



Office of the City Manager

ACTION CALENDAR
September 29, 2015

To: Honorable Mayor and Members of the City Council
 From: *DWR* Dee Williams-Ridley, Interim City Manager
 Submitted by: Eric Angstadt, Director, Planning and Development Department
 Subject: Report on the Process Currently Underway to Select the City's Fourth Authorized Cannabis Dispensary

RECOMMENDATION

- 1) Review the selection process to date;
- 2) Consider the letter from Community Partnership 4 Health regarding the status of its dispensary application; and
- 3) Adopt a Resolution amending Resolution No. 66,711-N.S. to alter the selection process to allow the Council to consider all of the applicants currently deemed complete.

SUMMARY

As part of Round 1 of the selection process to select a fourth medical cannabis dispensary, City staff reviewed the 12 applications submitted by the deadline for completeness. All of the applicants were given an opportunity to submit information identified by staff as missing, and to submit any other information that they felt would improve their application. After the revised information was submitted, staff again reviewed the applications for completeness and found that four were still not complete. Representatives of the four dispensary candidates were notified of this determination and told that their applications would not be considered further.

One of the applicants, Charles Pappas of Community Partnership 4 Health (CP4H), asked the Council members to reconsider his application and allow his dispensary to continue to be considered for the fourth dispensary slot.

During this time, the selection process has continued. One other applicant withdrew from consideration, and two applications chose to consolidate into one proposal, leaving six complete applications. These applicants are now planning their community outreach meetings as required for Round 4. A decision on the top five candidates is being withheld pending a Council decision on the next steps in this process.

Because of the limited number of complete applications submitted, staff recommends modifying the selection process so that all six of the remaining applications can be

considered by the Council, rather than limiting the number to five as currently required by Resolution No. 66,711-N.S.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

As part of Round 1 of the dispensary selection process, staff determined that four applications were incomplete and therefore not eligible to continue in the selection process. Under Resolution No. 66,711-N.S., staff decisions are final. Staff sent a letter informing the representatives of these four dispensaries of this decision on May 13, 2015.

Since May 13, the selection process has continued as outlined in the Ranking and Allocation document. A three-person panel selected by the City Manager reviewed and ranked the seven remaining applications with feedback from staff members with expertise related to the mandatory elements (Business Plan, Safety and Security Plan and the Neighborhood Compatibility Plan). Since there were only seven applications deemed complete (after one applicant withdrew for personal reasons), all were forwarded to Round 3, where they were reviewed and ranked based on the optional bonus point elements of their applications. After two applications consolidated at this stage, the total number of remaining applications is six.

According to the approved Ranking and Allocation document, only the top five applicants should proceed to Round 4, the final round. Because this report suggests changing this process, staff will wait to announce the rankings until after Council has made a decision regarding this item.

After May 13, Charles Pappas, a representative of one of the dispensaries deemed incomplete, CP4H, and Chair of the City's Medical Cannabis Commission, corresponded extensively with staff via phone calls and e-mail regarding the determination that his application was incomplete. Many of the e-mails were copied to members of the City Council. Staff repeatedly explained the reasoning for the determination, and on May 21, sent a final response to Mr. Pappas. On June 16, 2015, Mr. Pappas sent an e-mail to each of the Council members (dated June 12, 2015 – see Attachment 2). On June 23, 2015, Mr. Pappas spoke at a City Council meeting regarding the staff decision related to his application. In the letter and in his comments, he reiterated concerns that he had expressed earlier to Planning staff:

- a) The receipt from a processing company stating that “your incorporation documents have been sent to the State of California” should have sufficed for proof of organizational status required as part of the application and specifically requested by staff in the March 30 letter.
- b) The request for information from the landlord was unclear, since it did not specify that this particular application was missing this information. The applicant

assumed that the signed agreement with the business owner tenant currently occupying the space met this requirement.

- c) His organization should be given extra time to submit the required information because 1) it is a local enterprise, 2) the missing information was omitted based on a misunderstanding of the process requirements, and 3) there are fewer than 10 applicants being considered at this time.

BACKGROUND

The following section summarizes the development of the selection process and how it has been implemented.

Fourth dispensary selection process: On July 8, 2014, the City Council adopted specific regulations for medical cannabis dispensaries, as called for in Measure T. Since these new regulations would allow a fourth dispensary to operate in Berkeley, a Ranking and Allocation (selection) process was adopted at the same time.

The selection process was made up of four Rounds:

- 1) Round 1: Determination of Eligibility and Application (evaluate all applications for completeness and principal eligibility. Incomplete applications would not be forwarded to Round 2.)
- 2) Round 2: Initial Ranking (rank the applications based on the mandatory elements of the applications)
- 3) Round 3: Second Ranking (rank the top ten applications based on the bonus elements of the applications)
- 4) Round 4: Selection (the top five ranked applications would hold public meetings and be considered by the MCC before the Council would make the final ranking and selection)

See Attachment 3 for a complete description of these Rounds in Resolution 66,711-N.S., approved by Council on July 1, 2014.

Process to date: Once the selection process was approved, staff worked to develop the items necessary to conduct the selection process. An application form, guidelines and fees were developed and posted on the City's website. Staff also developed a competency test for the Principals. In December, interested parties were informed that the application period would begin in January and the related forms were posted on the website. See Attachment 4 for a copy of the guidelines developed by staff.

The application period ran from January 12 until March 20, 2015. Applications were only accepted if they had the initial fee, proof that the Principals had applied for a background check with the City of Berkeley's Police Department, and a proposed location. Twelve applications were received by the March 20th deadline. Staff reviewed the applications to determine whether information was missing from the applications. Based on the selection process guidelines, staff sent letters to all of the applicants,

giving each specific details regarding the information that was missing and encouraging each applicant to review the application and submit anything else that they felt was missing or could improve their application. Missing or incomplete information related to bonus elements were not considered by staff, since the bonus elements are optional.

In addition, staff asked each applicant to submit a letter from the property owner stating the owner's awareness of the application and willingness to consider renting the property to a medical cannabis dispensary. This was requested because it was unclear from some of the applications whether the location was truly valid, i.e., one which could actually be used for a dispensary based on both the location and the owner's willingness to rent to the applicant. While this information from the owner was not specifically required as part of the selection process approved by Council, it was requested in order to meet the purpose of the selection process, which was to choose a location and its associated operator. The applicants were given 30 days, until April 29th, to submit this information. The letters sent to the four applicants eventually deemed incomplete are included with this report as Attachment 5.

On May 13, 2015, staff finished the review of the revised information. Four applications were deemed incomplete and were dropped from the selection process.

Applications deemed incomplete: In May 2015, staff finished review of the revised information. Four applications were deemed incomplete at the end of Round 1 for the following reasons:

Table 1: Reasons dispensary applications were deemed incomplete

	Missing property owner verification	Missing proof of organizational status	Principal did not take mandatory competency test
CP4H	X	X	
Forty Acres	X	X	X
reLeaf Alternative Healing	X		
Berkeley Alternative Medicine	X	X	

See Attachment 6 to view the letters sent to these applicants on May 13, 2015 which explained that these applications were incomplete and would no longer be considered for the fourth dispensary.

Mr. Pappas, along with one other dispensary applicant, felt that the decision was not valid and asked staff to reconsider. Staff did so, but concluded that the original decision was appropriate. Per the Ranking and Allocation document, this decision is not subject to appeal, and staff did not make any changes to the original decision.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

Staff's review of the applications for completeness followed the Council-approved selection process. The process was designed to consider only those applications which were deemed complete at the beginning of the process. All of the applicants were given the opportunity to include information that was deemed incomplete by staff and to reconsider all other portions of their application for completeness.

Since Round 1 ended, staff has continued to evaluate the remaining applications in order to process the applications in as timely a fashion as possible. Rounds 2 and 3 have been completed, and the applicants are in the midst of planning the community meetings required in Round 4.

Reintroducing candidates into the process will slow the selection of a fourth dispensary. It may also affect whether the existing applicants deemed complete will be able to continue in the process. Most of the applicants have negotiated some kind of agreement with the property owners to hold the site contingent on the process taking a set amount of time. Increasing the time of the selection process could mean that the applicants need to pay more money upfront before any decision is made, or could lead to property owners choosing to lease their property to another business that can be established more quickly.

Including all six of the applicants in Round 4 would avoid concerns, if any, regarding the validity of ranking staff's decisions, and might allow the process to proceed more smoothly. Allowing one additional candidate in Round 4 would have the following minor impacts:

1. Community meetings: Staff would need to generate a 300-foot noticing list for one additional meeting. Staff would also need to attend and observe one additional community meeting, and document this meeting, along with the other five, in a staff report to the MCC and Council.
2. Selection process: The MCC and Council would need to consider six candidates rather than five, and the Council would need to select one proposal from a group of six.

