

1 JEFF AUGUSTINI, SBN 178358
2 LAW OFFICE OF JEFF AUGUSTINI
3 20 Pacifica, Suite 255
4 Irvine, California 92618
5 Telephone: (949) 336-7847
6 Facsimile: (949) 336-7851
7 Email: jeff@augustinilaw.com

8 Attorneys for Petitioner/Plaintiff
9 EEL HOLDINGS, LLC

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION

MAR 01 2019

BY 
ASHLEE BAYLESS, DEPUTY

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN BERNARDINO

12 EEL HOLDINGS, LLC,

13 Plaintiff,

14 vs.

15 CITY OF SAN BERNARDINO; ANDREA
16 MILLER, an individual; and DOES 1-50,
17 inclusive,

18 Defendants.

CIVDS1906467

CASE NO. _____

**VERIFIED PETITION FOR WRIT OF
MANDAMUS AND COMPLAINT FOR:**

- (1) PEREMPTORY WRIT OF MANDATE; AND
- (2) INJUNCTIVE RELIEF.

JURY TRIAL DEMANDED

BY FAX

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24 Petitioner and Plaintiff EEL Holdings, LLC dba Connected Cannabis Company (“Plaintiff” or
25 “EEL”), by and through its attorneys, hereby complains, alleges, and avers as follows against
26 Respondents/Defendants the CITY OF SAN BERNARDINO (“SB” or the “City”), ANDREA M.
27 MILLER, the City Manager (“Miller” or the “City Manager”), and Does 1-50 (collectively “Defendants”
28 and/or “Respondents”):

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2 **INTRODUCTION**

3 1. This action arises out of the improper, arbitrary, capricious and illegal conduct of the City
4 and Miller arising out of the implementation of the City’s cannabis licensing application selection process
5 – a process mandated by City ordinance but which was illegally/improperly commandeered, twisted and
6 contorted by both the City and Miller in what EEL believes was/is a corrupt yet inept effort by
7 Respondents to benefit politically favored applicants/donors, to settle political scores, to effect political
8 vendettas, and to lure the other applicants “not to rock the boat” based on ex post facto promises and/or
9 implications that, if they just stayed silent and did not speak up, they ultimately also would obtain a
10 license down the road. By engaging in the conduct set forth in more detail below, EEL is informed and
11 believes the Respondents, and each of them, engaged in blatant political corruption and engaged in
12 conduct that was completely untethered from, and which violated both the letter and spirit of, the City
13 ordinance governing the application process for cannabis licenses and the City’s own established
14 procedures relating thereto.

15 2. EEL and its principal, Elliot Lewis, are experienced operators and have successfully
16 applied for cannabis-related licenses in multiple cities throughout California. Although its application
17 was General Plan compliant and was well located, and notwithstanding their objective experience and
18 the objective strength of its application, it was ranked 26 out of 39 applicants by the City, and tellingly
19 was ranked below multiple applicants who were legally ineligible for a license under the governing
20 ordinance. Further, and more importantly, EEL is informed and believes that when its application was
21 initially “scored” for ranking by the City, it was ranked within the top five applications submitted, thereby
22 entitling it to one of the five available dispensary and/or microbusiness licenses available in the City.
23 But when the final “rankings” were actually publicly disclosed, they had been altered and jury-rigged
24 and intentionally distorted by the City and in particular Miller for corrupt political purposes, and EEL’s
25 application went from top-5 to near the bottom in the rankings, rendering it ineligible for a license. As
26 such, EEL has a direct, immediate and substantial beneficial interest in compelling the City to comply
27 with its duties and responsibilities to adhere to the letter and spirit of the applicable governing ordinance
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1 provisions, and to ensure that the process was/is not fatally tainted by political corruption, cronyism,
2 favoritism, and intentional distortion to effect vendettas against political adversaries or those that did not
3 “pay to play” with City personnel overseeing the process. Further, as a business owner with property
4 located in the City, EEL has a direct, immediate and substantial beneficial interest in ensuring that the
5 City and City Manager comply with their legal duties and assiduously adhere to the governing ordinance
6 and the duties and requirements established thereunder.

7 **PARTIES AND VENUE**

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9 3. Plaintiff EEL is and at all relevant times was a limited liability company formed under the
10 laws of the State of California. EEL is the lessee of real property located at 506 W. Inland Center Drive,
11 San Bernardino, CA 92408 (the “EEL Property”). EEL applied for a Commercial Cannabis Business
12 (“CCB”) license, which was denied by the City Council at the Special Meeting of the Mayor and City
13 Council held on February 21, 2019 (the “Special Meeting”).

14 4. The City is and at all relevant times was a municipality located within the State of
15 California, County of San Bernardino.

16 5. EEL is ignorant of the true names and capacities of the Defendants/Respondents sued
17 herein as DOES 1 through 50, inclusive, and therefore sues such Defendants/Respondents by fictitious
18 names. EEL will amend its claims to allege the true names and capacities of DOES 1-50 when they have
19 been ascertained. EEL is informed and believes and on that basis alleges each of the fictitiously named
20 Defendants is responsible in some manner for the acts, omissions, events and occurrences herein alleged,
21 and that EEL’s damages herein alleged were proximately caused in some way by such DOE Defendants.

22 6. EEL further is informed and believes and on that basis alleges that, at all times herein
23 mentioned, each of the Defendants was the agent, employee, employer, alter ego, joint venturer, partner,
24 co-tortfeasor, co-conspirator and/or legal representative of the other Defendants, including the DOE
25 Defendants, and, in doing the things herein alleged, was acting within the course and scope of such
26 relationships in connection with the events and allegations set forth herein and, thus, each can and should
27 be held jointly and severally responsible for the damages and the other relief requested herein.

1 7. Jurisdiction and venue is proper in this Court. EEL is disputing the denial of a CCB
2 license for the EEL Property, which is located within the City and County of San Bernardino. Further,
3 via this action EEL challenges the legality and propriety of the actions of the City of San Bernardino in
4 its application and implementation of the ordinances, governing rules and regulations relating to the
5 application process for CCB licenses, as well as both the outcome of and manner in which that selection
6 process was conducted.

7 **FACTS RELEVANT TO ALL CAUSES OF ACTION**

8 8. As noted above, this action arises specifically from the City’s denial of EEL’s CCB license
9 application for the EEL Property, but also more broadly stems from the corruption, gross negligence,
10 ineptitude and/or legal violations that pervaded the City’s licensing and application process.
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12 9. The licensing and application process is governed both by Chapter 5.10 *et seq.* of the San
13 Bernardino Municipal Code (“SBMC”) and the “Application Procedure Guidelines for a Commercial
14 Cannabis Business” (the “Application Procedure Guidelines”) formally adopted by the City.

15 10. Section 5.10.090 provides is relevant part: “The Mayor and City Council shall adopt **by**
16 **Resolution** the procedures to govern the application process, and the manner in which the decision will
17 ultimately be made regarding the issuance of any commercial cannabis business permit(s), which
18 **Resolution shall include or require the City Manager to provide detailed objective review criteria**
19 **to be evaluated on a point system or equivalent quantitative evaluation scale tied to each set of**
20 **review criteria** (‘Review Criteria’)[.]” Further, after the initial review, ranking and scoring under the
21 Review Criteria, “the City Manager or his/her designee(s) will make a recommendation to the Mayor and
22 City Council, and the Mayor and City Council shall make a final determination in accordance with
23 Section 5.10.180” of the SBMC. *See* SBMC §§5.10.090(a),(b) (emphasis added).

24 11. Significantly, Section 5.10.090(d)(1) provides that applications received after the
25 designated time and date risk “BEING REJECTED,” and SBMC 5.10.250(c) requires that all “proposed
26 cannabis business project[s] . . . Conform with the City’s general plan, any applicable specific plans,
27 master plans, and design requirements.”
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1 12. Once the initial review and scoring of the applications using the objective “Review
2 Criteria” is completed, the ordinance provides the Mayor and City Council shall “adopt by Resolution a
3 procedure guideline and Review Criteria by which the top applicants in each category of each commercial
4 cannabis business will be presented to the Mayor and City Council for a final determination at a public
5 hearing.” SBMC §5.10.180. At that meeting, the Mayor and City Council “shall either deny or approve
6 the final candidates and shall select the top candidates in each category of commercial cannabis
7 businesses – and their decision at the meeting “as to the selection of the prevailing candidates shall be
8 final “ *Id.* at §5.10.180(d).

9 13. Pursuant to the directives set forth in SBMC 5.10.090, and based upon the passage in
10 April 2018 of Resolution 2018-102, the City on or about May 21, 2018 formally adopted, and in May
11 2018 published on the City’s website, its “Application Procedure Guidelines for a Commercial Cannabis
12 Business (CCB)” (the “Application Procedures”). A copy of the Application Procedures adopted by the
13 City via Resolution is attached hereto as **Exhibit 1**.

14 14. As an initial matter, and consistent with the SBMC provisions set forth above, the license
15 application window period established by the City was between April 23, 2018, and 4:00 p.m. on June
16 25, 2018. *See* Exh. 1 at 1. Yet despite the clear filing deadline of 4:00 p.m. on June 25, 2018, the City
17 not only accepted, but ultimately issued a license to, an applicant that did not submit their license
18 application until June 27, 2018 – two days after the established deadline for submitting applications
19 expired. Doing so violated the SBMC, the Application Procedures, and constituted a gross abuse of
20 discretion – to the extent the City had discretion not to comply with the SBMC and/or its own procedures
21 (which it did not). And that was/is just the “tip of the iceberg” of impropriety and legal violations that
22 permeated virtually every aspect of the selection process.

23 15. The Application Procedures established a four Phase review process, wherein CCB
24 Applications were evaluated by various parties against various configurations of the Objective Review
25 Criteria. In Phase 1, CCB Applications are reviewed for completeness, including the requirement to have
26 “[a]n **approved** Zoning Verification Letter from the Community Development Department stating that
27 the property where the CCB is proposed to operate complies with the locational requirements of SBMC
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1 Chapter 5.10.” See Exh. 1 at 2. In Phase 2, CCB Applications are “evaluated and ranked by HdL
2 Companies” on a limited subset of the Objective Review Criteria, such that:

3 Those applicants which successfully complete Phase 2 with a passing score of at least 80% will
4 move on to Phase 3 of the application process. However, at no time will the total number of
5 eligible applicants moving on to Phase 3 exceed more than thirty-four (34) eligible applicants.

6 In Phase 3, CCB Applications are “interviewed and evaluated by the City’s Selection Committee” against
7 all of the Objective Review Criteria, such that “[a]fter all Phase 3 scores have been tabulated, they will
8 be combined with Phase 2 scores to establish an overall ranking of the applications.” In Phase 4, CCB
9 Applications are be subjected to two public meetings. First, “a public meeting to be held in the City
10 Council Chambers on a date and time to be determined by City staff” for the community “to present
11 concerns and/or support and inform City staff of potential concerns for which a condition(s) may be
12 necessary to address.” Second, “[f]ollowing an objective ranking of the application materials, interview
13 process, and upon completion of the public meeting, the City Manager shall prepare a report bringing
14 forward to the City Council the Selection Committee’s recommendations for the final ranking of the
15 applications” for the Mayor and City Council to “review the Selection Committee’s recommendations
16 and decide which applications will receive CCB permits.” See generally Exh. 1.

16 16. Notwithstanding the clear Guidelines above and attached, from the very beginning there
17 were numerous irregularities, inconsistencies, and improprieties vis-à-vis implementation and
18 application of the Application Procedures, including but not limited to: (1) CCB Applications with denied
19 Zoning Verification Letters successfully completing Phase 1 and moving on to Phase 2 despite their
20 express ineligibility; (2) CCB Applications being deemed complete in Phase 1 that later were rejected in
21 Phase 2 for missing application materials; (3) Application materials allegedly being lost, misplaced, and
22 disregarded; and (4) the same or similarly structured CCB Applications inexplicably receiving widely
23 different scores in Phase 2.

24 17. More specifically, the City received a total of 42 CCB Applications. After completing its
25 Phase 1 review, the City moved all 42 CCB Applications to Phase 2, including at least one late application
26 (as referenced above) and five other CCB Applications with denied Zoning Verification Letters. As a
27 result, CCB applicants immediately began to question the credibility of the City’s selection process amid
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1 growing rumors and allegations of corruption, cronyism, political maneuvering, and the use of the process
2 to score political points and to carry out political vendettas in and through the selection process.
3 Tellingly, at least one CCB applicant with a denied Zoning Verification Letter ultimately received a
4 license from the City in blatant violation of the SBMC requirements and the Application Procedures.

5 18. The drumbeat of concern over corruption and the lack of credibility of the process only
6 grew louder after the City’s Phase 2 review was complete. Initially, the City rejected 13 CCB
7 Applications in its Phase 2 review even though some of those rejected Applications were the same or
8 substantially similar to other approved Applications. As a result, ten of the thirteen rejected CCB
9 Applicants appealed their Phase 2 rejection. The first four to have their appeals heard were permitted to
10 move on to Phase 3, based largely on strange explanations by the City regarding the purported loss or
11 relocation of application materials and with an arbitrarily assigned and clearly invented Phase 2 score of
12 80% – the bare minimum necessary to move to Phase 3. Following a meeting on or about January 14,
13 2019, between City-representative Stephanie Sanchez and various interested parties, the City “out of the
14 blue” and without holding a single appeal hearing, permitted all ten of the rejected applicants who had
15 appealed to move to Phase 3. Significantly, no reason or explanation was given as to why 100% of the
16 rejected applicants from Phase 2 who appealed had their appeals summarily granted without even holding
17 a hearing (which left only 3 applications as being denied in Phase 2 – the three that did not appeal). A
18 copy of the City’s Staff Report corroborating these allegations is attached hereto as **Exhibit 2**.

19 19. In the end, 39 of the initial applicants for CCB licenses moved on to Phase 3; of those 39
20 applicants, EEL is informed and believes all 39 were permitted to move to Phase 4, thereby raising
21 additional and significant concerns regarding the credibility of the Applications Procedures employed by
22 the City and the selection criteria it was using (or not using) in that process. Further stoking concerns
23 over corruption and improper conduct by the City, on February 15, 2019, just six days before the Special
24 Meeting at which the licenses were awarded by the Mayor and City Council, the City sent out the Special
25 Meeting Agenda Items that contained an altered version of the Application Procedures – a version not
26 adopted by Resolution as required by the SBMC.

1 20. Amongst other changes, the new altered and illegal Application Procedures removed (i)
2 the requirement that CCB Applications have a minimum score of least 80% to move on to Phase 3; (ii)
3 the limitation that only 34 CCB Applications could move on to Phase 3 (a total of 39 ultimately moved
4 on to Phase 3); and (ii) the requirement that Phase 2 scores be combined with Phase 3 scores to establish
5 an overall ranking for each CCB application. The altered Application Procedures were not noticed to
6 interested parties in the CCB application process, were not and are not posted on the City’s website, and
7 they were not included in the agendas for any meetings of the Mayor & City Council prior to the Special
8 Meeting. The fact that the Application Procedures were altered – and without the required accompanying
9 Resolution – was not even mentioned anywhere in the Staff Report accompanying the Special Meeting.
10 In short, secretly, illegally and in a totally underhanded fashion, the City (or its staff) substantially
11 changed the previously (and duly) adopted procedures for the application process at Stage 3 of the four
12 stage selection process that already was ongoing.

13 21. The altered Application Procedures are attached hereto as **Exhibit 3**. Correspondence
14 from EEL to the City addressing its concerns regarding the altered procedures and the improper manner
15 in which the City scored applications in both Phase 2 and Phase 3 are attached hereto as **Exhibit 4**. EEL’s
16 concerns on all of these issues were ignored by the City and its staff.

17 22. Phase 3 was an even bigger disaster than Phase 2. Under the applicable (and unaltered)
18 Application Procedures, the City’s CCB Phase 3 Selection Committee is required to **objectively**
19 interview, evaluate, and rank each CCB Applicant based on the following the objective Review Criteria:
20 (a) Qualifications of Principals (300 Points); (b) Location (proof of ownership or a signed and notarized
21 statement of intent from the Property Owner) (200 Points); (c) Neighborhood Compatibility Plan (200
22 Points); (d) Environmental Impact Mitigation (300 Points); (e) Local Enterprise (400 Points); (f) Business
23 Plan (300 Points); (g) Enhanced Product Safety (200 Points); (h) Safety Plan (150 Points); (i) Security
24 Plan (150 Points); and (j) Community Benefits (300 Points).

25 23. Appendix A of the Application Procedures provides the City’s Phase 3 Selection
26 Committee with further directives and details for interviewing, evaluating, and ranking each CCB
27 Applicant. For the most-heavily weighted Objective Review Criteria, “Local Enterprise”, the City’s
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1 Phase 3 Selection Committee is specifically required to consider the following elements: (a) Providing
 2 compensation to and opportunities for continuing education and training of employees/staff; and (b) The
 3 application should state the extent to which the CCB will be a locally managed enterprise whose
 4 Owners/Principals reside within the City and/or within San Bernardino County. *See* Exh. 1. In other
 5 words, the Mayor and City Council, through the City Manager, required the Phase 3 Selection Committee
 6 to objectively evaluate the “Local Enterprise” Review Criterion to determine the extent to which the CCB
 7 applicant would be a locally managed enterprise whose Owners/Principals are residents of the County
 8 and City of San Bernardino.

9 24. Below is a table summarizing the Phase 3 Selection Committee’s “Local Enterprise”
 10 scores against whether Owners/Principals of the each CCB Applicant are residents of the County and
 11 City of San Bernardino:

Applicant Name	Owners/Principals Residence	San Bernardino Cnty. Resident?	San Bernardino City Resident?	“Local Enterprise” Score
Pure Dispensaries, LLC	Laguna Beach, CA	No	No	89.63%
JIVA LIFE INC	San Francisco, CA	No	No	89.25%
Empire Connect, LLC	Rancho Cucamonga, CA	Yes	No	89.06%
Orange Show Cultivators, Inc.	Rancho Cucamonga, CA	Yes	No	89.06%
HAH3, LLC dba Have a Heart	Seattle, WA	No	No	88.94%
PTRE Management	Santa Ana, CA	No	No	86.88%
Luke, LLC dba Organtix Orchards - Cultivation	Newport Beach, CA	No	No	85.06%
Harvest of San Bernardino - Orange Show	Tempe, AZ	No	No	84.81%
RD San Bernardino LLC	Corona, CA	No	No	84.69%
Ashe Society SB, LLC - Lugo Avenue	San Bernardino, CA	Yes	Yes	84.63%
Nibble This, LLC - Hallmark Pkwy	San Marino, CA	No	No	84.56%
Nibble This, LLC - S. E Street	San Marino, CA	No	No	84.56%
Harvest of San Bernardino - Court St	Tempe, AZ	No	No	84.50%
A Bud & Beyond	San Bernardino, CA	Yes	Yes	84.38%
SOCA Farms, LLC	Long Beach, CA	No	No	84.25%
Ashe Society SB, LLC - S. E Street	San Bernardino, CA	Yes	Yes	84.00%
SB Pharma Holdings, Inc. DBA The Row House	San Bernardino, CA	Yes	Yes	83.44%
Blunt Brothers, Inc. - Chad White	Fontana, CA	Yes	No	82.81%
14 Four	San Bernardino, CA	Yes	Yes	82.81%
3P, Inc.	Whittier, CA	No	No	82.56%
KP Investment Group, LLC	Rowland Heights, CA	No	No	82.19%

Applicant Name	Owners/Principals Residence	San Bernardino Cnty. Resident?	San Bernardino City Resident?	"Local Enterprise" Score
ECS Labs, Inc	San Bernardino, CA	Yes	Yes	82.19%
MED Products Group, Inc.	San Bernardino, CA	Yes	Yes	82.19%
EEL Holdings, LLC dba Connected Cannabis Co	Long Beach, CA	No	No	81.88%
Howard Friedman - 4th St. Dispensary	San Bernardino, CA	Yes	Yes	81.63%
Alpha Medic LLC	Temecula, CA	No	No	81.56%
AM-PM MGMT, Inc DBA Cold Creek Organics - Microbusiness	San Bernardino, CA	Yes	Yes	81.38%
Accessible Options - Cultivation	Weaverville, CA	No	No	81.25%
AM-PM MGMT, Inc DBA Cold Creek Organics - Manufacturing	San Bernardino, CA	Yes	Yes	81.25%
Organic 1 Healing Inc	Fontana, CA	Yes	No	81.25%
Washington, LLC	Pacific Palisades, CA	No	No	80.94%
GWC Real Estate Services, LLC	Los Angeles, CA	No	No	80.81%
Central Avenue Nursery, LLC	San Bernardino, CA	Yes	Yes	80.63%
HC Club, LLC dba Hempire Cannabis Club	San Bernardino, CA	Yes	Yes	80.38%
Uplyft LA, LLC	Santa Monica, CA	No	No	80.13%
Red Brick Industries, LLC	San Bernardino, CA	Yes	Yes	80.00%
Rznhead, Inc dba Cookies San Bernardino	North Hollywood, CA	No	No	79.69%
Ocean Green Management, LLC	Rancho Murrieta, CA	No	No	79.38%
Cali Blue Skys Investments	San Bernardino, CA	Yes	Yes	78.56%

25. The above table demonstrates that the City's Phase 3 Selection Committee did not objectively evaluate the "Local Enterprise" Review Criterion to determine the extent to which the CCB Applicant would be a locally managed enterprise whose Owners/Principals are residents of the County and City of San Bernardino, as required. Rather, it was a sham. For example, of the 18 CCB Applicants whose Owners/Principals are residents of the County of San Bernardino, 11 – **or 61%** – scored in the bottom-half of the ranking for the "Local Enterprise" Review Criterion. Similarly, of the 14 applicants whose Owners/Principals are residents of the City of San Bernardino, 10 – **or 71%** – scored in the bottom-half of the ranking for the "Local Enterprise" Review Criterion. How is that even possible if the Review Criteria was followed and "objectively" assessed? Simply put, it could not occur if the City was actually following the law and its own adopted procedures. A EEL sent the City a letter raising this "red flag" issue, which the City has ignored.

1 26. EEL is further informed and believes that its application initially was scored objectively,
2 putting it in the top 5 of the retail applications, but due to corruption and/or political favoritism its original
3 ranking scores were altered or manipulated, either by the City or by the contractor hired by the City to
4 perform the scoring. In furtherance of this information and belief, EEL has attached as **Exhibit 6** a copy
5 of a scoring evaluation performed by the *same consultant* on the a nearly identical application EEL and
6 Connected submitted for a license in Morro Bay on January 10, 2019. Notably, the application (which
7 was for a business named Connected Morro Bay Blvd, LLC, but which EEL/Connected were directly
8 involved with) scored a 1,646 out of a total possible 1,650 points. How could HdL score essentially the
9 same application as a 1,646 in Morro Bay in January 2019, but rank essentially the same application from
10 the same operators as a 26 out of 39 only a month or so later? EEL submits that HdL ranked EEL’s
11 application in the top 5, only to have that ranking improperly altered or manipulated by the City after the
12 scoring was completed – all for the purpose of jury-rigging the selection process to award licenses to
13 those politically favored applicants rather than those scoring highest on the “objective” Review Criteria.
14 Significantly, EEL has never received a detailed breakdown of how its scores were determined in each
15 relevant category (like that attached as Exhibit 6 from Morro Bay).

16 27. The Special Meeting at which licenses were awarded or denied epitomizes the corruption,
17 legal violations, gross abuses of discretion, the willful abandonment of all requirements in the SBMC
18 and Application Procedures, and the naked abdication of reason and credibility. Working from the
19 baseline of the flawed scoring breakdowns from Phases 2 and 3, the Mayor and the City Council
20 attempted to shoehorn their politically favored candidates into the margins of the Top-17 in a blatant
21 display of abuse of power and – EEL believes -- political corruption. To illustrate, in an attempt to bring
22 two favored Applicants into license contention, the City Council made a 6-0 motion to knock-out two
23 higher ranked applicants on the grounds they lacked General Plan compliance, even though both had
24 approved Zoning Verification Letters. However, once the City Council realized that consistent
25 application of that motion would require them to also knock-out a politically favored Application, it
26 immediately and unanimously reversed its previous motion. It was the quintessential “I voted for it
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1 before I voted against it” moment that aptly illustrates why the entire process needs to be “thrown out”
2 and the City should be compelled to start the selection process over “from scratch.”

3 28. In that same vein, comments along this lines of “now who would that effect on the
4 rankings”, “where would that put this group”, etc., were uttered repeatedly by City Council Members
5 during the Special Meeting. To further illustrate the complete abandonment of any objective logic or
6 process for selecting applicants for licenses, the Mayor and City Council ultimately rejected an
7 applicant’s microbusiness application for lack of an approved Zoning Verification Letter, *yet approved*
8 that same applicant’s volatile solvent extract manufacturing application despite that very same “denial”
9 Zoning Verification Letter. The Mayor and City Council also allowed a different applicant to pick
10 between four different CCB permits even though it had only paid for one permit and accompanying
11 processing costs. And as noted above, one of the approved applicants did not even submit its application
12 until two days after the June 25, 2018, deadline for doing so. And, incredibly, at least three of the
13 applicants who received a CCB license at the Special Meeting were not General Plan compliant by the
14 City’s own determination, despite such compliance being an *express requirement* of SBMC 5.10.250(c).

15 29. The only moment of honesty in this entire process occurred near the end of the Special
16 Meeting, when Council Member Nickel made the following apologetic confession: “This was a messy
17 process, and I apologize for that. I apologize to each and every one of you in this room. This is the first
18 time we have done this.” Yet rather than *fix* any of the issues set forth above, and rather than investigate
19 the actual reasons the application selection process went so askew, the City instead plowed forward,
20 claiming that any and all of the ills of the process could be cured or wiped away via copious use of the
21 phrase “discretion.” Unfortunately for the City, blindly invoking discretion in an effort to salvage a
22 fatally flawed selection process that was infected and distorted through corruption, political favoritism,
23 cronyism and a blatant and willful refusal to follow the law, the duly established guidelines, or any
24 modicum or reason or fairness, is not a magic cure-all and cannot save the City in this instance.

FIRST CAUSE OF ACTION
PETITION FOR PEREMPTORY WRIT OF MANDATE
(AGAINST ALL RESPONDENTS)

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4 30. EEL incorporates as though set forth herein in full the allegations contained in Paragraphs
5 1-29 above.

6 31. The Respondents had and have a ministerial duty to adhere to, follow and enforce the
7 applicable law. Here, as set forth above, the Respondents violated, *inter alia*, their duties as set forth in
8 SBMC sections 5.10.090, 5.10.180, and 5.10.250(c) and Resolution 2018-102 by permitting applicants
9 whose applications did not comply with the General Plan to advance through Phase 1 and ultimately to
10 obtain licenses in violation of the law; by altering the duly adopted Application Procedures published in
11 May 2018 without a Resolution as required by 5.10.090(a) and 5.10.180(a); by failing to apply or to
12 properly assess the “objective review criteria” mandated by 5.10.090(a) and Resolution 2018-102 and/or
13 by abusing discretion it may have under SBMC 5.10.090(a) to formulate or implement that criteria; and
14 by permitting a late-filed application to proceed and ultimately to award that applicant a license in
15 violation of 5.10.090(d).

