



DATE: October 30, 2017
TO: Mayor and City Council
FROM: City Manager
SUBJECT Review of Cannabis Business Operator Selection Process

RECOMMENDATION

That the Council reviews this report and presentation and provides feedback on the draft cannabis business operator selection process/request for proposals.

BACKGROUND

With the advent of legal cannabis businesses approaching in January 2018, the Council has directed staff to prepare a process by which the City can select cannabis businesses that both fit the desires of the community and create a framework that addresses the needs of a new, emerging market.

Over the past several months, the City has been taking steps to ensure proper and legal implementation of adult and medical cannabis business regulations. Following two work sessions earlier this year, the Council is currently moving forward with establishing a regulatory and land use framework to permit commercial cannabis businesses within the City of Hayward.

At their October 17th meeting, the Council reviewed the proposed regulatory framework and although they expressed overall support for the land use ordinance, the Council identified several additional components for inclusion as part of the RFP scoring and evaluation process. Specifically, the Council directed staff to include a youth education component as part of the public benefit being provided by new commercial cannabis business proposals and indicated a desire for business operators to enter into a labor peace agreement and provide worker's compensation for employees. In addition, the Council directed staff to prepare a resolution to limit the number of commercial cannabis retail dispensaries to no more than three.

To help develop the review of cannabis businesses, the City engaged ICF, a firm with experience developing cannabis license applications, guidelines, and criteria for municipalities locally and in other states that have legalized medical and adult use cannabis. Their staff consists of individuals with expertise in regulation, cannabis, public health, finance, safety, security, environment, and community outreach.

This staff report and presentation outlines the proposed RFP process and identifies possible scoring criteria, as identified by ICF. Staff recommends that the Council reviews the criteria discussed in the presentation and provides feedback on the scoring type and scoring value to assist the consultants in finalizing the RFP document. Once determined, the City will release the RFP and allow prospective business operators an opportunity to submit proposals.

DISCUSSION

Selection of cannabis business operators will take place through a request for proposal (RFP) process which will cover all commercial cannabis business types, including commercial cannabis dispensaries, testing/research laboratories, distribution centers, and grow facilities. The RFP process will ensure transparency and objectivity while providing the City with a competitive process that allows for the selection of the best applicants available. These applicants will hopefully be forward-thinking and offer solutions that implement best practices in management, operations, training, safety and diversion control, reduction of noise or nuisance behaviors, sustainable energy and waste solutions, and local hiring amongst other best practices the City may wish to include.

RFP Process Overview

The RFP’s materials will provide the evaluation criteria to all applicants to ensure a transparent process in which applicants understand the evaluation framework and relative importance (weighting) of each application component. The City will accept questions from potential applicants during the RFP process and will publicly post responses to questions to the RFP. Potential applicants will have to submit their proposals in accordance with City guidelines. Applicants can apply for one or more business type but must provide separate responses to address each specific business type for which they are applying.

The table below provides the current timeline for this process.

TABLE 1: RFP Process Timeline	
Month	Activities
Late October 2017	Develop application, scoring, and weighting criteria
Early November 2017	Release RFP application
Mid-December 2017	RFP application due
Mid-December 2017 – Late January 2018	Review RFP applications, scoring, and recommendations
February 2018	Conduct interviews and select successful applicants
March 2018 - Onward	Program implementation

Application Review Process and Evaluation Criteria

The review of proposals involves four stages to help differentiate applicants who meet the City's desired set of qualifications. Stages one and two will involve an objective application adjudication process, independent of the City, by ICF's neutral third-party team of subject matter experts.

Stage One: Criminal Background Investigation

Applicants who pass a background and criminal history check will advance onto the evaluation phase of the application process. Compliance determinations made in this stage by the City will not be subject to appeal.

Stage Two: Competitive Scoring and Ranking

Neutral third-party subject matter experts, as mentioned earlier, will evaluate this stage of the review process and will consider the responsiveness and quality of each proposal with respect to each of the question topics, for each specific business type.

The proposed evaluation criteria, as well as a description of requested information is as follows:

1. ***Business Plan and Operations:*** Proposed cannabis business operations, including products and/or services, discussion of compliance with all state and local laws, proposed schedule for start-up, proposed budget including start-up and operating costs, and proof of capitalization for costs. Applicants must provide a financial pro-forma for at least three years of operation. For retail establishments, this could also include the design aesthetic and user experience of the dispensary.
2. ***Management Experience:*** Experience of the proposed cannabis business management team to determine if they have the requisite managerial, cultivation/agricultural, or research experience to safely, responsibly, and successfully start and manage the long-term operations of a commercial cannabis business.
3. ***Safety and Security Plan:*** Safety plan and protocols to be implemented, including, discussion of fire prevention and proposed security infrastructure and processes, including but not limited to operational security, transactional security, delivery security, and 3rd party security.
4. ***Community Benefits:*** Proposed community benefits such as employment opportunities, youth education and other outreach activities, potential tax revenue, and other benefits for local business owners and residents.
5. ***Product Testing and Safety:*** Proposed product testing and inventory management plan and tools, and description of data management systems used for inventory and recordkeeping as well as discussion of consumer safety as required by state and/or local laws.
6. ***Environmental Plan:*** Proposed business practices related to energy usage, water conservation and materials / waste management.

7. **Labor and Employment Practices:** Proposed compensation and hiring practices, employee training programs including security, product education/awareness, legal and regulatory standards, local hire preference, labor peace considerations, and worker’s compensation protections, etc.

