



**ADDENDUM 2**  
**November 16, 2020**  
Request for Proposal (RFP) # 2436 City of Concord

**ADDENDUM 2 ISSUED TO ADDRESS THE FOLLOWING:**

Responses to questions submitted by **4:00 p.m. on 11/10/2020** are as follows (all responses are in blue):

Additional information and questions submitted to [purchasing@cityofconcord.org](mailto:purchasing@cityofconcord.org):

1. Q: Is there a reason question 1.7 and 5.7 are asking the exact same thing?

1.7 Fully describe cash handling procedures, including methods of limiting the amount of cash on the premises and a detailed plan for the safe handling and transfer of cash, including a staggered schedule for transfers.

5.7 Fully describe cash handling procedures, including methods of limiting the amount of cash on the premises and a detailed plan for the safe handling and transfer of cash, including a staggered schedule for transfers.

***Response:** The duplication in both sections is erroneous. Please disregard Criterion 1.7 of Exhibit B (Evaluation Criteria and Scoring Detail). Applicants are only expected to provide a response to the cash handling procedures item described in Criterion 5.7 (Section E. Preliminary Safety and Security Plan).*

2. Q: Pursuant to the Evaluation Criteria, 2.3: "The Applicant has a demonstrated track record prior to January 1, 2020 of community involvement in Concord or Contra Costa County philanthropic organizations, or otherwise improving the Concord community and economy. Up to 50 points will be awarded for community involvement outside of Contra Costa County and up to 100 points for involvement in the Concord community."

Can you please clarify if the following interpretation is correct?

- 1) 50 points will be awarded for community involvement outside of Contra Costa County
- 2) 100 points will be awarded for community involvement in the City of Concord AND/OR within Contra Costa County.

***Response:** Correct. The maximum number of points available for Criterion 2.3 of Exhibit B (Evaluation Criteria and Scoring Detail) is 100. A maximum of 50 points will be awarded for community involvement outside of Concord or Contra Costa County; and a maximum of 100 points will be awarded for community involvement in **Concord or Contra Costa County, as corrected by this Addendum.***

3. Q: We need clarity on the following code section (regarding ownership):

Concord Municipal Code Section 5.80.020 Definitions:

Cannabis business owner or owner means a person who is entitled to a share of at least 20 percent of the profits of the commercial cannabis business, as defined by California Business and Professions Code Section 26001(a), or any successor statute thereto, including:

- (1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
- (2) The chief executive officer of a nonprofit or other entity.
- (3) A member of the board of directors of a nonprofit.
- (4) An individual who will be participating in the direction, control, or management of the person applying for a license.
- (5) Any individual who is entitled to a financial interest in the commercial cannabis business, including individuals who have entered into an agreement to share in the profits of the commercial cannabis business.

Questions:

- A. Is a person required to have an equity ownership interest of 20% to qualify as an owner?
- B. It appears that a person with a financial interest in the form of profit sharing qualifies as an owner, however there appears to be a discrepancy in the code section as the first sentence states "20 percent of the profits" while (5) states "share in the profits". Is there a minimum percentage of profit sharing to qualify as an owner?
- C. Does a person with an agreement to receive a share of the profits from the sale of the business qualify as an owner? Is there a minimum percentage?
- D. Would a General Manager qualify as an owner pursuant to (4)?

Is there a particular arrangement that is more preferred?

Response: Responses are included to each question below in blue.