16 32. The City also had and has a ministerial duty to comply with its own duly promulgated
17 rules, regulations and procedures. *See, e.g., Gregory v. State Board of Control*, 73 Cal. App. 4th 584,
18 (1999) (“A public entity has a ministerial duty to comply with its own rules and regulations where they
19 are valid and unambiguous”). Here, the City repeatedly failed and/or refused to comply with its own
20 Application Procedures, to the point where in early 2019 City personnel, without the required Resolution
21 under SBMC sections 5.10.090(a) and 5.10.180(a), opted to substantially alter the established procedures
22 when it became apparent to everyone that they were not following the required procedures, and/or that
23 by following those established procedures one or more politically favored applicants would not be
24 awarded a license. So they surreptitiously, illegally, and for improper purposes changed the rules at the
25 11th hour to both improperly expand the pool of qualified applicants and to discard requirements adopted
26 by the City Council via Resolution. *Dyna-Med, Inc. v. Fair Employment & Housing Com.*, 43 Cal. 3d
27 1379, 1389 (1987) (“An administrative agency cannot by its own regulations create a remedy which the
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1 Legislature withheld”; “Administrative regulations that alter or amend the statute or enlarge or impair its
2 scope are void and courts not only may, but it is their obligation to strike down such regulations”).

3 33. Here, the City failed to abide by its own Application Procedures. It improperly permitted
4 applicants with denied Zoning Verification Letters to proceed through Phase 1 in violation of the
5 Application Procedures, and ultimately awarded at least one of them a license. It also improperly
6 awarded licenses to several applicants who are not General Plan compliant per the City’s express
7 determination. The City denied 13 applicants the ability to move past Phase 2, and then stunningly
8 reversed course and permitted all 10 applicants who appealed their denials to move through to Phase 3 –
9 and in the process violated their established procedure limiting the pool of Phase 3 applicants to no more
10 than 34 (by allowing a total of 39 into Phase 3). It then failed to apply objective or rational standards or
11 assessments in Phase 3, as evidenced by the fact that local city and county residents on average scored in
12 the bottom half of the applicant pool on criteria tied to city or county residency. It then altered the
13 Application Procedures to drop or change review criteria that were detrimental to politically “favored”
14 applicants, and did so secretly and without proper authorization from the City Council. These non-
15 exhaustive examples, as described above, constituted a further violation of their ministerial duties.

16 34. Finally, to the extent Respondents claim they had discretion in the creation,
17 implementation, interpretation and/or alteration of the requirements set forth in the SBMC and/or the
18 Application Procedures, EEL contends they abused that discretion, that their actions and determinations
19 on such matters were/are arbitrary, capricious, unfair, unlawful, corrupt, and against the overwhelming
20 weight of facts and evidence available to the City at the time, and/or were the result of “unreasonable”
21 policies and procedures that were not legally permissible. *See Common Cause v. Bd. of Supervisors*, 49
22 Cal. 3d 432, 442 (1989) (“Mandamus may issue, however, to compel an official both to exercise
23 discretion (if he is required by law to do so) and to exercise it under a proper interpretation of the
24 applicable law”); *Anderson v. Philips*, 13 Cal. 3d 733, 737 (1975) (where mandamus respondent refuses
25 to act based on interpretation of law, “the writ will lie if that determination is erroneous”); *Inglis v.*
26 *Hoppin*, 156 Cal. 483, 491 (1909) (mandamus “will lie to correct abuses of discretion, and will lie to

1 force a particular action by the inferior tribunal or officer, when the law clearly establishes the petitioner’s
2 right to such action”).

3 35. There is no plain, speedy or adequate remedy in the ordinary course of law available to
4 EEL, it has a substantial and direct beneficial interest in enforcing the City’s ministerial duties and/or
5 correcting its abuses of discretion vis-à-vis the license application selection process, and EEL legally is
6 entitled to performance by the City of its duties and/or to the proper exercise of discretion as requested
7 herein under the correct legal interpretation of SBMC 5.10 et seq.

8 36. There are no applicable administrative appeal procedures for EEL to exhaust vis-à-vis the
9 denial of its CCB Application at the Special Meeting, and/or the selection by the City of applicants for a
10 license that are legally ineligible for a license and/or that were selected via the fatally flawed and corrupt
11 process described above. Notwithstanding the lack of any applicable administrative appellate process,
12 EEL has raised the above issues with the City via numerous pre-lawsuit letters and emails. Copies of
13 certain relevant correspondence from EEL to the City is attached collectively as **Exhibit 5**. As of the
14 time of filing this Petition, the City has failed or refused to respond to any of EEL’s letters, emails or
15 demands regarding the numerous improprieties in, and failure to properly and objectively adhere to the
16 governing law and procedures governing, the application selection process. As such, EEL has been left
17 with no choice but to seek redress via this Petition.

18 37. As a direct and proximate result of the City’s failure to abide by its ministerial duties
19 and/or as a result of its abuses of discretion, EEL has been injured in an amount to be proven at trial, but
20 that it presently believes exceeds \$100,000.00. In addition to seeking peremptory writ of mandate
21 compelling the City to *reverse* its entire license application process and to start over, EEL also has
22 complied with the legal requirements for seeking monetary damages from the City by filing a pre-Petition
23 tort claim form with the City (to which the City has not yet responded). To the extent that its tort claim
24 against the City is denied, EEL also seeks the recovery of damages herein and as proved a trial. Presently,
25 EEL alleges that it has been harmed in an amount to be proven at trial, but in no event less than
26 \$100,000.00, consisting of *inter alia* losses such as rental payments on the EEL Property, upkeep of the
27 EEL Property, and lost revenue.

SECOND CAUSE OF ACTION
INJUNCTIVE RELIEF
(AGAINST ALL DEFENDANTS)

38. EEL incorporates as though set forth herein in full the allegations contained in Paragraphs 1-37 above.

39. EEL seeks an injunction preventing the City from awarding any CCB licenses awarded during the Special Meetings as a result of the selection process described above, and requiring it to start the application process anew and in strict accordance with the applicable ordinance provisions and duly adopted Application Procedures.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing, EEL prays for the following relief:

First Cause of Action

1. For the granting of its petition for mandamus as set forth above;
2. For the recovery of costs and/or attorneys' fees, to the extent permitted by law;
3. For damages according to proof, but in no event less than \$100,000.00 and
3. For such other or different relief as deemed necessary or appropriate by the Court.

Second Cause of Action

1. For the granting of injunctive relief as requested above;
2. For the recovery of costs and/or attorneys' fees, to the extent permitted by law; and
3. For such other or different relief as deemed necessary or appropriate by the Court.

DEMAND FOR JURY TRIAL

Plaintiff/Petitioner EEL demands a jury trial on any and all claims and allegations properly triable to a jury.

DATED: February 28, 2019

LAW OFFICE OF JEFF AUGUSTINI

By: 

JEFF AUGUSTINI

Attorneys for Plaintiff EEL HOLDINGS, LLC

EXHIBIT 1



APPLICATION PROCEDURE GUIDELINES FOR A COMMERCIAL CANNABIS BUSINESS (CCB)

Information regarding the commercial cannabis business application process can be found on the City's website at www.sbcity.org and may include the following:

- A Commercial Cannabis Business (CCB) Permit Application Form
- Local regulations governing the CCBs: City of San Bernardino Municipal Code (SBMC) Chapter 5.10
- Live Scan form
- Additional application information: Ordinance No. MC-1464.
- Local Development Code – Title 19

The application process to operate a Commercial Cannabis Business (CCB) in the City of San Bernardino will **open on April 23, 2018 and will close at 4:00PM on June 25, 2018**. However, if all seventeen (17) licenses allowed under Chapter 5.10 (Commercial Cannabis Activity) are not issued during the first round of review, the City will open a second round of applications at a date to be determined. Applications are available at the Community Development Department located at 201 North E Street, San Bernardino, CA, 92401. For additional questions or information please contact the City Community Development Department at (909) 384 - 7272.

CITY'S RESERVATION OF RIGHTS

The City reserves the right to reject any and/or all applications, with or without cause or reason. The City may also modify, postpone, or cancel the request for permit applications without liability, obligation, or commitment to any party, firm, or organization. In addition, the City reserves the right to request and obtain additional information from any candidate submitting an application. Late or incomplete applications MAY BE REJECTED. Furthermore, an application RISKS BEING REJECTED for the following reasons:

1. It is considered not fully responsive to this request for a permit application.
2. It contains excess or extraneous material not called for in the request for CCB permit application.

AMENDMENTS TO THE APPLICATION

Applicants may not be allowed to make amendments to their application or to supplement their application, except as otherwise specifically permitted in these procedures or authorized in writing by the City.

During Phase 1, applicants will be notified if any of the Owners are ineligible and/or if their application is incomplete and may not move forward in the application process.

However, in some cases the City may move forward in the application process to other phases should it anticipate that the Live Scan will take a significant amount of time to be returned to the City. In this case, Applicants wishing to move forward in the process acknowledge by signing the application that they agree to these terms and should they be disqualified as a result of a background or a Live Scan, they will not be eligible for a refund of any fees collected resulting from the modification of this procedure.

PLEASE READ CAREFULLY BEFORE COMPLETING THE APPLICATION. FAILURE TO SUBMIT A COMPLETE APPLICATION COULD RESULT IN DISQUALIFICATION.

The following procedures outline the application evaluation and selection process, required materials, and other information necessary to apply for a business permit to participate in the selection process to operate a CCB in San Bernardino:

Prior to submitting a CCB application:

- Zoning Verification Letter (ZVL) application
 - The Business Owner must obtain an approved Zoning Verification Letter (ZVL) from the Community Development Department, located at 201 North E Street, prior to submitting a CCB application, to ensure that the proposed CCB location meets the City's locational requirements. The City's review process for the ZVL takes approximately ten (10) working days. The ZVL requires a written request to the Community Development Department and **will not** be completed over the counter since it may require additional research and review.
 - The issuance of a ZVL does not imply written evidence of permission given by City or any of its officials to operate a CCB, nor does it mean "PERMIT" within the meaning of the Permit Streamlining Act, nor does it constitute an entitlement under the Zoning or Building Code. A regulatory permit for the purpose of regulating a CCB does not constitute a permit that runs with the land on which the CCB is established.

All fees below shall become effective on June 4, 2018

Phase 1: Application Submittal and Determination of Eligibility (Fee: \$2,647 + \$300 Background Check per Business Owner + \$132 LiveScan per Business Owner)

- An approved Zoning Verification Letter from the Community Development Department stating that the property where the CCB is proposed to operate complies with the locational requirements of SBMC Chapter 5.10.
- Indemnification Agreement
 - Applicant executes an agreement indemnifying the City from liability.
- Live Scan/Criminal History Check (The Live Scan/Background fee must be submitted along with the Phase 1 application fees)
 - Each Business Owner as described in SBMC Section 5.10.050 (an) must undergo a Live Scan and criminal history check demonstrating compliance with the eligibility requirements of SBMC Section 5.10.310 (m) for background checks. The Live Scan process involves submitting fingerprints to the DOJ/FBI to review for criminal offender record information (CORI). CORI reports will be provided to City for the sole purpose of determining eligibility for operating a CCB. Owners/Principals who do not meet criminal history eligibility requirements will be disqualified.

- Please note the Live Scan process may be delayed due to the pending of the approval of the DOJ/FBI authorization. Once the City has received authorization they will post the Live Scan submittal due date on the City website. Furthermore, the Live Scan must be conducted by the San Bernardino Police Department (SBPD). Applicants will be required to make an appointment in advance to ensure the proper SBPD staff is available. Due to limited staff resources, you are encouraged to schedule your appointment as early as possible once the due date has been posted on the City website. The City cannot guarantee that it will be able to accommodate applicants who do not submit for LiveScan and Background after the application period opens on **April 23, 2018**. Failure to pass the LiveScan or Background Check in a timely manner may result in the application being disqualified.
- Applications and Background Check Form(s) (Applications must be complete to be considered. Applications will be considered complete only if they include all information required above):
 - A complete application will consist of the following:
 1. Complete, signed copy of the Commercial Cannabis Business Permit Application Form;
 2. Proof of Live Scan fee payment for each of the Owners/Principals;
 3. Zoning Verification Letter
 4. All supplemental information to be evaluated in Phases 1, 2 and 3, as described in APPENDIX A.
 - Applicants must submit two (2) original copies of the complete application, each in a three-ring binder; one (1) copy of the complete application in PDF format on an electronic device (i.e. flash drive or cd) with the associated Phase 1 fee. Payment must be made by credit card or certified check, cashier's check, or money order made payable to "City of San Bernardino". The City will not accept cash and application fees are non-refundable.
 - Only the following information may be submitted after the initial application is received:
 - Proof of property ownership or lease agreement.
 - Should the Business Owner change locations after the application binder is submitted, a new ZVL is required and must be submitted with the application binder prior to Phase 3 of the selection process. Business Owners may only submit a different location if the initial proposed site was eligible.
 - International background check info: ITIN or US issued Social Security Number and Driver's License.
 - Fill out background waiver form.

Phase 2: Application Evaluation and Initial Ranking (1,500 Points) (Fee: \$2,034)

- Applications will be evaluated and ranked by HdL Companies based on the below criteria.
- Please see [APPENDIX A](#) for a description of the evaluation criteria.
 - Location (200 Points)
 - Business Plan (400 Points)
 - Neighborhood Compatibility Plan (300 Points)
 - Safety Plan (300 Points)
 - Security Plan (300 Points)

Those applicants which successfully complete Phase 2 with a passing score of at least 80% will move on to Phase 3 of the application process. However, at no time will the total number of eligible applicants moving on to Phase 3 exceed more than thirty-four (34) eligible applicants.

Phase 3: Interviews and Second Ranking (2,500 Points) (Fee: \$1,708)

Those applicants which meet the requirements to move on to Phase 3 will be interviewed and evaluated by the City's Selection Committee.

Prior to the scheduling of interviews:

- Each of the Applicants may be required to have their proposed site inspected by the assigned City designee, if there is an existing building structure, to ascertain current conditions of the facility.
- At the City's sole discretion, one Owner/Principal from each application may be required to pass a Cannabis Expertise Examination that demonstrates a working knowledge of state and local compliance standards as well as the Attorney General's Guidelines on Medicinal Cannabis.
- Please see [APPENDIX A](#) for a description of the evaluation criteria.
 - Applicant will be interviewed and evaluated based on the below criteria
- Qualifications of Principals (300 Points)
- Location (proof of ownership or a signed and notarized statement of intent from the Property Owner) (200 Points)
- Neighborhood Compatibility Plan (200 Points)
- Environmental Impact Mitigation (300 Points)
- Local Enterprise (400 Points)
- Business Plan (300 Points)
- Enhanced Product Safety (200 Points)
- Safety Plan (150 Points)
- Security Plan (150 Points)
- Community Benefits (300 Points)

After all Phase 3 scores have been tabulated, they will be combined with Phase 2 scores to establish an overall ranking of the applications. The top 17 applications will move on to Phase 4 of the selection process.

Phase 4: Public Meeting and City Council Final Selection (Fee: \$1,237)

- Public Meeting
 - The top 17 applications will be expected to participate in a public meeting to be held in the City Council Chambers on a date and time to be determined by City staff. At the public meeting, the community will be allowed to present concerns and/or support and inform City staff of potential concerns for which a condition(s) may be necessary to address. The public meeting will not determine which applicants receive permits.
 - A notice of public meeting must be provided pursuant to 5.10.180 (c). Notices shall be sent to all property owners located within six hundred (600) feet of the proposed business locations of each of the top finalists. The cost of providing this notification will be paid by the applicants as part of the Phase 4 fee.
- Selection Committee Final Review and Evaluation
 - After the completion of the public meeting and prior to the Selection Committee's final recommendation to City Council, the City reserves the right to request and obtain additional information from any candidate who applied. The Selection Committee's decisions, recommendations, and conditions will be based primarily on onsite inspection results, business feasibility, and the viability of the proposed location.
- Selection Committee Recommendation to City Council
 - Following an objective ranking of the application materials, interview process, and upon completion of the public meeting, the City Manager shall prepare a report bringing forward to the City Council the Selection Committee's recommendations for the final ranking of the applications.
- Mayor and City Council Final Selection
 - Mayor and City Council will review the Selection Committee's recommendations and decide which applications will receive CCB permits. Top applicants should be prepared to attend a Mayor and City Council meeting if requested by the City Manager in case the Mayor and/or City Council has any additional questions before making the final decision.
 - Being awarded a CCB permit does not constitute a land use entitlement and does not waive or remove the requirements of applying for and receiving permits for any and all construction including electrical, plumbing, fire, planning permits or reviews, and any other permits, licenses, or reviews as may be necessary by the relevant departments or governmental entities in charge of said permits. Nor does it guarantee that the plans submitted via the CCB application process meet the standards or requirements of those permitting departments. All permit awardees will still be required to complete all the permitting processes for the proposed construction or occupation of the facility.

APPENDIX A

DESCRIPTION OF EVALUATION CRITERIA

Qualifications of Owners/Principals: Describe any special business or professional qualifications or licenses of the Owners/Principals that would add to the number or quality of services, such as scientific or health care fields.

Location: The application should include the following:

- Physical address and detailed description of the proposed/final location.
- Proof of ownership, or a notarized letter of the owner's willingness to lease.
- Description of all known nearby sensitive use areas.

Neighborhood Compatibility Plan: The application should include the following:

Describe how the business, 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.

- Additional factors for consideration are religious institutions or libraries located within a six-hundred (600) foot radius of the proposed CCB.

Environmental Impact Mitigation: Describe any proposed "green" business practices relating to energy and climate, water conservation, and materials and waste management.

Local Enterprise: Describe to what extent the CCB will adhere to heightened pay and benefits standards and practices. Specific practices that are subject to consideration include the following:

- Providing compensation to and opportunities for continuing education and training of employees/staff;
- The application should state the extent to which the CCB will be a locally managed enterprise whose Owners/Principals reside within the City and/or within San Bernardino County.

Business Plan: The Business Plan shall be as detailed as necessary to fully describe the operations, including:

- Description of day-to-day operations. SBMC Section 5.10.310.
- How the CCB will conform to local and state laws per SBMC Section 5.10.280 and SBMC Section 5.10.420 and the Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medicinal Use.
- How cannabis inventory 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.
- 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.

Enhanced Product Safety: Describe how the CCB will ensure enhanced consumer safety as required by State or local law.

Safety Plan: The application should include the following:

- 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.

Security Plan: The application should include the following:

- 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 building 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 to-scale (minimum scale of 1/4"). The scale may be smaller if it exceeds more than a ½ acre parcel but must be printed on not larger than an 11 X 17 sheet of paper.

Community Benefits: Describe the benefits that the CCB would provide to the local community, such as employment for local residents of the City, community contributions, or economic incentives to the City. Specific items that are subject to consideration include the following:

- How does the type of license requested benefit the community and assure an appropriate mix of license types Citywide?
- Does the applicant provide an effective community outreach plan for nearby owners and operators?
- Does the applicant describe credible benefits to the overall community, local economy, and any community or non-profit contributions or affiliations?
- Does the applicant propose to include one or more of the following business types:
 - Coffee Shop
 - Art Studio
 - Museum

EXHIBIT 2

CITY OF SAN BERNARDINO

AGENDA

FOR THE
SPECIAL MEETING OF THE MAYOR AND CITY COUNCIL
OF THE CITY OF SAN BERNARDINO

THURSDAY, FEBRUARY 21, 2019
OPEN SESSION 3:30 PM

COUNCIL CHAMBER
201 NORTH "E" STREET • SAN BERNARDINO, CA 92401 • WWW.SBCITY.ORG

Theodore Sanchez

COUNCIL MEMBER, WARD 1

Sandra Ibarra

COUNCIL MEMBER, WARD 2

VACANT

COUNCIL MEMBER, WARD 3

Fred Shorett

COUNCIL MEMBER, WARD 4

Henry Nickel

COUNCIL MEMBER, WARD 5

Bessine L. Richard

COUNCIL MEMBER, WARD 6

John Valdivia

MAYOR



James Mulvihill

COUNCIL MEMBER, WARD 7

Andrea M. Miller

CITY MANAGER

Gary D. Saenz

CITY ATTORNEY

Georgeann "Gigi" Hanna

CITY CLERK

David Kennedy

CITY TREASURER

Welcome to a meeting of the Mayor and City Council of the City of San Bernardino.

- *Anyone who wishes to speak during public comment or on a particular item will be required to fill out a speaker slip. Speaker slips must be turned in to the City Clerk. You may email your request to speak to publiccomments@sbcity.org prior to 2:00 p.m. Each request will cover one speaker. Those who wish to speak must submit their own request to be called on by the Mayor.*
- ***There is a 3-minute-per-person time limit for all comments, excluding quasi-judicial hearings.***
- *Written comment on any item may also be submitted to the City Clerk to be included in the meeting record. It will not be read aloud by the City Clerk.*
- *Those who wish to speak on public or quasi-judicial hearing items will have three minutes for each item.*
- *All who wish to speak, including Council members and staff, need to be recognized by the Mayor or Mayor Pro Tempore before speaking.*
- *Please contact the City Clerk's Office (384-5002) two working days prior to the meeting for any requests for reasonable accommodation to include interpreters.*
- *All documents for public review are on file with the City Clerk's Office or may be accessed online by going to www.sbcity.org.*
- *Please turn off or mute your cell phone while the meeting is in session.*

Call to Order

Attendee Name	Present	Absent	Late	Arrived
Council Member, Ward 1 Theodore Sanchez	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Council Member, Ward 2 Sandra Ibarra	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Council Member, Ward 3 VACANT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-----
Council Member, Ward 4 Fred Shorett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Council Member, Ward 5 Henry Nickel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Council Member, Ward 6 Bessine L. Richard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Council Member, Ward 7 James Mulvihill	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mayor John Valdivia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
City Clerk Georgeann "Gigi" Hanna	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
City Attorney Gary D. Saenz	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
City Manager Andrea M. Miller	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS FOR ITEMS LISTED ON THE AGENDA

A three-minute limitation shall apply to each member of the public who wishes to address the Mayor and City Council on any item listed on the agenda. There is no limit to the number of items that may be discussed within the three-minute time limit.

STAFF REPORT

1. Commercial Cannabis Business Permit Application - Phase 4

Recommendation:

This item represents Phase 4, the final phase, of the City’s review process for Commercial Cannabis Business (CCB) permits. Phase 4 includes a public meeting and the City Council’s final determination on the applications. It is recommended the Mayor and City Council review and discuss the 39 applications, receive a staff presentation on the rating process and ranking, and approve no more than 17 total permits, with no more than five per permit type.

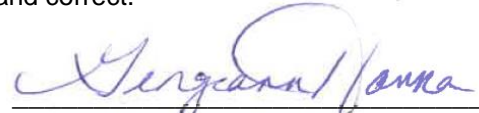
ADJOURNMENT

The next joint regular meeting of the Mayor and City Council and the Mayor and City Council Acting as the Successor Agency to the Redevelopment Agency will be held on **Wednesday, March 6, 2019 in the Council Chamber located at 201 North “E” Street**, San Bernardino, California 92401. Closed Session will begin at 4:00 p.m. and Open Session will begin at 5:00 p.m.

CERTIFICATION OF POSTING AGENDA

I, Georgeann "Gigi" Hanna, MMC, City Clerk for the City of San Bernardino, California, hereby certify that the agenda for the February 21, 2019 special meeting of the Mayor and City Council was posted on the City's bulletin board located at 201 N. "E" Street, San Bernardino, California, at the San Bernardino Public Library, and on the City's website www.ci.san-bernardino.ca.us on Friday, February 15, 2019.

I declare under the penalty of perjury that the foregoing is true and correct.



Georgeann "Gigi" Hanna, MMC, City Clerk

**NOTICE OF A SPECIAL MEETING OF THE
MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO**

DATE: February 15, 2019
SUBJECT: Special Meeting on February 21, 2019

NOTICE IS HEREBY GIVEN that the Mayor of the City of San Bernardino has called a Special Meeting to be held at 3:30 p.m., Thursday, February 21, 2019 in the Council Chamber at 201 N. "E" Street, San Bernardino, California 92401.

Said meeting shall be for the purpose of considering the following:

STAFF REPORT

1. Commercial Cannabis Business Permit Application - Phase 4

Recommendation: This item represents Phase 4, the final phase, of the City's review process for Commercial Cannabis Business (CCB) permits. Phase 4 includes a public meeting and the City Council's final determination on the applications. It is recommended the Mayor and City Council review and discuss the 39 applications, receive a staff presentation on the rating process and ranking, and approve no more than 17 total permits, with no more than five per permit type.

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Staff Report

City of San Bernardino Request for Council Action

Date: February 21, 2019

To: Honorable Mayor and City Council Members

From: Andrea M. Miller, City Manager
By: Elizabeth Mora-Rodriguez, Associate Planner
Stephanie Sanchez, Executive Assistant to the Director

Subject: Commercial Cannabis Business Permit Application - Phase 4

Recommendation

This item represents Phase 4, the final phase, of the City's review process for Commercial Cannabis Business (CCB) permits. Phase 4 includes a public meeting and the City Council's final determination on the applications. It is recommended the Mayor and City Council review and discuss the 39 applications, receive a staff presentation on the rating process and ranking, and approve no more than 17 total permits, with no more than five per permit type.

Background

Legislation

San Bernardino Municipal Code Chapter 5.10 establishes the regulations and standards for commercial cannabis business activities in the City. The City Council initially adopted Chapter 5.10 through Ordinance MC-1464 in March 2018. In October 2018, the City Council amended Chapter 5.10 with Ordinance MC-1503. The City Council then adopted Resolution 2018-227 to place Ordinance MC-1503 on the November 2018 ballot for voter approval. In November 2018, the voters approved Ordinance MC-1503.

Chapter 5.10 requires the Mayor and City Council to set forth procedures to govern the application process for CCB permits. (SBMC, § 5.10.090 (a)). In April 2018, the City Council adopted Resolution 2018-102, establishing the review criteria for CCB applications and authorizing the City Manager to prepare the necessary forms, establish the application process, solicit applications, conduct initial evaluation, and ultimately provide a recommendation to the Mayor and City Council. The current Procedures and Guidelines, issued by the City Manager, are attached hereto (Attachment 1).

Regulations and Process

Under Chapter 5.10, to operate a commercial cannabis business in the City, a person must obtain a valid CCB Permit from the City and a valid license for the cannabis operation from the State. (SBMC, § 5.10.060). The City offers six types of permits:

cultivation; distribution; manufacturing; microbusiness; retail; and testing. (SBMC, § 5.10.060). Chapter 5.10 currently caps the number of Commercial Cannabis Business Permits that the City may issue at one permit per every 12,500 residents, based on population reports from the State Department of Finance. (SBMC, § 5.10.080). The total cap is therefore 17 permits, based on a January 2017 population report. This cap may be increased by ordinance of the Mayor and City Council. (SBMC, § 5.10.080).

The current Procedures and Guidelines provide a four-phase review process:

- Phase 1: Application submittal and determination of eligibility.
- Phase 2: Application evaluation.
- Phase 3: Interviews.
- Phase 4: Public meeting and City Council determination.

In Phase 2, applications were reviewed and scored out of a possible 1,500 points. Applications with a Phase 2 score of 80% or higher advance to Phase 3. In Phase 3, the applicants were interviewed by the City's Selection Committee (senior staff from Community Economic and Development, Business Registration, the Police Department, and the County Fire Department), and scored out of a possible 2,500 points. Based on the more comprehensive Phase 3 scores, the applications have been ranked.

The specific review criteria in Phase 2 included an evaluation of the location, business plan, neighborhood compatibility plan, safety plan, and security plan. In addition to the criteria considered during Phase 2, the Phase 3 criteria included the qualifications of owners, environmental impact mitigation, local enterprise, enhanced product safety, and community benefits.

Current Review

Phase 1 of the current review process started in May 2018, when the City opened the application period for commercial cannabis permits, which closed at the end of June 2018. The City received a total of 42 applications. The City then initiated the background process including the analysis of the applications in relation to the review criteria established by the City Council in the Procedures and Guidelines.