To add other applications at this point, particularly ones which lack a feasible location, would slow down the process and add an element of uncertainty regarding the viability

of a dispensary at a newly added location. Moreover, it would be impossible to rank the four incomplete applications *because* they are incomplete.

However, if the Council is inclined to consider an application which was deemed incomplete earlier in the process, in the interest of fairness it should consider all four of the dispensaries which were removed from the selection process after Round 1. All of these applications had similar reasons for being removed from the dispensary selection process, namely a lack of verification of property owner support for the location proposed with the original application. Selecting only one of the incomplete applicants would appear to favor one candidate over all of the others, including those deemed complete.

ALTERNATIVE ACTIONS CONSIDERED

Staff has developed three alternative actions for the Council to consider:

- 1) Take no action. Keep the selection process as originally approved and only have the Council consider the top five applicants in Round 4 of the selection process. This option would not change the selection process, but would prohibit the Council from considering one other application which could be close in ranking to the top five candidates.
- 2) Adopt a Resolution amending Resolution No. 66,711-N.S. to give the Council authority to reverse the staff decision as to eligibility, allow late information to be considered for the incomplete dispensary/ies, and requiring consideration of application that do not meet the application criteria.
- 3) Stop the current selection process and start a new process to allow new information to be considered for all dispensaries and restart the selection process. At least two of the four dispensaries considered incomplete were trying to submit new locations as part of their revised information. The other two dispensaries may have lost the opportunity to use their proposed site due to the initial incomplete letter.

If the Council is inclined to give the four incomplete dispensaries an opportunity to compete again, it may need to allow new locations to be considered. This would require completely new applications to be submitted, since the location plays a key role in many of the elements of the application, including the Safety and Security Plan and the Neighborhood Compatibility Plan. In the interest of fairness, if these four applicants are allowed to completely revise their applications, the same opportunity should be given to the applications currently considered complete. This would put an end to the existing process which has been proceeding since January.

CONTACT PERSON

Elizabeth Greene, Senior Planner, Planning and Development, 981-7484

Attachments:

1. Resolution
Exhibit A – Revisions to Resolution No. 66,711-N.S. Exhibit A
2. June 12, 2015 letter from Community Partnership 4 Health
3. Resolution No. 66,711-N.S., approved by Council July 1, 2014
4. Application Guidelines developed by staff, November 2014
5. March 30, 2015 letter sent to the four applicants later deemed incomplete
6. May 13, 2015 letters sent to the four applicants deemed incomplete

RESOLUTION NO. ##,###-N.S.

AMENDING RANKING AND ALLOCATION CRITERIA AND PROCEDURE FOR
MEDICAL CANNABIS DISPENSARIES

WHEREAS, on July 1, 2014, the City Council adopted Resolution 66,711-N.S., establishing a Ranking and Allocation Process to allocate limited dispensary slots among applicants; and

WHEREAS, the Ranking and Allocation Process limited the number of applications to be considered in Round 3 to 10 and the number of applicants to be considered in Round 4 to 5; and

WHEREAS, the number of applicants deemed complete was relatively small, resulting in no more than seven applicants evaluated in Rounds 2 and 3; and

WHEREAS two applicants have chosen to consolidate their applications, resulting in six applications at the end of Round 3; and

WHEREAS, evaluating one additional applicant in Round 4 will not result in substantial additional staff, Commission or Council time; and

WHEREAS, eliminating one applicant that may be very similar in ranking to the other five applications may remove a worthwhile applicant from Council consideration.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Exhibit A attached to Resolution No. 66,711-N.S. shall be amended to read as indicated in Exhibit A to this resolution to allow for all applications to move to the Selection process in Round 4.

Exhibit A – Revisions to Resolution No. 66,711-N.S. Exhibit A

RANKING/ALLOCATION PROCESS FOR MEDICAL CANNABIS DISPENSARIES

INTRODUCTION

This process is adopted pursuant to and to implement Berkeley Municipal Code Chapter 12.27. The competitive process and criteria below will be used for determining which Dispensaries may fill any unoccupied slots under the City's 4-dispensary cap, adopted in 2010, and codified in Section 12.26.130. As of the adoption of this Process, there were three operating Dispensaries, and one open slot, however additional slots may become available in the future either as a result of attrition or amendment of Section 12.26.130, or for other reasons.

PUBLIC INFORMATION

Applications and associated materials in the possession of the City are public records. While certain information will likely be exempt from disclosure, other information will not be, and some information will necessarily be made public as part of the ranking process. In complying with the Public Records Act, the City will make reasonable efforts to keep sensitive information from being disclosed, but cannot guaranty that information an applicant may want to be kept confidential will not be disclosed. The City will make reasonable efforts to notify applicants whenever requests for disclosure of their information are received. The City shall not in any way be liable for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act, and applicants assume the risk of such disclosure by submitting their applications.

SUMMARY OF PROCESS

The ranking/allocation process shall consist of a single comprehensive application, and four rounds of evaluation, which are summarized below.

Round 1: Application and Determination of Eligibility

Staff will conduct a background and criminal history check and evaluate whether an application demonstrates eligibility under Section 12.27.030.

Each Principal must attain a passing grade on a Medical Cannabis competency test.

Successful applicants whose applications meet these requirements will be forwarded on to Round 2.

Materials submitted by applicants who do not pass the qualification round will be returned to them, and all copies of those materials will be destroyed.

Round 2: Initial Ranking – Minimum Qualifications

Applicants will be ranked based on criteria below.

- Proposed Location(s) of business
- Business Plan
- Neighborhood Compatibility Plan
- Safety and Security Plan

The top 10 applicants would move on to Round 3.

Round 3: Second Ranking – Bonus Points

Points will be awarded based on the categories listed below. ~~All The top five~~ applications would move to the Selection process.

- Availability of Professional Services
- Community Benefits
- Enhanced Product Safety
- Environmental Benefits
- Labor & Employment
- Local Enterprise
- Location (final)
- Qualifications of Principals
- Consolidation

Round 4: Selection

The City Council will then make the final decision from among the ~~final top five~~ candidates.

DESCRIPTION OF PROCESS

A. Round 1 – Application and Determination of Eligibility

1. Application Requirements

Before accepting applications, the City will give at least 60 days public notice that applications to operate a Dispensary or Dispensaries will be accepted pursuant Chapter 12.27. The notice shall specify a deadline for submission of applications, as well as the number of Dispensaries for which applications will be accepted.

All Applicants will be required to submit an application on a form provided by the City. Applications shall be signed by a Principal under penalty of perjury that she or he has personal knowledge of the information stated in the application and that it is true.

The application shall include such information as the City may require that demonstrates compliance with applicable provisions of Chapter 12.27, as well as the following:

1. The name of a single point of contact for the applicant, who shall be a Principal.
2. All information required by Section 12.27.040.
3. A description of the Dispensary and its proposed location(s), including the address of any proposed facility with proof of ownership, lease, and or letter of owner's willingness to lease. *A signed lease is not to be given any additional consideration until Round 3.*
4. Plans for alteration of any existing buildings.
5. Business Plan. The business plan must contain as much detail as possible on the day-to-day operation of the Dispensary and how it will conform to applicable state and local laws and the Attorney General's Guidelines. The business plan shall describe: mechanisms for ensuring that the Dispensary will operate on a Not-for-Profit basis; a description of how Medical Cannabis will be tracked and monitored to prevent diversion, such as by verifying the status of recommending physicians and retaining all written recommendations from recommending physicians; a schedule for beginning operation, including a narrative outlining any proposed construction and improvements and a timeline for completion. The business plan shall include a budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operation and maintenance costs, and shall demonstrate sufficient capital in place to pay startup costs and at least three months of operating costs, as well as a description of the sources and uses of funds. Proof of capitalization shall be in the form of documentation of cash or other liquid assets on hand, Letters of Credit or other equivalent assets. The business plan shall also include a pro forma for at least three years of operation.
6. Neighborhood Compatibility Plan. The application must describe how the Dispensary, including its exterior areas and surrounding public areas, will be managed so as to avoid becoming a nuisance or having impacts on its neighbors and the surrounding community.
7. Location(s). The application must describe the proposed location or locations of the Dispensary, all confronting and abutting uses, transit access and accessibility and nearby sensitive uses.
8. Safety and Security Plan. The application shall include a detailed description of Fire prevention, suppression, HVAC and alarm systems that includes an assessment of the facility's fire safety by a qualified Fire prevention suppression consultant. 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.

The security plan shall include a description and detailed schematic of the overall facility security. Applicants shall 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 party contractor security, and delivery security. In particular Applicants 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 to be employed. The security plan shall also include an assessment of site security by a qualified security consultant. Security plans shall not be made public.

During the evaluation period, security plan details that could aid persons who wish to commit security violations shall be considered to be confidential and shall not be released unless ordered by a court.

