their building / structure shall be in compliance with current California Fire Code requirements for fire & life safety. Any occupancy change or remodel will require upgrade or installation of modern fire protection systems in compliance with OMC, CBC and CFC regulations.

Applicants should provide a detailed description of their Fire prevention, suppression, and alarm systems that includes an assessment of the facility's fire safety by a qualified Fire prevention suppression consultant. A fire inspection will be required annually prior to renewal of any permit awarded, to assure the City that adequate fire safety measures remain in place. An appropriate plan will have considered all possible fire, hazardous material, and inhalation issues/threats and will have both written and physical mechanisms in place to deal with each specific situation. A detailed schematic diagram of alarm systems and placements that also details by when all fire prevention measures will be operational will be required.

Minimum requirements

An automatic fire sprinkler system shall be provided throughout all buildings containing F-1 occupancy per 903.2.3 CFC. This fire sprinkler system shall be monitored and the system shall alert the occupants of the building or structure on activation and notify the Fire Department of an alarm.

Per 901.4.3 CFC in occupancies of a hazardous nature, where special hazards exist in addition to the normal hazards of the occupancy, or where the Fire Code Official determines that access for fire apparatus is unduly difficult, the Fire Code Official shall have the authority to require additional safeguards. Such safeguards include, but shall not be limited to, the following: automatic fire detection systems, fire alarm systems, automatic fire extinguishing systems, standpipe systems, or portable or fixed extinguishers. Fire protection equipment required under this section shall be installed in accordance with this code and the applicable referenced standards.

Any additional fire protection systems required by the Fire Code Official shall be installed forthwith, with required plans and building and construction permits submitted for approval to and by the City of Oakland per 105.7 CFC.

Per 105.6.7 CFC, a Combustible Fibers permit shall be obtained annually for the storage and handling of combustible fibers (hemp) in quantities greater than 100 cubic feet (2.8m³).

An annual Inspection of operations and fire / life safety systems shall be a condition of obtaining both building and construction permits & Fire Department clearance.

5) Environmental Plan Please include an Environmental Compliance Plan as a required element of the submission. This plan must provide a detailed description of how the applicant will comply with all existing state and local policies, including:

- A. Stormwater Management – Meet Provision C.3 requirements by developing and implementing both a Stormwater Pollution Prevention Plan to minimize potential runoff pollution during construction and a Stormwater Control Plan to minimize potential runoff pollution and runoff flows for the life of the project.
- B. Discharge into Stormwater System – Obtain a Non Point-source Discharge & Elimination Permit from the State and comply with the City’s Municipal Regional Permit regulated by the State
- C. Discharge into Sanitary Sewer System – Obtain a discharge permit from EBMUD and City building and construction permits for plumbing.
- D. Energy – Comply with Title 24 statewide building energy code.
- E. Identify number and types of PGE energy vaults transformers that will be installed, including placement on facility (if applicable).
- F. Green Building – Comply with Oakland Green Building Ordinance.
- G. Recycling – Comply with Oakland’s Construction and Demolition Debris Recycling Ordinance
- H. Recycling – Comply with Oakland’s Recycling Space Allocation Ordinance in the Planning Code.
- I. Recycling – Comply with the countywide ban on plant debris disposal in the garbage.
- J. Recycling – Provide mandatory weekly garbage collection.

K. Air Quality – Obtain permits from the Bay Area Air Quality Management District for backup diesel generators or other equipment requiring such permits.

L. Describe with specificity the number and types of air filters to be used in facility. Describe how air filtration system will be used to create negative or positive pressure to reduce odor and emissions into the facility and out into the neighboring areas.

M. Hazardous Materials – Develop a Spill Prevention, Control and Countermeasure plan if storing more than 1,350 gallons of liquid hazardous materials.

N. Hazardous Materials – Prepare a Hazardous Materials Business Plan (HMBP) as necessary.

O. Provide information on pesticides that will be used onsite, or whether facility will be organic or cultivate in an organic manner. Information should be folded into IPM.

In addition, this plan must describe how the Applicant will comply with the following additional requirements, including:

- Achievement of energy performance at least 10% superior to latest version of Title 24 code adopted by the State
- Ban on disposal of organics in the garbage

6) Capitalization – A successful Applicant will have sufficient capital in place to build, secure, and start up their proposed facility. Such costs must incorporate the City's permit fee. The Applicants must provide proof in the form of Letters of Credit sufficient to cover construction, start up, equipment, and product production. Financial information should include estimated costs of build, operation, compensation of employees, equipment costs, utility costs, and other O & M as needed.