Phase 2 was completed in August 2018 and applicants were notified of their score from the review. Per the Procedures and Guidelines, applications with a score of 80% or higher advanced to Phase 3. In this review, 29 applications moved on to Phase 3 and 13 applications did not. Ten of the applicants that did not advance to Phase 3 appealed their Phase 2 score as provided in Chapter 5.10. (SBMC, § 5.10.150) Upon review in January 2019, the City Manager summarily granted the appeals for six applicants and advanced those applications to Phase 3.

Phase 3 occurred in two stages, due to the timing of the Phase 2 appeals. The first stage involved the 29 applications that advanced to Phase 3 without an appeal. In October 2018, these applicants were interviewed and scored by the Selection Committee. The second stage involved the ten applications that advanced to Phase 3

after the City's determination on appeal. In January 2019, these applications were also scored and interviewed by the Selection Committee. In January 2019, the 39 applicants were notified that their respective applications advanced to Phase 4 with a rank based on the Phase 3 total scores. **The Phase 3 score sheet is attached hereto.** (Attachment 2).

Phase 4, the public meeting and City Council determination, is the subject of this item and is discussed in the section below.

Discussion

Pursuant to the Procedures and Guidelines issued by the City Manager in accordance with Resolution 2018-102 and in accordance with Section 5.10.090 (c) of the City's Municipal Code, the Mayor and City Council conducts Phase 4 of the commercial cannabis application review process. Phase 4 involves a public meeting and a review and determination by the City Council.

There are 39 applicants moving forward to be considered for a CCB Permit. The Summary Sheet (Attachment 3) outlines the applicant's information and the Summary Sheet by License Type (Attachment 4) breaks down those applicants by their license type groups. In the 39 applications moving forward, below is a breakdown by license type:

- 18 Retail
- 17 Microbusiness
- 4 Cultivation
- 2 Manufacturing
- 2 Distribution

For the public meeting portion, the applicants each will present their proposed commercial cannabis businesses and the public will have an opportunity to comment on the applications. For the City Council's determination, the City Council will review the Selection Committee's Phase 3 scoring of applicants from the interview process, consider the testimony in the public record, and the permit requirements set by Chapter 5.10 and the Procedures and Guidelines.

Pursuant to Chapter 5.10, proposed commercial cannabis businesses shall conform to the City's General Plan, any applicable specific plans, master plans, and design requirements and comply with all applicable zoning and related development standards. (SBMC, § 5.10.250). In addition, proposed commercial cannabis business locations are required to comply with specified locational requirements. (SBMC, § 5.10.250). Upon review of the applications, it was determined that there were several that did not meet these requirements as shown in Attachment 3.

In some instances, as seen in Attachment 3, there are several CCB applications that have been submitted for the same address. In the application process, there was no restriction on how many applications could be submitted for a particular address. If, in

some of these cases, more than one CCB Permit is awarded for the same address, it will be up to the property owner to decide which approved applicant they will accept at their location. Additionally, the approved applicant that was not chosen by the property owner may change locations in accordance with the procedures set forth in sections 5.10.200 and 5.10.090 of the City's Municipal Code.

Pursuant to Chapter 5.10 and the Procedures and Guidelines, from the 39 applications, the City Council may approve a maximum 17 permits, with no more than five permits per permit type.

City Council approval does not mean immediate issuance of a CCB Permit. Per Chapter 5.10, the City Council's approval is conditioned upon the applicant's receipt of all required land use approvals or entitlements for the site. (SBMC, § 5.10.180). No CCB Permit will be issued until those approvals or entitlements are issued.

California Environmental Quality Act (CEQA) Requirements

In accordance with Section 15060 (Preliminary Review) of the California Environmental Quality Act (CEQA) staff conducted an environmental evaluation in connection with the proposed Commercial Cannabis Business Permits. The CCB permits were reviewed for compliancy with all applicable provisions of CEQA. Upon review, staff found that the CCB permits are categorically exempt, under CEQA, pursuant to Section 15301 (Existing Facilities) of the State of California CEQA guidelines. Pursuant to Section 15301 (Existing Facilities), a Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use.

Additionally, pursuant to Ordinance MC-1503, Section 5.10.180, the approval of the CCB permit(s) does not create a land use approval or entitlement or serve as a building permit. Any physical changes that may have an environmental impact on the land use shall be evaluated separately and independently from the approval of any CCB permits. All CCB permit approval(s) shall be conditioned upon the prevailing applicant(s) obtaining all required land use approvals, entitlements, and any necessary construction permits. Therefore, a Class 1 Categorical Exemption, although applicable to the CCB permits, is not applicable and does not constitute a by right approval of land use or entitlement.

Financial Impact

Commercial Cannabis Business Permit applicants were required to pay an application fee to recover the City's costs in processing the permits. Once Commercial Cannabis Business Permits are issued and businesses are operating, it is anticipated the City will receive revenues related to the business activities.

2018-2019 Goals and Objectives

Facilitating business activity in the City aligns with Goal No. 3: Create, Maintain and Grow Jobs and Economic Value in the City.

Conclusion

For Phase 4 of the review process, the applicants will present, the public may comment, and the Mayor and City Council will review the Selection Committee's Phase 3 scoring of all 39 applicants for consideration and may approve up to 17 total permits, but also no more than five per permit type.

City Council may also direct staff to prepare an ordinance to increase the total number of permits and/or to prepare a resolution to either adjust the distribution of permits by type or to eliminate that restriction altogether.

Attachments

Attachment 1	Guidelines (Issued by City Manager per Resolution 2018-102)
Attachment 2	Phase 3 Score Sheet
Attachment 3	Cannabis Application Summary Sheet
Attachment 4	Cannabis Application Breakdown by License Type Summary Sheet
Attachment 5	Cannabis Application Mapped Locations
Attachment 6	Commercial Cannabis Business (CCB) Permits 18-0004 – 18-0048



APPLICATION PROCEDURE GUIDELINES FOR A COMMERCIAL CANNABIS BUSINESS (CCB)

Information regarding the commercial cannabis business application process can be found on the City's website at www.sbcity.org and may include the following:

- A Commercial Cannabis Business (CCB) Permit Application Form
- Local regulations governing the CCBs: City of San Bernardino Municipal Code (SBMC) Chapter 5.10
- Live Scan form
- Additional application information: Ordinance No. MC-1464.
- Local Development Code – Title 19

The application process to operate a Commercial Cannabis Business (CCB) in the City of San Bernardino will **open on April 23, 2018 and will close at 4:00PM on June 25, 2018**. However, if all seventeen (17) licenses allowed under Chapter 5.10 (Commercial Cannabis Activity) are not issued during the first round of review, the City will open a second round of applications at a date to be determined. Applications are available at the Community Development Department located at 201 North E Street, San Bernardino, CA, 92401. For additional questions or information please contact the City Community Development Department at (909) 384 - 7272.

CITY'S RESERVATION OF RIGHTS

The City reserves the right to reject any and/or all applications, with or without cause or reason. The City may also modify, postpone, or cancel the request for permit applications without liability, obligation, or commitment to any party, firm, or organization. In addition, the City reserves the right to request and obtain additional information from any candidate submitting an application. Late or incomplete applications MAY BE REJECTED. Furthermore, an application RISKS BEING REJECTED for the following reasons:

1. It is considered not fully responsive to this request for a permit application.
2. It contains excess or extraneous material not called for in the request for CCB permit application.

AMENDMENTS TO THE APPLICATION

Applicants may not be allowed to make amendments to their application or to supplement their application, except as otherwise specifically permitted in these procedures or authorized in writing by the City.

During Phase 1, applicants will be notified if any of the Owners are ineligible and/or if their application is incomplete and may not move forward in the application process.

However, in some cases the City may move forward in the application process to other phases should it anticipate that the Live Scan will take a significant amount of time to be returned to the City. In this case, Applicants wishing to move forward in the process acknowledge by signing the application that they agree to these terms and should they be disqualified as a result of a background or a Live Scan, they will not be eligible for a refund of any fees collected resulting from the modification of this procedure.

**PLEASE READ CAREFULLY BEFORE COMPLETING THE APPLICATION. FAILURE TO SUBMIT A
COMPLETE APPLICATION COULD RESULT IN DISQUALIFICATION.**

The following procedures outline the application evaluation and selection process, required materials, and other information necessary to apply for a business permit to participate in the selection process to operate a CCB in San Bernardino:

Prior to submitting a CCB application:

- Zoning Verification Letter (ZVL) application
 - The Business Owner must obtain an approved Zoning Verification Letter (ZVL) from the Community Development Department, located at 201 North E Street, prior to submitting a CCB application, to ensure that the proposed CCB location meets the City's locational requirements. The City's review process for the ZVL takes approximately ten (10) working days. The ZVL requires a written request to the Community Development Department and **will not** be completed over the counter since it may require additional research and review.
 - The issuance of a ZVL does not imply written evidence of permission given by City or any of its officials to operate a CCB, nor does it mean "PERMIT" within the meaning of the Permit Streamlining Act, nor does it constitute an entitlement under the Zoning or Building Code. A regulatory permit for the purpose of regulating a CCB does not constitute a permit that runs with the land on which the CCB is established.

All fees below shall become effective on June 4, 2018

Phase 1: Application Submittal and Determination of Eligibility (Fee: \$2,647 + \$300 Background Check per Business Owner + \$132 LiveScan per Business Owner)

- An approved Zoning Verification Letter from the Community Development Department stating that the property where the CCB is proposed to operate complies with the locational requirements of SBMC Chapter 5.10.
- Indemnification Agreement
 - Applicant executes an agreement indemnifying the City from liability.
- Live Scan/Criminal History Check (The Live Scan/Background fee must be submitted along with the Phase 1 application fees)
 - Each Business Owner as described in SBMC Section 5.10.050 (an) must undergo a Live Scan and criminal history check demonstrating compliance with the eligibility requirements of SBMC Section 5.10.310 (m) for background checks. The Live Scan process involves submitting fingerprints to the DOJ/FBI to review for criminal offender record information (CORI). CORI reports will be provided to City for the sole purpose of determining eligibility for operating a CCB. Owners/Principals who do not meet criminal history eligibility requirements will be disqualified.
 - Please note the Live Scan process may be delayed due to the pending of the approval of the DOJ/FBI authorization. Once the City has received authorization they will post the Live Scan submittal due date on the City website. Furthermore, the Live Scan must be conducted by the San Bernardino Police Department (SBPD). Applicants will be required to make an appointment in advance to ensure the proper SBPD staff is available. Due to limited staff resources, you are encouraged to schedule your appointment as early as possible once the due date has been posted on the City website. The City cannot guarantee that it will be able to accommodate applicants who do not submit for LiveScan and Background after the application period opens on **April 23, 2018**. Failure to pass the LiveScan or Background Check in a timely manner may result in the application being disqualified.
- Applications and Background Check Form(s) (Applications must be complete to be considered. Applications will be considered complete only if they include all information required above):

- A complete application will consist of the following:
 1. Complete, signed copy of the Commercial Cannabis Business Permit Application Form;
 2. Proof of Live Scan fee payment for each of the Owners/Principals;
 3. Zoning Verification Letter
 4. All supplemental information to be evaluated in Phases 1, 2 and 3, as described in APPENDIX A.
- Applicants must submit two (2) original copies of the complete application, each in a three-ring binder; one (1) copy of the complete application in PDF format on an electronic device (i.e. flash drive or cd) with the associated Phase 1 fee. Payment must be made by credit card or certified check, cashier's check, or money order made payable to "City of San Bernardino". The City will not accept cash and application fees are non-refundable.
- Only the following information may be submitted after the initial application is received:
 - Proof of property ownership or lease agreement.
 - Should the Business Owner change locations after the application binder is submitted, a new ZVL is required and must be submitted with the application binder prior to Phase 3 of the selection process. Business Owners may only submit a different location if the initial proposed site was eligible.
- International background check info: ITIN or US issued Social Security Number and Driver's License.
- Fill out background waiver form.

Phase 2: Application Evaluation and Initial Ranking (1,500 Points) (Fee: \$2,034)

- Applications will be evaluated and ranked by HdL Companies based on the below criteria.
- Please see APPENDIX A for a description of the evaluation criteria.
 - Location (200 Points)
 - Business Plan (400 Points)
 - Neighborhood Compatibility Plan (300 Points)
 - Safety Plan (300 Points)
 - Security Plan (300 Points)

Those applicants which successfully complete Phase 2 with a passing score of at least 80% will move on to Phase 3 of the application process.

Phase 3: Interviews and Second Ranking (2,500 Points) (Fee: \$1,708)

Those applicants which meet the requirements to move on to Phase 3 will be interviewed and evaluated by the City's Selection Committee.

Prior to the scheduling of interviews:

- Each of the Applicants may be required to have their proposed site inspected by the assigned City designee, if there is an existing building structure, to ascertain current conditions of the facility.
- At the City's sole discretion, one Owner/Principal from each application may be required to pass a Cannabis Expertise Examination that demonstrates a working knowledge of state and local compliance standards as well as the Attorney General's Guidelines on Medicinal Cannabis.

- Please see APPENDIX A for a description of the evaluation criteria.
 - Applicant will be interviewed and evaluated based on the below criteria
- Qualifications of Principals (300 Points)
- Location (proof of ownership or a signed and notarized statement of intent from the Property Owner) (200 Points)
- Neighborhood Compatibility Plan (200 Points)
- Environmental Impact Mitigation (300 Points)
- Local Enterprise (400 Points)
- Business Plan (300 Points)
- Enhanced Product Safety (200 Points)
- Safety Plan (150 Points)
- Security Plan (150 Points)
- Community Benefits (300 Points)

All applicants interviewed as part of Phase 3 shall be ranked based on the above criteria and all applications will move on to Phase 4.

Phase 4: Public Meeting and City Council Final Selection (Fee: \$1,237)

- Selection Committee Recommendation to City Council
 - A notice of public meeting must be provided pursuant to 5.10.180 (c). Notices shall be sent to all property owners located within six hundred (600) feet of the proposed business locations of each of the applicants in Phase 4. The cost of providing this notification will be paid by the applicants as part of the Phase 4 fee.
 - Following the objective ranking of the application materials and interview process, which together constitute Phase 3, the City Manager shall prepare a report bringing forward to the Mayor and City Council the Selection Committee's recommendations for the final ranking of the applications.
- Mayor and City Council Final Selection
 - Mayor and City Council will meet to review every application and the Selection Committee's recommendations.
 - The City Council will select up to 17 applicants for permits, depending on the number of permits provided for in each category or as those permit number may be changed by Resolution.

Being awarded a CCB permit does not constitute a land use entitlement and does not waive or remove the requirements of applying for and receiving permits for any and all construction including electrical, plumbing, fire, planning permits or reviews, and any other permits, licenses, or reviews as may be necessary by the relevant departments or governmental entities in charge of said permits. Nor does it guarantee that the plans submitted via the CCB application process meet the standards or requirements of those permitting departments. All permit awardees will still be required to complete all the permitting processes for the proposed construction or occupation of the facility.

APPENDIX A

DESCRIPTION OF EVALUATION CRITERIA

Qualifications of Owners/Principals: Describe any special business or professional qualifications or licenses of the Owners/Principals that would add to the number or quality of services, such as scientific or health care fields.

Location: The application should include the following:

- Physical address and detailed description of the proposed/final location.
- Proof of ownership, or a notarized letter of the owner's willingness to lease.
- Description of all known nearby sensitive use areas.

Neighborhood Compatibility Plan: The application should include the following:

Describe how the business, 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.

- Additional factors for consideration are religious institutions or libraries located within a six-hundred (600) foot radius of the proposed CCB.

Environmental Impact Mitigation: Describe any proposed "green" business practices relating to energy and climate, water conservation, and materials and waste management.

Local Enterprise: Describe to what extent the CCB will adhere to heightened pay and benefits standards and practices. Specific practices that are subject to consideration include the following:

- Providing compensation to and opportunities for continuing education and training of employees/staff;
- The application should state the extent to which the CCB will be a locally managed enterprise whose Owners/Principals reside within the City and/or within San Bernardino County.

Business Plan: The Business Plan shall be as detailed as necessary to fully describe the operations, including:

- Description of day-to-day operations. SBMC Section 5.10.310.
- How the CCB will conform to local and state laws per SBMC Section 5.10.280 and SBMC Section 5.10.420 and the Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medicinal Use.
- How cannabis inventory 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.
- 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.

Enhanced Product Safety: Describe how the CCB will ensure enhanced consumer safety as required by State or local law.

Safety Plan: The application should include the following:

- 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.

Security Plan: The application should include the following:

- 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 building 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 to-scale (minimum scale of 1/4"). The scale maybe smaller if it exceeds more than a 1/2 acre parcel but must be printed on not larger than an 11 X 17 sheet of paper.

Community Benefits: Describe the benefits that the CCB would provide to the local community, such as employment for local residents of the City, community contributions, or economic incentives to the City. Specific items that are subject to consideration include the following:

- How does the type of license requested benefit the community and assure an appropriate mix of license types Citywide?
- Does the applicant provide an effective community outreach plan for nearby owners and operators?
- Does the applicant describe credible benefits to the overall community, local economy, and any community or non-profit contributions or affiliations?
- Does the applicant propose to include one or more of the following business types:
 - Coffee Shop
 - Art Studio
 - Museum



CITY OF SAN BERNARDINO
Commercial Cannabis Business Application Scores
Phase 3 - All License Types

	Applicant Name	License Type	Points Possible	Points Awarded	Score
1.	Empire Connect, LLC	Retail	2,500	2,229	89.15%
2.	Pure Dispensaries, LLC	Retail	2,500	2,226	89.04%
3.	Orange Show Cultivators, Inc.	Microbusiness	2,500	2,223	88.90%
4.	HAH3, LLC dba Have a Heart	Retail	2,500	2,205	88.21%
5.	JIVA LIFE INC	Retail	2,500	2,193	87.72%
6.	PTRE Management	Retail	2,500	2,148	85.92%
7.	Luke, LLC dba Organtix Orchards	Cultivation Manufacturing Distribution Retail	2,500	2,146	85.84%
8.	RD San Bernardino LLC	Retail	2,500	2,127	85.09%
9.	Nibble This, LLC - Hallmark Pkwy	Microbusiness	2,500	2,121	84.85%
10.	Nibble This, LLC - S. E Street	Microbusiness	2,500	2,119	84.74%
11.	SB Pharma Holdings, Inc. DBA The Row House	Retail	2,500	2,089	83.55%
12.	Ashe Society SB, LLC - S. E Street	Retail	2,500	2,088	83.52%
13.	Blunt Brothers, Inc. - Chad White	Distribution	2,500	2,080	83.18%
14.	SOCA Farms, LLC	Microbusiness	2,500	2,079	83.16%
15.	A Bud & Beyond	Microbusiness	2,500	2,078	83.11%
16.	14 Four	Cultivation	2,500	2,077	83.08%
17.	AM-PM MGMT, Inc DBA Cold Creek Organics	Microbusiness	2,500	2,072	82.89%
18.	Central Avenue Nursery, LLC	Microbusiness	2,500	2,067	82.68%
19.	Accessible Options	Cultivation Retail	2,500	2,067	82.67%
20.	Ocean Green Management, LLC	Retail	2,500	2,066	82.65%
21.	3P, Inc.	Retail	2,500	2,064	82.55%
22.	Uplyft LA, LLC	Retail	2,500	2,063	82.50%
23.	KP Investment Group, LLC	Microbusiness	2,500	2,062	82.48%
24.	AM-PM MGMT, Inc DBA Cold Creek Organics	Manufacturing	2,500	2,061	82.43%
25.	Harvest of San Bernardino - Court St	Retail	2,500	2,060	82.39%
26.	EEL Holdings, LLC dba Connected Cannabis Co	Retail	2,500	2,058	82.31%
27.	Organic 1 Healing Inc	Retail	2,500	2,054	82.16%
28.	GWC Real Estate Services, LLC	Cultivation	2,500	2,052	82.08%
29.	ECS Labs, Inc	Microbusiness	2,500	2,051	82.04%
30.	Harvest of San Bernardino - Orange Show	Retail	2,500	2,051	82.04%
31.	MED Products Group, Inc.	Microbusiness	2,500	2,051	82.04%
32.	Ashe Society SB, LLC - Lugo Avenue	Retail	2,500	2,051	82.03%
33.	Cali Blue Skys Investments	Microbusiness	2,500	2,042	81.69%
34.	Rznhead, Inc dba Cookies San Bernardino	Microbusiness	2,500	2,027	81.08%
35.	Alpha Medic LLC	Microbusiness	2,500	2,022	80.88%
36.	HC Club, LLC dba Hempire Cannabis Club	Microbusiness	2,500	2,019	80.74%
37.	Howard Friedman - 4th St. Dispensary	Microbusiness	2,500	2,018	80.71%
38.	Red Brick Industries, LLC	Microbusiness	2,500	1,985	79.41%

Attachment: CED.Attachment 2A.Phase 3 Scores.Ranked (5981 : Commercial Cannabis Business Permit Application - Phase 4)



CITY OF SAN BERNARDINO
Commercial Cannabis Business Application Scores
Phase 3 - All License Types

	Applicant Name	License Type	Points Possible	Points Awarded	Score
39.	Washington, LLC	Microbusiness	2,500	1,948	77.90%
40.	CN Holdings, Inc.	Retail	2,500	0	0.00%
41.	Kushmen	Retail	2,500	0	0.00%
42.	QualCann, LLC	Cultivation	2,500	0	0.00%

Attachment: CED.Attachment 2A.Phase 3 Scores.Ranked (5981 : Commercial Cannabis Business Permit Application - Phase 4)



CITY OF SAN BERNARDINO
Commercial Cannabis Interview Scores by Category
Phase 3 - All License Types

Applicant Name	Business Plan		Community Benefits		Enhanced Product Safety		Environmental Impact Mitigation		Local Enterprise		Neighborhood Compatibility Plan		Proposed Location		Qualifications of Owners		Safety Plan		Security Plan	
	Points Possible	Points Awarded	Points Possible	Points Awarded	Points Possible	Points Awarded	Points Possible	Points Awarded	Points Possible	Points Awarded	Points Possible	Points Awarded	Points Possible	Points Awarded	Points Possible	Points Awarded	Points Possible	Points Awarded	Points Possible	Points Awarded
14 Four	300	247.50	300	243.75	200	171.25	300	250.00	400	331.25	200	168.75	200	170.00	300	246.25	150	125.00	150	123.25
3P, Inc.	300	242.25	300	254.50	200	161.25	300	249.50	400	330.25	200	167.25	200	169.25	300	245.75	150	122.00	150	121.75
A Bud & Beyond	300	248.75	300	241.25	200	168.75	300	253.75	400	337.50	200	167.50	200	168.75	300	246.25	150	122.00	150	123.25
Accessible Options - Cultivation	300	254.00	300	241.75	200	167.25	300	253.25	400	325.00	200	160.00	200	163.25	300	261.00	150	120.00	150	121.25
Accessible Options - Retail	300	254.00	300	241.75	200	167.25	300	253.25	400	325.00	200	160.00	200	163.25	300	261.00	150	120.00	150	121.25
Alpha Medic LLC	300	245.50	300	242.75	200	163.50	300	249.75	400	326.25	200	158.00	200	166.50	300	241.75	150	114.75	150	113.25
AM-PM MGMT, Inc DBA Cold Creek Organics - Manufacturing	300	245.00	300	254.75	200	165.00	300	248.50	400	325.00	200	163.75	200	160.00	300	250.00	150	123.75	150	125.00
AM-PM MGMT, Inc DBA Cold Creek Organics - Microbusiness	300	248.75	300	254.75	200	167.50	300	252.00	400	325.50	200	165.00	200	160.00	300	250.00	150	123.75	150	125.00
Ashe Society SB, LLC - Lugo Avenue	300	227.50	300	249.50	200	162.25	300	250.50	400	338.50	200	168.00	200	155.50	300	251.50	150	122.75	150	124.75
Ashe Society SB, LLC - S. E Street	300	249.75	300	248.00	200	162.25	300	251.00	400	336.00	200	170.50	200	171.00	300	251.50	150	123.50	150	124.50
Blunt Brothers, Inc. - Chad White	300	253.75	300	247.50	200	167.50	300	245.00	400	331.25	200	165.00	200	166.25	300	253.75	150	123.75	150	125.75
Cali Blue Skys Investments	300	246.75	300	254.25	200	163.00	300	247.00	400	314.25	200	167.75	200	151.25	300	246.25	150	124.75	150	127.00
Central Avenue Nursery, LLC	300	241.25	300	252.50	200	165.50	300	247.50	400	322.50	200	170.00	200	172.50	300	244.25	150	124.25	150	126.75
CN Holdings, Inc.	300	0.00	300	0.00	200	0.00	300	0.00	400	0.00	200	0.00	200	0.00	300	0.00	150	0.00	150	0.00
ECS Labs, Inc	300	240.50	300	246.50	200	170.00	300	251.00	400	328.75	200	161.25	200	163.50	300	243.00	150	122.25	150	124.25
EEL Holdings, LLC dba Connected Cannabis Co	300	245.00	300	251.75	200	165.00	300	244.25	400	327.50	200	163.75	200	162.50	300	251.25	150	122.75	150	124.00
Empire Connect, LLC	300	265.50	300	268.75	200	178.00	300	271.75	400	356.25	200	178.75	200	173.75	300	265.00	150	135.25	150	135.75
GWC Real Estate Services, LLC	300	243.50	300	245.25	200	160.25	300	244.00	400	323.25	200	167.25	200	169.00	300	254.50	150	122.75	150	122.25
HAH3, LLC dba Have a Heart	300	269.50	300	262.75	200	171.25	300	260.75	400	355.75	200	176.25	200	178.50	300	267.75	150	130.00	150	132.75
Harvest of San Bernardino - Court St	300	244.75	300	247.75	200	163.75	300	247.75	400	338.00	200	162.25	200	164.25	300	247.50	150	121.50	150	122.25
Harvest of San Bernardino - Orange Show	300	244.00	300	243.00	200	161.25	300	243.50	400	339.25	200	162.25	200	167.50	300	248.00	150	121.00	150	121.25
HC Club, LLC dba Hempire Cannabis Club	300	240.75	300	250.75	200	160.25	300	245.25	400	321.50	200	164.00	200	161.25	300	228.75	150	123.00	150	123.00
Howard Friedman - 4th St. Dispensary	300	243.75	300	251.25	200	162.50	300	242.50	400	326.50	200	165.00	200	142.50	300	238.75	150	123.75	150	121.25
JIVA LIFE INC	300	263.00	300	266.50	200	174.75	300	260.75	400	357.00	200	173.25	200	176.00	300	262.75	150	128.75	150	130.25
KP Investment Group, LLC	300	243.00	300	248.50	200	160.00	300	246.50	400	328.75	200	170.00	200	171.25	300	249.25	150	123.00	150	121.75
Kushmen	300	0.00	300	0.00	200	0.00	300	0.00	400	0.00	200	0.00	200	0.00	300	0.00	150	0.00	150	0.00
Luke, LLC dba Organtix Orchards - Cultivation	300	254.00	300	259.00	200	173.50	300	257.00	400	340.25	200	170.75	200	174.75	300	262.25	150	128.75	150	125.75
Luke, LLC dba Organtix Orchards - Distribution	300	254.00	300	259.00	200	173.50	300	257.00	400	340.25	200	170.75	200	174.75	300	262.25	150	128.75	150	125.75
Luke, LLC dba Organtix Orchards - Manufacturing	300	254.00	300	259.00	200	173.50	300	257.00	400	340.25	200	170.75	200	174.75	300	262.25	150	128.75	150	125.75
Luke, LLC dba Organtix Orchards - Retail	300	254.00	300	259.00	200	173.50	300	257.00	400	340.25	200	170.75	200	174.75	300	262.25	150	128.75	150	125.75
MED Products Group, Inc.	300	240.00	300	252.50	200	166.25	300	244.50	400	328.75	200	165.00	200	165.00	300	243.00	150	122.50	150	123.50
Nibble This, LLC - Hallmark Pkwy	300	252.00	300	256.75	200	169.50	300	253.75	400	338.25	200	172.00	200	172.75	300	253.50	150	125.50	150	127.25
Nibble This, LLC - S. E Street	300	252.00	300	256.75	200	169.50	300	253.75	400	338.25	200	170.75	200	171.00	300	253.75	150	125.50	150	127.25
Ocean Green Management, LLC	300	252.50	300	243.75	200	163.75	300	237.50	400	317.50	200	162.50	200	170.00	300	268.75	150	122.50	150	127.50
Orange Show Cultivators, Inc.	300	265.50	300	268.75	200	178.00	300	271.75	400	356.25	200	178.75	200	167.50	300	265.00	150	135.25	150	135.75
Organic 1 Healing Inc	300	246.25	300	256.25	200	162.50	300	243.75	400	325.00	200	162.50	200	168.75	300	241.25	150	122.00	150	125.75
PTRE Management	300	261.50	300	261.75	200	168.75	300	255.50	400	347.50	200	171.25	200	169.75	300	259.25	150	126.00	150	126.75
Pure Dispensaries, LLC	300	265.50	300	267.25	200	177.25	300	269.75	400	358.50	200	177.25	200	180.50	300	267.00	150	131.50	150	131.50
QualCann, LLC	300	0.00	300	0.00	200	0.00	300	0.00	400	0.00	200	0.00	200	0.00	300	0.00	150	0.00	150	0.00
RD San Bernardino LLC	300	258.75	300	255.25	200	169.50	300	254.00	400	338.75	200	170.25	200	171.25	300	254.50	150	127.25	150	127.75
Red Brick Industries, LLC	300	241.25	300	241.50	200	160.00	300	241.25	400	320.00	200	160.00	200	140.00	300	241.25	150	120.00	150	120.00
Rznhead, Inc dba Cookies San Bernardino	300	246.75	300	242.50	200	163.75	300	244.25	400	318.75	200	159.25	200	156.00	300	249.50	150	122.75	150	123.50
SB Pharma Holdings, Inc. DBA The Row House	300	250.25	300	248.75	200	165.75	300	251.25	400	333.75	200	168.75	200	168.00	300	250.00	150	126.50	150	125.75
SOCA Farms, LLC	300	248.75	300	245.00	200	164.50	300	248.50	400	337.00	200	170.00	200	174.00	300	247.00	150	121.75	150	122.50
Uplyft LA, LLC	300	246.00	300	252.75	200	163.75	300	250.00	400	320.50	200	165.75	200	169.25	300	250.25	150	121.00	150	123.25
Washington, LLC	300	240.00	300	240.00	200	160.00	300	220.00	400	323.75	200	160.00	200	162.50	300	201.25	150	120.00	150	120.00

