



ADDENDUM 1

October 26, 2020

Request for Proposal (RFP) # 2436 City of Concord

ADDENDUM 1 ISSUED TO ADDRESS THE FOLLOWING:

Responses to questions submitted by **12:00 p.m. on 10/23/2020** are as follows (all responses are in blue):

Questions, answers, clarifications, and corrections from the 10.13.20 Pre-Proposal Conference:

1. Question: Exhibit B mentions a 200-page limit. Is this based on a single-spaced format or double-spaced?

Response: (Correction from the answer provided at the Pre-Proposal Conference) Since the number of pages will be limited to 200, the City will allow a single-spaced format to be used to maximize the length of responses to the RFP.

2. Q: Are you expecting to receive a Pro forma Balance Sheet, as well as a Pro forma P&L?

Response: The City will only be requiring the Applicant to provide a Pro forma Balance Sheet.

3. Q: Do we need a fire prevention consultant for a retail application?

Response: Exhibit B: Evaluation Criteria and Scoring Detail 5.1 requires the Applicant to Provide name(s) of consultant(s) that will be used to prepare the safety plan. It also stipulates that this is required information. However, it does not require the Applicant to utilize the required fire prevention consultant (internal or external to the organization) until the Applicant is selected through the competitive process and is invited to apply for a City Cannabis License.

4. I asked purchasing about what will be considered a security consultant. We have an in-house security person and would want to have him draft our safety plan rather than hire outside consultants.

Response: If the Applicant's internal security person is a qualified professional security expert who possesses such expertise and it can be demonstrated through the preparation of a satisfactory response to the scoring criteria, this would be acceptable.

5. Q: Will docusigned documents be accepted in lieu of wet signatures on the final application?

Response: Docusigned documents will not be accepted, only wet signatures will be accepted for the original hard copy Proposal (see submittal requirements in the RFP Procedures and Instructions document regarding the number of copies).

6. Q: For the 2 references required in Section 1.1, is that 2 references for the applicant or 2 for each owner listed on the application? Is there a requirement for who the person giving the reference needs to be?

Response: Exhibit B: Evaluation Criteria and Scoring Detail 1.1 states, "Plan provides a resume, biography, or Curriculum Vitae, which does not exceed two pages per owner, listing the owner's

qualifications to operate a cannabis retail establishment, and a minimum of two references.” This statement stipulates per owner, therefore, a minimum of two references must be for each owner of the business.

7. Q: Does having a property selected weigh more favorably than not having a property on the application?

Response: A specific property, including proof of property control, is required to submit a Proposal. A zoning verification letter for the proposed location is a submittal requirement. Zoning verification letters can be requested no later than 4:00 p.m. on October 29 from the Planning Division.

8. Q: How many total licenses will be issued?

Response: There is a maximum of eight total licenses available, which may be issued, for cannabis business types subject to the competitive selection process, through RFP #2436. Those cannabis business types are: 1. storefront retailer (maximum of three licenses), 2. non-storefront retailer (maximum of three licenses), and 3. microbusiness with a storefront retail component (maximum of two licenses). Please be aware that the licenses are not issued through the competitive selection process; rather Applicant’s will be selected by the City Council to be invited to apply for a City Cannabis License.

9. Q: If the application is deemed incomplete, is there a cure period?

Response: In general, there is not a period for Applicants to resubmit missing information or amend their Proposals after submitting. However, as outlined on page 9 of the RFP Instructions and Procedures document; if identified during the review process, the City will notify applicants of minor errors or omissions. Minor errors or omissions include missing signatures or dates, scanning or other clerical errors, or as determined by the Community Development Director. Minor errors or omissions that can be corrected will not cause the Proposal to be rejected. Proposals will be rejected if required components are missing and Applicants will be notified via email.

10. Q: Will there be any other reviewers for phase 1 and 2? Such as representatives from other localities with established cannabis regulations to provide a well-balanced multi-party review.

Response: The review process is as described in the RFP Instructions and Procedures document. City staff and the project consultant (HdL Companies) will review applications during Phase 1 and Phase 2. No other representatives will be included in the Phase 1 and Phase 2 review process. The detailed phases and review process were approved by the City Council on July 28, 2020.

11. Q: When applying for a Micro-business can different components of the business have separate locations?

Response: No. A microbusiness is a vertically integrated business with multiple components within the same location. A microbusiness shall engage in at least three of the following four commercial cannabis activities: retail, distribution, manufacturing, or cultivation. All activities shall occur at the same address/tenant space.

12. Q: How do you know if you've passed a certain phase of the application?

Response: The Applicant’s designated contact person will be notified via email.