9. Environmental Benefits. The application must describe any proposed “green” business practices relating to energy and climate, water conservation, and materials and waste management. Specific “green” practices that are encouraged are:
 - a. maximizing energy efficiency;
 - b. where applicable, applying for and using available PG&E programs for free technical assistance for design and construction of building shell, tenant improvements, building systems and processes;
 - c. using renewable energy;
 - d. reducing transportation emissions (e.g., use of biofuels, electric vehicles);
 - e. using green building measures;
 - f. any other efforts to reduce or offset any greenhouse gas emissions
 - g. reuse and remediation of Brownfield sites;
 - h. water conservation, including recycling and on-site treatment, if permitted
 - i. developing a zero waste plan for operations;
 - j. minimizing packaging and using recycled content, recyclable and reusable materials, throughout the supply chain;
 - k. implementing a reuse plan for materials used;
 - l. providing a prediction of and implementing an operational phase waste stream broken down by refuse, recycled materials and composted materials by volume;
 - m. using organic fertilizers and pest control measures; and
 - n. minimizing use of hazardous or toxic substances and preventing them from entering the soil, air or water.
10. Community Benefits. The application shall describe benefits that the Dispensary would provide to the local community. Examples of such benefits are:
 - a. providing re-entry jobs and job training to the unemployed;
 - b. contributing to/supporting domestic violence prevention programs;

- c. contributing to/supporting Parks and Recreation Centers, libraries, or funding for arts, culture, and environmental programs;
 - d. contributing to/supporting Children/Youth programs and intervention services;
 - e. contributing to/supporting substance abuse education and rehabilitation programs;
 - f. funding foreclosure prevention and foreclosure abatement programs, including eviction defense following foreclosure; and
 - g. any other neighborhood improvements.
11. Enhanced Product Safety. The application shall state how the Dispensary will ensure enhanced consumer safety by testing for biological and chemical contaminants, specified by the City Manager pursuant to state or federal standards for food, drugs or tobacco.
12. Labor and Employment. The application shall describe to what extent the Dispensary will adhere to heightened pay and benefits standards and practices, including recognition of the collective bargaining rights of employees. Specific practices that are subject to consideration include the following:
- a. providing compensation to and opportunities for continuing education and training of employees/staff (applications should provide proof of the Dispensary's policy and regulations);
 - b. being a "card check-neutral" facility;
 - c. having obtained pre-existing recognition from a certified labor union;
 - d. being party to a collective bargaining agreement with a certified labor union; and
 - e. providing a "living wage" to facility staff and employees. Wage scale should be provided in writing for all levels of employment at the facility. "Living Wage" shall mean 200% of the minimum wage mandated by California or Federal law, whichever is greater.
13. Local Enterprise. The application shall state the extent to which the Dispensary will be a locally managed enterprise whose Principals reside within Berkeley and/or the following adjacent cities: Albany, Kensington, Oakland and Emeryville.
14. Availability of Professional Services. The application shall state the extent to which the Dispensary will provide professional services related to the use of Medical Cannabis to Members, whether on- or off-site. Such services may include, but are not necessarily limited to, medical or technical consulting, referrals to providers of such services, mental health services, alternative health care to the extent permitted by state law, diet and nutritional advice, and similar types of services, but shall not include recommending the use of Medical Cannabis.
15. Qualifications of Principals. The application shall include information concerning any special business or professional qualifications or licenses of principals that would add to the number or quality of services that the Dispensary would

provide, especially in areas related to Medical Cannabis, such as scientific or health care fields.

2. Determination of Eligibility

Staff will undertake background and criminal history checks, verify whether the applications provide complete and accurate information and demonstrate compliance with the eligibility requirements of Section 12.27.030.

If an application meets these requirements, each Principal will be required to attain a passing grade on a Medical Cannabis competency test to demonstrate a working knowledge of state and local compliance standards.

Applications that include all required information will be considered.

Late and incomplete applications will not be considered.

Applicants who pass the Medical Cannabis competency test and whose applications meet these requirements will be eligible to continue to Round 2.

~~Determinations in Round 1 will be final and not be subject to appeal.~~

3. Competitive Ranking Process

Applications that pass Round 1 will be reviewed by a three-person panel of City staff designated by the City Manager. The reviewing panel will evaluate applications in each succeeding round based on how well they satisfy the criteria for that round. In evaluating applications, the reviewing panel shall consider the quality and responsiveness of the application with respect to each of the topics covered. The evaluation and ranking of the applications and allocation of Dispensary slots shall lie within the sole judgment and discretion of the reviewers.

B. Round 2 – Initial Ranking: Minimum Qualifications

In Round 2, the reviewing panel will evaluate each application against the criteria in, and assign points based on, the following table.

Topic	Maximum Possible Points
Proposed Location(s)	400
Business Plan	300
Neighborhood Compatibility Plan	400
Safety and Security Plan	400
Total possible	1500

The top 10 applicants will move on to Round 3.

The reviewing panel will rank the remaining applicants by assigning points in each of the categories in the table below. "Consolidation" points shall be awarded for consolidation with one or more of the other top ten applications. ~~All applications~~
~~The top five applications, based on the total number of points from Rounds 2 and 3~~ will then move to the Selection process. In the case of a consolidated application, the average number of total points shall be used.

C. Round 3 – Second Ranking: Bonus Points

Topic	Maximum Possible Points
Availability of Professional Services	300
Enhanced Product Safety	200
Environmental Benefits	200
Community Benefits	300
Labor & Employment	300
Local Enterprise	500
Location (final)	500
Qualifications of Principals	500
Consolidation (with applicants that pass Round 2)	150 for each consolidation, maximum of 300
Total possible	2800 (plus up to 300 for consolidation)

D. Round 4 – Selection

Within 45 days after Round 3 is completed, each applicant shall conduct a public meeting in the area or areas proposed for its Dispensary. If no location in the immediate area is available, the applicant shall use a community facility that is as near as possible. Notice of such public meetings shall be on a form approved by the City and shall be provided as set forth in BMC Chapter 23B.32 for Use Permit public hearings. Within 5 days after notice of the public meeting is mailed, an applicant shall provide to the City a copy of the notice of the public meeting, a list of addresses to which it was sent, and an affidavit of mailing. An applicant that does not hold a public meeting within this period of time shall be disqualified.

After the public meetings are completed the applications shall be presented to the Medical Cannabis Commission, which may make a recommendation to the City Council.

The City Council will then establish the final ranking of applications and make its selection ~~from among the top five~~.

Notice of the public meetings of the Commission and Council shall be provided as set forth in BMC Chapter 23B.32 for Use Permit public hearings.

JUN 17 2015

Charles Pappas Co-Chairman, Community Partnership 4 Health
1130 Sterling Avenue
Berkeley, CA 94708
nberkhills@SBCglobal.net
510-486-2686

June 12, 2015

Re: Community Partnership 4 Health medical cannabis dispensary application

Dear Mayor and Berkeley City Council,

On May 13, the Community Partnership 4 Health received this notification from the Planning Staff, *"Because your application is incomplete, it cannot be considered in Round 2 of the selection process, and will not be considered for the fourth dispensary."* Also, according to Berkeley Resolution No. 66,711 N.S., *"Determinations in Round 1 will be final and not be subject to appeal."* Therefore, we respectfully ask for further consideration based on the reasoning below.

The Staff letter we received (May 13) stated: *"Staff has determined that your application is incomplete for the following reasons: Proof of organizational status is missing. The application lacks verification of property owner knowledge of the proposed use of the location as a dispensary."*

- What we have previously submitted (in application additions April 29) regarding organization status was a notification receipt from LegalZoom.com.

CURRENT STATUS of Order number 38802284

Document(s) filed with the state.

Your incorporation documents have been sent to the state of California. Depending on the state, it can take weeks for the state to process the documents. We will inform you as soon as we receive notification from the state.

- Articles of Incorporation for Community Partnership 4 Health arrived April 30 the day after our LegalZoom receipt was submitted to Staff in application additions.
- Owner verification — submitted in our original application (March 19) intent to sell negotiation documents between MRE realtors and a Community Partnership 4 Health principal for the leased business (through 2018) at our stated location, 1941A University.

- Our application additions (submitted April 29) included communications between the business owner realtor, myself, and the business owner, who stated, *"No agreement shall be made unless a fully executed Purchase Agreement is executed between Tenant and Business Owner and approval of the Property Owner."*

At that time of the original application the property owner was still out of the country, which was stated in the application additions. Because, "owner verification" was not specifically listed in the Staff letter (March 30) list of missing and incomplete information, we honestly assumed purchasing negotiations for the business at our location were acceptable, and we showed ongoing progress purchasing the business in our application additions (April 29).

From May 13 until May 21, the Community Partnership 4 Health engaged the Planning Staff via email, with the above information, asking for the opportunity to submit further documentation and to be reconsidered in the selection process. On May 21 Staff issued *"the City's final response"* citing Resolution language in the first paragraph, and referred to in their earlier email the same day.