Attachment: CED-Attachment 2B.Phase 3 Scores.Breakdown (5981) : Commercial Cannabis Business

Cannabis Application Summary Sheet

CCB Number	Applicant Information	Business Name	Business Address	Ward	Zoning Verif. Letter	ZVL Approved or Denied	Zoning/Land Use	General Plan/ Land Use Compliant	Permit License Type	License Subtype
CCB 18-0004	Red Brick Industries, LLC	Red Brick Industries, LLC	472 N. Arrowhead Ave	1	ZVL 18-0039	Denied	Commercial Regional-Downtown (CR-2)	NO	Microbusiness	Retailer, Manufacturing & Distribution
CCB 18-0005	Washington, LLC	Washington, LLC	4010 N. Georgia Blvd	6	ZVL 18-0027	Approved	Industrial Light (IL)	YES*	Microbusiness	Retailer, Transportation, Manufacturing & Distribution
CCB 18-0006	SB Pharma Holdings, Inc.	The Row House	2015 S. Diners Court	3	ZVL 18-0048	Approved	Commercial Regional-Tri-City/Club (CR-3)	YES	Retailer	
CCB 18-0007	Howard Friedman	4th St. Dispensary	475 W. 4th Street	1	ZVL 18-0038 ZVL 18-0084	Approved	Commercial Regional-Downtown (CR-2)	NO	Microbusiness	Retailer, Cultivation & Manufacturing
CCB 18-0010	SOCA Farms, LLC	SOCA Farms, LLC	654 S. Lincoln Avenue	3	ZVL 18-0017	Approved	Industrial Light (IL)	YES*	Microbusiness	Retailer, Cultivation & Distribution
CCB 18-0011	Vic Baomin Zhao Nathan Anthony Hicks	Empire Connect	764 S. Inland Center Drive	3	ZVL 18-0065	Approved	Commercial General (CG-1)	YES	Retailer	
CCB 18-0012	Vic Baomin Zhao Nathan Anthony Hicks	Orange Show Cultivators	764 S. Inland Center Drive	3	ZVL 18-0066	Approved	Commercial General (CG-1)	NO	Microbusiness	Cultivation, Manufacturing & Distribution
CCB 18-0015	MED Products Group, Inc.	MED Products Group, Inc.	199 W. Hillcrest Ave	3	ZVL 18-0073	Approved	Industrial Light (IL)	YES*	Microbusiness	Retailer, Cultivation & Distribution
CCB 18-0016	Elliot Lewis	Connected Cannabis Co.	506 S. Inland Center Dr	3	ZVL 18-0016	Approved	Commercial General (CG-1)	YES	Retailer	
CCB 18-0017	Wendy McCammack	Central Avenue Nursery, LLC	723 S. Allen St	3	ZVL 18-0060	Approved	Industrial Light (IL)	YES*	Microbusiness	Retailer, Cultivation & Distribution
CCB 18-0019	AM-PM MGMT, Inc	Cold Creek Organics	1942 N. I St	2	ZVL 18-0008	Denied	Industrial Light (IL)	YES*	Microbusiness	Retailer, Cultivation & Distribution
CCB 18-0020	AM-PM MGMT, Inc	Cold Creek Organics	1942 N. I St	2	ZVL 18-0008	Denied	Industrial Light (IL)	YES	Manufacturing	Type 7: Volatile Solvent Extract
CCB 18-0021	Ashe Society SB, LLC	Ashe Society	590 S. E St	3	ZVL 18-0105	Approved	Commercial General (CG-1)	YES	Retailer	
CCB 18-0022	Ashe Society SB, LLC	Ashe Society	785 S. Lugo Ave	3	ZVL 18-0107	Denied	Industrial Light (IL)	NO	Retailer	
CCB 18-0024	Steve White	Harvest of San Bernardino	480 W Court St	1	ZVL 18-0094	Approved	Commercial Regional-Downtown (CR-2)	YES	Retailer	
CCB 18-0025	RD San Bernardino LLC	RD San Bernardino LLC	240 E Redlands Blvd	3	ZVL 18-0104	Approved	Commercial Regional-Tri-City/Club (CR-3)	YES	Retailer	
CCB 18-0026	Steve White	Harvest of San Bernardino	493 W Orange Show Rd	3	ZVL 18-0089	Approved	Commercial General (CG-1)	YES	Retailer	
CCB 18-0027	HAH3, LLC	Have a Heart	590 S E St	3	ZVL 18-0097	Approved	Commercial General (CG-1)	YES	Retailer	
CCB 18-0028	Mervyn Simchowitz	Pure Dispensaries, LLC	164 W Redlands Blvd	3	ZVL 18-0086	Approved	Commercial Regional-Tri-City/Club (CR-3)	YES	Retailer	
CCB 18-0029	ECS Labs Inc	ECS Labs Inc	245 E Drake Dr	3	ZVL 18-0004	Approved	Industrial Light (IL)	YES*	Microbusiness	Retailer, Manufacturing & Distribution
CCB 18-0030	Anthony Mayer	Alpha Medic LLC	4330 N Hallmark Pkwy	6	ZVL 18-0026	Approved	University Business Park (UBP-1)	YES*	Microbusiness	Retailer, Cultivation & Distribution
CCB 18-0031	Nibble This, LLC	Nibble This, LLC	1181 S E St	3	ZVL 18-0010	Approved	Commercial General (CG-1)	NO	Microbusiness	Retailer, Manufacturing & Distribution
CCB 18-0032	Nibble This, LLC	Nibble This, LLC	4130 N Hallmark Pkwy	6	ZVL 18-0025	Approved	University Business Park (UBP-2)	NO	Microbusiness	Retailer, Manufacturing & Distribution
CCB 18-0033	JIVA LIVE INC	JIVA	494 W Orange Show Ln	3	ZVL 18-0120	Approved	Commercial General (CG-1)	YES	Retailer	
CCB 18-0034	Luke LLC	Organtix Orchards	2552 W Shenandoah Way	6	ZVL 18-0022	Denied Approved**	Industrial Light (IL)	YES*	Cultivation Distribution Manufacturing Retailer	
CCB 18-0035	Edvin Mailyan	Rznhead - Cookies SB	1090 S Arrowhead Ave	3	ZVL 18-0064	Approved	Commercial General (CG-1)	NO	Microbusiness	Retailer, Cultivation, Manufacturing & Distribution
CCB 18-0036	David M. Rojas Jr. - HC Club, LLC	Hempire Cannabis Club	455 W Orange Show Ln	3	ZVL 18-0003	Approved	Commercial General (CG-1)	NO	Microbusiness	Retailer, Manufacturing & Distribution
CCB 18-0037	Laythen Matines and Ali Cooper	Accessible Options	151 N E St	1	ZVL 18-0044	Approved	Commercial General (CG-1)	YES NO	Retailer Cultivation	
CCB 18-0038	Uplyft LA LLC	Uplyft LA LLC	225 E Airport Dr	3	ZVL 18-0096	Approved	Commercial Regional-Tri-City/Club (CR-3)	YES	Retailer	
CCB 18-0039	Woodrow Wong	GWC Real Estate Services LLC	741 S Lugo Ave	3	ZVL 18-0114	Approved	Industrial Light (IL)	YES	Cultivation	
CCB 18-0040	KP Investment Group	Cannaporium	4240 N Hallmark Pkwy	6	ZVL 18-0050	Approved	University Business Park (UBP-1)	YES*	Microbusiness	Retailer, Cultivation, Manufacturing & Distribution
CCB 18-0041	PTRE Management, LLC	PTRE Management, LLC	225 E Airport Dr	3	ZVL 18-0118	Approved	Commercial Regional-Tri-City/Club (CR-3)	YES	Retailer	
CCB 18-0042	Chad White - Cannus Partners Inc	Blunt Brothers, Inc.	2211 S Hunts Ln	3	ZVL 18-0123	Approved	Commercial Regional-Tri-City/Club (CR-3)	NO	Distribution	
CCB 18-0043	A Bud & Beyond, Inc	A Bud & Beyond, Inc	249 W Orange Show Ln	3	ZVL 18-0031	Approved	Industrial Light (IL)	YES*	Microbusiness	Cultivation, Manufacturing, Distribution & Non-Store Front Retailer
CCB 18-0044	Steven Munoz - 3P, Inc	3P, Inc	2211 S Hunts Ln	3	ZVL 18-0124	Approved	Commercial Regional-Tri-City/Club (CR-3)	YES	Retailer	
CCB 18-0045	Cali Blue Skys Investments	Cali Blue Sky	401 W 4th st	1	ZVL 18-0072	Approved	Commercial Regional-Tri-City/Club (CR-3)	NO	Microbusiness	Retailer, Manufacturing & Distribution
CCB 18-0046	Organic 1 Healing Inc	Organic 1 Healing Inc	225 E Airport Dr	3	ZVL 18-0034	Approved	Commercial Regional-Tri-City/Club (CR-3)	YES	Retailer	
CCB 18-0047	Daniel Kang	Ocean Green Management, LLC	590 S E St	3	ZVL 18-0117	Approved	Commercial General (CG-1)	YES	Retailer	
CCB 18-0048	Glenn Willwerth & Dan Kohanarieh	14 Four	435 E Park Center Cir.	3	ZVL 18-0014	Approved	Industrial Light (IL)	YES	Cultivation	

* Up to 15% Retail

Cultivation	Manufacturing	Retailer	Microbusiness	Distribution	Total License Types
4	2	18	17	2	43

** Indicates that a subsequent ZVL was applied for resulting in an updated status on the property

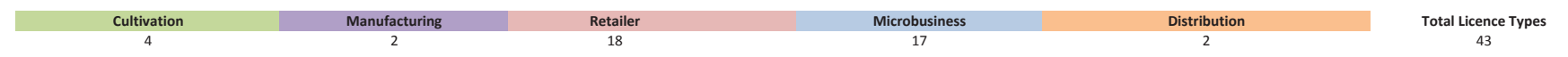
Total Applications Moving Forward

39

Attachment: CED-Attachement 3.CCB Application Summary Sheet (5981 : Commercial Cannabis Business Permit Application - Phase 4)

Cannabis Application Breakdown by License Type

CCB Number	Applicant Information	Business Name	Business Address	Ward	Zoning Verif. Letter	ZVL Approved or Denied	Zoning/Land Use	General Plan/ Land Use Compliant	Permit License Type	License Subtype
CCB 18-0006	SB Pharma Holdings, Inc.	The Row House	2015 S. Diners Court	3	ZVL 18-0048	Approved	Commercial Regional-Tri-City/Club (CR-3)	YES	Retailer	
CCB 18-0011	Vic Baomin Zhao Nathan Anthony Hicks	Empire Connect	764 S. Inland Center Drive	3	ZVL 18-0065	Approved	Commercial General (CG-1)	YES	Retailer	
CCB 18-0016	Elliot Lewis	Connected Cannabis Co.	506 S. Inland Center Dr	3	ZVL 18-0016	Approved	Commercial General (CG-1)	YES	Retailer	
CCB 18-0021	Ashe Society SB, LLC	Ashe Society	590 S. E St	3	ZVL 18-0105	Approved	Commercial General (CG-1)	YES	Retailer	
CCB 18-0022	Ashe Society SB, LLC	Ashe Society	785 S. Lugo Ave	3	ZVL 18-0107	Denied	Industrial Light (IL)	NO	Retailer	
CCB 18-0024	Steve White	Harvest of San Bernardino	480 W Court St	1	ZVL 18-0094	Approved	Commercial Regional-Downtown (CR-2)	YES	Retailer	
CCB 18-0025	RD San Bernardino LLC	RD San Bernardino LLC	240 E Redlands Blvd	1	ZVL 18-0104	Approved	Commercial Regional-Downtown (CR-2)	YES	Retailer	
CCB 18-0026	Steve White	Harvest of San Bernardino	493 W Orange Show Rd	3	ZVL 18-0089	Approved	Commercial General (CG-1)	YES	Retailer	
CCB 18-0027	HAH3, LLC	Have a Heart	590 S E St	3	ZVL 18-0097	Approved	Commercial General (CG-1)	YES	Retailer	
CCB 18-0028	Mervyn Simchowitz	Pure Dispensaries, LLC	164 W Redlands Blvd	3	ZVL 18-0086	Approved	Commercial Regional-Tri-City/Club (CR-3)	YES	Retailer	
CCB 18-0033	JIVA LIVE INC	JIVA	494 W Orange Show Ln	3	ZVL 18-0120	Approved	Commercial General (CG-1)	YES	Retailer	
CCB 18-0038	Uplyft LA LLC	Uplyft LA LLC	225 E Airport Dr	3	ZVL 18-0096	Approved	Commercial Regional-Tri-City/Club (CR-3)	YES	Retailer	
CCB 18-0041	PTRE Management, LLC	PTRE Management, LLC	225 E Airport Dr	3	ZVL 18-0118	Approved	Commercial Regional-Tri-City/Club (CR-3)	YES	Retailer	
CCB 18-0044	Steven Munoz - 3P, Inc	3P, Inc	2211 S Hunts Ln	3	ZVL 18-0124	Approved	Commercial Regional-Tri-City/Club (CR-3)	YES	Retailer	
CCB 18-0046	Organic 1 Healing Inc	Organic 1 Healing Inc	225 E Airport Dr	3	ZVL 18-0034	Approved	Commercial Regional-Tri-City/Club (CR-3)	YES	Retailer	
CCB 18-0047	Daniel Kang	Ocean Green Management, LLC	590 S E St	3	ZVL 18-0117	Approved	Commercial General (CG-1)	YES	Retailer	
18										
CCB 18-0004	Red Brick Industries, LLC	Red Brick Industries, LLC	472 N. Arrowhead Ave	1	ZVL 18-0039	Denied	Commercial Regional-Downtown (CR-2)	NO	Microbusiness	Retailer, Manufacturing & Distribution
CCB 18-0005	Washington, LLC	Washington, LLC	4010 N. Georgia Blvd	6	ZVL 18-0027	Approved	Industrial Light (IL)	YES*	Microbusiness	Retailer, Transportation, Manufacturing & Distribution
CCB 18-0007	Howard Friedman	4th St. Dispensary	475 W. 4th Street	1	ZVL 18-0038 ZVL 18-0084	Approved	Commercial Regional-Downtown (CR-2)	NO	Microbusiness	Retailer, Cultivation & Manufacturing
CCB 18-0010	SOCA Farms, LLC	SOCA Farms, LLC	654 S. Lincoln Avenue	3	ZVL 18-0017	Approved	Industrial Light (IL)	YES*	Microbusiness	Retailer, Cultivation & Distribution
CCB 18-0012	Nathan Anthony Hicks	Orange Show Cultivators	764 S. Inland Center Drive	3	ZVL 18-0066	Approved	Commercial General (CG-1)	NO	Microbusiness	Cultivation, Manufacturing & Distribution
CCB 18-0015	MED Products Group, Inc.	MED Products Group, Inc.	199 W. Hillcrest Ave	3	ZVL 18-0073	Approved	Industrial Light (IL)	YES*	Microbusiness	Retailer, Cultivation & Distribution
CCB 18-0017	Wendy McCammack	Central Avenue Nursery, LLC	723 S. Allen St	3	ZVL 18-0060	Approved	Industrial Light (IL)	YES*	Microbusiness	Retailer, Cultivation & Distribution
CCB 18-0019	AM-PM MGMT, Inc	Cold Creek Organics	1942 N. I St	2	ZVL 18-0008	Denied	Industrial Light (IL)	YES*	Microbusiness	Retailer, Cultivation & Distribution
CCB 18-0029	ECS Labs Inc	ECS Labs Inc	245 E Drake Dr	3	ZVL 18-0004	Approved	Industrial Light (IL)	YES*	Microbusiness	Retailer, Manufacturing & Distribution
CCB 18-0030	Anthony Mayer	Alpha Medic LLC	4330 N Hallmark Pkwy	6	ZVL 18-0026	Approved	University Business Park (UBP-1)	YES*	Microbusiness	Retailer, Cultivation & Distribution
CCB 18-0031	Nibble This, LLC	Nibble This, LLC	1181 S E St	3	ZVL 18-0010	Approved	Commercial General (CG-1)	NO	Microbusiness	Retailer, Manufacturing & Distribution
CCB 18-0032	Nibble This, LLC	Nibble This, LLC	4130 N Hallmark Pkwy	6	ZVL 18-0025	Approved	University Business Park (UBP-2)	NO	Microbusiness	Retailer, Manufacturing & Distribution
CCB 18-0035	Edvin Mailyan	Rznhead - Cookies SB	1090 S Arrowhead Ave	3	ZVL 18-0064	Approved	Commercial General (CG-1)	NO	Microbusiness	Retailer, Cultivation, Manufacturing & Distribution
CCB 18-0036	David M. Rojas Jr. - HC Club, LLC	Hempire Cannabis Club	455 W Orange Show Ln	3	ZVL 18-0003	Approved	Commercial General (CG-1)	NO	Microbusiness	Retailer, Manufacturing & Distribution
CCB 18-0040	KP Investment Group	Cannaporium	4240 N Hallmark Pkwy	6	ZVL 18-0050	Approved	University Business Park (UBP-1)	YES*	Microbusiness	Retailer, Cultivation, Manufacturing & Distribution
CCB 18-0043	A Bud & Beyond, Inc	A Bud & Beyond, Inc	249 W Orange Show Ln	3	ZVL 18-0031	Approved	Industrial Light (IL)	YES*	Microbusiness	Cultivation, Manufacturing, Distribution & Non-Store Front Retailer
CCB 18-0045	Cali Blue Skys Investments	Cali Blue Sky	401 W 4th st	1	ZVL 18-0072	Approved	Commercial Regional-Downtown (CR-2)	NO	Microbusiness	Retailer, Manufacturing & Distribution
*Up to 15% Retail										
17										
CCB 18-0020	AM-PM MGMT, Inc	Cold Creek Organics	1942 N. I St	2	ZVL 18-0008	Denied	Industrial Light (IL)	YES	Manufacturing	Type 7 - Volatile Solvent Extract
2*										
CCB 18-0042	Chad White - Cannus Partners Inc	Blunt Brothers, Inc.	2211 S Hunts Ln	3	ZVL 18-0123	Approved	Commercial Regional-Downtown (CR-2)	YES	Distribution	
2*										
CCB 18-0039	Woodrow Wong	GWC Real Estate Services LLC	741 S Lugo Ave	3	ZVL 18-0114	Approved	Industrial Light (IL)	YES	Cultivation	
CCB 18-0048	Glenn Willwerth & Dan Kohanarieh	14 Four	435 E Park Center Cir.	3	ZVL 18-0014	Approved	Industrial Light (IL)	YES	Cultivation	
4*										
CCB 18-0034	Luke LLC	Organtix Orchards	2552 W Shenandoah Way	6	ZVL 18-0022	Denied Approved**	Industrial Light (IL)	YES*	Cultivation Distribution Manufacturing Retailer	
CCB 18-0037	Laythen Matines and Ali Cooper	Accessible Options	151 N E St	1	ZVL 18-0044	Approved	Commercial General (CG-1)	Up to 15% Retail YES NO	Retailer Cultivation	




** Indicates that a subsequent ZVL was applied for resulting in an updated status on the property



Total Applications Moving Forward
39



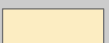


Attachment: CED-Attachement 4.CCB Application Breakdown by License Type (5981 : Commercial Cannabis Business Permit Application -

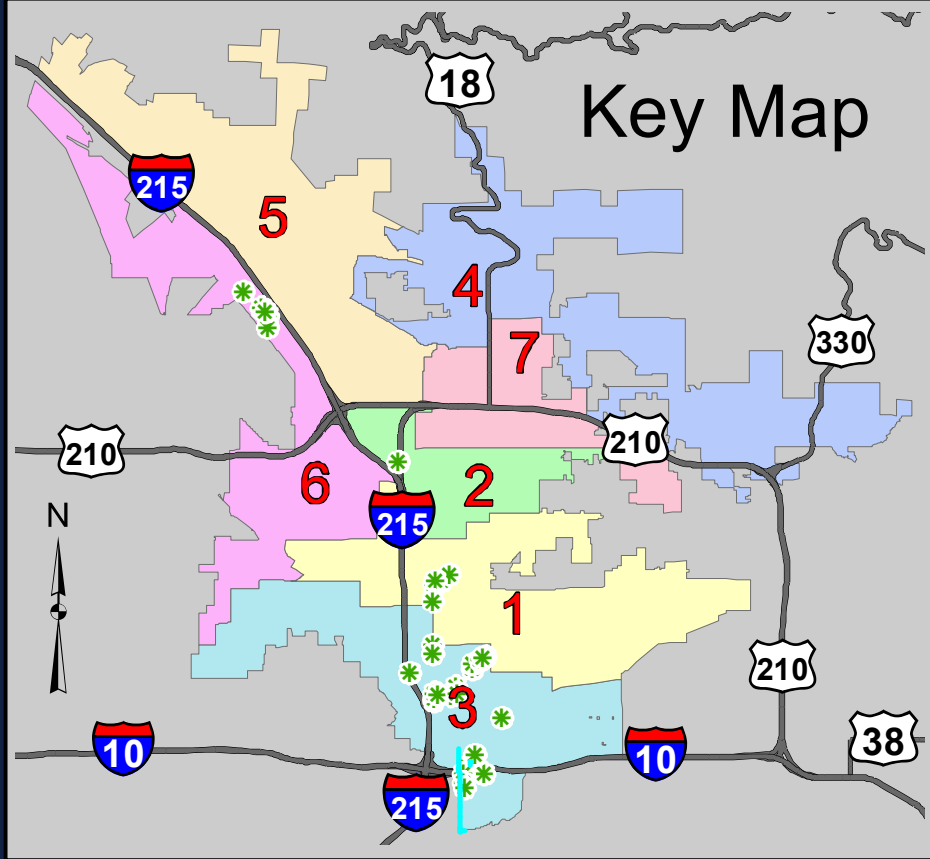
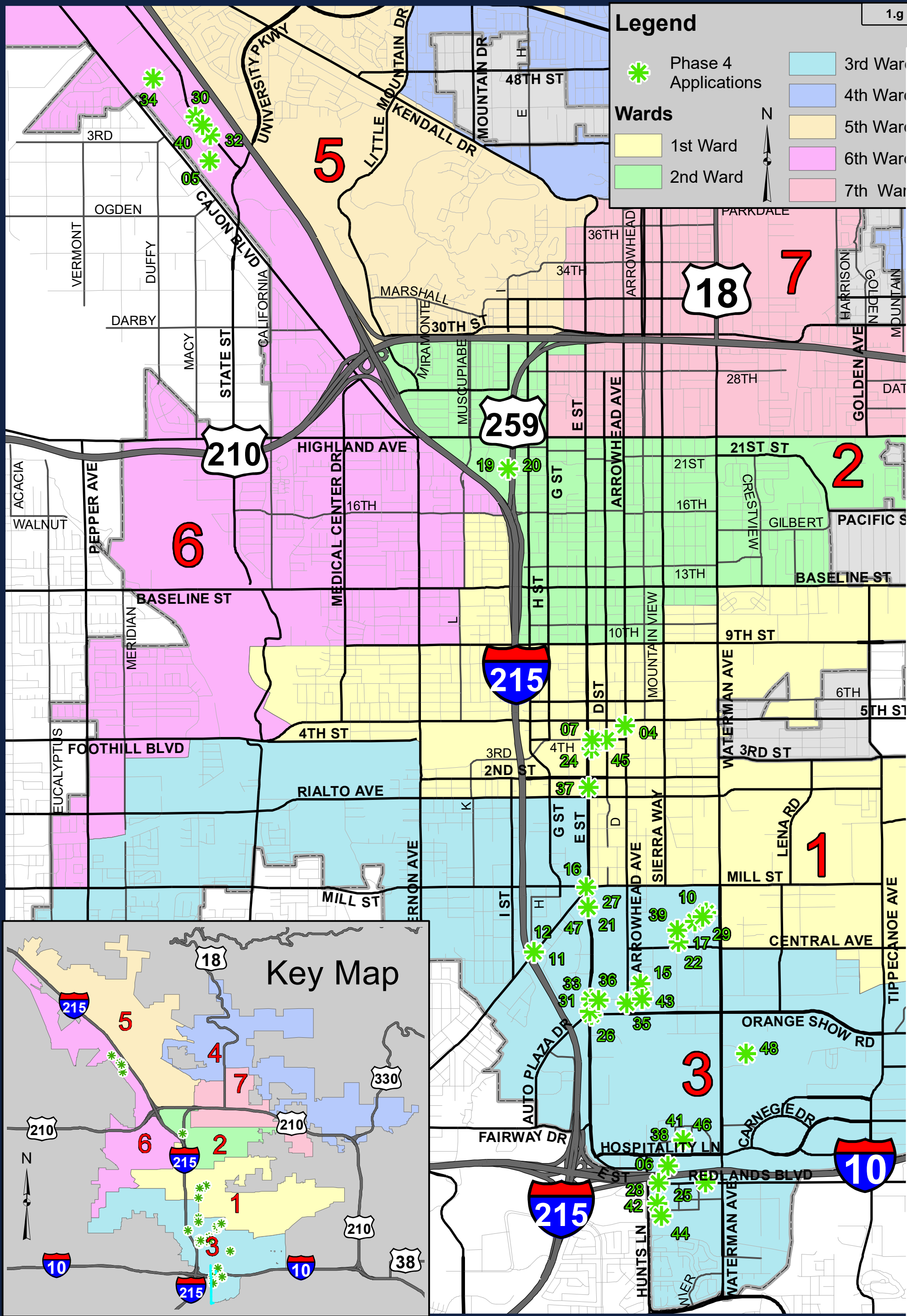
Legend