13. Q: If Concord stated that startups CAN BE IN THE RFP PROCESS, why did they SET THE BAR @ \$450,000?

Response: This question appears to be in response to Section A (Business Plan) 1.3, in Exhibit B: Evaluation Criteria and Scoring Detail. Proof of secured capital, in a minimum amount of \$450,000 is required to ensure the Applicant has the ability to implement the proposed business plan, secure the necessary approvals if selected, and ultimately open and operate a successful business. The requirement was approved by the City Council on July 28, 2020.

14. Q: How many applications for storefronts [is the City] expected to receive?

Response: The City does not have expectations regarding the number of Proposals that will be received.

15. Q: Is removing products from the Retail Floor at the end of each day a requirement?

Response: City staff is not clear if this question is based on specific language included in RFP #2436, if the question is based on specific language, please reference that and send your question to purchasing@cityofconcord.org.

All storefront retailers are required to comply with state and local regulations. The Concord Municipal Code (CMC) has a number of requirements that relate to storefront retailers. In particular (Exhibit G, CMC Chapter 5.80), CMC Section 5.80.080 (g): Business conducted within building. No production, distribution, storage, display or wholesale of cannabis and cannabis products shall be visible from the exterior of the building where the commercial cannabis activity is being conducted, except as authorized by the Chief of Police; CMC Section 5.80.090 (7)(g): Cannabis and cannabis products that are not used for display purposes or immediate sale shall be stored in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss. Exhibit H also includes a requirement in the Sign Ordinance, CMC Section 18.180.080(P): All on-site or off-site commercial signs are prohibited for commercial cannabis businesses with the exception of storefront retailers, which are allowed one sign for identification purposes that may only contain the name of the business. On-site or off-site signage, advertising, or depiction of any paraphernalia, prohibited substances, cannabis products, cannabis uses (including but not limited to personal and commercial cultivation, manufacturer, testing laboratory, distributor, delivery), and/or any other uses or activities for which the state of California issues cannabis licenses, with the exception of storefront retailer, are prohibited.

16. Q: May font size exceed 12 pt.?

Response: Yes, although not explicitly outlined in the RFP Instructions and Procedures document, a font size greater than 12 point is allowable. The minimum font size is 12-point with Arial typeface for legibility purposes.

17. Q: The State Of California has given out 40 million to equity programs around the state. Why [didn't] Concord have and Equity Program?

Response: The City Council considered including an equity program as part of the competitive selection process at meetings on May 26 and July 28, 2020. The City Council ultimately approved the Evaluation and Scoring Criteria Detail (Exhibit B) at the July 28 meeting. Section B within the Evaluation Criteria and Scoring Detail includes a Labor & Local Diversity component, which in part evaluates "diversity in the ownership and personnel that they hire for the business in the City." Further, Section 2.2 evaluates and awards up to 100 points based on the following: "The Applicant demonstrates how their business ownership, operations, and hiring practices benefit those who are underrepresented in the community."

18. Q: The Equity program is about ownership not about a job?

Response: See response above.

19. Q: Which classes of citizens are underrepresented in Concord? And in what way?

Response: The US Census, State of California Department of Finance, and American Community Survey are the best resources regarding demographics in Concord. Section 2.2 of Exhibit B: Evaluation Criteria and Scoring Detail provides latitude for Applicant's Proposals to address the criteria based on multiple forms of diversity.

20. Q: Are city racial demographics available to identify who are the most underrepresented groups within the city? Per [Section] 2.2 [of Exhibit B].

Response: See response above.

21. Q: Can a current cannabis licensee add an additional license to the same business location as the first license?

Response: Please refer to Exhibit G, CMC Sections 5.80.030, 5.80.040 and 5.80.050 California Code of Regulations (CCR) Title 16 Section 5025 and 5026 for more detailed information. The CMC and state law do not allow multiple cannabis licenses at the same premises; however cannabis businesses, individually licensed, can operate within the same building (but must have a distinct street address and suite number if applicable) as long as the layout and structure of the businesses do not conflict with state law. Refer to state regulations regarding physical separation between cannabis businesses within the same building.

Any operating location for a cannabis business will require a separate city cannabis license, and multiple cannabis activities shall require separate city cannabis licenses for each license type. In addition, no cannabis business owner or person may possess multiple city cannabis licenses for the same license type or substantially same cannabis use at the same location. Upon approval of a subsequent city cannabis license at the same location for substantially the same activity or use, the prior license shall be deemed to automatically have been surrendered, and will be null, void, and superseded by the new license.

As outlined in the RFP Instructions and Procedures document, a maximum of two Proposals can be submitted per owner for the RFP process, and a maximum of three proposals can be submitted per parcel or address.

22. Q: Can two licenses exist in the same building? I.e. a distribution license and a non-storefront retail license?

Response: See response above.

23. Q: [Regarding] Evaluation Criteria 4.1 [in Exhibit B]..."for each hour"... Originally this was written "for each 100 hours". Which is the correct reading?