- A. Is a person required to have an equity ownership interest of 20% to qualify as an owner?  
*The City's definition of "owner" in CMC Sec. 5.80.20 is meant to be consistent with the definition provided in state law and in the BCC regulations. See Bus & Prof Code Section 26001(al) and BCC Regulation Section 5003. Generally, a person who is entitled to at least a 20% share in the profits of the cannabis business, or has at least a 20% aggregate ownership interest in the person applying for the license is considered an "owner."*
- B. It appears that a person with a financial interest in the form of profit sharing qualifies as an owner, however there appears to be a discrepancy in the code section as the first sentence states "20 percent of the profits" while (5) states "share in the profits". Is there a minimum percentage of profit sharing to qualify as an owner?  
*Yes, the minimum percentage of profit sharing of an individual in a cannabis business is 20%, whether by agreement or otherwise, in order to be considered an "owner."*
- C. Does a person with an agreement to receive a share of the profits from the sale of the business qualify as an owner? Is there a minimum percentage?  
*A person who would receive at least 20% of the profits in the sale of the business would be considered an individual "who is entitled to a financial interest in the commercial cannabis business" under subsection (5) of the "cannabis business owner or owner" definition in CMC Section 5.80.020, and would be considered an "owner."*
- D. Would a General Manager qualify as an owner pursuant to (4)?  
*If the General Manager will participate in the "direction, control, or management of the person applying for the license," then the General Manager would be considered an owner.*

Is there a particular arrangement that is more preferred? *The City does not have a preferred arrangement for the ownership structure of a commercial cannabis business.*

- 4. Q: The Code defines an owner as "a person who is entitled to a share of at least 20 percent of the profits of the commercial cannabis business...including:" a list of specific ways in which a person

might qualify, and subsection 5 on that list is “Any individual who is entitled to a financial interest in the commercial cannabis business, including individuals who have entered into an agreement to share in the profits of the commercial cannabis business.” Can you please clarify whether an individual who holds 5 or 10% of the equity of the applicant (or any amount less than 20%) is an “owner”? Subsection 5 suggests anyone with a financial interest is an “owner,” but that would conflict with the rest of Code Section 5.80.020, which draws the line at 20% holdings, which is also where state law draws the line.

*Response: Please see the response to question #3 in this Addendum. At the top of page 3 of Exhibit A (Competitive Selection Cannabis Business (CSCB) Application), it is stated “It must be completed by all owners. The total ownership percentage should equal 100%.” However, this language is corrected and amended by this Addendum as follows: “It must be completed by all owners and those with a financial interest in the business. The total percentage should equal 100%.”*

*Exhibit A should also include those individuals with an interest below 20%. As stated on the form, the combined percentage should equal 100%. Although they may be disclosed on the CSCB form, individuals with less than 20% interest will not be subject to the provisional background check requirements.*

5. Q: In Section 1.1, it says that each owner should list two references, do those references need to be included in the two page limit? Will letters of recommendation be used in lieu of references?

*Response: References are to be included in the two-page limit. Provide at least two references that have relevant knowledge concerning the project team’s ability to successfully open and responsibly operate a cannabis business. Names, affiliations, addresses, current telephone numbers, and email addresses of all references must be listed. Letters of recommendation cannot be substituted for references.*

6. Question: For Section 1.1: Plan provides a resume, biography or Curriculum Vitae, which did not exceed two pages per owner, listing the owner’s qualifications to operate a cannabis retail establishment, and a minimum of two references.

What form are the references supposed to take? Does it matter who the references come from? Please provide more clarity regarding the references requirement.

*Response: Please see response to question #5 in this Addendum.*

7. Q: In the ownership experience section, you ask for two references. Are you looking for references as in name and contact information or are you looking for a letter of recommendation?

*Response: Please see response to question #5 in this Addendum.*

8. Q: As I was unable to find one through the City's website, I am writing to double check whether the City of Concord has a standard Property (Owner) Consent Form or if we can produce our own.

*Response: The City does not have a standard Property Owner Consent Form.*

9. Q: We wanted to know if the city of Concord could clarify the interpretation of regulation 5.80.040(7)(d) for Concord, specifically as it related to daytime storage:

“Minimum of a two-point security precaution that incorporates structures or physical barriers to regulate access to cannabis and money and prevents access of customers throughout the entire facility”

One interpretation might deduce that no retail area can border an exterior wall. Do counter-swing doors count as a "point"? If behind-the-counter hooks require a key to unlock, is that a compliant "point"?