While the Community Partnership 4 Health understands and appreciates the Planning Staff's efforts in the selection process for the fourth dispensary, we believe our group should be considered in Round 2 after providing the required information which we now understand was missing. Significantly in the Resolution after Round 2 *"The top ten applicants will move on to Round 3"*. Notably there are only 7 applicants available to make Round 2.

Because we are confident our standards as a "local enterprise" and "principal qualifications" (Round 3 highest ranking bonus points) surpass other applicants in the selection process, the Community Partnership 4 Health respectfully request our application to be reconsidered in the application process, according to the intended Resolution spirit for choosing the best qualified principals to serve Berkeley patients and citizens.

Respectfully,



Charles Pappas – co chairman Community Partnership 4 Health

cc: Mayor Tom Bates, councilmembers Linda Maio, Susan Wengraf, Jesse Arrugein, Max Anderson, Laurie Capitelli, Lori Droste, Daryll Moore, Kriss Worthington, City Attorney Zach Cowan, City Manager, Senior Planner Elizabeth Greene



ALLIANCE OF BERKELEY PATIENTS
aka: Berkeley Patients Group
Berkeley Patients Care Collective
Cannabis Buyers Club of Berkeley
October 13, 2003

Weldon Rucker -- Berkeley City Manager
2180 Milvia Street
Berkeley, CA 94704

Dear Mr. Rucker:

The Alliance of Berkeley Patients (ABP) recently met with Charlie Pappas to discuss his plans to open a new medical cannabis dispensary in Berkeley. As you know, the ABP is a peer review committee made up of representatives from each of the dispensaries now operating in Berkeley. Our goal is to ensure the safe and orderly operation of dispensaries by overseeing compliance with the attached protocols.

We discussed our operating protocols with Mr. Pappas in great detail. The ABP is satisfied that Mr. Pappas is aware of the protocols and willing to implement them in his dispensary. Furthermore, Mr. Pappas has indicated a willingness to work with the ABP to ensure ongoing compliance in an atmosphere of cooperation and openness.

The ABP has advised Mr. Pappas to seek the appropriate permits as a next step in opening a legitimate medical cannabis dispensary in Berkeley.

Please contact me at (510) 812-5442 if you need any additional information.

Thank you,

Don Duncan

a. Fred Medrano -- Berkeley Dept. of Public Health
Charlie Pappas

RANKING/ALLOCATION PROCESS FOR MEDICAL CANNABIS DISPENSARIES

INTRODUCTION

This process is adopted pursuant to and to implement Berkeley Municipal Code Chapter 12.27. The competitive process and criteria below will be used for determining which Dispensaries may fill any unoccupied slots under the City's 4-dispensary cap, adopted in 2010, and codified in Section 12.26.130. As of the adoption of this Process, there were three operating Dispensaries, and one open slot, however additional slots may become available in the future either as a result of attrition or amendment of Section 12.26.130, or for other reasons.

PUBLIC INFORMATION

Applications and associated materials in the possession of the City are public records. While certain information will likely be exempt from disclosure, other information will not be, and some information will necessarily be made public as part of the ranking process. In complying with the Public Records Act, the City will make reasonable efforts to keep sensitive information from being disclosed, but cannot guaranty that information an applicant may want to be kept confidential will not be disclosed. The City will make reasonable efforts to notify applicants whenever requests for disclosure of their information are received. The City shall not in any way be liable for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act, and applicants assume the risk of such disclosure by submitting their applications.

SUMMARY OF PROCESS

The ranking/allocation process shall consist of a single comprehensive application, and four rounds of evaluation, which are summarized below.

Round 1: Application and Determination of Eligibility

Staff will conduct a background and criminal history check and evaluate whether an application demonstrates eligibility under Section 12.27.030.

Each Principal must attain a passing grade on a Medical Cannabis competency test.

Successful applicants whose applications meet these requirements will be forwarded on to Round 2.

Materials submitted by applicants who do not pass the qualification round will be returned to them, and all copies of those materials will be destroyed.

Round 2: Initial Ranking – Minimum Qualifications

Applicants will be ranked based on criteria below.

- Proposed Location(s) of business
- Business Plan
- Neighborhood Compatibility Plan
- Safety and Security Plan

The top 10 applicants would move on to Round 3.

Round 3: Second Ranking – Bonus Points

Points will be awarded based on the categories listed below. The top five applications would move to the Selection process.

- Availability of Professional Services
- Community Benefits
- Enhanced Product Safety
- Environmental Benefits
- Labor & Employment
- Local Enterprise
- Location (final)
- Qualifications of Principals
- Consolidation

Round 4: Selection

The City Council will then make the final decision from among the top five candidates.

DESCRIPTION OF PROCESS

A. Round 1 – Application and Determination of Eligibility

1. Application Requirements

Before accepting applications, the City will give at least 60 days public notice that applications to operate a Dispensary or Dispensaries will be accepted pursuant Chapter 12.27. The notice shall specify a deadline for submission of applications, as well as the number of Dispensaries for which applications will be accepted.

All Applicants will be required to submit an application on a form provided by the City. Applications shall be signed by a Principal under penalty of perjury that she or he has personal knowledge of the information stated in the application and that it is true.

The application shall include such information as the City may require that demonstrates compliance with applicable provisions of Chapter 12.27, as well as the following:

1. The name of a single point of contact for the applicant, who shall be a Principal.
2. All information required by Section 12.27.040.
3. A description of the Dispensary and its proposed location(s), including the address of any proposed facility with proof of ownership, lease, and or letter of owner's willingness to lease. A signed lease is not to be given any additional consideration until Round 3.
4. Plans for alteration of any existing buildings.
5. Business Plan. The business plan must contain as much detail as possible on the day-to-day operation of the Dispensary and how it will conform to applicable state and local laws and the Attorney General's Guidelines. The business plan shall describe: mechanisms for ensuring that the Dispensary will operate on a Not-for-Profit basis; a description of how Medical Cannabis will be tracked and monitored to prevent diversion, such as by verifying the status of recommending physicians and retaining all written recommendations from recommending physicians; a schedule for beginning operation, including a narrative outlining any proposed construction and improvements and a timeline for completion. The business plan shall include a budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operation and maintenance costs, and shall demonstrate sufficient capital in place to pay startup costs and at least three months of operating costs, as well as a description of the sources and uses of funds. Proof of capitalization shall be in the form of documentation of cash or other liquid assets on hand, Letters of Credit or other equivalent assets. The business plan shall also include a pro forma for at least three years of operation.
6. Neighborhood Compatibility Plan. The application must describe how the Dispensary, including its exterior areas and surrounding public areas, will be managed so as to avoid becoming a nuisance or having impacts on its neighbors and the surrounding community.
7. Location(s). The application must describe the proposed location or locations of the Dispensary, all confronting and abutting uses, transit access and accessibility and nearby sensitive uses.
8. Safety and Security Plan. The application shall include a detailed description of Fire prevention, suppression, HVAC and alarm systems that includes an assessment of the facility's fire safety by a qualified Fire prevention suppression consultant. 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.

The security plan shall include a description and detailed schematic of the overall facility security. Applicants shall 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 party contractor security, and delivery security. In particular Applicants 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 to be employed. The security plan shall also include an assessment of site security by a qualified security consultant. Security plans shall not be made public.

During the evaluation period, security plan details that could aid persons who wish to commit security violations shall be considered to be confidential and shall not be released unless ordered by a court.

9. Environmental Benefits. The application must describe any proposed “green” business practices relating to energy and climate, water conservation, and materials and waste management. Specific “green” practices that are encouraged are:
 - a. maximizing energy efficiency;
 - b. where applicable, applying for and using available PG&E programs for free technical assistance for design and construction of building shell, tenant improvements, building systems and processes;
 - c. using renewable energy;
 - d. reducing transportation emissions (e.g., use of biofuels, electric vehicles);
 - e. using green building measures;
 - f. any other efforts to reduce or offset any greenhouse gas emissions
 - g. reuse and remediation of Brownfield sites;
 - h. water conservation, including recycling and on-site treatment, if permitted
 - i. developing a zero waste plan for operations;
 - j. minimizing packaging and using recycled content, recyclable and reusable materials, throughout the supply chain;
 - k. implementing a reuse plan for materials used;
 - l. providing a prediction of and implementing an operational phase waste stream broken down by refuse, recycled materials and composted materials by volume;
 - m. using organic fertilizers and pest control measures; and
 - n. minimizing use of hazardous or toxic substances and preventing them from entering the soil, air or water.
10. Community Benefits. The application shall describe benefits that the Dispensary would provide to the local community. Examples of such benefits are:
 - a. providing re-entry jobs and job training to the unemployed;
 - b. contributing to/supporting domestic violence prevention programs;

- c. contributing to/supporting Parks and Recreation Centers, libraries, or funding for arts, culture, and environmental programs;
- d. contributing to/supporting Children/Youth programs and intervention services;
- e. contributing to/supporting substance abuse education and rehabilitation programs;
- f. funding foreclosure prevention and foreclosure abatement programs, including eviction defense following foreclosure; ~~and~~
- g. provision of high quality Medical Cannabis to low income Members;
- h. any other neighborhood improvements.