 Phase 4 Applications

Wards

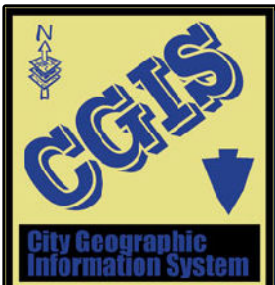
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-  2nd Ward

-  3rd Ward
-  4th Ward
-  5th Ward
-  6th Ward
-  7th Ward



Attachment: CED-Attachment 5. Mapped Locations (5981) : Commercial Cannabis Business Permit Application - Phase 4)

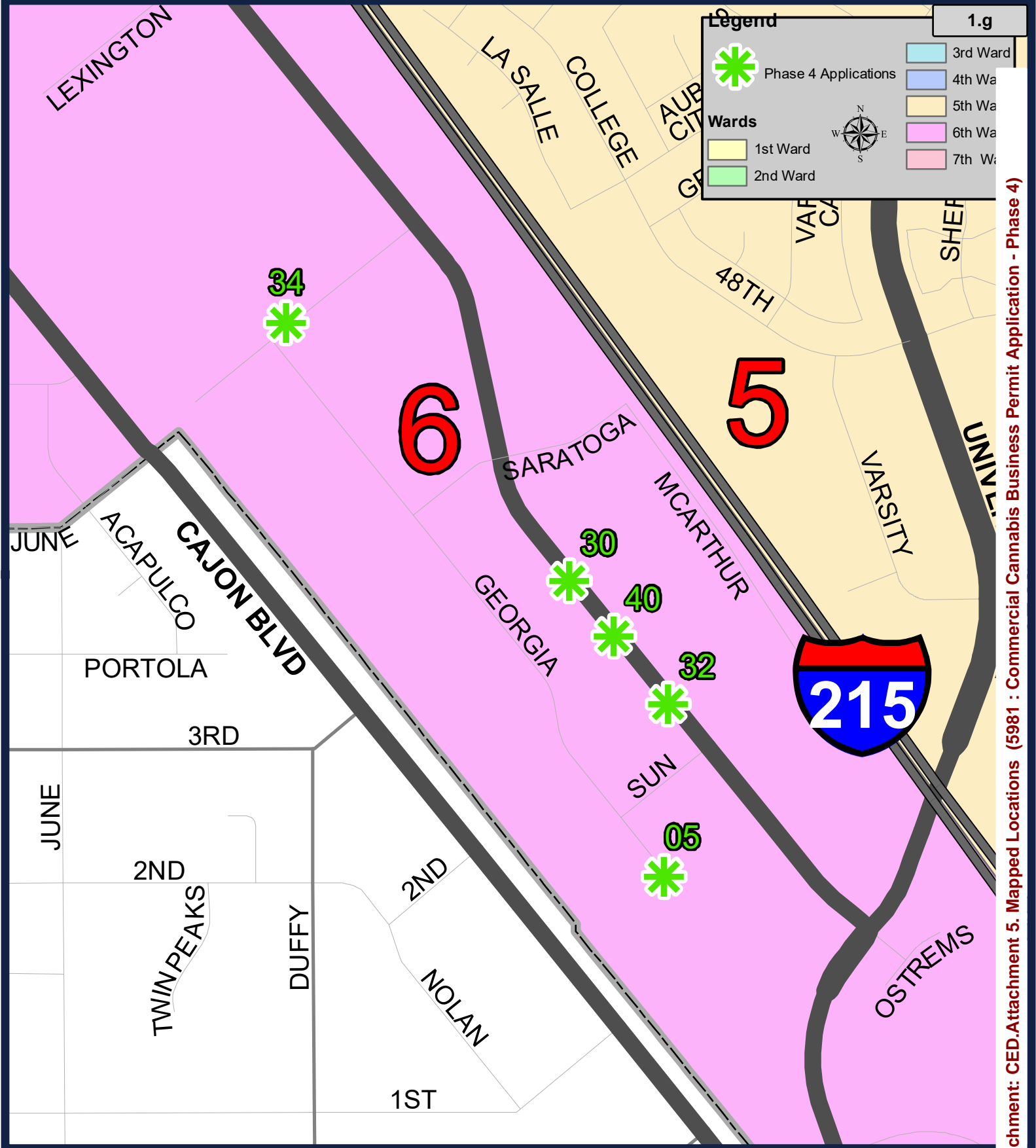
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City of San Bernardino California

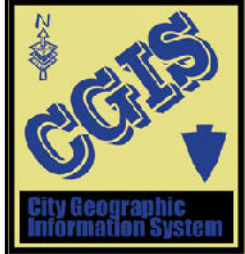
Commercial Cannabis Business Permit Application Locations





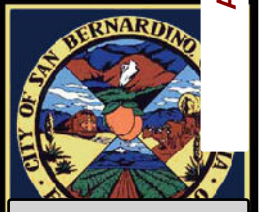
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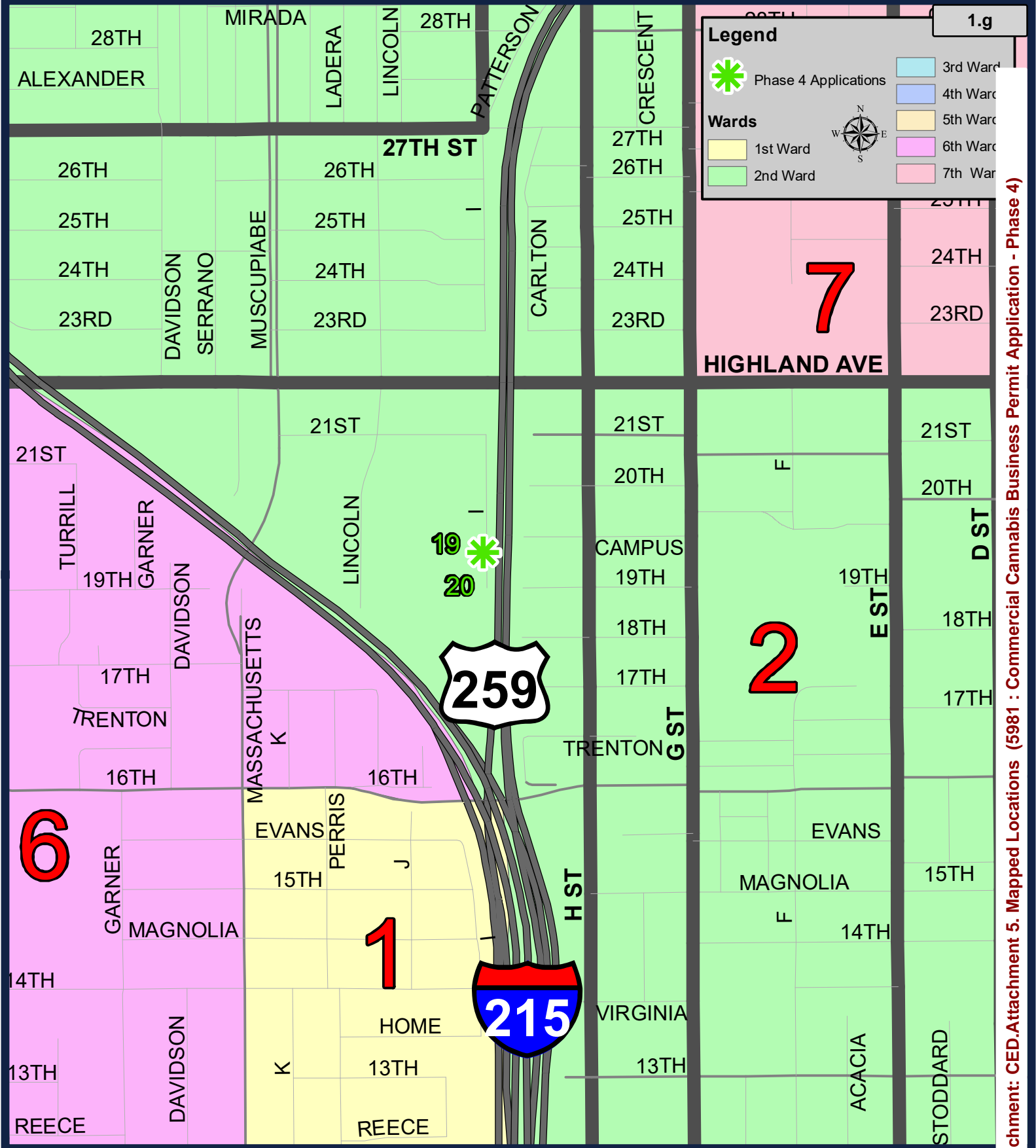
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Northern Section

Commercial Cannabis Business Permit Application Locations





Legend

- Phase 4 Applications

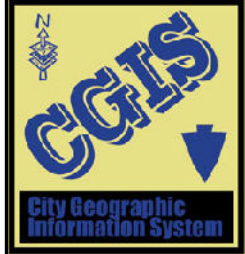
Wards

- 1st Ward
- 2nd Ward
- 3rd Ward
- 4th Ward
- 5th Ward
- 6th Ward
- 7th Ward

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Attachment: CED-Attachment 5. Mapped Locations (5981 : Commercial Cannabis Business Permit Application - Phase 4)

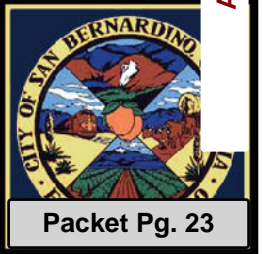
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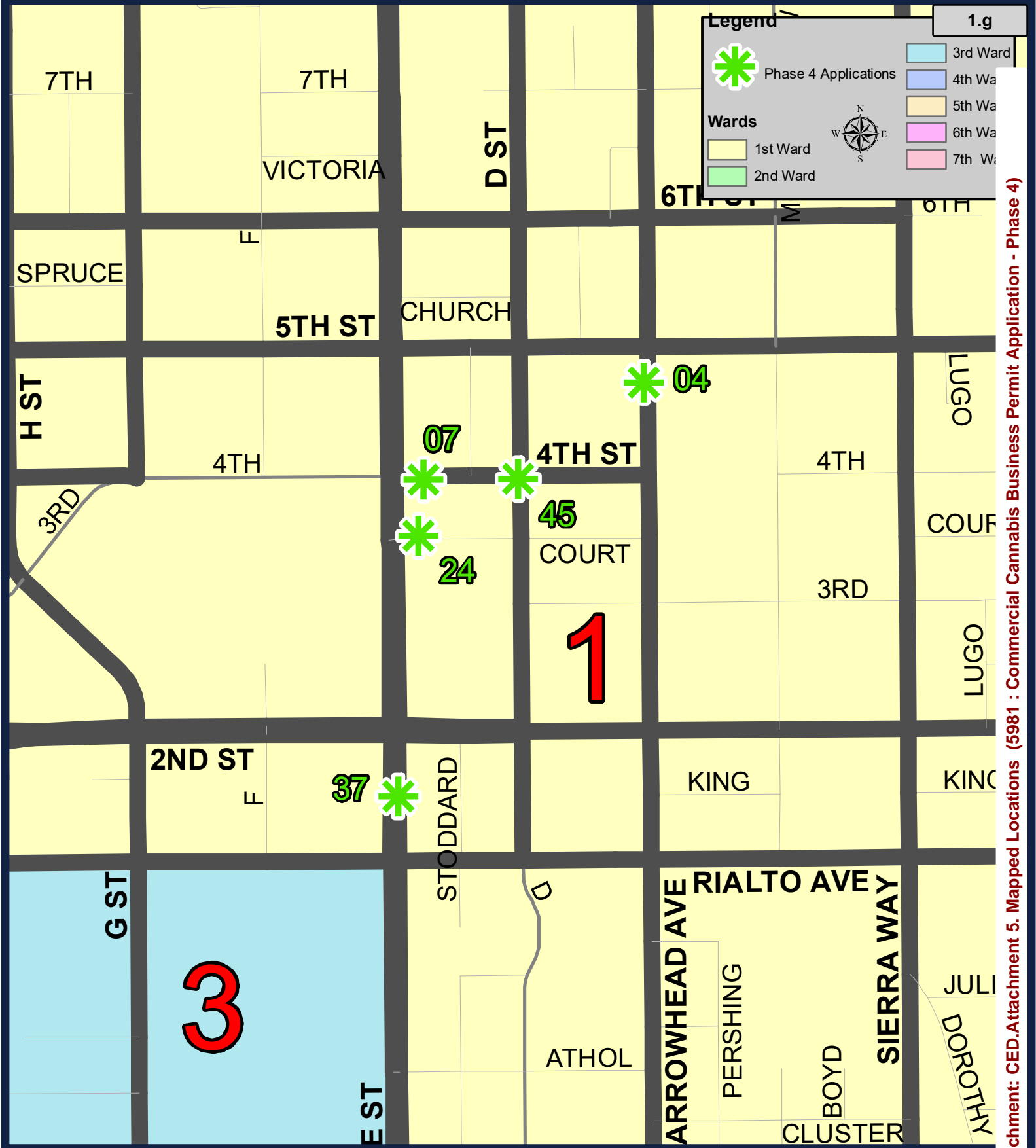


City of
San Bernardino
California

North Central Section

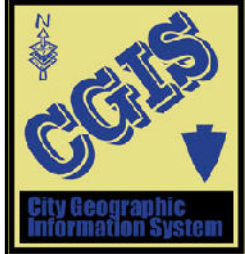
**Commercial Cannabis
Business Permit
Application Locations**





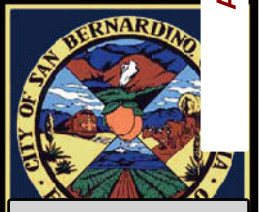
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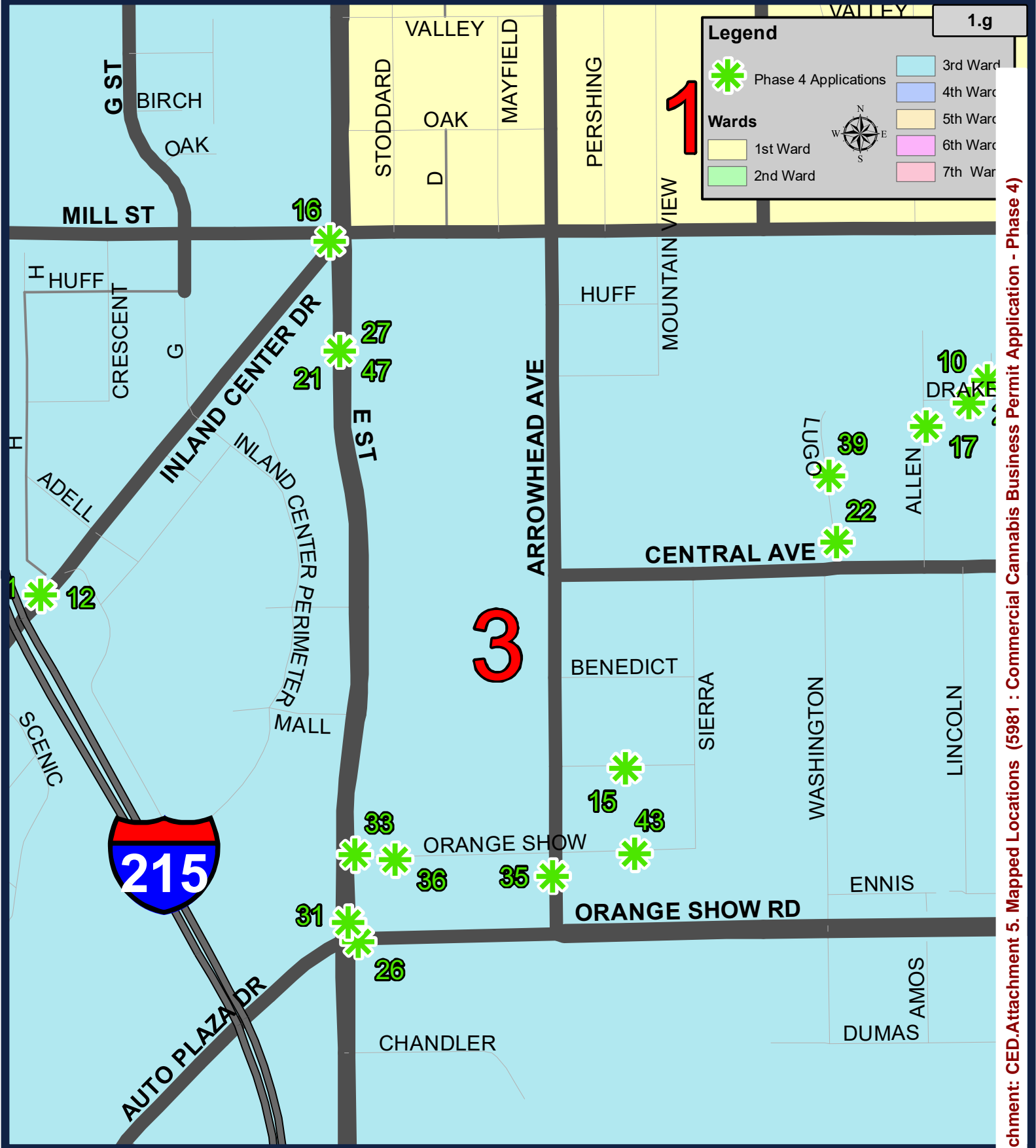


Central Section

Commercial Cannabis Business Permit Application Locations

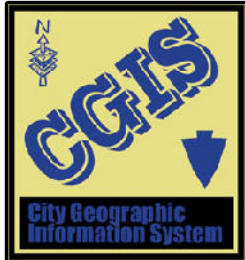


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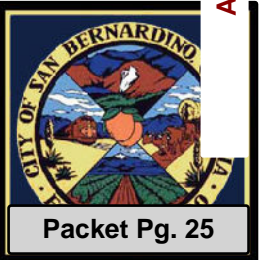
Attachment: CED.Attachment 5. Mapped Locations (5981 : Commercial Cannabis Business Permit Application - Phase 4)

Printed: 1/30/2019, Author: Ruth Parish, IT Department, File: I:_MXDs\DS\Cannabis\CommercialCannabisBusPermitApl-SubArea-8x11.mxd




South Central Section






Commercial Cannabis Business Permit Application Locations




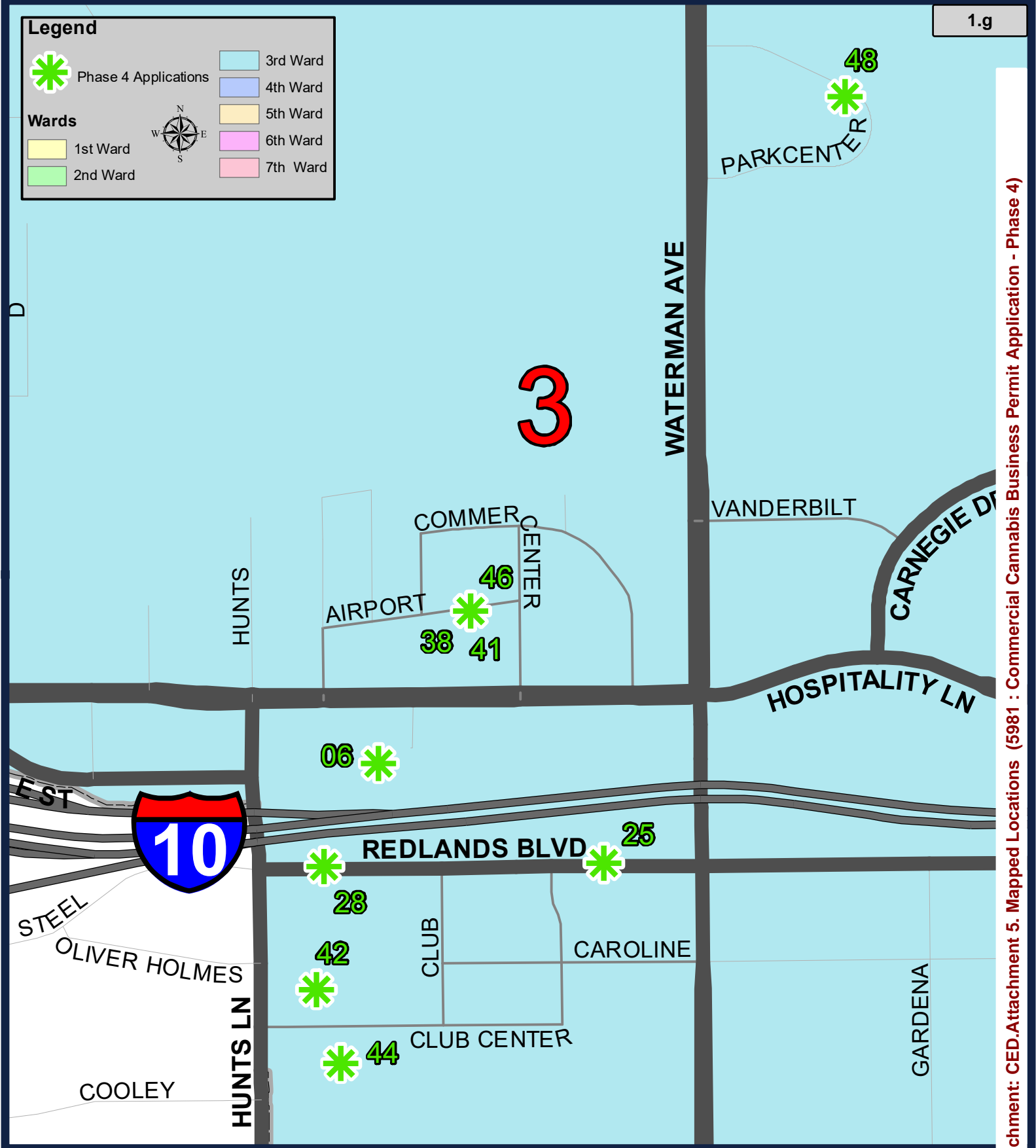
Legend

 Phase 4 Applications

Wards

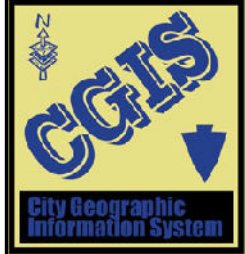
	3rd Ward
	4th Ward
	5th Ward
	6th Ward
	7th Ward



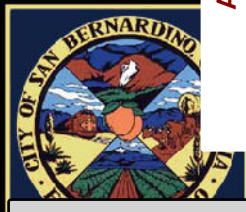


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Printed: 1/30/2019, Author: Ruth Parish, IT Department, File: I:_MXDs\DS\Cannabis\CommercialCannabisBusPermitApl-SubArea-8x11.mxd



Commercial Cannabis Business Permit Application Locations



Southern Section

Attachment 6 can be found in Laserfiche by clicking on the following link:

[02-21-2019 Agenda Backup](#)

EXHIBIT 3



APPLICATION PROCEDURE GUIDELINES FOR A COMMERCIAL CANNABIS BUSINESS (CCB)

Information regarding the commercial cannabis business application process can be found on the City's website at www.sbcity.org and may include the following:

- A Commercial Cannabis Business (CCB) Permit Application Form
- Local regulations governing the CCBs: City of San Bernardino Municipal Code (SBMC) Chapter 5.10
- Live Scan form
- Additional application information: Ordinance No. MC-1464.
- Local Development Code – Title 19

The application process to operate a Commercial Cannabis Business (CCB) in the City of San Bernardino will **open on April 23, 2018 and will close at 4:00PM on June 25, 2018**. However, if all seventeen (17) licenses allowed under Chapter 5.10 (Commercial Cannabis Activity) are not issued during the first round of review, the City will open a second round of applications at a date to be determined. Applications are available at the Community Development Department located at 201 North E Street, San Bernardino, CA, 92401. For additional questions or information please contact the City Community Development Department at (909) 384 - 7272.

CITY'S RESERVATION OF RIGHTS

The City reserves the right to reject any and/or all applications, with or without cause or reason. The City may also modify, postpone, or cancel the request for permit applications without liability, obligation, or commitment to any party, firm, or organization. In addition, the City reserves the right to request and obtain additional information from any candidate submitting an application. Late or incomplete applications MAY BE REJECTED. Furthermore, an application RISKS BEING REJECTED for the following reasons:

1. It is considered not fully responsive to this request for a permit application.
2. It contains excess or extraneous material not called for in the request for CCB permit application.

AMENDMENTS TO THE APPLICATION

Applicants may not be allowed to make amendments to their application or to supplement their application, except as otherwise specifically permitted in these procedures or authorized in writing by the City.

During Phase 1, applicants will be notified if any of the Owners are ineligible and/or if their application is incomplete and may not move forward in the application process.

However, in some cases the City may move forward in the application process to other phases should it anticipate that the Live Scan will take a significant amount of time to be returned to the City. In this case, Applicants wishing to move forward in the process acknowledge by signing the application that they agree to these terms and should they be disqualified as a result of a background or a Live Scan, they will not be eligible for a refund of any fees collected resulting from the modification of this procedure.

**PLEASE READ CAREFULLY BEFORE COMPLETING THE APPLICATION. FAILURE TO SUBMIT A
COMPLETE APPLICATION COULD RESULT IN DISQUALIFICATION.**

The following procedures outline the application evaluation and selection process, required materials, and other information necessary to apply for a business permit to participate in the selection process to operate a CCB in San Bernardino:

Prior to submitting a CCB application:

- Zoning Verification Letter (ZVL) application
 - The Business Owner must obtain an approved Zoning Verification Letter (ZVL) from the Community Development Department, located at 201 North E Street, prior to submitting a CCB application, to ensure that the proposed CCB location meets the City's locational requirements. The City's review process for the ZVL takes approximately ten (10) working days. The ZVL requires a written request to the Community Development Department and **will not** be completed over the counter since it may require additional research and review.
 - The issuance of a ZVL does not imply written evidence of permission given by City or any of its officials to operate a CCB, nor does it mean "PERMIT" within the meaning of the Permit Streamlining Act, nor does it constitute an entitlement under the Zoning or Building Code. A regulatory permit for the purpose of regulating a CCB does not constitute a permit that runs with the land on which the CCB is established.