Response: It appears the question is regarding whether there was a change to Criteria 4.1 between the version included in the staff report for the July 28, 2020 City Council meeting and the version included in Exhibit B: Evaluation Criteria and Scoring Detail of the RFP. If that is not the correct assessment of the question, please email purchasing@cityofconcord.org.

Exhibit B: Evaluation Criteria and Scoring Detail is correct regarding all language for each evaluation criterion. The City Council directed changes to the version presented at the July 28, 2020 meeting. The final version included as Exhibit B: Evaluation Criteria and Scoring Detail reflects those changes, including changes to criterion 4.1. Applicants should not rely on draft versions of Exhibit B: Evaluation Criteria and Scoring Detail or any other documents.

24. Q: Does the community relations officer need to be local in Concord? Once operational, if the company is a multi-state operator.

Response: There are no requirements for the community relations officer outside of what is listed in Exhibit B: Evaluation Criteria and Scoring Detail, Section C, 3.1. The community relations officer should have the ability to address and mitigate issues and complaints in a timely manner based on the Applicant's Neighborhood Compatibility Plan.

During the city cannabis licensing process (following selection by the City Council at the end of the competitive selection process) the Applicant will be required to submit a Security Plan which includes a provision to provide a cannabis business contact who can respond to the city and neighbors regarding complaints. There are also requirements for: 1) a neighborhood responsibility plan that demonstrates how the business will reduce adverse impacts to the surrounding neighborhood, including neighborhood outreach, 2) methods for future communication, and 3) dispute resolution, which shall be submitted and approved by the city, and 4) that the business owner shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises during business hours if directly related to the patrons of the subject retailer. For purposes of this subsection, "reasonable steps" shall include calling the police in a timely manner and requesting those engaging in nuisance activities to cease those activities, unless personal safety would be threatened in making the request; and that the business owner shall remove litter on and in front of the premises and, if necessary, on public sidewalks within 100 feet of the facility two times, with a minimum of four-hour intervals, each operating day. (See Exhibit G).

25. Q: If we are applying for a storefront retail license and also would like to delivery products as part of the business, do we have to submit two separate applications.

Response: Based on the City's regulations you can deliver cannabis and cannabis products if you are licensed as a storefront retailer, as allowable pursuant to state law CCR Section 5025. If you would like to submit Proposals for a storefront retailer or a non-storefront retailer (to increase chances of receiving a license), that would be allowable because there is a maximum of two Proposals that can be submitted per cannabis business owner.

Additional information and questions submitted to purchasing@cityofconcord.org:

26. Q: How is an "owner" defined?

Response: Owner is defined as (CMC Section 5.80.020): "a person who is entitled to a share of at least 20 percent of the profits of the commercial cannabis business...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.

27. Q: I understand the City Council recently approved an Ordinance amendment relating to microbusinesses, what does that do?

Response: The City Council adopted an amendment on October 13, 2020, which will be effective 30 days after that date, (Ordinance 20-9) to Concord Municipal Code Chapter 5.80 (Cannabis)

pertaining to cannabis microbusinesses. The amendment was adopted to ensure that two city cannabis microbusiness licenses with a storefront retail component would be available for Proposals selected through the competitive selection process. This code language will supersede Exhibit G once it goes into effect. You can find the Ordinance and text edits using the following link (item #4.b):

<https://stream.ci.concord.ca.us/OnBaseAgendaOnline/Meetings/ViewMeeting?id=557&doctype=1>

28. Q: I am in the process of completing the Provisional Background check for submission. As part of this form, we are required to list prior Regulated Cannabis Employers. If an applicant is currently an owner of a cannabis business (vs an employee) is the applicant required to complete this section of the Provisional Background Check? If so, what should be entered as the 'end date' if the applicant still owns the existing cannabis businesses? The form cannot be submitted without entering an end date.

Response: Yes. If an Applicant is an owner of a cannabis business they will be required to provide that information in the Regulated Cannabis Employer section of the form. The end date should be the date the Provisional Background form is completed.

29. Q: RFP #2436 references an on-site drop box for proposal and fee deposits. Is the City requiring in-person delivery of proposals and deposits, or is mail accepted at the drop box?

Response: Yes, the City is requiring in-person delivery of Proposals to a physical drop box located outside of the Purchasing Division at the Concord Civic Center, 1950 Parkside Drive. Mailed proposals will not be accepted. The submittal instructions are outlined on page 6 of the RFP Instructions and Procedures document.

30. Q: I currently have a Type 11 distribution license in concord. We are applying for the non-storefront retail license and are planning to have it located with-in our distribution facility. I was wondering if we needed a separate corporation for this business or can we use our same corporation for our type 11 distribution business.