11. Enhanced Product Safety. The application shall state how the Dispensary will ensure enhanced consumer safety by testing for biological and chemical contaminants, specified by the City Manager pursuant to state or federal standards for food, drugs or tobacco.
12. Labor and Employment. The application shall describe to what extent the Dispensary will adhere to heightened pay and benefits standards and practices, including recognition of the collective bargaining rights of employees. Specific practices that are subject to consideration include the following:
 - a. providing compensation to and opportunities for continuing education and training of employees/staff (applications should provide proof of the Dispensary's policy and regulations);
 - b. being a "card check-neutral" facility;
 - c. having obtained pre-existing recognition from a certified labor union;
 - d. being party to a collective bargaining agreement with a certified labor union; and
 - e. providing a "living wage" to facility staff and employees. Wage scale should be provided in writing for all levels of employment at the facility. "Living Wage" shall mean 200% of the minimum wage mandated by California or Federal law, whichever is greater.
13. Local Enterprise. The application shall state the extent to which the Dispensary will be a locally managed enterprise whose Principals reside within Berkeley and/or the following adjacent cities: Albany, Kensington, Oakland and Emeryville.
14. Availability of Professional Services. The application shall state the extent to which the Dispensary will provide professional services related to the use of Medical Cannabis to Members, whether on- or off-site. Such services may include, but are not necessarily limited to, medical or technical consulting, referrals to providers of such services, mental health services, alternative health care to the extent permitted by state law, diet and nutritional advice, and similar types of services, but shall not include recommending the use of Medical Cannabis.
15. Qualifications of Principals. The application shall include information concerning any special business or professional qualifications or licenses of principals that would add to the number or quality of services that the Dispensary would

provide, especially in areas related to Medical Cannabis, such as scientific or health care fields.

2. Determination of Eligibility

Staff will undertake background and criminal history checks, verify whether the applications provide complete and accurate information and demonstrate compliance with the eligibility requirements of Section 12.27.030.

If an application meets these requirements, each Principal will be required to attain a passing grade on a Medical Cannabis competency test to demonstrate a working knowledge of state and local compliance standards.

Applications that include all required information will be considered.

Late and incomplete applications will not be considered.

Applicants who pass the Medical Cannabis competency test and whose applications meet these requirements will be eligible to continue to Round 2.

Determinations in Round 1 will be final and not be subject to appeal.

3. Competitive Ranking Process

Applications that pass Round 1 will be reviewed by a three-person panel of City staff designated by the City Manager. The reviewing panel will evaluate applications in each succeeding round based on how well they satisfy the criteria for that round. In evaluating applications, the reviewing panel shall consider the quality and responsiveness of the application with respect to each of the topics covered. The evaluation and ranking of the applications and allocation of Dispensary slots shall lie within the sole judgment and discretion of the reviewers.

B. Round 2 – Initial Ranking: Minimum Qualifications

In Round 2, the reviewing panel will evaluate each application against the criteria in, and assign points based on, the following table.

Topic	Maximum Possible Points
Proposed Location(s)	400
Business Plan	300
Neighborhood Compatibility Plan	400
Safety and Security Plan	400
Total possible	1500

The top 10 applicants will move on to Round 3.

The reviewing panel will rank the remaining applicants by assigning points in each of the categories in the table below. "Consolidation" points shall be awarded for consolidation with one or more of the other top ten applications. The top five applications, based on the total number of points from Rounds 2 and 3 will then move to the Selection process. In the case of a consolidated application, the average number of total points shall be used.

C. Round 3 – Second Ranking: Bonus Points

Topic	Maximum Possible Points
Availability of Professional Services	300
Enhanced Product Safety	200
Environmental Benefits	200
Community Benefits	300
Labor & Employment	300
Local Enterprise	500
Location (final)	500
Qualifications of Principals	500
Consolidation (with applicants that pass Round 2)	150 for each consolidation, maximum of 300
Total possible	2800 (plus up to 300 for consolidation)

D. Round 4 – Selection

Within 45 days after Round 3 is completed, each applicant shall conduct a public meeting in the area or areas proposed for its Dispensary. If no location in the immediate area is available, the applicant shall use a community facility that is as near as possible. Notice of such public meetings shall be on a form approved by the City and shall be provided as set forth in BMC Chapter 23B.32 for Use Permit public hearings. Within 5 days after notice of the public meeting is mailed, an applicant shall provide to the City a copy of the notice of the public meeting, a list of addresses to which it was sent, and an affidavit of mailing. An applicant that does not hold a public meeting within this period of time shall be disqualified.

After the public meetings are completed the applications shall be presented to the Medical Cannabis Commission, which may make a recommendation to the City Council.

The City Council will then establish the final ranking of applications and make its selection from among the top five.

Notice of the public meetings of the Commission and Council shall be provided as set forth in BMC Chapter 23B.32 for Use Permit public hearings.



APPLICATION GUIDELINES TO OPERATE A MEDICAL CANNABIS DISPENSARY IN BERKELEY

The application process for a license to operate a Medical Cannabis Dispensary ("MCD") in Berkeley will open on **Monday, January 12, 2015**. Applications will be available at the Planning Department and on the dispensary application webpage:

http://www.cityofberkeley.info/Planning_and_Development/Commissions/Commission_for_Medical_Cannabis/Dispensary_Selection.aspx. This outlines the application process, required materials, and other information necessary to operate a MCD in Berkeley. To be considered, final applications **must be** submitted by **4:00 PM** on **Friday, March 20, 2015**.

BEFORE YOU APPLY:

- Review the information provided here to learn about the application process and documents you will need.
- Review the application.
- Review the information on the medical cannabis dispensary application webpage: <http://cityofberkeley.info/DispensarySelection/>. This page includes the following information:
 - Local regulations governing Berkeley MCDs: Berkeley Municipal Code ("BMC") Chapters 12.26 and 12.27.
 - Additional application information: Resolution No. 66,711-N.S.
 - State laws governing MCDs: the California Department of Justice Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use and Senate Bill 420 (Medical Marijuana Program Act).
 - Map of schools and existing dispensaries to determine eligible location(s) for a MCD. The MCD must be located in a commercial (C-) district and must not be within a 600-foot radius of schools or other legally operating MCDs. You may propose multiple potential locations, but are required to include a Neighborhood Compatibility Plan and Safety and Security Plan for each. In the end, only one location will be approved.

APPLICATION PROCESS:

- (1) **Evaluation and Ranking:** The selection process shall consist of the following four rounds:
- Round 1: Preliminary determination of eligibility.
 - Round 2: Initial ranking.
 - Round 3: Second ranking.
 - Round 4: Public meeting and final selection by City Council.

For more information, see Evaluation and Selection Process below.

- (2) **Criminal History Check:** As part of Round 1 of the evaluation process, each individual applying to be a principal of the MCD ("Principal") must apply for a Live Scan criminal history check at the Berkeley Police Department and include proof of Live Scan payment with the application. The Live Scan process involves submitting fingerprints to the DOJ/FBI, which will review for criminal offender record information (CORI). CORI reports will be provided to the Planning Department for the sole purpose of determining eligibility for operating a MCD. See BMC Section 12.27.030 for eligibility requirements. Principals who do not meet criminal history eligibility requirements will be disqualified.
- (3) **Application:** Hand deliver a complete, comprehensive application, with payment of the \$878 initial application fee by **4:00 PM** on **Friday, March 20, 2015**. A complete application will consist of the following information:
- The application form;

- Proof of Live Scan payment and proof of residency for each of the Principals; and
- All of the information about the dispensary to be evaluated in Round 2 and Round 3. The only information that can be submitted after the initial application is information on the final location, and consolidation information

Late and incomplete applications will not be considered.

- (4) **Medical Cannabis Competency Test:** Each Principal must take and pass the Medical Cannabis Competency Test. The test will be administered one to two weeks after the application deadline. Principals who do not attain a passing score on the Medical Cannabis Competency Test will be disqualified.
- (5) **Amendments to the Application:** Applicants will have **one** opportunity to amend specific items in their application. During Round 1, applicants will be notified if any of their Principals are ineligible and/or if their application is incomplete. Applicants will have 30 days from the point of notification to replace Principals that do not meet eligibility requirements and/or to provide missing materials. To qualify as a Principal, replacement candidates will need to complete the Live Scan criminal history check by a specified date, meet criminal history eligibility requirements, and pass the Medical Cannabis Competency Test. A special administration of the test will be scheduled for these individuals.
- (6) **Payment of Application Fees:** The individual designated as the Dispensary Contact on the application will be notified by e-mail as to whether the application is advancing to Round 2 and, subsequently, to Round 3. A payment of \$2,948 will be due before Round 2 and a payment of \$2,948 will be due before Round 3. Deadlines for these payments will be included in the e-mail notification.
- (7) **Public Meeting:** After Round 3 and within 45 days of notification, the top five applicants must conduct a public meeting in the area of their respective proposed location. Notice of this meeting must be provided in accordance with BMC Chapter 23B.32.