All fees below shall become effective on June 4, 2018

Phase 1: Application Submittal and Determination of Eligibility (Fee: \$2,647 + \$300 Background Check per Business Owner + \$132 LiveScan per Business Owner)

- An approved Zoning Verification Letter from the Community Development Department stating that the property where the CCB is proposed to operate complies with the locational requirements of SBMC Chapter 5.10.
- Indemnification Agreement
 - Applicant executes an agreement indemnifying the City from liability.
- Live Scan/Criminal History Check (The Live Scan/Background fee must be submitted along with the Phase 1 application fees)
 - Each Business Owner as described in SBMC Section 5.10.050 (an) must undergo a Live Scan and criminal history check demonstrating compliance with the eligibility requirements of SBMC Section 5.10.310 (m) for background checks. The Live Scan process involves submitting fingerprints to the DOJ/FBI to review for criminal offender record information (CORI). CORI reports will be provided to City for the sole purpose of determining eligibility for operating a CCB. Owners/Principals who do not meet criminal history eligibility requirements will be disqualified.
 - Please note the Live Scan process may be delayed due to the pending of the approval of the DOJ/FBI authorization. Once the City has received authorization they will post the Live Scan submittal due date on the City website. Furthermore, the Live Scan must be conducted by the San Bernardino Police Department (SBPD). Applicants will be required to make an appointment in advance to ensure the proper SBPD staff is available. Due to limited staff resources, you are encouraged to schedule your appointment as early as possible once the due date has been posted on the City website. The City cannot guarantee that it will be able to accommodate applicants who do not submit for LiveScan and Background after the application period opens on **April 23, 2018**. Failure to pass the LiveScan or Background Check in a timely manner may result in the application being disqualified.
- Applications and Background Check Form(s) (Applications must be complete to be considered. Applications will be considered complete only if they include all information required above):

- A complete application will consist of the following:
 1. Complete, signed copy of the Commercial Cannabis Business Permit Application Form;
 2. Proof of Live Scan fee payment for each of the Owners/Principals;
 3. Zoning Verification Letter
 4. All supplemental information to be evaluated in Phases 1, 2 and 3, as described in APPENDIX A.
- Applicants must submit two (2) original copies of the complete application, each in a three-ring binder; one (1) copy of the complete application in PDF format on an electronic device (i.e. flash drive or cd) with the associated Phase 1 fee. Payment must be made by credit card or certified check, cashier's check, or money order made payable to "City of San Bernardino". The City will not accept cash and application fees are non-refundable.
- Only the following information may be submitted after the initial application is received:
 - Proof of property ownership or lease agreement.
 - Should the Business Owner change locations after the application binder is submitted, a new ZVL is required and must be submitted with the application binder prior to Phase 3 of the selection process. Business Owners may only submit a different location if the initial proposed site was eligible.
- International background check info: ITIN or US issued Social Security Number and Driver's License.
- Fill out background waiver form.

Phase 2: Application Evaluation and Initial Ranking (1,500 Points) (Fee: \$2,034)

- Applications will be evaluated and ranked by HdL Companies based on the below criteria.
- Please see APPENDIX A for a description of the evaluation criteria.
 - Location (200 Points)
 - Business Plan (400 Points)
 - Neighborhood Compatibility Plan (300 Points)
 - Safety Plan (300 Points)
 - Security Plan (300 Points)

Those applicants which successfully complete Phase 2 with a passing score of at least 80% will move on to Phase 3 of the application process.

Phase 3: Interviews and Second Ranking (2,500 Points) (Fee: \$1,708)

Those applicants which meet the requirements to move on to Phase 3 will be interviewed and evaluated by the City's Selection Committee.

Prior to the scheduling of interviews:

- Each of the Applicants may be required to have their proposed site inspected by the assigned City designee, if there is an existing building structure, to ascertain current conditions of the facility.
- At the City's sole discretion, one Owner/Principal from each application may be required to pass a Cannabis Expertise Examination that demonstrates a working knowledge of state and local compliance standards as well as the Attorney General's Guidelines on Medicinal Cannabis.

- Please see APPENDIX A for a description of the evaluation criteria.
 - Applicant will be interviewed and evaluated based on the below criteria
- Qualifications of Principals (300 Points)
- Location (proof of ownership or a signed and notarized statement of intent from the Property Owner) (200 Points)
- Neighborhood Compatibility Plan (200 Points)
- Environmental Impact Mitigation (300 Points)
- Local Enterprise (400 Points)
- Business Plan (300 Points)
- Enhanced Product Safety (200 Points)
- Safety Plan (150 Points)
- Security Plan (150 Points)
- Community Benefits (300 Points)

All applicants interviewed as part of Phase 3 shall be ranked based on the above criteria and all applications will move on to Phase 4.

Phase 4: Public Meeting and City Council Final Selection (Fee: \$1,237)

- Selection Committee Recommendation to City Council
 - A notice of public meeting must be provided pursuant to 5.10.180 (c). Notices shall be sent to all property owners located within six hundred (600) feet of the proposed business locations of each of the applicants in Phase 4. The cost of providing this notification will be paid by the applicants as part of the Phase 4 fee.
 - Following the objective ranking of the application materials and interview process, which together constitute Phase 3, the City Manager shall prepare a report bringing forward to the Mayor and City Council the Selection Committee's recommendations for the final ranking of the applications.
- Mayor and City Council Final Selection
 - Mayor and City Council will meet to review every application and the Selection Committee's recommendations.
 - The City Council will select up to 17 applicants for permits, depending on the number of permits provided for in each category or as those permit number may be changed by Resolution.

Being awarded a CCB permit does not constitute a land use entitlement and does not waive or remove the requirements of applying for and receiving permits for any and all construction including electrical, plumbing, fire, planning permits or reviews, and any other permits, licenses, or reviews as may be necessary by the relevant departments or governmental entities in charge of said permits. Nor does it guarantee that the plans submitted via the CCB application process meet the standards or requirements of those permitting departments. All permit awardees will still be required to complete all the permitting processes for the proposed construction or occupation of the facility.

APPENDIX A

DESCRIPTION OF EVALUATION CRITERIA

Qualifications of Owners/Principals: Describe any special business or professional qualifications or licenses of the Owners/Principals that would add to the number or quality of services, such as scientific or health care fields.

Location: The application should include the following:

- Physical address and detailed description of the proposed/final location.
- Proof of ownership, or a notarized letter of the owner's willingness to lease.
- Description of all known nearby sensitive use areas.

Neighborhood Compatibility Plan: The application should include the following:

Describe how the business, 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.

- Additional factors for consideration are religious institutions or libraries located within a six-hundred (600) foot radius of the proposed CCB.

Environmental Impact Mitigation: Describe any proposed "green" business practices relating to energy and climate, water conservation, and materials and waste management.

Local Enterprise: Describe to what extent the CCB will adhere to heightened pay and benefits standards and practices. Specific practices that are subject to consideration include the following:

- Providing compensation to and opportunities for continuing education and training of employees/staff;
- The application should state the extent to which the CCB will be a locally managed enterprise whose Owners/Principals reside within the City and/or within San Bernardino County.

Business Plan: The Business Plan shall be as detailed as necessary to fully describe the operations, including:

- Description of day-to-day operations. SBMC Section 5.10.310.
- How the CCB will conform to local and state laws per SBMC Section 5.10.280 and SBMC Section 5.10.420 and the Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medicinal Use.
- How cannabis inventory 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.
- 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.

Enhanced Product Safety: Describe how the CCB will ensure enhanced consumer safety as required by State or local law.

Safety Plan: The application should include the following:

- 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.

Security Plan: The application should include the following:

- 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 building 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 to-scale (minimum scale of 1/4"). The scale maybe smaller if it exceeds more than a 1/2 acre parcel but must be printed on not larger than an 11 X 17 sheet of paper.

Community Benefits: Describe the benefits that the CCB would provide to the local community, such as employment for local residents of the City, community contributions, or economic incentives to the City. Specific items that are subject to consideration include the following:

- How does the type of license requested benefit the community and assure an appropriate mix of license types Citywide?
- Does the applicant provide an effective community outreach plan for nearby owners and operators?
- Does the applicant describe credible benefits to the overall community, local economy, and any community or non-profit contributions or affiliations?
- Does the applicant propose to include one or more of the following business types:
 - Coffee Shop
 - Art Studio
 - Museum

EXHIBIT 4

DAMIAN A. MARTIN, ESQ., M.B.A.
528 E. 33rd Street, Los Angeles, CA 90011
Phone: (757) 652-0460 | Email: damian.martin.esq@gmail.com

February 18, 2019

Honorable Mayor & City Council Members
ATTN: City Council Office
City of San Bernardino
290 North D Street, 8th Floor
San Bernardino, CA 92401
Phone: (909) 384-5188
Email: council@sbcity.org

Copy to (via email):

The City Clerk's Office
ATTN: Georgeann Hanna, City Clerk
201 North E Street, Bldg. 201 A
San Bernardino, CA 92401
Phone: (909) 384-5002
Email: hanna_gj@sbcity.org

The City Attorney's Office
ATTN: Gary D. Saenz, City Attorney
290 North D Street, 3rd Floor
San Bernardino, CA 92401
Phone: (909) 384-5355
Email: attorney@sbcity.org

RE: Letter (the "Letter") in Response to Agenda Item #1 for the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019, Demonstrating that the Commercial Cannabis Business Phase 3 Rating Process and Ranking was Subjective and Biased against Residents of the County and City of San Bernardino in Violation of (i) Section 5.10.090(a) of the San Bernardino Municipal Code and (ii) the "Application Procedure Guidelines for a Commercial Cannabis Business"

Dear Honorable Mayor & City Council Members:

My name is Damian A. Martin. I am an Attorney (SBN: 309684) that provides legal and consulting services to clients in the *regulated* cannabis industry. My experience doing so goes back as far as cannabis businesses have been actually getting licensed in the State of California (the "State"). In fact, I got my start in the City of San Bernardino (the "City") serving as a visionary and activist behind the City Council-enacted Measure P for the General Election on November 8, 2016—see [San Bernardino anti-marijuana arguments filed by pro-pot groups](#), The Press-Enterprise. In that time, I have personally drafted ten local regulatory ordinances for other cities in the State and successfully achieved local approval for over ten commercial cannabis license applications—and have legal, project management, and/or ownership responsibilities in over 15 local licensing applications pending approval. Prior to my career as an Attorney, I was a Senior Strategic Analyst with the District of Columbia Courts and Senior Operations Analysis for Capital One Financial Corp. Before that, I was an Intelligence Analyst in the U.S. Navy and conducted multiple overseas deployments in support of counterterrorism and foreign internal defense

missions by the U.S. Navy SEALs. Thus, in addition to qualifying as an expert in Cannabis Law & Policy, I am an Executive-Level Analyst with expertise in Lean / Six Sigma, qualitative and quantitative analytics, military intelligence, statistics, and Regression Analysis. As such, I was the Lead Analyst behind the District of Columbia Courts massive Juror Utilization improvements in 2013, which were noteworthy enough to be covered by the National Law Journal in the March 10, 2014, article, *D.C. Makes Jurors Feel Appreciated*. For reference, my resume is enclosed with this Letter.

With the above background in mind and on behalf of my client, EEL Holdings, LLC, dba Connected Cannabis Co., with Elliot Lewis as its Managing Member, the Applicant and Owner for Commercial Cannabis Business (“CCB”) Application #18-0016, I have reviewed and analyzed the CCB Phase 3 scoring breakdowns included with Agenda Item #1 for the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019, as Attachment 2.B (the “Scoring Breakdowns”). Based on my review and analysis of the Scoring Breakdowns, below, I shall demonstrate objectively, statistically, and unequivocally that the Phase 3 rating process and ranking was subjective and biased against residents of the County and City of San Bernardino in violation of (i) Section 5.10.090(a) of the San Bernardino Municipal Code (the “SBMC”) and (ii) the “Application Procedure Guidelines for a Commercial Cannabis Business” (the “Application Procedure Guidelines”).

I. Under Section 5.10.090(a) of the SBMC and the Application Procedure Guidelines, the Phase 3 Selection Committee is Required to Objectively Evaluate the “Local Enterprise” Review Criterion to the Extent to Which the CCB Will be a Locally Managed Enterprise Whose Owners/Principals Reside within the City and/or within San Bernardino County

The statutory provision underlying the CCB Phase 3 rating process and ranking is located in Section 5.10.090(a) of the SBMC. Under Section 5.10.090(a) of the SBMC (emphasis added):

The Mayor and City Council shall adopt by Resolution the procedures to govern the application process, and the manner in which the decision will ultimately be made regarding the issuance of any commercial cannabis business permit(s), which Resolution shall include or require the City Manager to provide **detailed objective review criteria** to be evaluated on a point system or equivalent quantitative evaluation scale tied to each set of review criteria (“[Objective] Review Criteria”) The Resolution shall authorize the City Manager or his/her designee(s) to prepare the necessary forms, adopt any necessary rules to the application, regulations and processes, solicit applications, conduct initial evaluations of the applicants, and to ultimately provide a final recommendation to the Mayor and City Council.

Ultimately, the City Manager promulgated the Application Procedure Guidelines pursuant to Section 5.10.090(a) of the SBMC. Under the Application Procedure Guidelines (see Pages 3

through 4), the City's CCB Phase 3 Selection Committee is required to **objectively** interview, evaluate, and rank each CCB Applicant based on the following Objective Review Criteria:

- Qualifications of Principals (300 Points)
- Location (proof of ownership or a signed and notarized statement of intent from the Property Owner) (200 Points)
- Neighborhood Compatibility Plan (200 Points)
- Environmental Impact Mitigation (300 Points)
- Local Enterprise (400 Points)
- Business Plan (300 Points)
- Enhanced Product Safety (200 Points)
- Safety Plan (150 Points)
- Security Plan (150 Points)
- Community Benefits (300 Points)

Appendix A of the Application Procedure Guidelines provides the City's Phase 3 Selection Committee further directives and details for interviewing, evaluating, and ranking each CCB Applicant. For the most-heavily weighted Objective Review Criteria, "Local Enterprise", the City's Phase 3 Selection Committee is specifically required to consider the following elements:

- Providing compensation to and opportunities for continuing education and training of employees/staff;
- The application should state the extent to which the CCB will be a locally managed enterprise whose Owners/Principals reside within the City and/or within San Bernardino County.

See Page 5 of the Application Procedure Guidelines. In other words, the Mayor and City Council, through the City Manager, requires the City's Phase 3 Selection Committee to objectively evaluate the "Local Enterprise" Review Criterion to the extent to which the CCB will be a locally managed enterprise whose Owners/Principals are residents of the County and City of San Bernardino.

II. Notwithstanding the Requirements of Section 5.10.090(a) of the SBMC and the Application Procedure Guidelines, the City’s Phase 3 Selection Committee Did Not Objectively Evaluate the “Local Enterprise” Review Criterion to the Extent to Which the CCB Will be a Locally Managed Enterprise Whose Owners/Principals are Residents of the County and City of San Bernardino

Below is a table summarizing the Phase 3 Selection Committee’s “Local Enterprise” scores against whether Owners/Principals of the each CCB Applicant are residents of the County and City of San Bernardino:

Applicant Name	Owners/Principals Residence	San Bernardino Cnty. Resident?	San Bernardino City Resident?	“Local Enterprise” Score
Pure Dispensaries, LLC	Luguna Beach, CA	No	No	89.63%
JIVA LIFE INC	San Francisco, CA	No	No	89.25%
Empire Connect, LLC	Rancho Cucamonga, CA	Yes	No	89.06%
Orange Show Cultivators, Inc.	Rancho Cucamonga, CA	Yes	No	89.06%
HAH3, LLC dba Have a Heart	Seattle, WA	No	No	88.94%
PTRE Management	Santa Ana, CA	No	No	86.88%
Luke, LLC dba Organtix Orchards - Cultivation	Newport Beach, CA	No	No	85.06%
Harvest of San Bernardino - Orange Show	Tempe, AZ	No	No	84.81%
RD San Bernardino LLC	Corona, CA	No	No	84.69%
Ashe Society SB, LLC - Lugo Avenue	San Bernardino, CA	Yes	Yes	84.63%
Nibble This, LLC - Hallmark Pkwy	San Marino, CA	No	No	84.56%
Nibble This, LLC - S. E Street	San Marino, CA	No	No	84.56%
Harvest of San Bernardino - Court St	Tempe, AZ	No	No	84.50%
A Bud & Beyond	San Bernardino, CA	Yes	Yes	84.38%
SOCA Farms, LLC	Long Beach, CA	No	No	84.25%
Ashe Society SB, LLC - S. E Street	San Bernardino, CA	Yes	Yes	84.00%
SB Pharma Holdings, Inc. DBA The Row House	San Bernardino, CA	Yes	Yes	83.44%
Blunt Brothers, Inc. - Chad White	Fontana, CA	Yes	No	82.81%
14 Four	San Bernardino, CA	Yes	Yes	82.81%
3P, Inc.	Whittier, CA	No	No	82.56%
KP Investment Group, LLC	Rowland Heights, CA	No	No	82.19%
ECS Labs, Inc	San Bernardino, CA	Yes	Yes	82.19%
MED Products Group, Inc.	San Bernardino, CA	Yes	Yes	82.19%
EEL Holdings, LLC dba Connected Cannabis Co	Long Beach, CA	No	No	81.88%
Howard Friedman - 4th St. Dispensary	San Bernardino, CA	Yes	Yes	81.63%
Alpha Medic LLC	Temecula, CA	No	No	81.56%
AM-PM MGMT, Inc DBA Cold Creek Organics - Microbusiness	San Bernardino, CA	Yes	Yes	81.38%

Applicant Name	Owners/Principals Residence	San Bernardino Cnty. Resident?	San Bernardino City Resident?	"Local Enterprise" Score
Accessible Options - Cultivation	Weaverville, CA	No	No	81.25%
AM-PM MGMT, Inc DBA Cold Creek Organics - Manufacturing	San Bernardino, CA	Yes	Yes	81.25%
Organic 1 Healing Inc	Fontana, CA	Yes	No	81.25%
Washington, LLC	Pacific Palisades, CA	No	No	80.94%
GWC Real Estate Services, LLC	Los Angeles, CA	No	No	80.81%
Central Avenue Nursery, LLC	San Bernardino, CA	Yes	Yes	80.63%
HC Club, LLC dba Hempire Cannabis Club	San Bernardino, CA	Yes	Yes	80.38%
Uplyft LA, LLC	Santa Monica, CA	No	No	80.13%
Red Brick Industries, LLC	San Bernardino, CA	Yes	Yes	80.00%
Rznhead, Inc dba Cookies San Bernardino	North Hollywood, CA	No	No	79.69%
Ocean Green Management, LLC	Rancho Murrieta, CA	No	No	79.38%
Cali Blue Skys Investments	San Bernardino, CA	Yes	Yes	78.56%
Correlation Coefficient between San Bernardino Residency and "Local Enterprise" Score		-0.16	-0.33	

The above table demonstrates that the City's Phase 3 Selection Committee did not objectively evaluate the "Local Enterprise" Review Criterion to the extent to which the CCB will be a locally managed enterprise whose Owners/Principals are residents of the County and City of San Bernardino. For example:

- Of the 18x CCB Applicants whose Owners/Principals are residents of the County of San Bernardino, 11—or 61%—scored in the bottom-half of the ranking for the "Local Enterprise" Review Criterion; and
- Of the 14 applicants whose Owners/Principals are residents of the City of San Bernardino, 10—or 71%—scored in the bottom-half of the ranking for the "Local Enterprise" Review Criterion.

However, even more telling than simple percentages, the Correlation Coefficient between San Bernardino Residency and a CCB Applicant's "Local Enterprise" score reveals a "negative relationship" between San Bernardino residency and a CCB Applicant's "Local Enterprise" score. For explanation, Correlation Coefficient is a statistic that measures the strength and direction of the linear relationship between two variables. More specifically, Correlation Coefficient measurements range from +1 to -1, with (i) +1 indicating the strongest possible "positive relationship" between two variables, *i.e.*, a greater amount of variable *x* equals a greater amount of variable *y*; (ii) -1 indicating the strongest possible "negative relationship" between two variables, *i.e.*, a greater amount of variable *x* equals a *lesser* amount of variable *y*; and (iii) 0 indicating no relationship between two variables, *i.e.*, the relationship between variable *x* and variable *y* is completely random. Here, with the Mayor and City Council's requirement that the Phase 3 Selection Committee evaluate the "Local Enterprise" Review Criterion to the extent to which the

CCB will be a locally managed enterprise whose Owners/Principals are residents of the County and City of San Bernardino, one would expect some “positive relationship” between San Bernardino residency and a CCB Applicant’s “Local Enterprise” score, *i.e.*, San Bernardino residency should be associated with higher “Local Enterprise” scores rather than lower “Local Enterprise” scores—let’s say for the sake of argument a Correlation Coefficient greater than 0.5. However, the Correlation Coefficient between San Bernardino County residency and a CCB Applicant’s “Local Enterprise” score is **negative 0.16**. When taking into account only City residency, the Correlation Coefficient grows to **negative 0.33**.


Thus, there is a statistically objective “negative relationship” between San Bernardino residency and a CCB Applicant’s “Local Enterprise” score, demonstrating that the City’s Phase 3 Selection Committee did not objectively evaluate the “Local Enterprise” Review Criterion to the extent to which the CCB will be a locally managed enterprise whose Owners/Principals are residents of the County and City of San Bernardino in violation of Section 5.10.090(a) of the SBMC and the Application Procedure Guidelines. In fact, given the particularly strong “negative relationship” related to City of San Bernardino residency, the City’s Phase 3 Selection Committee actually punished CCB Applicants accordingly in *egregious* violation of Section 5.10.090(a) of the SBMC and the Application Procedure Guidelines.

IV. Conclusion—The City’s Phase 3 Selection Committee Subjectively Ranked and was Biased against Residents of the County and City of San Bernardino in Violation of Section 5.10.090(a) of the SBMC and the Application Procedure Guidelines; Thus and to Preserve any Remaining Integrity in the City’s CCB Selection Process, the Mayor and City Council Must Disregard all Phase 3 Scores and Rankings and Make Discretionary Determinations under Section 5.10.180(g) of the SBMC

The above analysis objectively, statistically, and unequivocally demonstrates that the Phase 3 rating process and ranking was subjective and biased against residents of the County and City of San Bernardino in complete contravention of the Mayor and City Council’s mandates in Section 5.10.090(a) of the SBMC San Bernardino Municipal Code and the Application Procedure Guidelines. Without pondering the source of that subjectivity and bias in this Letter—whether it be malice, incompetence, or a combination thereof—there are now further questions regarding the integrity of the City’s CCB Permit Selection Process. I say “further” because in Phase 2 of the Selection Process, all 10 CCB Applicants that appealed their Phase 2 rejections were reinstated—a 100% error rate with the Phase 2 portion of Selection Process. Returning back to Phase 3 and further again, because the Phase 3 Selection Committee’s subjectivity and bias has been statistically demonstrated on the most-heavily weighted Objective Review Criteria—“Local Enterprise”—the Phase 3 scores and rankings as whole can no longer be trusted. Therefore, the Mayor and City Council must disregard all Phase 3 scores and rankings and make discretionary determinations regarding all CCB permit application decisions under Section 5.10.180(g) of the SBMC.

Thank you for your time and thoughtful consideration.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "D. A. Martin", written over a horizontal line.

Damian A. Martin, Esq., M.B.A.
Attorney for EEL Holdings, LLC, dba
Connected Cannabis Co.

Enclosures:

1. Resume for Damian A. Martin, Esq., M.B.A.

EXHIBIT 5

DAMIAN A. MARTIN, ESQ., M.B.A.
528 E. 33rd Street, Los Angeles, CA 90011
Phone: (757) 652-0460 | Email: damian.martin.esq@gmail.com

February 18, 2019

Honorable Mayor & City Council Members
ATTN: City Council Office
City of San Bernardino
290 North D Street, 8th Floor
San Bernardino, CA 92401
Phone: (909) 384-5188
Email: council@sbcity.org

Copy to (via email):

The City Clerk's Office
ATTN: Georgeann Hanna, City Clerk
201 North E Street, Bldg. 201 A
San Bernardino, CA 92401
Phone: (909) 384-5002
Email: hanna_gj@sbcity.org

The City Attorney's Office
ATTN: Gary D. Saenz, City Attorney
290 North D Street, 3rd Floor
San Bernardino, CA 92401
Phone: (909) 384-5355
Email: attorney@sbcity.org

RE: Letter (the "Letter") in Response to Agenda Item #1 for the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019, Demonstrating that the Commercial Cannabis Business Phase 3 Rating Process and Ranking was Subjective and Biased against Residents of the County and City of San Bernardino in Violation of (i) Section 5.10.090(a) of the San Bernardino Municipal Code and (ii) the "Application Procedure Guidelines for a Commercial Cannabis Business"

Dear Honorable Mayor & City Council Members:

My name is Damian A. Martin. I am an Attorney (SBN: 309684) that provides legal and consulting services to clients in the *regulated* cannabis industry. My experience doing so goes back as far as cannabis businesses have been actually getting licensed in the State of California (the "State"). In fact, I got my start in the City of San Bernardino (the "City") serving as a visionary and activist behind the City Council-enacted Measure P for the General Election on November 8, 2016—see [San Bernardino anti-marijuana arguments filed by pro-pot groups](#), The Press-Enterprise. In that time, I have personally drafted ten local regulatory ordinances for other cities in the State and successfully achieved local approval for over ten commercial cannabis license applications—and have legal, project management, and/or ownership responsibilities in over 15 local licensing applications pending approval. Prior to my career as an Attorney, I was a Senior Strategic Analyst with the District of Columbia Courts and Senior Operations Analysis for Capital One Financial Corp. Before that, I was an Intelligence Analyst in the U.S. Navy and conducted multiple overseas deployments in support of counterterrorism and foreign internal defense

missions by the U.S. Navy SEALs. Thus, in addition to qualifying as an expert in Cannabis Law & Policy, I am an Executive-Level Analyst with expertise in Lean / Six Sigma, qualitative and quantitative analytics, military intelligence, statistics, and Regression Analysis. As such, I was the Lead Analyst behind the District of Columbia Courts massive Juror Utilization improvements in 2013, which were noteworthy enough to be covered by the National Law Journal in the March 10, 2014, article, *D.C. Makes Jurors Feel Appreciated*. For reference, my resume is enclosed with this Letter.

With the above background in mind and on behalf of my client, EEL Holdings, LLC, dba Connected Cannabis Co., with Elliot Lewis as its Managing Member, the Applicant and Owner for Commercial Cannabis Business (“CCB”) Application #18-0016, I have reviewed and analyzed the CCB Phase 3 scoring breakdowns included with Agenda Item #1 for the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019, as Attachment 2.B (the “Scoring Breakdowns”). Based on my review and analysis of the Scoring Breakdowns, below, I shall demonstrate objectively, statistically, and unequivocally that the Phase 3 rating process and ranking was subjective and biased against residents of the County and City of San Bernardino in violation of (i) Section 5.10.090(a) of the San Bernardino Municipal Code (the “SBMC”) and (ii) the “Application Procedure Guidelines for a Commercial Cannabis Business” (the “Application Procedure Guidelines”).

I. Under Section 5.10.090(a) of the SBMC and the Application Procedure Guidelines, the Phase 3 Selection Committee is Required to Objectively Evaluate the “Local Enterprise” Review Criterion to the Extent to Which the CCB Will be a Locally Managed Enterprise Whose Owners/Principals Reside within the City and/or within San Bernardino County

The statutory provision underlying the CCB Phase 3 rating process and ranking is located in Section 5.10.090(a) of the SBMC. Under Section 5.10.090(a) of the SBMC (emphasis added):

The Mayor and City Council shall adopt by Resolution the procedures to govern the application process, and the manner in which the decision will ultimately be made regarding the issuance of any commercial cannabis business permit(s), which Resolution shall include or require the City Manager to provide **detailed objective review criteria** to be evaluated on a point system or equivalent quantitative evaluation scale tied to each set of review criteria (“[Objective] Review Criteria”) The Resolution shall authorize the City Manager or his/her designee(s) to prepare the necessary forms, adopt any necessary rules to the application, regulations and processes, solicit applications, conduct initial evaluations of the applicants, and to ultimately provide a final recommendation to the Mayor and City Council.