*Response: As a reminder, only a Preliminary Safety and Security Plan (as outlined in Exhibit B, Section E, Criteria 5.1 through 5.8) is required as part of the competitive selection process. Once an Applicant is selected by the Council, and invited to apply for a City Cannabis License, the application for a license (a separate process) is required to include a detailed security plan which will be reviewed and approved by the Police Department on a case-by-case basis. If an applicant is invited to apply, detailed questions regarding the on-site security plan requirements can be directed to the Code Enforcement Division and Police Department during the license application process.*

10. Q: I am having trouble finding someone to do the safety plan. Can you give me a referral to someone who does this kind of work?

*Response: Unfortunately, the City cannot provide referrals. Please also see response to question #9 in this Addendum.*

11. Q: Outside of the required Security Premises Diagram, are there any other requirements related to diagrams or renderings of the proposed facility? Additionally, "...diagrams submitted for other sections of the application" were mentioned (Section E - 5.8) - what are these other required diagrams?

*Response: Outside of Section E – Criterion 5.8, there are no additional requirements for diagrams required to be included in the Proposals, but that does not preclude additional diagrams if they will assist in clarifying the Proposal.*

12. Q: Question and response #2 in the Addendum 1 to the RFP issued on October 26, 2020 notes that a Pro Forma Balance Sheet is required. Section 1.4 of the RFP Evaluation Criteria and Scoring Detail states that the Pro Forma should be for at least 3 years of operations.

Should we then provide 3 balance sheets for (1) end of year 1 of operations, (2) end of year 2 of operations and (3) year 3 of operations or should it be just 1 balance sheet at the end of year 3 of operations?

*Response: One three-year pro forma is required. There is no requirement to submit separate annual balance sheets or pro formas. Only one sheet identifying three years of cash flow is required.*

13. Q: I have a question regarding section [1.6] of the Business Plan (section A), pasted below for your reference:

1.6. Business effectively demonstrates the ability to describe the day to day operational requirements deemed necessary to manage a retail cannabis business. This should include customer check-in protocols; process and location for receiving vendor deliveries during business hours; identification by name of the POS system and the number of locations in which they will use the POS in the store. In addition, the plan must demonstrate the number of customers to be served per hour per day and the staff needed to handle the customer volume during those times. Finally, should the plan propose utilizing a delivery service as part of the business model, the plan must describe delivery service procedures, number of vehicles, and product security during transportation and delivery.

When responding to this prompt, should the applicant respond in the order requested, e.g., customer check-in protocols, followed by delivery receiving procedures and locations, followed by

name of POS system, etc.? Or can the applicant use another logical ordering, so long as all requested topics are covered?

*Response: The Applicant can use their own order, preferably with a table of contents. But for ease of review and scoring, it is recommended that the Proposal is enumerated in the same order as the RFP Evaluation and Scoring Criteria Detail (Exhibit B), and the response to each criterion should also be organized as described in Exhibit B.*

14. Q: I had a question regarding the Trust Account Agreement, "Project (or Permit Numbers) to be Associated with this Trust Account:", and inquire whether there is any specific identifying information you would like entered for our project, e.g. the address or applicant business name, and whether any information should be entered for the permit number.

*Response: Please include identifying information consistent with the Applicant information included on the Competitive Selection Cannabis Business (CSCB) Application (Exhibit A). A Project Number will be assigned to the Proposal by City staff following the November 19, 2020 submittal deadline, so that field can be left blank at the time of submittal.*

15. Q: I'm hoping to confirm the requirements when submitting payment by check with the Cannabis RFP to the City of Concord. I understand that there is a requirement that the check be made out to City of Concord, but is there a requirement for a name or reference number to be listed on the check?

*Response: When submitting a payment by check, make sure the check is attached to the Proposal. The entity name or subject line/notes field of the check should correspond with the Applicant (Entity) Name listed on the Competitive Selection Cannabis Business (CSCB) Application (Exhibit A).*

16. Q: We submitted a lease for our distribution application signed by the owner. It was not notarized. Now that we are applying for delivery we will have the owner sign a Property owner consent form acknowledging the new proposed activity. Does this new form or addendum need to be notarized?