Applicants should provide the following documents to substantiate their ability to operate proposed facility:

- A. Letter of Credit
- B. 3 years of Corporate Audited Financials and Tax Returns (if entity has existed for 3 years otherwise documentation of when entity was established and articles establishing entity)
- C. 3 years of financials and taxes for any individual with 20% or greater interest in the business
- D. Sources and Uses – Sources of capital and how these sources are expected to be expended.
- E. 3 year Performa

BONUS POINTS

The Oakland City Council has determined that bonus points should be awarded to RFPA applicants who set out standards, measurable, and or written commitments (contracts or letters of intent) by which they intend to meet Council Adopted Policies and Procedures, attached here to this RFPA as Exhibit B. The following general criteria areas will be considered when awarding bonus points:

1) Labor & Employment Practices (250 Points) Applicants who have a history of and/or exhibit a commitment to Oakland and its residents should receive additional bonus points for the following labor and employment practices:

- A. Applicants that provide compensation to and opportunities for continuing education and training of their employees. Applicants should provide proof of their policy and regulations – (10 points)
- B. Applicants that indicate they will be a card check-neutral employer (10 points)
- C. Applicants with pre-existing union recognition, collective bargaining agreements. (50 points)
- D. Equity participation: Applicants that are 30% local owned and operated. Local owned means 30% of the Applicants not for profit entity board is comprised of Oakland residents. (50 points)

Or

A locally owned cooperative Applicant organization with no employees, locally owned means at least 30% of cooperative members are residents of Oakland. (50 points)

- E. Applicants that maintain a staff comprised of at least 80% Oakland residents, and hire from Oakland training and employment development centers will receive bonus points. Such commitment will be made a condition of the permit issued should the Applicant be successful. (50 points)

Or

Applicant cooperatives that are 80% owner/worker locally owned will receive bonus points. (50 points)

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- F. Applicants that make a commitment in writing to, whenever feasible, to buy at least 50% of their products, equipment, materials from Oakland businesses and hire only local firms for construction. Should the Applicant be successful their commitment would become a condition of their permit, and the City would reserve the right to audit their expenditures to assure that they are complying with their local purchase requirements. (50 points)
- G. Applicants that provide a living wage to their employees. Wage scale should be provided in writing for all levels of employment at the facility (10 points)
- H. Applicants should provide Equal Benefits and sign Declaration of Non-Discrimination (10 points)

2) Environment (Bonus Points 220) Bonus points will awarded based on three categories:
a) Energy, Building & Climate; b) Water; and c) Materials & Waste.

Energy, Building & Climate (100 points)

- A. Provide a description of how the facility and all operations will maximize energy efficiency
- B. Apply and use available PG&E programs offering free technical assistance for design and construction of building shell, tenant improvements, building systems and processes where applicable (some may only apply to new construction)
- C. Provide a description of how renewable energy will be used on-site or purchased (e.g., solar panels)
- D. Provide estimates of projected total facility energy consumption and greenhouse gas emissions
- E. Provide an estimate of energy use and a summary of the approach to be taken for lighting of cultivation area (e.g., number and type of lights per 10,000 square feet)
- F. Provide a description of efforts to reduce transportation emissions (e.g., use of biofuels, electric vehicles)
- G. Provide a description of any planned use of green building measures
- H. Provide a description of any other efforts to reduce or offset greenhouse gas emissions associated with the facility and operations (e.g., achievement of climate neutrality through efficiency, renewables and offsets)

- I. Provide a description of how existing Brownfield sites, if applicable, will be remediated and used for the planned facility

Water (40 points)

- A. Provide a description of how water conservation and efficiency strategies will be developed (e.g., use of EBMUD technical assistance)
- B. Provide a description of any efforts to recycle and/or treat water on-site
- C. Provide a description of how the use of toxic materials will be minimized or prohibited in all aspects of proposed operation (e.g., use of organic fertilizers, non-toxic pesticides)

Materials & Waste (80 points)

- A. Development of zero waste plans for operations with detail on efforts to be undertaken
- B. Provide a description of packaging to be used, including expected use of recycled content materials, recyclable materials, and reusable materials, including plans for reuse
- C. Provide a description of how others up and down the supply chain will be engaged to maximize material reuse, minimize packaging, etc. (e.g., delivery in reusable containers)
- D. Provide a prediction of operational phase waste stream broken down by garbage vs. recycled vs. composted material by volume
- E. Describe the extent to which organic fertilizers and pesticides will be used
- F. Provide a description of how toxic chemicals will be prevented from entering water, air and ground resources
- G. Provide a description of how existing Brownfield sites, if applicable, will be remediated and used for the planned facility

3) Product Safety (200 points) Permittees will be required to abide by product safety and testing standards. Applicants whose applications consider such standards in advance will be awarded bonus points.