EVALUATION AND SELECTION PROCESS:

The ranking and allocation process shall consist of the following four rounds of evaluation.

- **Round 1: Determination of Eligibility and Application**
 - Each Principal must undergo a criminal history check demonstrating compliance with the eligibility requirements of Section 12.27.030.
 - Each Principal is required to pass a Medical Cannabis Competency Test, demonstrating a working knowledge of state and local compliance standards.
 - Applications must be complete to be considered. Applications will be considered complete only if they include all information required for Rounds 1, 2 and 3.
- **Round 2: Initial Ranking**
 - Applications will be evaluated based on the following criteria:
 - Proposed Location(s) of business
 - Business Plan
 - Neighborhood Compatibility Plan
 - Safety and Security Plan
 - The top 10 applications will move on to the next round.
- **Round 3: Second Ranking**
 - The top 10 applications will be evaluated based on the criteria listed below. These criteria, except the Final Location information, are optional but encouraged:
 - Final Location (proof of ownership or lease agreement)
 - Availability of Professional Services
 - Community Benefits
 - Enhanced Product Safety
 - Environmental Benefits
 - Labor & Employment
 - Local Enterprise
 - Qualifications of Principals
 - Consolidation

- The top five applications will move to the Selection process.
- **Round 4: Selection**
 - Within 45 days of the Second Ranking, each of the five applicants shall conduct a public meeting in the area proposed for its MCD. Notice of the public meeting must be provided pursuant to BMC Chapter 23B.32.
 - Applications shall be presented to the Medical Cannabis Commission for review and recommendation to the City Council.
 - The City Council will make the final selection.

DESCRIPTION OF EVALUATION CRITERIA:

- **Proposed Location(s).** Your application must include the address and a detailed description of the proposed location(s). (Note that proof of ownership, signed lease, and/or letter of owner's willingness to lease will not be given any additional consideration until Round 3.) This section should also describe all confronting and abutting uses, transit access and accessibility, and nearby sensitive uses, such as schools. The MCD must be located in a commercial (C-) district and must not be within a 600-foot radius of schools or other legally operating MCDs. **If you are considering more than one location, please provide information about each potential location, including a Neighborhood Compatibility Plan and a Safety and Security Plan.**
- **Business Plan.** With as much detail as possible, the Business Plan should describe:
 - Description of day-to-day operations.
 - How the MCD will conform to local and state law. See BMC Chapters 12.26 and 12.27, Resolution No. 66,711-N.S., and the Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use.
 - Mechanisms for ensuring that the MCD will operate on a Not-for-Profit basis.
 - How medical cannabis will be tracked and monitored to prevent diversion.
 - A schedule for beginning operation, including a narrative outlining any proposed construction and improvements and a timeline for completion.

The Business Plan should include:

- A **budget** for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operation costs. The budget must demonstrate sufficient capital in place to pay startup costs and at least three months of operating costs, as well as a description of the sources and uses of funds.
- **Proof of capitalization**, in the form of documentation of cash or other liquid assets on hand, Letters of Credit or other equivalent assets.
- A **pro forma** for at least three years of operation.
- **Neighborhood Compatibility Plan.** For each proposed location, your application should address how the MCD, including its exterior areas and surrounding public areas, will be managed, so as to avoid becoming a nuisance or having impacts on its neighbors and the surrounding community. Further, a site plan (accurate, dimensioned and at a minimum scale of 1/16") should be included for each potential location.
- **Safety and Security Plan.** For each proposed location, your application should include:
 - A detailed **safety plan**. This plan should describe the fire prevention, suppression, HVAC and alarm systems the facility will have in place. **It should include an assessment of the facility's fire safety by a qualified fire prevention and suppression consultant.** 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 **security plan**. This plan should include a description and detailed schematic of the overall facility security. It should have details on 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 party contractor security, and delivery security. In particular, applications 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 to be employed.

The security plan shall also include an assessment of site security by a qualified security consultant. Security plans will not be made public.

- A **floor plan** showing existing conditions. If changes are proposed as part of the project, then a proposed floor plan should also be submitted. The floor plan(s) should be accurate, dimensioned and at a minimum scale of 1/8".
- **Availability of Professional Services.** The application should state the extent to which the MCD will provide professional services related to the use of medical cannabis to members. Such services may include, but are not limited to, medical or technical consulting, referrals to providers of such services, mental health services, alternative health care to the extent permitted by law, diet and nutritional advice, and similar types of services, but shall not include recommending the use of medical cannabis.
- **Community Benefits.** The application should describe benefits that the MCD would provide to the local community, such as provision of re-entry jobs, community contributions, etc. For additional examples, see Resolution No. 66,711-N.S.
- **Enhanced Product Safety.** The application should state how the MCD will ensure enhanced consumer safety beyond that required by BMC Section 12.27.070.
- **Environmental Benefits.** The application should describe any proposed "green" business practices relating to energy and climate, water conservation, and materials and waste management. For specific "green" practices that are encouraged, see Resolution No. 66,711-N.S.
- **Labor & Employment.** The application should describe to what extent the MCD will adhere to heightened pay and benefits standards and practices, including recognition of the collective bargaining rights of employees. Specific practices that are subject to consideration include the following:
 - providing compensation to and opportunities for continuing education and training of employees/staff (applications should provide proof of the MCD's policy and regulations);
 - being a "card check-neutral" facility;
 - having obtained pre-existing recognition from a certified labor union;
 - being party to a collective bargaining agreement with a certified labor union; and
 - providing a "living wage" to facility staff and employees. Wage scale should be provided in writing for all levels of employment at the facility. "Living Wage" shall mean 200% of the minimum wage mandated by California or Federal law, whichever is greater.
- **Local Enterprise.** The application should state the extent to which the MCD will be a locally managed enterprise whose Principals reside within Berkeley and/or the following adjacent cities: Albany, Kensington, Oakland and Emeryville.
- **Qualifications of Principals.** The application should include information concerning any special business or professional qualifications or licenses of principals that would add to the number or quality of services that the Dispensary would provide, especially in areas related to medical cannabis, such as scientific or health care fields.
- **Consolidation.** Two or more of the ten dispensaries selected for Round 3 may choose to combine their applications. Should they choose to do so, a new application would need to be submitted. The new application would detail who the principals for the new entity would be, identify the location, and amend the bonus point categories to reflect the merger. THE PRINCIPALS AND LOCATION MUST HAVE BEEN INCLUDED ON ONE OF THE APPLICATIONS – NEW PRINCIPALS AND LOCATIONS CANNOT BE CONSIDERED AT THIS POINT. Since applicants will not know if they have been selected for Round 3 until after Round 2, consolidation information will be accepted at Round 3. Please advise staff if you are considering this option.

CONTACT:

If you have any questions or would like an update on the status of your application, please email Elizabeth Greene at egreene@cityofberkeley.info.

SENT VIA US MAIL AND E-MAIL

March 30, 2015

Charles Pappas
Community Partnership 4 Health
1130 Sterling Avenue
Berkeley, CA 94708

RE: Application for Medical Cannabis Dispensary at 1941A University Avenue, Berkeley

Dear Mr. Pappas:

Thank you for submitting an application to be the 4th Berkeley dispensary. Staff is currently reviewing applications and preparing for the next steps in the selection process.

Completion status

Staff has reviewed your application for completion and has the following comments:

1. Upon review of your application, staff determined that the following information was incomplete or missing:

- Proof of Organizational Status (missing)
- Business Plan (incomplete)
- Neighborhood Compatibility Plan (incomplete)
- Safety and Security Plan (incomplete)
- Proof of Organizational Status (missing)
- Site Plan (missing)
- Floor Plan (incomplete)
- Missing, unacceptable or illegible Proof of Residence (Jerome Rixter, Jr., David Cruz)
- Signatures of Principals (Minama Sohaei)

Please review the Application Guidelines (attached) to determine what information is necessary for an application to be considered complete.