*Response: See the response to question #35 in Addendum #1 issued on October 26, 2020.*

17. Q: We are applying for an additional activity for the same address that is actually a different premise with divider walls, secured doors and separate entrances on the same property. We have spoken to the BCC and confirmed with them as well as our licensing expert and this is allowed and stated so in the regulations. See below...

§ 5025. Premises.

(a) Each license shall have a designated licensed premises, with a distinct street address and suite number if applicable, for the licensee's commercial cannabis activity.

(g) Nothing in this section shall be interpreted to prohibit two or more licensed premises from occupying separate portions of the same parcel of land or sharing common use areas, such as a bathroom, breakroom, hallway, or building entrance.

*Response: See the response to question #21 in Addendum #1 issued on October 26, 2020 regarding Concord's regulations. The City cannot advise Applicants regarding state law or Bureau of Cannabis Control (BCC) regulations.*

18. Q: For Phase I and II can we submit a letter of insurability for the Delivery premise with our Insurance proof for the distribution premise. We would like to wait to be approved through the application process before we start to pay for another insurance policy. The letter that we submit from our insurance company will address the current policy in place and future activities to be covered.

Response: See the response to question #31 in Addendum #1 issued on October 26, 2020. All Proposal information must be submitted by the proposal deadline (November 19, 2020 at 4:00 P.M) per the detailed instructions included in the RFP Instructions and Procedures document.

19. Q: We are in receipt of the letter from the Planning Division regarding our ZVL. We want to make sure we understand the letter. We are interpreting the letter to state that "At this time" you can not verify our location. But we are to continue in the process and provide the information that you need to answer your questions and concerns. Then after the review during Phase I and II we will need to submit additional information for the Design and review section of the application to be considered?

Response: Please contact the Planner listed on your Zoning Verification Letter (ZVL) regarding questions about the letter.

All Proposal information must be submitted by the proposal deadline (November 19, 2020 at 4:00 P.M) per the detailed instructions included in the RFP Instructions and Procedures document. Applicants will not have the ability to submit additional information during later Phases, except as narrowly outlined in the Minor Errors, Omissions, and Amendments section of the RFP Instructions and Procedures document.

20. Q: Numerous "owners" (8 of 11) live in disparate parts of the country. Can they DocuSign [Exhibit F rather than use wet signatures]?

Response: See the response to question #5 in Addendum #1 issued on October 26, 2020.

21. Q: As regards section 4.2, will full points be awarded for a business commitment of 1% gross revenue with a minimum of \$20,000 annually? Or will additional points be awarded for additional commitments?

Response: Any voluntary revenue contributions proposed by the Applicant under Exhibit B, Section D (Community Benefits and Investment Plan) would be set forth in negotiated contractual agreements that the Applicant wishes to enter into with the City, such as a Community Benefits Agreement or Development Agreement. Applicants who voluntarily offer to commit \$20,000 annually to be used for community benefits provided to the public will be awarded 80% of the available 120 points for this criterion. Applicants who voluntarily offer to commit to 1% or greater of their gross revenue will be awarded the maximum amount of points.

22. Q: Both the Business Plan (Section 1.7) and the Community Benefits and Protection Plan (Section 5.7) are required to contain same information about cash handling procedures. Can the applicant cross-reference the required information or must they include the procedures twice?

Response: Please see the response to question #1 in this Addendum.

23. Q: The page limit does not apply to financial documents. Does this exemption apply to the budget, pro forma, and proof of secured capital (Subsections 1.2-1.4)?

Response: Financial documentation such as bank statements, letters of credit and/or loan documents required in Section A, Criterion 1.3 (Exhibit B: Evaluation Criteria and Scoring Detail), should be saved in a separate file per the RFP Instructions and Procedures document, and should not be considered as part of the 200 page limitation. This is due to the various forms in which this type of information might be presented. The budget and proforma which are required in Section A, Criteria 1.2 & 1.4, are expected to be included in the 200 page limit.

24. Q: Which business formation documents are required from an LLC? Are the Articles of Organization and a Statement of Information sufficient? If an Operating Agreement is required, does it count towards the 200-page total?