- A. Applicants who detail how growing condition used to produce the plants will produce a plant free of mold, disease, heavy metals, etc.
- B. Applicants that provide product safety through UV exposure or other non-toxic treatment mechanisms to guarantee product safe for patient use

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- C. Applicants who provide information on the product safety and testing standards they will employ, for mold/contaminants and how they will provide this information to the City on a quarterly basis.
- D. Applicants shall explain how, to the best of their ability, they intend to monitor product so that substances that would not be allowed by the Organic Foods Production Act (OFPA) of 1990 and regulations in Title 7, Part 205 of the Code of Federal Regulations and The National Organic Program (NOP) are not included with their product. Such monitoring may include the curing or treating of product to eliminate any such substances prior to packaging.
- E. Applicants will explain how they intend to reduce the use of pesticides and be prepared to maintain such commitment as a component of their permit to operate.
- 4) Community Benefits (100 Points) - Applicants must demonstrate how they intend to provide their local community with community benefits and mitigate any nuisance and/or negative impacts that the facility's existence may cause. Applicants who demonstrate a commitment to their community and to improving the quality of life of their neighbors should receive additional bonus points for sustainable practices that include:
- A. Applicants must show how they plan to have minimal nuisance or negative impacts on their neighbors and community. Nuisance/negative impacts include but are not limited to: noise, odor, increased foot or vehicle traffic, increase in waste or water production, impacts to right of way access, and or increase in safety related concerns.
- B. Applicants must provide to the City how their entity will develop and implement a Community Benefits Program. Programs should be designed to give back to the community and Oakland residents by assisting in the provision of necessary support services.
- Areas of particular concern to the City would be:
 - Re-entry Jobs and Job Training
 - Domestic Violence
 - Revitalizing Oakland – either with improved infrastructure, providing assistance to Oakland Parks and Recreation Centers, libraries, or funding for arts, culture, and environmental programs.
 - Children and Youth programs and intervention services.
 - Cannabis-Friendly Substance Abuse Education and Rehabilitation Programs
 - Foreclosure Prevention
 - Public Schools

- C. Applicants must detail how they will revitalize the building/site provide neighborhood improvements and will be a beneficial/positive neighbor to the neighborhood.

Scoring

1. Responsiveness – A Pass/Fail evaluation will be applied to the determination of responsiveness relative to meeting the requirements of this RFPA.
2. Business Plan (500 points) – The business plan will be evaluated based on responsiveness to items identified in RFPA, capacity to perform the work; familiarity with the difficulties, uncertainties, and risks associated with the work and knowledge of the staff qualifications necessary to the performance of the work. Furthermore, to the extent possible, bidders will be evaluated based on a demonstrated capacity to work quickly, efficiently, reliably, and with the ability to demonstrate confidence in their product vision and implementation of a cultivation facility, appropriateness of business in surrounding community, ability to clearly articulate business model, and conformance with Oakland and California State Law.
3. Building/Construction Plan (100 points) – The Building Construction plan will be scored based on feasibility, length of time needed for construction, design, overall scale, and appropriateness of facility structure/scale size in surrounding community.
4. Security Plan (50 points) – An evaluation will be made of (a) overall safety and security; (b) ability to adequately secure and protect employees, patients, patient/caregivers, client dispensaries, and the general public entering the facility; and (c) ability to adequately secure cultivation areas, product, and adhere to closed loop system that prevents diversion.
5. Fire Prevention Plan (50 points) - An evaluation will be made of (a) overall safety and security; (b) ability to adequately secure and protect employees, patients, patient/caregivers, client dispensaries, and the general public in case of a fire and/or other emergency, including plans and regular rehearsals; and (c) adequate fire prevention and suppression measures sufficient to prevent and or respond to a fire of any size.
6. Capitalization (200 points) – An evaluation will be made of the overall (a) fiscal health of the proposal; (b) experience and background of organization members in operating successful business ventures; (c) letters of credit and performance bond commitment in an amount sufficient to fulfill the commitments detailed in the overall plan; (d) feasibility and viability of plan from an economic perspective.