The evaluation and ranking of proposals will lie within the sole judgement and discretion of the neutral third-party subject matter expert reviewers. These reviewers will evaluate each application against weighted criteria, assigning points in accordance with the table below:

TABLE 2: CRITERIA WEIGHING		
Criteria	Maximum Points	%
Business Plan and Operations	300	30
Management Experience	150	15
Safety and Security Plan	150	15
Community Benefits	150	15
Product Testing and Safety	100	10
Environmental Plan	75	7.5
Labor and Employment Practices	75	7.5
Total	1,000	100%

Stage Three: Proposer Interviews

Following completion of the review process, ICF will recommend a sub-set of the highest-ranking applicants to participate in interview(s) with the City Manager or her designees who will make a final determination on which applicant will continue to the final stage. This will also be the stage where the City will determine the total number of permits that will be allowed for the different types of cannabis businesses, excluding retail dispensaries (already limited to three). According to ICF, typically responses ‘naturally break’ into cohorts that separate the strongly qualified applicants from the less qualified operators, which help to determine the appropriate amount of permits the City should issue.

Stage Four: City Council Approval

Following an objective review and ranking of the application materials and interview process, City staff will recommend operator applicants for the City Council’s consideration for permit award during a City Council public hearing. At the public hearing, these operators should be present to provide a brief public introduction to their team and an overview of their proposed commercial cannabis business. The City Council and Mayor will make the final decision of which applicants are selected for permit awards.

ECONOMIC IMPACT

It is difficult to predict the potential tax revenue stream created by cannabis businesses in Hayward. Different business types (i.e. Manufacturing vs. cultivation) may generate different levels of revenue. Staff will focus efforts on compiling data and information on this matter to assist the Council with determining the optimal tax rate to be imposed.

In late 2016, the University of the Pacific business school and law school authored a report studying the economic impact of the cannabis industry to the greater Sacramento area. The report, among other things, analyzed the potential economic impact of various sectors of the cannabis industry and assumed a range of potential market models from strictly regulated local models to less regulated regional market models. Although the assumptions utilized in the report may not hold true for Hayward, the methodology will be useful to Hayward staff as staff moves forward with a more detailed economic impact analysis.

STRATEGIC INITIATIVES

The proposed regulatory and land use ordinances are consistent with the goals and policies of the *Hayward 2040 General Plan*, and more specifically, are consistent with two of the Council's Strategic Initiatives: Complete Communities and Tennyson Corridor. Under the proposed regulatory and land use framework, new cannabis land uses could be established in select locations along the Tennyson Corridor and would support the Complete Communities Initiatives by diversifying employment opportunities and creating redevelopment and adaptive reuse of existing properties along the Tennyson Corridor and other locations throughout Hayward. Staff has identified several goals and policies of the Hayward 2040 General Plan, which support the Council's Initiatives:

LU-5.6 Adaptive Reuse, Renovation or Redevelopment. The City shall support the adaptive reuse, renovation or redevelopment of community and regional shopping centers that are no longer viable due to changing market conditions, demographics, or retail trends. The City shall consider alternative land uses if market conditions limit the feasibility of commercial uses.

LU-6.1 Land Uses. The City shall encourage employee-intensive uses, such as professional office, corporate campuses, research and development, traditional and specialized manufacturing, throughout the Industrial Technology and Innovation Corridor.

ED-1.6 Advances and Specialized Manufacturing. The City shall encourage the establishment and expansion of advanced and specialized manufacturing businesses to counter declining employment trends in traditional industrial manufacturing.

ED-1.11 Local Serving Retail. The City shall encourage the establishment and expansion of commercial businesses that increase local spending within Hayward and provide needed goods and services to residents and businesses.

ED-3.2 Fast Growing Industries. The City shall monitor industry and market trends to identify fast-growing industries, and coordinate with local businesses within those industries to proactively assist with potential business expansion plans.

HLQ-4.1 Adequate Health Care Facilities. The City shall encourage the development and maintenance of a full range of health care facilities, including hospitals, acute care facilities,

neighborhood health portals/clinics, and mental health facilities, to meet the needs of all residents.

FISCAL IMPACT

The total cost of the ICF contract is \$74,640. This contract includes RFP application review and recommendations for 16 applications. This number may increase depending total number of applications, in which case staff will return to Council for additional contract authorization.

Staff anticipates that there will be a significant cost associated with the administration of land use and regulatory ordinances from cannabis related business operations in the City and that this cost will be dependent on the number and type of businesses Council chooses to allow.

The tasks associated with appropriately administering these businesses would require staff to at a minimum:

- Process applications
- Prepare reports to the Planning Commission and City Council
- Review business plans
- Obtain background investigation results for proposed owners and employees
- Interact with the State's cannabis regulators.

Staff would also be involved in auditing financial records to ensure that the City is receiving appropriate payments relating to the application of Measure EE. Under the current Master Fee Schedule, if staff charges exceed the \$5,000 application amount, the applicant will be billed on a time and materials basis. After the first year of experience with the staff charges associated with these types of applications, staff will return to Council to adjust the deposit amount as needed.

PUBLIC CONTACT

Any questions regarding the RFP process can be directed to the staff contact for this project: John Stefanski, Management Analyst II, who can be reached at 510-583-3904 or at john.stefanski@hayward-ca.gov.

NEXT STEPS

Staff is requesting direction from Council on the following items related to this process at this work session:

1. Criteria: Are there any missing key criteria? Are all the City's priorities included?
2. Criteria Weighting: Does the weighting scheme correctly reflect the Council's priorities among the example criteria?

3. Community Benefits: What specific aspects of community benefit are of value to you? Should more criteria be included on the list?
4. Alignment: How might this process be informed by or align with the Council's priorities and strategic initiatives?
5. Does the Council have any other questions or comments about the application development and operator selection process?

Following Council feedback from this work session, staff will make necessary changes and present the final process at a future City Council meeting.

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Approved by:



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