*Response: There is no need for Applicants to include Operating Agreements. Articles of Organization and a Statement of Information are sufficient.*

25. Q: Section 5.8 is the only section that references a diagram (or floor/site plan). However, it begins with: "In addition to diagrams submitted for other sections of the application, applicants shall submit [...]." Could you please advise whether there are any other specific application sections in which you expect to see diagrams?

*Response: Please see the response to question #11 in this Addendum.*

26. Q: The Zoning Compliance Fact Sheet asks whether sales will be made to the "general public." Would only customers aged 21+ count as "general public"? We'd assume yes, but Concord Municipal Code Section 5.80.080(e) states, "No direct sales of cannabis products to the general public shall occur except via a delivery from a licensed business to a private residence." This appears to suggest a retail storefront is not allowed to sell to the "general public."

*Response: Yes, if a storefront retailer, microbusiness with a storefront retailer component, or non-storefront retailer is proposed, those in store or delivery transactions would be considered to the general public for the purposes of the Zoning Compliance Fact Sheet.*

*For the second part of the question, CMC Section 5.80.080(e) states:*

*Hours of operation. All permitted facilities, **with the exception of storefront retail, shall be closed to the general public.** No direct sales of cannabis or cannabis products to the general public shall occur except via delivery from a licensed business to a private residence. The Chief of Police may limit the hours for transporter deliveries and pick-ups. Storefront retail cannabis businesses shall not be open to customers outside of 7:00 a.m. to 10:00 p.m. daily without authorization from the Chief of Police.*

*This code section is not intended to mean that storefront retailers cannot sell cannabis or cannabis products to customers in store. Please see the definition of storefront retailer in CMC Section 5.80.020, as well as Section 5.80.030(e)(6), and Section 5.80.090 (7)(J).*

27. Q: The instructions state that the Indemnity Agreement need only be executed by an "authorized agent of the Applicant." However, the published form has signature lines for all owners and the property owner. Can you please clarify who must sign the Indemnity Agreement?

*Response: The Indemnity Agreements (Exhibits E and F) are to be signed by any individual(s) who is authorized to sign and bind the business on its behalf. Authorized agent of the Applicant is sufficient. The additional signature lines are for those organizational structures which require multiple signatures. Both the Applicant and the property owner are required to sign Exhibit F (Commercial Cannabis Business Proposal/Application Financial Responsibility, Indemnity and Consent to Inspection Terms) as the document also includes a consent for inspection of the property, in addition to the indemnity and financial responsibility provisions.*

28. Q: The property for which we intend to apply will be, at the time of the application, under contract for purchase but the closing of the sale will not yet have occurred. Assuming, in response to question [#27], a property owner signature is required on the Indemnity Agreement, is it acceptable for the property buyer to sign the Indemnity Agreement, rather than the current property owner? If not, may the buyer assume the indemnity obligation at the time of the closing, if so may the former owner property be released from the indemnity agreement at that time?

Response: The current property owner should sign Exhibit F (Commercial Cannabis Business Proposal/Application Financial Responsibility, Indemnity and Consent to Inspection Terms). If the property is subsequently sold, it is the responsibility of the Applicant to provide a new Indemnity Agreement signed by the current owner.

29. Q: Can I get a little more explanation on what the city is expecting regarding evidence that they will agree or already have agreed with a local union on a labor agreement that meets the state minimum requirements?

Response: Applicants, at a minimum, must meet the Bureau of Cannabis Control (BCC) requirements pursuant to Section 5002(c)(23), Annual License Application Requirements. Applicants may produce a letter from a Local Union (e.g. UFCW or Teamsters) agreeing to some type of relationship that ensures workplace protections for cannabis workers. A statement committing to, or agreeing with, the Labor Peace Agreement requirements will also be accepted.

30. Q: I was hoping to get some clarification on if the letter of credit in the proof of capitalization documentation needs to come from an Owner or if it is addressed to an Owner of the organization if this will be sufficient?

Response: A letter of credit needs to be addressed to, or in the name of, the Applicant. It does not matter who a letter of credit is issued by as long as it is from a source which can be verified.