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7. Environmental Plan (200 points) – An evaluation will be made of the applicants overall ability to meet state, federal, and local regulations regarding environmental protections.
 8. Additional Preference Points – In addition preference points may be earned as follows:
 - a. *Labor & Employment* (250 points) - Applicants who have a history of and/or exhibit a commitment to Oakland and its residents will receive additional bonus points for their ability to meet 10 subcategories. Each subcategory can earn an applicant 10 additional points.
 - b. *Environmental* (220 points) – Bonus points will be awarded based on three sub-categories: a) Energy, Building & Climate; b) Water; and c) Materials & Waste.
 - c. *Product Safety* (200 points) – Applicants will be awarded bonus points based on their ability to show how they will produce cannabis without pesticides, free of mold, bacteria, and other harmful substances, how they intend to test the product for safety, and what steps they will take to make sure their product will be safe for consumption.
 - d. *Community Benefits* (100 points) – Applicants must demonstrate how they intend to provide their local community with community benefits and mitigate any nuisance and/or negative impacts that the facility’s existence may cause. Applicants who demonstrate a commitment to their community and to improving the quality of life of their neighbors should receive additional bonus points for sustainable practices that they commit to implementing
 9. Examination – will be scored on a 100 point scoring system.

Each category will be reviewed by a subject matter expert and the Special Business Permits staff, by way of example the Fire Plan category will be reviewed by OFD Fire Inspector and the Special Business Permit Assistant to the City Administrator, and their respective scores will be added together to provide actual score for the section. The maximum score available for an Applicant, based on categories, would be 1100 points.

Please be advised that there is an additional 870 points available based on Applicants ability to meet the bonus requirements identified by the Oakland City Council. Applicants that move on to Phase II of the RFPA will be subject to an examination that will be worth an additional 100 points. The examination will be taken prior to the selection of the four (4) Permit awardees selection. A Public Hearing that will be held for the four (4) awardees to finalize conditions and hear concerns or consideration from residents.

NOTICE OF DECISION

Successful applicants will be notified in writing no later than December 20, 2010. All applicants who fail to proceed to Phase II will be notified within 10 days of the decision and they will be informed of their rank and total score. All applicants that proceed to Phase II but are unsuccessful will be notified within 10 days of decision along with rank and score.

THE CITY'S RESERVATION OF RIGHT'S

The City reserves the right to reject any or all proposals, whether or not minimum qualifications are met, and to modify, postpone, or cancel the RFPA without liability, obligation, or commitment to any party, firm, or organization. In addition, the City reserves the right to request and obtain additional information from any candidate submitting a proposal. Furthermore, a proposal RISKS BEING REJECTED for any of the following reasons:

1. Proposal received after designated time and date.
2. Proposal not containing the required elements, exhibits, nor organized in the required format.
3. Proposal considered not fully responsive to this RFPA.
4. Proposal contains excess or extraneous material not called for in the RFPA.

Attachments:General InformationExhibit A – Draft Operating ConditionsExhibit B – Oakland City Council policies and ProceduresExhibit C – Oakland Municipal Code Chapter 5.81 Medical Cannabis CultivationExhibit D – California Attorney general Guidelines

The pre-proposal conference will cover the following items.

- a. Project information.
- b. 5 major categories
- c. Bonus Point Categories
- d. Proposal submittal requirements.
- e. Questions by attendees.

The City Administrator reserves the right to reject any and all applicants.

2. All Permit Awardees will be required to abide by Operating Conditions that meet the City of Oakland Policies and Procedures regarding product safety, environment, labor, building, and operational standards as adopted by the Oakland City Council. Attached below are draft operational conditions currently being proposed by staff for the Medical Cannabis Industrial Cultivation And Processing Facility Permits. These conditions are subject to modification prior to issuance of the permit to successful applicants. Successful Applicants applications will at a minimum clearly delineate how their proposal could meet the operating conditions as set forth below.

GENERAL INFORMATON

1. **pre-proposal conference is scheduled for:**

DATE TIME

**1 Frank H. Ogawa Plaza, 1st Floor, Hearing Room
Oakland, California 94612**