Staff also encourages you to review the other information submitted in your application to ensure that it is fully responsive to the application requirements. In particular, consider the information that is highlighted in a bold font in the Application Guidelines (attached), and remember that site plans and floor plans should be dimensioned and scaled as detailed in the Guidelines. **If anything is missing, you may submit it no later than 4:00 PM on Wednesday, April 29, 2015.**

Proposed Location

Additionally, staff needs to ensure that the owners of the locations that have been proposed for dispensaries are aware of these applications. Please submit a signed letter from the owner of the proposed location of your dispensary, stating that the property owner is aware of your interest in the property and is willing to consider renting to you for a dispensary, if your proposal were to be selected, **no later than 4:00 PM on Wednesday, April 29, 2015**. A signed lease or a letter of intent to lease is not required at this time. Absent some indication that the property owner is willing to consider renting to you if your proposal is selected, your application will not be processed further.

Competency Test

Test date: Tuesday, April 14, 2015. Follow-up information with the location, exact time, and requirements will be sent before the test. See the dispensary application webpage for information on the type of material that will be tested:

http://www.cityofberkeley.info/Planning_and_Development/Commissions/Commission_for_Medical_Cannabis/Dispensary_Selection.aspx. **All Principals for your dispensary must take this test.** Since you are the primary contact for the application, it is your responsibility to ensure that all of the Principals are aware of the testing date and time. Please let staff know by e-mail **no later than Tuesday, April 7, 2015**, if any of your Principals will need special accommodations for the test.

New Principals after Competency Test

If your application includes multiple Principals, and one is invalidated due to the Live Scan check or the competency test, you will be allowed to submit a new Principal to replace that person. The information for the replacement Principal (see the attached sheet for Principal information), including a receipt for the Live Scan test and BPD review, must be submitted **no later than 4:00 PM on Wednesday, April 29, 2015**.

Any new information should be submitted to the City of Berkeley Zoning Counter by the stated deadlines. Additional information should consist of three hard copies and a digital copy on a CD or USB drive. Do not resubmit information that has already been included with the application.

If you have any questions or need additional information, please contact me by email at egreene@cityofberkeley.info.

Sincerely,



Elizabeth Greene, AICP
Secretary to the Medical Cannabis Commission

Attachment:

Sheet for Principal information
Application Guidelines

SENT VIA US MAIL AND E-MAIL

March 30, 2015

Christopher Smith
Forty Acres
1510 Ashby Avenue
Berkeley, CA 94704

RE: Application for Medical Cannabis Dispensary at 1820 San Pablo Avenue, Berkeley

Dear Mr. Smith:

Thank you for submitting an application to be the 4th Berkeley dispensary. Staff is currently reviewing applications and preparing for the next steps in the selection process.

Completion status

Staff has reviewed your application for completion and has the following comments:

1. Your application only identifies one Principal. A Principal is defined as “any person who has direct or non-delegated indirect authority over the management or policies of a Dispensary or the Medical Cannabis Organization (MCO) that operates it” (BMC Section 12.27.020.H). If there are other people in your organization who meet that definition, please submit their information (see the attached sheet for Principal information) as well as a receipt for the Live Scan test and BPD review, no later than **4:00 PM on Wednesday, April 29, 2015**. Please note that if you proceed with a sole Principal, and that person is determined to be ineligible due to his/her criminal history or performance on the competency test, the application will no longer be considered for the 4th dispensary.
2. Your application designated one Principal. However, upon review of the application, staff noticed other individuals who are listed in the application and who may meet the criteria for identification as Principals based on their apparent role in the management of the dispensary. A Principal is defined as “any person who has direct or non-delegated indirect authority over the management or policies of a Dispensary or the Medical Cannabis Organization (MCO) that operates it” (BMC Section 12.27.020.H). Please review the role that individuals not identified as Principals play in your organization. If they should be included as Principals, please submit their information (see the attached

sheet for Principal information), as well as a receipt for the Live Scan test and BPD review, **no later than 4:00 PM on Wednesday, April 29, 2015.**

3. Upon review of your application, staff determined that the following information was incomplete or missing:

- Proof of Organizational Status (missing)
- Business Plan (incomplete)
- Neighborhood Compatibility Plan (incomplete)
- Safety and Security Plan (incomplete)
- Floor Plan (missing)
- Site Plan (missing)
- Missing, Incomplete or Illegible Proof of Residence (Christopher Smith)

Please review the Application Guidelines (attached) to determine what information is necessary for an application to be considered complete.

Staff also encourages you to review the other information submitted in your application to ensure that it is fully responsive to the application requirements. In particular, consider the information that is highlighted in a bold font in the Application Guidelines (attached), and remember that site plans and floor plans should be dimensioned and scaled as detailed in the Guidelines. **If anything is missing, you may submit it no later than 4:00 PM on Wednesday, April 29, 2015.**

Proposed Location

Additionally, staff needs to ensure that the owners of the locations that have been proposed for dispensaries are aware of these applications. Please submit a signed letter from the owner of the proposed location of your dispensary, stating that the property owner is aware of your interest in the property and is willing to consider renting to you for a dispensary, if your proposal were to be selected, **no later than 4:00 PM on Wednesday, April 29, 2015.** A signed lease or a letter of intent to lease is not required at this time. Absent some indication that the property owner is willing to consider renting to you if your proposal is selected, your application will not be processed further.

Competency Test

Test date: Tuesday, April 14, 2015. Follow-up information with the location, exact time, and requirements will be sent before the test. See the dispensary application webpage for information on the type of material that will be tested:

http://www.cityofberkeley.info/Planning_and_Development/Commissions/Commission_for_Medical_Cannabis/Dispensary_Selection.aspx. **All Principals for your dispensary must take this test.**

Since you are the primary contact for the application, it is your responsibility to ensure that all of the Principals are aware of the testing date and time. Please let staff know by e-mail **no later than Tuesday, April 7, 2015**, if any of your Principals will need special accommodations for the test.

New Principals after Competency Test

If your application includes multiple Principals, and one is invalidated due to the Live Scan check or the competency test, you will be allowed to submit a new Principal to replace that person. The information for the replacement Principal (see the attached sheet for Principal

information), including a receipt for the Live Scan test and BPD review, must be submitted **no later than 4:00 PM on Wednesday, April 29, 2015.**

Any new information should be submitted to the City of Berkeley Zoning Counter by the stated deadlines. Additional information should consist of three hard copies and a digital copy on a CD or USB drive. Do not resubmit information that has already been included with the application.

If you have any questions or need additional information, please contact me by email at egreene@cityofberkeley.info.

Sincerely,

A handwritten signature in black ink, reading "Elizabeth R. Greene". The signature is fluid and cursive, with the first name "Elizabeth" being more prominent than the last name "Greene".

Elizabeth Greene, AICP
Secretary to the Medical Cannabis Commission

Attachment:
Sheet for Principal information
Application Guidelines

SENT VIA US MAIL AND E-MAIL

March 30, 2015

Anh Nguyen-Solis
reLeaf Alternative Healing
4583 McCready Court
Fairfield, CA 94534

RE: Application for Medical Cannabis Dispensary at 1800 San Pablo Avenue, Berkeley

Dear Ms. Nguyen-Solis:

Thank you for submitting an application to be the 4th Berkeley dispensary. Staff is currently reviewing applications and preparing for the next steps in the selection process.

Completion status

Staff has reviewed your application for completion and has the following comments:

1. (If only one Principal) Your application only identifies one Principal. A Principal is defined as “any person who has direct or non-delegated indirect authority over the management or policies of a Dispensary or the Medical Cannabis Organization (MCO) that operates it” (BMC Section 12.27.020.H). If there are other people in your organization who meet that definition, please submit their information (see the attached sheet for Principal information) as well as a receipt for the Live Scan test and BPD review, no later than **4:00 PM on Wednesday, April 29, 2015**. Please note that if you proceed with a sole Principal, and that person is determined to be ineligible due to his/her criminal history or performance on the competency test, the application will no longer be considered for the 4th dispensary.
2. (If additional people are mentioned in application but not called out as Principals) Your application designated one Principal. However, upon review of the application, staff noticed other individuals who are listed in the application and who may meet the criteria for identification as Principals based on their apparent role in the management of the dispensary. A Principal is defined as “any person who has direct or non-delegated indirect authority over the management or policies of a Dispensary or the Medical Cannabis Organization (MCO) that operates it” (BMC Section 12.27.020.H). Please review the role that individuals not identified as Principals play in your organization. If they should be included as Principals, please submit their information (see the attached

sheet for Principal information), as well as a receipt for the Live Scan test and BPD review, **no later than 4:00 PM on Wednesday, April 29, 2015.**

3. (If missing information) Upon review of your application, staff determined that the following information was incomplete or missing:

- Business Plan (incomplete)
- Neighborhood Compatibility Plan (incomplete)
- Safety and Security Plan (incomplete)
- Site Plan (missing)
- Floor Plans (incomplete)
- Missing, unacceptable or illegible Proof of Residence (Anh Nguyen-Solis)

Please review the Application Guidelines (attached) to determine what information is necessary for an application to be considered complete.