Ultimately, the City Manager promulgated the Application Procedure Guidelines pursuant to Section 5.10.090(a) of the SBMC. Under the Application Procedure Guidelines (see Pages 3

through 4), the City's CCB Phase 3 Selection Committee is required to **objectively** interview, evaluate, and rank each CCB Applicant based on the following Objective Review Criteria:

- Qualifications of Principals (300 Points)
- Location (proof of ownership or a signed and notarized statement of intent from the Property Owner) (200 Points)
- Neighborhood Compatibility Plan (200 Points)
- Environmental Impact Mitigation (300 Points)
- Local Enterprise (400 Points)
- Business Plan (300 Points)
- Enhanced Product Safety (200 Points)
- Safety Plan (150 Points)
- Security Plan (150 Points)
- Community Benefits (300 Points)

Appendix A of the Application Procedure Guidelines provides the City's Phase 3 Selection Committee further directives and details for interviewing, evaluating, and ranking each CCB Applicant. For the most-heavily weighted Objective Review Criteria, "Local Enterprise", the City's Phase 3 Selection Committee is specifically required to consider the following elements:

- Providing compensation to and opportunities for continuing education and training of employees/staff;
- The application should state the extent to which the CCB will be a locally managed enterprise whose Owners/Principals reside within the City and/or within San Bernardino County.

See Page 5 of the Application Procedure Guidelines. In other words, the Mayor and City Council, through the City Manager, requires the City's Phase 3 Selection Committee to objectively evaluate the "Local Enterprise" Review Criterion to the extent to which the CCB will be a locally managed enterprise whose Owners/Principals are residents of the County and City of San Bernardino.

II. Notwithstanding the Requirements of Section 5.10.090(a) of the SBMC and the Application Procedure Guidelines, the City’s Phase 3 Selection Committee Did Not Objectively Evaluate the “Local Enterprise” Review Criterion to the Extent to Which the CCB Will be a Locally Managed Enterprise Whose Owners/Principals are Residents of the County and City of San Bernardino

Below is a table summarizing the Phase 3 Selection Committee’s “Local Enterprise” scores against whether Owners/Principals of the each CCB Applicant are residents of the County and City of San Bernardino:

Applicant Name	Owners/Principals Residence	San Bernardino Cnty. Resident?	San Bernardino City Resident?	“Local Enterprise” Score
Pure Dispensaries, LLC	Luguna Beach, CA	No	No	89.63%
JIVA LIFE INC	San Francisco, CA	No	No	89.25%
Empire Connect, LLC	Rancho Cucamonga, CA	Yes	No	89.06%
Orange Show Cultivators, Inc.	Rancho Cucamonga, CA	Yes	No	89.06%
HAH3, LLC dba Have a Heart	Seattle, WA	No	No	88.94%
PTRE Management	Santa Ana, CA	No	No	86.88%
Luke, LLC dba Organtix Orchards - Cultivation	Newport Beach, CA	No	No	85.06%
Harvest of San Bernardino - Orange Show	Tempe, AZ	No	No	84.81%
RD San Bernardino LLC	Corona, CA	No	No	84.69%
Ashe Society SB, LLC - Lugo Avenue	San Bernardino, CA	Yes	Yes	84.63%
Nibble This, LLC - Hallmark Pkwy	San Marino, CA	No	No	84.56%
Nibble This, LLC - S. E Street	San Marino, CA	No	No	84.56%
Harvest of San Bernardino - Court St	Tempe, AZ	No	No	84.50%
A Bud & Beyond	San Bernardino, CA	Yes	Yes	84.38%
SOCA Farms, LLC	Long Beach, CA	No	No	84.25%
Ashe Society SB, LLC - S. E Street	San Bernardino, CA	Yes	Yes	84.00%
SB Pharma Holdings, Inc. DBA The Row House	San Bernardino, CA	Yes	Yes	83.44%
Blunt Brothers, Inc. - Chad White	Fontana, CA	Yes	No	82.81%
14 Four	San Bernardino, CA	Yes	Yes	82.81%
3P, Inc.	Whittier, CA	No	No	82.56%
KP Investment Group, LLC	Rowland Heights, CA	No	No	82.19%
ECS Labs, Inc	San Bernardino, CA	Yes	Yes	82.19%
MED Products Group, Inc.	San Bernardino, CA	Yes	Yes	82.19%
EEL Holdings, LLC dba Connected Cannabis Co	Long Beach, CA	No	No	81.88%
Howard Friedman - 4th St. Dispensary	San Bernardino, CA	Yes	Yes	81.63%
Alpha Medic LLC	Temecula, CA	No	No	81.56%
AM-PM MGMT, Inc DBA Cold Creek Organics - Microbusiness	San Bernardino, CA	Yes	Yes	81.38%

Applicant Name	Owners/Principals Residence	San Bernardino Cnty. Resident?	San Bernardino City Resident?	"Local Enterprise" Score
Accessible Options - Cultivation	Weaverville, CA	No	No	81.25%
AM-PM MGMT, Inc DBA Cold Creek Organics - Manufacturing	San Bernardino, CA	Yes	Yes	81.25%
Organic 1 Healing Inc	Fontana, CA	Yes	No	81.25%
Washington, LLC	Pacific Palisades, CA	No	No	80.94%
GWC Real Estate Services, LLC	Los Angeles, CA	No	No	80.81%
Central Avenue Nursery, LLC	San Bernardino, CA	Yes	Yes	80.63%
HC Club, LLC dba Hempire Cannabis Club	San Bernardino, CA	Yes	Yes	80.38%
Uplyft LA, LLC	Santa Monica, CA	No	No	80.13%
Red Brick Industries, LLC	San Bernardino, CA	Yes	Yes	80.00%
Rznhead, Inc dba Cookies San Bernardino	North Hollywood, CA	No	No	79.69%
Ocean Green Management, LLC	Rancho Murrieta, CA	No	No	79.38%
Cali Blue Skys Investments	San Bernardino, CA	Yes	Yes	78.56%
Correlation Coefficient between San Bernardino Residency and "Local Enterprise" Score		-0.16	-0.33	

The above table demonstrates that the City's Phase 3 Selection Committee did not objectively evaluate the "Local Enterprise" Review Criterion to the extent to which the CCB will be a locally managed enterprise whose Owners/Principals are residents of the County and City of San Bernardino. For example:

- Of the 18x CCB Applicants whose Owners/Principals are residents of the County of San Bernardino, 11—or 61%—scored in the bottom-half of the ranking for the "Local Enterprise" Review Criterion; and
- Of the 14 applicants whose Owners/Principals are residents of the City of San Bernardino, 10—or 71%—scored in the bottom-half of the ranking for the "Local Enterprise" Review Criterion.

However, even more telling than simple percentages, the Correlation Coefficient between San Bernardino Residency and a CCB Applicant's "Local Enterprise" score reveals a "negative relationship" between San Bernardino residency and a CCB Applicant's "Local Enterprise" score. For explanation, Correlation Coefficient is a statistic that measures the strength and direction of the linear relationship between two variables. More specifically, Correlation Coefficient measurements range from +1 to -1, with (i) +1 indicating the strongest possible "positive relationship" between two variables, *i.e.*, a greater amount of variable *x* equals a greater amount of variable *y*; (ii) -1 indicating the strongest possible "negative relationship" between two variables, *i.e.*, a greater amount of variable *x* equals a *lesser* amount of variable *y*; and (iii) 0 indicating no relationship between two variables, *i.e.*, the relationship between variable *x* and variable *y* is completely random. Here, with the Mayor and City Council's requirement that the Phase 3 Selection Committee evaluate the "Local Enterprise" Review Criterion to the extent to which the

CCB will be a locally managed enterprise whose Owners/Principals are residents of the County and City of San Bernardino, one would expect some “positive relationship” between San Bernardino residency and a CCB Applicant’s “Local Enterprise” score, *i.e.*, San Bernardino residency should be associated with higher “Local Enterprise” scores rather than lower “Local Enterprise” scores—let’s say for the sake of argument a Correlation Coefficient greater than 0.5. However, the Correlation Coefficient between San Bernardino County residency and a CCB Applicant’s “Local Enterprise” score is **negative 0.16**. When taking into account only City residency, the Correlation Coefficient grows to **negative 0.33**.


Thus, there is a statistically objective “negative relationship” between San Bernardino residency and a CCB Applicant’s “Local Enterprise” score, demonstrating that the City’s Phase 3 Selection Committee did not objectively evaluate the “Local Enterprise” Review Criterion to the extent to which the CCB will be a locally managed enterprise whose Owners/Principals are residents of the County and City of San Bernardino in violation of Section 5.10.090(a) of the SBMC and the Application Procedure Guidelines. In fact, given the particularly strong “negative relationship” related to City of San Bernardino residency, the City’s Phase 3 Selection Committee actually punished CCB Applicants accordingly in *egregious* violation of Section 5.10.090(a) of the SBMC and the Application Procedure Guidelines.

IV. Conclusion—The City’s Phase 3 Selection Committee Subjectively Ranked and was Biased against Residents of the County and City of San Bernardino in Violation of Section 5.10.090(a) of the SBMC and the Application Procedure Guidelines; Thus and to Preserve any Remaining Integrity in the City’s CCB Selection Process, the Mayor and City Council Must Disregard all Phase 3 Scores and Rankings and Make Discretionary Determinations under Section 5.10.180(g) of the SBMC

The above analysis objectively, statistically, and unequivocally demonstrates that the Phase 3 rating process and ranking was subjective and biased against residents of the County and City of San Bernardino in complete contravention of the Mayor and City Council’s mandates in Section 5.10.090(a) of the SBMC San Bernardino Municipal Code and the Application Procedure Guidelines. Without pondering the source of that subjectivity and bias in this Letter—whether it be malice, incompetence, or a combination thereof—there are now further questions regarding the integrity of the City’s CCB Permit Selection Process. I say “further” because in Phase 2 of the Selection Process, all 10 CCB Applicants that appealed their Phase 2 rejections were reinstated—a 100% error rate with the Phase 2 portion of Selection Process. Returning back to Phase 3 and further again, because the Phase 3 Selection Committee’s subjectivity and bias has been statistically demonstrated on the most-heavily weighted Objective Review Criteria—“Local Enterprise”—the Phase 3 scores and rankings as whole can no longer be trusted. Therefore, the Mayor and City Council must disregard all Phase 3 scores and rankings and make discretionary determinations regarding all CCB permit application decisions under Section 5.10.180(g) of the SBMC.

Thank you for your time and thoughtful consideration.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "D. Martin", written over a horizontal line.

Damian A. Martin, Esq., M.B.A.
Attorney for EEL Holdings, LLC, dba
Connected Cannabis Co.

Enclosures:

1. Resume for Damian A. Martin, Esq., M.B.A.

DAMIAN A. MARTIN, ESQ., M.B.A.
528 E. 33rd Street, Los Angeles, CA 90011
Phone: (757) 652-0460 | Email: damian.martin.esq@gmail.com

February 24, 2019

Honorable Mayor & City Council Members
ATTN: City Council Office
City of San Bernardino
290 North D Street, 8th Floor
San Bernardino, CA 92401
Phone: (909) 384-5188
Email: council@sbcity.org

The City Attorney's Office
ATTN: Gary D. Saenz, City Attorney
290 North D Street, 3rd Floor
San Bernardino, CA 92401
Phone: (909) 384-5355
Email: attorney@sbcity.org

Copy to (via email):

The City Clerk's Office
ATTN: Georgeann Hanna, City Clerk
201 North E Street, Bldg. 201 A
San Bernardino, CA 92401
Phone: (909) 384-5002
Email: hanna_gi@sbcity.org

RE: Notice of Intent to Sue / Demand Letter (the "Letter") Regarding the Mayor and City Council's Failure to Approve Commercial Cannabis Business Permit Application #18-0016 at the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019

Dear Honorable Mayor & City Council Members and City Attorney:

My name is Damian A. Martin. I am an Attorney (SBN: 309684) who provides legal and consulting services to clients in the *regulated* cannabis industry. My experience doing so goes back as far as when cannabis businesses first started getting licensed in the State of California (the "State"). In fact, I got my start in the City of San Bernardino (the "City") advocating for the City Council-enacted Measure P for the General Election on November 8, 2016—see *San Bernardino anti-marijuana arguments filed by pro-pot groups*, The Press-Enterprise. In my career, I have personally drafted ten regulatory ordinances for other cities and successfully attained local approval of nearly a dozen commercial cannabis license applications—and have legal, project management, and/or ownership responsibilities over 15 local licensing applications currently pending for approval.

With the above background in mind and on behalf of my client, EEL Holdings, LLC, dba Connected Cannabis Co., with Elliot Lewis as its Managing Member, the Applicant and Owner for Commercial Cannabis Business ("CCB") Application #18-0016 (my "Client"), I am providing this Letter to the Mayor & City Council Members and City Attorney to (i) provide them with notice of my Client's intention to sue the Mayor & City Council Members in their official capacity and the

City Manager in her official capacity and individual capacity for failure to approve CCB Application #18-0016 at Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019 (the "Special Meeting") and (ii) assert my Client's demand that CCB Application #18-0016 be approved as the 17th CCB permit the Mayor & City Council are presently authorized to approve via Section 5.10.080 of the San Bernardino Municipal Code (the "SBMC"), via a Resolution of the Mayor & City Council Members expanding the number of CCB retailer permits to be issued from five to six. Our demand is based on the following grounds:

I. The City's CCB Permit Selection Process was a Complete "Mess" with Numerous Questions about the Legitimacy of the Approval Process and its Compliance with the SBMC and the Application Procedure Guidelines

At the conclusion of the Special Meeting, City Council Member Henry Nickel conceded the following contritely: "This was a messy process, and I apologize for that. I apologize to each and every one of you in this room. This is the first time we have done this." *This is how many commercial cannabis licenses San Bernardino approved*, The Sun. Although much of it was glossed over the Special Meeting, there is a great deal of history behind Council Member Nickel's admission and apology.

After years of abortive attempts to regulate commercial cannabis activity (including three voters measure on the November 2016 ballot and years of litigation), on March 7, 2018, the Mayor & City Council enacted Ordinance MC-1464, which codified Chapter 5.10 to the SMBC, with MC-1464 being subsequently amended by Ordinance MC-1503 and reenacted by Measure X at the general election on November 6, 2018 (collectively, the "San Bernardino Cannabis Ordinance"). Codified by the San Bernardino Cannabis Ordinance, Section 5.10.090(a) of the SBMC requires that:

The Mayor and City Council shall adopt by Resolution the procedures to govern the application process, and the manner in which the decision will ultimately be made regarding the issuance of any commercial cannabis business permit(s), which Resolution shall include or require the City Manager to provide detailed objective review criteria to be evaluated on a point system or equivalent quantitative evaluation scale tied to each set of review criteria ("[Objective] Review Criteria"), which shall require any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code as contemplated by Business and Professions Code Section 26055, subdivision (h). The Resolution shall authorize the City Manager or his/her designee(s) to prepare the necessary forms, adopt any necessary rules to the application, regulations and processes, solicit applications, conduct initial evaluations of the applicants, and to ultimately provide a final recommendation to the Mayor and City Council.

Pursuant to Section 5.10.090(a) of the SBMC, on April 4, 2018, the Mayor & City Council adopted Resolution 2018-102, which established the Objective Review Criteria and included the "Application Procedure Guidelines for a Commercial Cannabis Business" (the "Application

Procedure Guidelines") (collectively, the San Bernardino Cannabis Ordinance, Resolution 2018-102, and the Application Procedure Guidelines may be referred to herein as the "San Bernardino Cannabis Law"). The Application Procedure Guidelines dated as of May 21, 2018, and posted at the following location, www.sbcity.org/civica/filebank/blobdload.asp?BlobID=25694, on the following City webpage,
www.sbcity.org/cityhall/community_development/cannabis_regulations/commercial_cannabis_activity/default.asp, are enclosed with this Letter.

The Application Procedure Guidelines established a four Phase review process, wherein CCB Applications were evaluated by various parties against various configurations of the Objective Review Criteria. In Phase 1, CCB Applications are reviewed for completeness, including the requirement to have "[a]n **approved** Zoning Verification Letter from the Community Development Department stating that the property where the CCB is proposed to operate complies with the locational requirements of SBMC Chapter 5.10." See Page 2 of the Application Procedure Guidelines. In Phase 2, CCB Applications are "evaluated and ranked by HdL Companies" on a limited subset of the Objective Review Criteria, such that:

Those applicants which successfully complete Phase 2 with a passing score of at least 80% will move on to Phase 3 of the application process. However, at no time will the total number of eligible applicants moving on to Phase 3 exceed more than thirty-four (34) eligible applicants.

See Page 4 of the Application Procedure Guidelines. In Phase 3, CCB Applications are "interviewed and evaluated by the City's Selection Committee" against all of the Objective Review Criteria, such that "[a]fter all Phase 3 scores have been tabulated, they will be combined with Phase 2 scores to establish an overall ranking of the applications." See Page 4 of the Application Procedure Guidelines. In Phase 4, CCB Applications were to be subjected to two public meetings. First, "a public meeting to be held in the City Council Chambers on a date and time to be determined by City staff" for the community "to present concerns and/or support and inform City staff of potential concerns for which a condition(s) may be necessary to address." See Page 5 of the Application Procedure Guidelines. Second, "[f]ollowing an objective ranking of the application materials, interview process, and upon completion of the public meeting, the City Manager shall prepare a report bringing forward to the City Council the Selection Committee's recommendations for the final ranking of the applications" for the Mayor and City Council to "review the Selection Committee's recommendations and decide which applications will receive CCB permits." *Id.*

Notwithstanding the clear Guidelines above and attached, from the very beginning of their implementation by the City Manager, there were numerous inconsistencies such as:

- CCB Applications with denied Zoning Verification Letters successfully completing Phase 1;
- CCB Applications that were deemed complete in Phase 1 were later rejected in Phase 2 for missing or incomplete application materials;

- Application materials being lost, misplaced, and disregarded; and
- The same or similarly structured CCB Applications receiving widely varying scores in Phase 2.

To illustrate, ultimately, the City received a total of 42 CCB Applications. Through its Phase 1 review, the City moved all 42 CCB Applications to Phase 2, including five CCB Applications with denied Zoning Verification Letters. As a result, CCB applicants began questioning the City's process (the "CCB Permit Selection Process"), and there were allegations of corruption, cronyism, political maneuvering, and the use of the process to score political points and to carry out political vendettas. My Client is informed and believes that the Mayor, numerous City Council Members, the City Manager, and the City Attorney were made aware of these allegations.

The allegations only increased in both number and intensity during Phase 2 of the CCB Permit Selection Process. Initially, the City rejected 13 CCB Applications in its Phase 2 review and evaluation with some of those rejected Applications being the same or substantially similar to other Applications approved by the City, for example, CCB 18-0042 and CCB 18-0044. As a result, ten of the thirteen rejected CCB Applications appealed their Phase 2 rejection. The first four rejected CCB Applications to have their appeals heard were permitted to go on to Phase 3, often with unusual explanations related to the relocation of applications materials and with an arbitrarily assigned Phase 2 score of 80% (the bare minimum acceptable score). On January 14, 2019, Stephanie Sanchez, Executive Assistant to the Community & Economic Development Director ("Executive Assistant Sanchez" or "Sanchez"), and Elizabeth Mora-Rodriguez, Assistant Planner, hosted a meeting with interested parties in the CCB Permit Selection Process. During the meeting, numerous interested parties expressed anger and frustration with the City's Phase 2 review and evaluation process and raised concerns about the credibility of, and apparent bias in, the application process. My Client is informed and believes that the Mayor, numerous City Council Members, the City Manager, and the City Attorney were made aware of these concerns. Following that meeting, the City Manager, without holding actual appeal hearing, "out of the blue" restored the CCB Applications for the six remaining applicants who had appealed their Phase 2 denials. In the end, all 10, or 100%, of the CCB Applications that were appealed in Phase 2 were restored and moved on to Phase 3.

After completely glossing over of the appeal process and conducting the Phase 3 interviews for the restored CCB Applicants, on February 8, 2019, Executive Assistant Sanchez notified my Client that it had advanced to Phase 4 via a generic letter that apparently had been sent to all 39 CCB Applications now restored to Phase 3. Then, almost a week later and at nearly 9:00 P.M. on a Wednesday evening, February 13, 2019, Sanchez emailed my Client his actual score, ranking, and Objective Review Criteria scoring breakdown for Phase 3. Immediately, my Client requested the Phase 2 and Phase 3 Objective Review Criteria scoring breakdowns via Public Records Act request #4285793. The Phase 3 Objective Review Criteria scoring breakdowns were released on February 15, 2019, as Attachment 2.B to Agenda Item #1 for the Special Meeting (the "Scoring Breakdowns"). On February 18, 2019, I on behalf of my Client

emailed a letter to the Mayor & City Council, City Attorney, and City Clerk demonstrating objectively, statistically, and unequivocally that the Phase 3 rating process and ranking was entirely subjective and improperly biased against residents of the County and City of San Bernardino in contravention of the requirements of Section 5.10.090(a) of the SBMC and the Application Procedure Guidelines (the "Scoring Breakdown Letter"). The Scoring Breakdown Letter is enclosed with this Letter.

Notably though, the Phase 2 Objective Review Criteria scoring breakdowns were not included with Agenda Item #1 for the Special Meeting. Instead, as Attachment 1 (enclosed with this Letter), the City included a version of the Application Procedure Guidelines dated as of January 31, 2019 (the "Altered Application Procedure Guidelines"), which were different from the Application Procedure Guidelines posted at, www.sbcity.org/civica/filebank/blobload.asp?BlobID=25694, on the following webpage, www.sbcity.org/cityhall/community_development/cannabis_regulations/commercial_cannabis_activity/default.asp.¹ Among other changes, the Altered Application Procedure Guidelines removed (i) the requirement that CCB Applications have a passing score of at least 80% to move on to Phase 3 and the limitation of 34 CCB Applications in Phase 3 – requirements set forth on Page 4 of the Application Procedure Guidelines and (ii) the requirement that Phase 2 scores be combined with Phase 3 scores to establish the an overall ranking of the CCB Applications – also located on Page 4 of the Application Procedure Guidelines. The Altered Application Procedure Guidelines were not noticed to interested parties in the CCB Permit Selection Process, are not posted anywhere on the City's website, and were not included in the agendas for any meetings of the Mayor & City Council prior to the Special Meeting. The fact that the Application Procedure Guidelines were altered is not even mentioned in the Staff Report accompanying the Special Meeting. My Client is informed and believes that the City Manager intentionally misled the Mayor & City Council, the City Attorney, and public in surreptitiously altering the Application Procedure Guidelines without permission, notice, and posting on the City's website.

Given the clear flaws highlighted above regarding the CCB Permit Selection Process, my Client is informed and believes that initially the Mayor and individual Council Members intended to exercise their discretion at the Special Meeting to call out and address the above flaws and potentially disregard the Scoring Breakdowns and/or ask for more time to make corrections in the CCB Permit Selection Process. However, my Client is further informed and believes that the Mayor & City Council were advised by the City Attorney, City Manager, and Staff that the Scoring Breakdowns are immutable and—ironically—the City had a process that must be followed, or it would risk litigation and legal exposure. Notably, there are no agenda items—public or closed session—for meetings of the Mayor & City Council prior to February 21, 2019, including advice, legal or otherwise, on the CCB Permit Selection Process or for current or anticipated litigation

¹ In addition to the Scoring Breakdowns and Altered Application Procedure Guidelines, my Client is informed and believes that the City published his private and confidential information with the original version of Agenda Item #1 for the Special Meeting posted on the City website on February 15, 2019, at <http://sanbernardinocityca.ig2.com/Citizens/Default.aspx>. On February 20, 2019, I personally informed the City Council Office, the City Attorney, and the City Clerk that the Agenda and Agenda Packet for the Special Meeting on February 21, 2019, was no longer available / accessible on the City's webpage.

regarding the CCB Permit Selection Process, and , the Staff Report for the Agenda Item #1 to the Special Meeting completely glosses over and ignores the clea and well-known flaws highlighted above.

Not surprisingly given all of the above and the Staff Report, the Special Meeting was a complete farce. After presentations to the public and the CCB applicants, the City Manager and City Attorney's opened the Mayor & City Council discussion of Agenda Item #1 with a lengthy disclaimer about Mayor & City Council "discretion", as if such discretion is omnipotent and will insulate the City from liability. Then, without any mention of, and while directly obfuscating, the well-known flaws discussed above, Executive Assistant Sanchez gave one of the shortest Staff presentations in cannabis licensing history. To illustrate, Sanchez quoted directly from this strenuously ambiguous passage of the Staff Report (emphasis added; what happened to the other four applicants?!):

Ten of the applicants that did not advance to Phase 3 appealed their Phase 2 score as provided in Chapter 5.10. (SBMC, § 5.10.150) Upon review in January 2019, the City Manager summarily granted the **appeals for six applicants** and advanced those applications to Phase 3.

See Page 2 of the Staff Report. What followed was one of the most muzzled, and phony/iignorant, performances by a Mayor, City Council, and staff that I have ever seen. Without any mention of the Phase 2 or Phase 3 scoring issues and objectively demonstrable bias discussed above, the Mayor & City Council ratified the Scoring Breakdowns, without even the slightest acknowledgement of the Scoring Breakdown Letter, even though additionally I had re-presented it during Public Comment.

Working from the baseline of the flawed Scoring Breakdowns, the Mayor & City Council then attempted their best to jockey their favored candidates into the margins of the Top-17 and, in so doing, engaged in an incompetently orchestrated, politically motivated hit job. To illustrate, in an attempt to bring in Applications CCB 18-0016 and CCB 18-0017, originally ranked #17 and #18 overall and #6 and #7 in the microbusiness category, the City Council made a 6-0 motion to specifically knock-out Orange Show Cultivators, Inc., and Nibble This LLC at 1181 S. E St. for lacke of General Plan compliance even though both applicants had approved Zoning Verification Letters. However, once the City Council realized that consistent application of the decision would also knock-out politically favored Application CCB 18-0042, the Council Members immediately reversed its previous motion with the same 6-0 vote. In that vein, phrases similar to, "now who would that effect on the rankings", "where would that put this group", etc., were uttered repeatedly by City Council Members. To illustrate still further the complete abandonment of objective logic, (i) the Mayor & City Council ultimately rejected AM-PM MGMT, Inc.'s microbusiness application for lack of an approved Zoning Verification Letter, *yet approved* AM-PM MGMT, Inc.'s volatile solvent extract manufacturing application with the same "denial" Zoning Verification Letter and (ii) the Mayor & City Council allowed Luke LLC to pick between four different CCB permits even though the applicant had only paid for one permit and accompanying processing costs. On that note, one of the approved CCB Applications, CCB 18-0048, did not submit its application until

June 27, 2018, two days after the June 25, 2018, deadline contained in the Application Procedure Guidelines. See the enclosed Application Receipt for CCB 18-0048.

The only moment of honesty occurred at the end of the Special Meeting, when Council Member Nickel made an apologetic confession: “This was a messy process, and I apologize for that. I apologize to each and every one of you in this room. This is the first time we have done this.” *This is how many commercial cannabis licenses San Bernardino approved*, The Sun.