Response: See response to question #21. Please check with the state licensing agency regarding obtaining two state licenses for the same corporation.

31. Q: I am wondering if there are any insurance requirements for the competitive cannabis license application for storefront retailers or microbusiness with a retailer component?

Per the city ordinance 5.80.040 City cannabis license application, Part 10 (Insurance), and looking at the non-competitive cannabis application, it would seem that there are insurance requirements. I have not been able to find anything for the competitive cannabis application RFP regarding insurance requirements. Can you please advise what we would need to provide and how we should do so.

Response: No insurance documents are required to be included as part of the Proposals for the competitive selection process. However, Applicants selected by the City Council (at the end of the process), and invited to submit an application for a City Cannabis License must comply with the requirements outlined in CMC Chapter 5.80.

32. Q: Questions regarding formatting:

- A. For header and footer information (i.e. page numbers, section information, etc.) would it be acceptable to use a smaller font than 12 point?
- B. For non-body text such as tables, charts, graphics and captions, would it be acceptable to use a smaller font than 12 point? These type of information is typically shown in smaller font. For reference, the font size used for your RFP documents is 8 point font.

- C. The 12 point font size for the criteria is quite large. Please consider reducing the minimum font size to 10 or 11. For reference, the font size used for your RFP documents is 11 point font.

Response: No, text is required to be a minimum of a 12-point font. Please also see the responses to questions #1 and #16.

33. Q: I am applying for a license through RFP #2436 for a store front retail shop. I see that the license through the competitive process is good for 5 years. I am unable to locate any information regarding the extension or reapplication process after the initial 5 years. Is there a guaranteed option after the 5 years has passed?

Response: This question relates to CMC Section 5.80.060 (City cannabis license term), which is included in Exhibit G to the RFP Instructions and Procedures. As described in the RFP Instructions and Procedures, Applicant's selected through the competitive selection process will be invited to apply for a City Cannabis License. This is a separate application process.

CMC 5.80.060 (a): states, "Duration. The city cannabis license shall be valid for one year from the date of issuance; provided, however, that the Chief of Police has the discretion to extend the term or renewal term of a city cannabis license for a period of up to two years from the date of issuance. The license term may also be extended by the City Council for a period of up to five years, pursuant to the terms of a community benefit agreement, development agreement, or as part of a competitive selection process."

This relates to the duration for which a city cannabis license is valid before an Applicant is required to submit a renewal application. Renewal is required to ensure that the business is in compliance with the approvals, as a result renewal is not guaranteed. The typical duration is one year, but the code allows the City Council discretion to increase that duration to up to five years pursuant to negotiated terms in a community benefit agreement or development agreement, or as part of a competitive selection process, before a renewal is required.

34. Q: The RFP does not mention whether the Evaluation Criteria section needs to be double spaced or single spaced. Can you please confirm there is no requirement on the line spacing?

Response: Please see the response to question #1.

35. Q: Does the lease agreement need to be notarized? We executed the lease for our property in June and it was NOT notarized, so it will be difficult to re-execute with a notary.

Response: If a lease agreement was executed without notarization prior to the issuance of the RFP, it is recommended that the Applicant prepare a "Letter of Intent" as described in the RFP regarding the subject property, and have this document notarized. The signed lease agreement can then be attached to the notarized Letter of Intent.

36. Q: Are multiple applicants allowed to apply with the same property? I think the answer is 'yes' but wanted to verify.

*Response: Correct, this is outlined on page 7 of the RFP Instructions and Procedures: "A-3: Proof of property owner consent, such as a signed and notarized: Property Consent Form; Purchase Agreement, Lease Agreement; "Letter of Intent" (LOI) to lease, or proof of ownership of the subject parcel. **A maximum of three proposals will be accepted per parcel or address.**" Also see Question #21.*

37. Q: Do you know if questions are responded to on the day they are asked? I'm tasked with verifying today that it is okay for multiple applications to apply with the same property.

Response: Questions are responded to at the time an Addendum or a Frequently Asked Questions document is posted to the City's cannabis webpage. See response to question #36.

38. Q: The evaluation criteria (Exhibit B) seems to be more geared towards retail operations. If we are doing a micro business with the intention of having cultivation and distribution in addition to retail, how should this be reflected in our application? Should these functions also be addressed throughout the application?

Response: A response to each item in the Evaluation Criteria and Scoring Detail (Exhibit B) is required to be included for all Proposals. Applicants will not be scored for any criterion omitted. Yes, the microbusiness, including all components (or functions as referenced in the question), should be reflected in the Proposal materials.

39. Q: In the pre-proposal conference it was stated that the application format has to be double-spaced in addition to Arial 12 point font. This doesn't seem to be reflected on the RFP so I wanted clarity on if it needs to be double or single spaced for submission.

Response: Please see the response to question #1.