Staff also encourages you to review the other information submitted in your application to ensure that it is fully responsive to the application requirements. In particular, consider the information that is highlighted in a bold font in the Application Guidelines (attached), and remember that site plans and floor plans should be dimensioned and scaled as detailed in the Guidelines. **If anything is missing, you may submit it no later than 4:00 PM on Wednesday, April 29, 2015.**

Proposed Location

Additionally, staff needs to ensure that the owners of the locations that have been proposed for dispensaries are aware of these applications. Please submit a signed letter from the owner of the proposed location of your dispensary, stating that the property owner is aware of your interest in the property and is willing to consider renting to you for a dispensary, if your proposal were to be selected, **no later than 4:00 PM on Wednesday, April 29, 2015.** A signed lease or a letter of intent to lease is not required at this time. Absent some indication that the property owner is willing to consider renting to you if your proposal is selected, your application will not be processed further.

Competency Test

Test date: Tuesday, April 14, 2015. Follow-up information with the location, exact time, and requirements will be sent before the test. See the dispensary application webpage for information on the type of material that will be tested:

http://www.cityofberkeley.info/Planning_and_Development/Commissions/Commission_for_Medical_Cannabis/Dispensary_Selection.aspx. **All Principals for your dispensary must take this test.** Since you are the primary contact for the application, it is your responsibility to ensure that all of the Principals are aware of the testing date and time. Please let staff know by e-mail **no later than Tuesday, April 7, 2015**, if any of your Principals will need special accommodations for the test.

New Principals after Competency Test

If your application includes multiple Principals, and one is invalidated due to the Live Scan check or the competency test, you will be allowed to submit a new Principal to replace that person. The information for the replacement Principal (see the attached sheet for Principal information), including a receipt for the Live Scan test and BPD review, must be submitted **no later than 4:00 PM on Wednesday, April 29, 2015.**

Any new information should be submitted to the City of Berkeley Zoning Counter by the stated deadlines. Additional information should consist of three hard copies and a digital copy on a CD or USB drive. Do not resubmit information that has already been included with the application.

If you have any questions or need additional information, please contact me by email at egreene@cityofberkeley.info.

Sincerely,

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Elizabeth Greene, AICP
Secretary to the Medical Cannabis Commission

Attachment:
Sheet for Principal information
Application Guidelines

SENT VIA US MAIL AND E-MAIL

March 30, 2015

Max Kandel
Berkeley Alternative Medicine
1606 Bancroft Way
Berkeley, CA 94703

RE: Application for Medical Cannabis Dispensary at 1601 University Avenue, Berkeley

Dear Mr. Kandel:

Thank you for submitting an application to be the 4th Berkeley dispensary. Staff is currently reviewing applications and preparing for the next steps in the selection process.

Completion status

Staff has reviewed your application for completion and has the following comments:

1. Upon initial review of your application, staff determined that the following information was incomplete or missing:
 - Neighborhood Compatibility Plan (missing)
 - Safety and Security Plan (incomplete)
 - Proof of Organizational Status (missing)
 - Site Plan (missing)
 - Floor Plan (missing)

Please review the Application Guidelines (attached) to determine what information is necessary for an application to be considered complete.

Staff also encourages you to review the other information submitted in your application to ensure that it is fully responsive to the application requirements. In particular, consider the information that is highlighted in a bold font in the Application Guidelines (attached), and remember that site plans and floor plans should be dimensioned and scaled as detailed in the Guidelines. **If anything is missing, you may submit it no later than 4:00 PM on Wednesday, April 29, 2015.**

Proposed Location

Additionally, staff needs to ensure that the owners of the locations that have been proposed for dispensaries are aware of these applications. Please submit a signed letter from the owner of

the proposed location of your dispensary, stating that the property owner is aware of your interest in the property and is willing to consider renting to you for a dispensary, if your proposal were to be selected, **no later than 4:00 PM on Wednesday, April 29, 2015**. A signed lease or a letter of intent to lease is not required at this time. Absent some indication that the property owner is willing to consider renting to you if your proposal is selected, your application will not be processed further.

Competency Test

Test date: Tuesday, April 14, 2015. Follow-up information with the location, exact time, and requirements will be sent before the test. See the dispensary application webpage for information on the type of material that will be tested:

http://www.cityofberkeley.info/Planning_and_Development/Commissions/Commission_for_Medical_Cannabis/Dispensary_Selection.aspx. **All Principals for your dispensary must take this test.** Since you are the primary contact for the application, it is your responsibility to ensure that all of the Principals are aware of the testing date and time. Please let staff know by e-mail **no later than Tuesday, April 7, 2015**, if any of your Principals will need special accommodations for the test.

New Principals after Competency Test

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Any new information should be submitted to the City of Berkeley Zoning Counter by the stated deadlines. Additional information should consist of three hard copies and a digital copy on a CD or USB drive. Do not resubmit information that has already been included with the application.

If you have any questions or need additional information, please contact me by email at egreene@cityofberkeley.info.

Sincerely,



Elizabeth Greene, AICP
Secretary to the Medical Cannabis Commission

Attachment:
Sheet for Principal information
Application Guidelines

SENT VIA US MAIL AND E-MAIL

May 13, 2015

Charles Pappas
Community Partnership 4 Health
1130 Sterling Avenue
Berkeley, CA 94708

RE: Application for Medical Cannabis Dispensary at 1941A University Avenue, Berkeley

Dear Mr. Pappas:

Thank you for submitting an application to be the 4th Berkeley Medical Cannabis Dispensary.

Upon review of your application and follow-up information, staff has determined that your application is incomplete for the following reasons:

- Proof of organizational status is missing.
- The application lacks verification of property owner knowledge of the proposed use of the location as a dispensary.

Because your application is incomplete, it cannot be considered in Round 2 of the selection process, and will not be considered for the fourth dispensary.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth R. Greene". The signature is fluid and cursive, with the first name being the most prominent.

Elizabeth Greene, AICP
Secretary to the Medical Cannabis Commission

SENT VIA US MAIL AND E-MAIL

May 13, 2015

Christopher Smith
Forty Acres
1510 Ashby Avenue
Berkeley, CA 94704

RE: Application for Medical Cannabis Dispensary at 1820 San Pablo Avenue, Berkeley

Dear Mr. Smith:

Thank you for submitting an application to be the 4th Berkeley Medical Cannabis Dispensary.

Upon review of your application and follow-up information, staff has determined that your application is incomplete for the following reasons:

- The sole Principal for your dispensary did not take the Medical Cannabis Competency Test held on April 14, 2015. At least one Principal per dispensary had to attain a passing score on the test in order for the application to continue to Round 2.
- The application lacks verification of property owner knowledge of the proposed use of the location as a dispensary.
- Proof of organizational status is missing.

Because your application is incomplete, it cannot be considered in Round 2 of the selection process, and will not be considered for the fourth dispensary.

If you have any questions or need additional information, please contact me by email at egreene@cityofberkeley.info.

Sincerely,



Elizabeth Greene, AICP
Secretary to the Medical Cannabis Commission

SENT VIA US MAIL AND E-MAIL

May 13, 2015

Anh Nguyen-Solis
reLeaf Alternative Healing
4583 McCready Court
Fairfield, CA 94534

RE: Application for Medical Cannabis Dispensary at 1800 San Pablo Avenue, Berkeley

Dear Ms. Nguyen-Solis:

Thank you for submitting an application to be the 4th Berkeley Medical Cannabis Dispensary.

Upon review of your application and follow-up information, staff has determined that your application is incomplete for the following reason:

- The application lacks verification of property owner knowledge of the proposed use of the location as a dispensary. Lack of property owner approval was acknowledged by the applicant on April 29, 2015.

Because your application is incomplete, it cannot be considered in Round 2 of the selection process, and will not be considered for the fourth dispensary.

Sincerely,

A handwritten signature in black ink, reading "Elizabeth R. Greene". The signature is fluid and cursive, with the first name "Elizabeth" being more prominent and the last name "Greene" following in a similar style.

Elizabeth Greene, AICP
Secretary to the Medical Cannabis Commission

SENT VIA US MAIL AND E-MAIL

May 13, 2015

Max Kandel
Berkeley Alternative Medicine
1606 Bancroft Way
Berkeley, CA 94703

RE: Application for Medical Cannabis Dispensary at 1601 University Avenue, Berkeley

Dear Mr. Kandel:

Thank you for submitting an application to be the 4th Berkeley dispensary.

Upon review of your application and follow-up information, staff has determined that your application is incomplete for the following reasons:

- Proof of organizational status is missing.
- The application lacks verification of property owner knowledge of the proposed use of the location as a dispensary.

Because your application is incomplete, it cannot be considered in Round 2 of the selection process, and will not be considered for the fourth dispensary.

If you have any questions or need additional information, please contact me by email at egreene@cityofberkeley.info.

Sincerely,

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Elizabeth Greene, AICP
Secretary to the Medical Cannabis Commission