II. **The Mayor & City Council’s Discretion Does not Provide a Defense for Arbitrary and Capricious Actions, Derelictions of Public Duty, Fraud, and Violations of Stated Laws and Regulations**

The City Manager and City Attorney’s opened the Mayor & City Council discussion of Agenda Item #1 with a lengthy disclaimer about Mayor & City Council “discretion”. In so doing, the City Manager and City Attorney failed to mention the legal limits to such discretion. Namely, discretion is not a panacea and does not provide the Mayor & City Council with protection liability formaking decisions that: (i) are arbitrary and capricious, (ii) consist of a dereliction of public duty, (iii) are fraudulent or based on a known fraud, or (iv) are violations of stated laws and regulations. See, e.g., *People v. Walker* (2006) 139 Cal.App.4th 782, 792 (“To the extent to the trial court’s ruling depends on the proper interpretations of the Evidence Code, however, it presents a question of law; and our review is de novo.”); *People v. Knoller* (2007) 41 Cal.4th 139, 156 (Thus, “an abuse of discretion arises if the trial court based its decision on impermissible factors (see *People v. Carmo[n]y* (2004) 33 Cal.4th 367, 378) or on an incorrect legal standard (see *Linder v. Thrifty Oil Co.* (2001) 23 Cal.4th 429, 435-436; *In re Carmaleta B.* (1978) 21 Cal.3d 482, 496.”.); *Los Angeles County Dept. of Children and Family Servs. v. Superior Court* (2005) 126 Cal.App.4th 144, 152 (“[W]hen a statute authorizes prescribed procedure, and the court acts contrary to the authority thus conferred, it has exceeded its jurisdiction” [citations omitted] [internal quotation marks omitted].); *Common Cause v. Bd. of Supervisors*, 49 Cal. 3d 432, 442 (1989) (“Mandamus may issue, however, to compel an official both to exercise discretion (if he is required by law to do so) and to exercise it under a proper interpretation of the applicable law”); *Anderson v. Philips*, 13 Cal. 3d 733, 737 (1975) (where mandamus respondent refuses to act based on interpretation of law, “the writ will lie if that determination is erroneous”); and *Inglin v. Hoppin*, 156 Cal. 483, 491 (1909) (mandamus “will lie to correct abuses of discretion, and will lie to force a particular action by the inferior tribunal or officer, when the law clearly establishes the petitioner’s right to such action”).

Even the Section of the SBMC that the Mayor & City Council will attempt to hide behind agrees. Section 5.10.090(d) of the SBMC is a “reservation of **rights**”, and the Mayor & City Council and their Staff **do not have the right** to make decisions that: (i) are arbitrary and capricious, (ii) consist of a dereliction of public duty, (iii) are fraudulent or based on a known fraud, or (iv) are violations of stated laws and regulations.

III. The Mayor & City Council's Unfettered Reliance on the Scoring Breakdowns was in Violation of Section 5.10.090(a) of the SBMC and the Application Procedure Guidelines

In the Scoring Breakdown Letter, I demonstrated objectively, statistically, and unequivocally that the Phase 3 rating process and ranking was impermissibly subjective and biased against residents of the County and City of San Bernardino in violation of (i) Section 5.10.090(a) of the SBMC and (ii) the Application Procedure Guidelines. Additionally, I represented the Scoring Breakdown Letter and the issues raised therein during Public Comment at the Special Meeting. Further, the Scoring Breakdown Letter raised clear questions about the most-heavily weighted Objective Review Criteria. Nevertheless, without any mention of the issues that the Scoring Breakdown Letter raised, the Mayor & City Council proceeded through the Special Meeting as if the Scoring Breakdowns were gospel. Ultimately, the Scoring Breakdowns were ratified 100% without discussion for the CCB retailer category in which my Client applied.

Because the Scoring Breakdowns were subjective and biased against residents of the County and City of San Bernardino, by ratifying them and using them as a baseline without discussion, the Mayor & City Council's decision to rely on them was in violation of Section 5.10.090(a) of the SBMC and the Application Procedure Guidelines. Such violations of stated law and regulations is a clear abuse of discretion. Further, the Mayor & City Council's decision to ignore the bias and subjectivity highlighted in the Scoring Breakdown Letter constitutes a dereliction of public duty—every mayor and council member swears an oath to uphold the U.S. and State Constitution and laws and regulations enacted thereunder. Thus, the Mayor & City Council does not have the luxury to completely ignore clear violations of the law.

IV. The City Manager Altered the Application Procedure Guidelines in Violation of Section 5.10.370 of the SBMC

The City Manager included in the Staff Report and, thus, the Mayor & City Council relied upon the Altered Application Procedure Guidelines in reaching their decision regarding CCB Applications at the Special Meeting. The City Manager promulgated the Altered Application Procedure Guidelines in violation of Section 5.10.370 of the SBMC. To illustrate, Section 5.10.370 of the SBMC requires the following:

- (a) In addition to any regulations adopted by the Mayor and City Council, the City Manager or his/her designee is authorized to establish, subject to approval by the Mayor and City Council, any additional rules, regulations and standards governing the issuance, denial or renewal of commercial cannabis business permits, the ongoing operation of commercial cannabis businesses and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.
- (b) Regulations shall be published on the City's website.

- (c) Regulations promulgated by the City Manager or his/her designee shall become effective upon date of publication. Commercial cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or his/her designee.

The Altered Application Procedure Guidelines were never approved the Mayor & City Council—since their date of creation, 01/31/2019, the Altered Application Procedure Guidelines have never been presented as an agenda item for a Mayor & City Council meeting, and the alteration of the Application Procedure Guidelines was neither mentioned nor discussed nor approved in the Special Meeting, nor the Staff Report accompanying the Special Meeting. The Altered Application Procedure Guidelines are not published on the City’s website—rather as of the date of this Letter, the Application Procedure Guidelines are published only at the following location, www.sbcity.org/civica/filebank/blobload.asp?BlobID=25694, on the following City webpage, www.sbcity.org/cityhall/community_development/cannabis_regulations/commercial_cannabis_activity/default.asp. The Altered Application Procedure Guidelines were never promulgated to interested parties for the CC Applications, and the City never provided notice to the impacted applicants.

V. The City Manager and the Mayor & City Council both Violated the Application Procedure Guidelines by Allowing CCB Applications with Zoning Verification Letter Denials to Proceed into Phase 2, and, then, Ultimately, Receive Approval

The Application Procedure Guidelines, and even the Altered Application Procedure Guidelines, clearly state that “[a]n approved Zoning Verification Letter from the Community Development Department stating that the property where the CCB is proposed to operate complies with the locational requirements of SBMC Chapter 5.10” is required for Phase 1 of the CCB Permit Selection Process. Notwithstanding that clear requirement, the City Manager allowed five CCB Applications with Zoning Verification Letter denials to pass into Phase 2 and beyond. Further and as a result, the Mayor & City Council approved AM-PM MGMT, Inc.’s volatile solvent extract manufacturing CCB application even though the contained a Zoning Verification Letter denial. Both actions are a clear violation of the Application Procedure Guidelines, and, thus, constitute further legal abuse of discretion.

VI. The City Manager and the Mayor & City Council both Violated the Application Procedure Guidelines by Accepting and Approving Application CCB 18-0048

The Application Procedure Guidelines, and even the Altered Application Procedure Guidelines, clearly state that “[t]he application process to operate a Commercial Cannabis Business (CCB) in the City of San Bernardino will open on April 23, 2018 and will close at 4:00PM on June 25, 2018.” Nevertheless and per the enclosed Application Receipt for CCB 18-0048, the City filed and received Application CCB 18-0048 on June 27, 2018. Therefore, the City Manager violated the Application Procedure Guidelines by accepting CCB 18-0048 and the Mayor & City

Council violated the Application Procedure Guidelines by approving CCB 18-0048, and with the both the City Manager and the Mayor & City Council engaged in still further legal abuse of discretion.

VII. The City Manager Violated the Public Records Act by Disclosing My Client's Personal and Sensitive Confidential Information

My Client is informed and believes that the City published his private and confidential information with the original version of Agenda Item #1 for the Special Meeting posted on the City's website on February 15, 2019, at <http://sanbernardocityca.igam2.com/Citizens/Default.aspx>. On February 20, 2019, I personally informed the City Council Office, the City Attorney, and the City Clerk that the Agenda and Agenda Packet for the Special Meeting on February 21, 2019, was no longer available / accessible on the City's webpage. The California Public Records Act contains explicit exceptions (and therefore, prohibitions) on the City's disclosure of trade secret information, personal financial data used to establish a license applicant's personal qualifications, and home addresses. See http://ag.ca.gov/publications/summary_public_records_act.pdf. My Client's CCB 18-0016 contained trade secret information, personal financial data used to establish its CCB permit qualifications, and home addresses. Therefore, the City Manager has committed legal abuse of discretion with the unredacted publication of CCB 18-0016 on the City's website on February 15, 2019, by violating the California Public Records Act.

VIII. Rather than Investigate, Question, or Discuss the Numerous Questions Concerning the CCB Permit Selection Process, the City Manager and the Mayor & City Council Swept the Issues Under the Rug, in Dereliction of their Public Duties as Public Servants and Elected Officials—My Client is Informed and Believes that the Issues Concerning the Process are Based on Corruption, Cronyism, and Abuse of Process and Intends to Make Allegations Accordingly

The above discussion and analyses clearly demonstrate numerous instances of legal violations and abuses of discretion concerning the CCB Permit Selection Process—certainly, at the very least, these issues raise legitimate and serious questions and concerns. Further, my Client is informed and believes that Mayor, individual City Council Members, and the City Manager were aware that there were allegations of corruption, cronyism, political maneuvering, and the use of the Process to score political points and to carry out political vendettas in the implementation of the CCB Permit Selection Process. Notwithstanding these numerous questions, concerns, legal violations, etc., the City Manager and her subordinate Staff presented the CCB Permit Selection Process as a well-oiled machine without controversy at the Special Meeting, and the Mayor & City Council towed the party-line. Despite the City Manager and the Mayor & City Council's feigned ignorance, the Mayor & City Council are elected officials and both the City Manager and the Mayor & City Council. Accordingly and as stated above, the Mayor & City Council and the City Manager all swore oaths to uphold the U.S. and State Constitution and laws and regulations enacted thereunder. Thus, the Mayor & City Council and the City Manager do not have the luxury of turning a blind-eye towards allegations corruption, cronyism, and abuse

of process. As a result, the Mayor & City Council and the City Manager's decision to ignore the questions and allegations facing the CCB Permit Selection Process at the Special Meeting constitutes a dereliction of their public duties as elected officials and public servants, and abuse of discretion, accordingly.

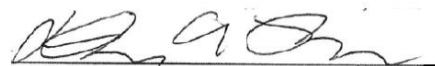
Given the charade presented at the Special Meeting, amongst other reasons, including all of the above discussion and analysis, my Client is informed and believes that the approval of CCB Applications at the Special Meeting was based on corruption, cronyism, political maneuvering, and the use of the Process to score political points and to carry out political vendettas. Since the City will not do it, my Client shall make such allegations accordingly in its lawsuit against the City and continue to investigate such allegations, accordingly.

IX. Conclusion—Notice of Intent to Sue and Demand for Relief

For the foregoing reason, my Client (i) intends to sue the Mayor & City Council Members in their official capacity and the City Manager in her official capacity and individual capacity for failure to approve CCB Application #18-0016 at the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019 and (ii) demand that CCB Application #18-0016 be approved as the 17th CCB permit the Mayor & City Council are presently authorized to approve via Section 5.10.080 of the San Bernardino Municipal Code.

Thank you for your time and thoughtful consideration.

Respectfully Submitted,



Damian A. Martin, Esq., M.B.A.
Attorney for EEL Holdings, LLC, dba
Connected Cannabis Co.

Enclosures:

1. The Application Procedure Guidelines Dated as of May 21, 2018 (the "Application Procedure Guidelines")
2. Letter RE Agenda Item #1 for the City of San Bernardino Special Meeting on February 21, 2019, Demonstrating Phase 3 Bias (the "Scoring Breakdown Letter")
3. The Altered Application Procedure Guidelines Dated as of January 31, 2019 (the "Altered Application Procedure Guidelines")
4. The Application Receipt for CCB 18-0048

Jeff Augustini

From: Damian A. Martin <damian.martin.esq@gmail.com>
Sent: Thursday, February 14, 2019 7:58 AM
To: 'Stephanie Sanchez'
Cc: 'Elliot Lewis'; council@sbcity.org; 'Gigi Hanna'; Jeff Augustini
Subject: RE: City of San Bernardino - Phase 4 Score Information
Attachments: CRM: New Request # 4285793 [3439386330383937]

Ms. Sanchez,

Attached is the Public Records Act request seeking "the scoring breakdowns for each individual commercial cannabis business applicant / application for both Phase 2 and Phase 3 of the City's commercial cannabis business permit selection process."

Given the desperate need for transparency here and already existing lack of faith in the process up to this point, I expect the request to be satisfied prior to the Public Hearing on February 21, 2019, and without compliant / resistance. But you do what you got to do . . . my Client's mandamus attorney, Jeff Augustini (jeff@augustinilaw.com) is copied here. Please copy Mr. Augustini in addition to me and Mr. Lewis on all correspondence related to this issue and Public Records Act request.

Respectfully,

Damian A. Martin, Esq., M.B.A.

Phone: 757-652-0460

Email: damian.martin.esq@gmail.com

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From: Damian A. Martin <damian.martin.esq@gmail.com>
Sent: Thursday, February 14, 2019 7:45 AM

To: 'Stephanie Sanchez' <Sanchez_Stephanie@sbcity.org>

Cc: 'Elliot Lewis' <elewisbroker@gmail.com>; council@sbcity.org; 'Gigi Hanna' <Hanna_Gi@sbcity.org>; 'Jeff Augustini' <jeff@augustinilaw.com>

Subject: RE: City of San Bernardino - Phase 4 Score Information

What?! . . . no "Congratulations" or "Good Job Ladies!". I need the individual scoring breakdowns to mathematically demonstrate the subjectivity of the ranking determinations (I've personally seen enough individual scores at this point to see where this is heading and, in addition to being a fairly decent attorney, previously I was a intel analyst with the U.S. Navy and D.C. Courts). There is no reason that the individual scoring breakdowns should withheld at this point given that all the scoring has been completed and there should be as much transparency into this process as possible . . . after all, we are all heading into and preparing for a Public Hearing.

Since you will not provide the individual scoring breakdowns voluntarily, I will just submit a Public Records Act request. I'm going to ask for the Phase 2 individual scoring breakdowns as well.

Damian A. Martin, Esq., M.B.A.

Phone: 757-652-0460

Email: damian.martin.esq@gmail.com

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From: Stephanie Sanchez <Sanchez_Stephanie@sbcity.org>

Sent: Thursday, February 14, 2019 5:57 AM

To: Damian Martin <damian.martin.esq@gmail.com>

Cc: Elliot Lewis <elewisbroker@gmail.com>

Subject: RE: City of San Bernardino - Phase 4 Score Information

Good Morning Damian,

The individual score breakdowns are not available to the public at this point, but solely to the applicants they correspond with.

The overall ranking list will be available to the public as part of the Agenda packet for the Special Meeting.

The should be posted by the end of day today or tomorrow morning. Here is the link where you'll be able to find it:
<http://sanbernardinocityca.igmp2.com/Citizens/Board/1000-Mayor-and-City-Council-of-the-City-of-San-Bernardino>

Thank you

From: Damian Martin [<mailto:damian.martin.esq@gmail.com>]
Sent: Wednesday, February 13, 2019 9:40 PM
To: Stephanie Sanchez
Cc: Elliot Lewis
Subject: Re: City of San Bernardino - Phase 4 Score Information

Stephanie,

Can you please send me the Phase 3 scoring breakdowns for each Application?

Thanks, - Damian

On Wed, Feb 13, 2019, 20:54 Stephanie Sanchez <Sanchez_Stephanie@sbcity.org> wrote:

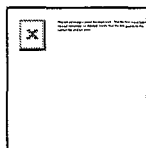
Good Evening,

Attached you will find a letter outlining your Phase 3 scores as they will be presented to Mayor & City Council going into Phase 4. The letter contains your score breakdown and overall ranking.

If you have questions after you have reviewed the information, please let me know.

For the quickest response, please email me with your questions.

Thank you,



Stephanie Sanchez
Community & Economic Development
Executive Assistant to the Director
City of San Bernardino
Office: 201 North E St, 3rd Floor
Mail: 290 North D St

San Bernardino, CA 92401

O: 909-384-5357

Sanchez_Stephanie@SBCity.org

www.SBCity.org

Our counter hours are:

Mon-Th 7:30am – 5:00pm &

Fri 7:30am – 4:00pm

Jeff Augustini

From: Damian A. Martin <damian.martin.esq@gmail.com>
Sent: Monday, February 18, 2019 12:01 PM
To: council@sbcity.org; 'Gigi Hanna'; attorney@sbcity.org
Cc: 'Elliot Lewis'; Jeff Augustini; 'Stephanie Sanchez'
Subject: Letter RE Agenda Item #1 for the City of San Bernardino Special Meeting on February 21, 2019, Demonstrating Phase 3 Bias
Attachments: Letter RE Agenda Item #1 for the City of San Bernardino Special Meeting on February 21, 2019, Demonstrating Phase 3 Bias.pdf

City Council Office, City Attorney Saenz, and City Clerk Hanna:

Attached is a "Letter in Response to Agenda Item #1 for the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019, Demonstrating that the Commercial Cannabis Business Phase 3 Rating Process and Ranking was Subjective and Biased against Residents of the County and City of San Bernardino in Violation of (i) Section 5.10.090(a) of the San Bernardino Municipal Code and (ii) the 'Application Procedure Guidelines for a Commercial Cannabis Business'" (the "Letter").

Please ensure the Letter is provided to the Mayor and individual City Council Members in advance of, and with the materials for, the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019.

Respectfully,

Damian A. Martin, Esq., M.B.A.

Phone: 757-652-0460

Email: damian.martin.esq@gmail.com

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Jeff Augustini




From: Damian A. Martin <damian.martin.esq@gmail.com>
Sent: Wednesday, February 20, 2019 1:36 PM
To: council@sbcity.org; 'Gigi Hanna'; attorney@sbcity.org
Cc: 'Elliot Lewis'; Jeff Augustini; 'Stephanie Sanchez'
Subject: RE: Letter RE Agenda Item #1 for the City of San Bernardino Special Meeting on February 21, 2019, Demonstrating Phase 3 Bias

City Council Office, City Attorney Saenz, and City Clerk Hanna:




Just as a heads up, the Agenda and Agenda Packet for the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019, are no longer available / accessible on the City's webpage: <http://sanbernardinocityca.igmp2.com/Citizens/Default.aspx>. Also see below.

Welcome to the City Clerk's Office!


Council Documents prior to October 2011, Council Documents
Video Recordings

 **Upcoming Meetings** Full Calendar  RSS

February, 2019

 Feb 20, 2019 4:00 PM Mayor and City Council - Regular Meeting	Agenda Agenda Packet
 Feb 21, 2019 3:30 PM Mayor and City Council - Special Meeting	
 Feb 21, 2019 4:00 PM Parks, Recreation & Community Services Commission - Regular Meeting	Agenda Agenda Packet

March, 2019

 Mar 6, 2019 4:00 PM	
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Respectfully,

Damian A. Martin, Esq., M.B.A.

Phone: 757-652-0460

Email: damian.martin.esq@gmail.com

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From: Damian A. Martin <damian.martin.esq@gmail.com>
Sent: Monday, February 18, 2019 12:01 PM
To: council@sbcity.org; 'Gigi Hanna' <Hanna_Gi@sbcity.org>; attorney@sbcity.org
Cc: 'Elliot Lewis' <elewisbroker@gmail.com>; 'Jeff Augustini' <jeff@augustinilaw.com>; 'Stephanie Sanchez' <Sanchez_Stephanie@sbcity.org>
Subject: Letter RE Agenda Item #1 for the City of San Bernardino Special Meeting on February 21, 2019, Demonstrating Phase 3 Bias

City Council Office, City Attorney Saenz, and City Clerk Hanna:

Attached is a "Letter in Response to Agenda Item #1 for the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019, Demonstrating that the Commercial Cannabis Business Phase 3 Rating Process and Ranking was Subjective and Biased against Residents of the County and City of San Bernardino in Violation of (i) Section 5.10.090(a) of the San Bernardino Municipal Code and (ii) the 'Application Procedure Guidelines for a Commercial Cannabis Business'" (the "Letter").

Please ensure the Letter is provided to the Mayor and individual City Council Members in advance of, and with the materials for, the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019.

Respectfully,

Damian A. Martin, Esq., M.B.A.

Phone: 757-652-0460

Email: damian.martin.esq@gmail.com

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Jeff Augustini

From: Damian Martin <damian.martin.esq@gmail.com>
Sent: Monday, February 25, 2019 2:57 PM
To: council@sbcity.org; attorney@sbcity.org; Gigi Hanna
Cc: Elliot Lewis; Jeff Augustini
Subject: Notice of Intent to Sue / Demand Letter Regarding the Mayor and City Council's Failure to Approve CCB 18-0016
Attachments: Notice of Intent to Sue RE Failure to Approve.pdf; Enclosure 1 - The Application Procedure Guidelines Dated as of May 21, 2018.pdf; Enclosure 2 - Letter RE Agenda Item #1 for the City of San Bernardino Special Meeting on February 21, 2019, Demonstrating Phase 3 Bias.pdf; Enclosure 3 - The Altered Application Procedure Guidelines Dated as of January 31, 2019.pdf; Enclosure 4 - The Application Receipt for CCB 18-0048.pdf

City Council Office, City Attorney, and City Clerk:

Attached is a Notice of Intent to Sue / Demand Letter Regarding the Mayor and City Council's Failure to Approve Commercial Cannabis Business Permit Application #18-0016 at the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019, with enclosures, on behalf of my Client, EEL Holdings, LLC.

Going forward, please include my Client's mandamus attorney, Mr. Jeff Augustini (jeff@augustinilaw.com), copied above, on any and all correspondence.

Respectfully,

Damian A. Martin, Esq., M.B.A.

Phone: 757-652-0460

Email: damian.martin.esq@gmail.com

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Jeff Augustini

From: Damian A. Martin <damian.martin.esq@gmail.com>
Sent: Wednesday, February 27, 2019 8:01 PM
To: attorney@sbcity.org
Cc: 'Elliot Lewis'; Jeff Augustini; council@sbcity.org; 'Gigi Hanna'
Subject: RE: Heads Up RE Unlawful Alteration of the Application Procedure Guidelines for a Commercial Cannabis Business
Attachments: CED.Attachment 1.CCB Guidelines.pdf

City Attorney Saenz:

I just want to note that for the record that the City has posted the "Application Procedure Guidelines for a Commercial Cannabis Business" unlawfully modified on January 31, 2019 (attached), at the following location, www.sbcity.org/civicax/filebank/blobdload.aspx?blobid=25694, on the following City webpage, www.sbcity.org/cityhall/community_development/cannabis_regulations/commercial_cannabis_activity/default.asp, nearly month after said Application Procedures were unlawfully modified and four days after I called the issue directly to your attention.

Here's to the City making the cover up worse than the crime!

Respectfully,

Damian A. Martin, Esq., M.B.A.

Phone: 757-652-0460

Email: damian.martin.esq@gmail.com

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From: Damian A. Martin <damian.martin.esq@gmail.com>

Sent: Saturday, February 23, 2019 10:11 PM

To: council@sbcity.org; 'Gigi Hanna' <Hanna_Gi@sbcity.org>; attorney@sbcity.org

Cc: 'Elliot Lewis' <elewisbroker@gmail.com>; 'Jeff Augustini' <jeff@augustinilaw.com>; 'Stephanie Sanchez' <Sanchez_Stephanie@sbcity.org>

Subject: Heads Up RE Unlawful Alteration of the Application Procedure Guidelines for a Commercial Cannabis Business

City Council Office, City Attorney Saenz, and City Clerk Hanna:

Just as a heads up (at this point, you know I mean that facetiously), the "Application Procedure Guidelines for a Commercial Cannabis Business" posted online at the following location, www.sbcity.org/civica/filebank/blobload.asp?BlobID=25694, on the following City webpage,

www.sbcity.org/cityhall/community_development/cannabis_regulations/commercial_cannabis_activity/default.asp (attached), are different from the "Application Procedure Guidelines for a Commercial Cannabis Business" that were included with Agenda Item #1 for the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019, as Attachment 1 (see also attached). More specifically, the version posted on the website was revised on **05/21/2018**, whereas the version included with Agenda Item #1 for the Special Meeting of the Mayor and City Council of the City of San Bernardino on February 21, 2019, was altered on **01/31/2019**.

This alteration occurred in complete violation of Section 5.10.370 of the San Bernardino Municipal Code:

5.10.370 Promulgation of Regulations, Standards and Other Legal Duties

- (a) In addition to any regulations adopted by the Mayor and City Council, the City Manager or his/her designee is authorized to establish, subject to approval by the Mayor and City Council, any additional rules, regulations and standards governing the issuance, denial or renewal of commercial cannabis business permits, the ongoing operation of commercial cannabis businesses and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.
- (b) Regulations shall be published on the City's website.
- (c) Regulations promulgated by the City Manager or his/her designee shall become effective upon date of publication. Commercial cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or his/her designee.
- (d) Testing Labs and Distribution facilities shall be subject to state law and shall be subject to additional regulations as determined from time to time as more regulations are developed under Section 5.10.350 (a) of this Chapter and any subsequent State of California legislation regarding the same.

(Ord. MC-1503, 9-05-18; Ord. MC-1464, 3-07-18)

Respectfully,

Damian A. Martin, Esq., M.B.A.

Phone: 757-652-0460

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EXHIBIT 6



APPLICATION SUPPLEMENTAL REVIEW CHECKLIST

Original Review Date	October 30, 2018
Supplemental Review Date	January 10, 2019
Case No.	CC0-000-002
Business Name	Connected Morro Bay Blvd, LLC
DBA	Connected Cannabis Co.
Permit Type	Medical Cannabis Retailer
Score	1,646
Business Contact Information	Elliot Lewis 1900 Main Street #500 Irvine, CA 92614 (562) 370-3780 elewisbroker@gmail.com

GENERAL SUBMITTAL REQUIREMENTS

SCORE	REQUIREMENTS
1. 25	<p><u>Fee.</u> Payment for the application fee.</p> <p>Comments:</p> <ul style="list-style-type: none"> Although page 1 of the Application is incomplete, a separate document on “City of Morro Bay” letterhead indicates fees are paid for permit #CC0-000-002 by Connected Cannabis manager, Elliott Lewis, in the amount of \$18,000. <p>Supplemental:</p> <ul style="list-style-type: none"> The application contained all required information.
2. 25	<p><u>Property Owner’s Statement of Consent.</u></p> <p>Comments:</p> <ul style="list-style-type: none"> The application included a signed and notarized Property Owner’s Statement of Consent from EEL Holdings, LLC, which is a direct affiliate of the Connected Morro Bay Blvd, LLC <p>Supplemental:</p> <ul style="list-style-type: none"> The application contained all required information.
3. 50	<p><u>Activities.</u> (MBMC 5.50.070(B)(1a))</p> <p>Comments:</p> <ul style="list-style-type: none"> The application included a detailed description of the proposed operation plan, including how the proposed operation will operate in compliance with Morro Bay Code and State Law. The application activities and compliance requirements were prepared by Green Wise Legal, LLP, and will serve as compliance attorneys for Connected Medical Cannabis. The application provided an agreement with MJ Freeway to provide software solution integrations that meet all published reporting, tracking, point of sale,

	<p>inventory control, and patient/consumer management system designed to serve the requirements of a regulated cannabis market.</p> <ul style="list-style-type: none"> • The application also intends to use Legal Age Software to enhance managing clientele and identify individuals that should not be served or allowed into the business location. • The application provided a detailed description of cash handling procedures for complete control of money, including the use of BranchServ Safe packs and Walli Self-Serve kiosks for digital monetary management. • The application does not request Delivery Service. <p>Supplemental:</p> <ul style="list-style-type: none"> • The application contained all required information.
4. <u>200</u>	<p><u>Security. (MBMC 5.50.110(B))</u></p> <p>Comments:</p> <ul style="list-style-type: none"> • The application provided a security plan detailing measures to the satisfaction of the Director that all applicable security related requirements under State or local law will be met. • The application stated all windows and doors will remain locked and secured at all times with the exception for those required to remain unlocked during business hours. • A secured waiting area for the public to enter the facility and for validation of status of patients. • Access-controlled security lock doors for patients to exit the facility. • Video camera surveillance (12 exterior, 22 interior) day/night, high definition, 1080 wide range, 2688x1520 pixels, 25-30 frames per second • All cameras will record 24 hours a day, seven days a week • Embedded-NVR quality play back for 90 days • Video recorded date/time stamp • Video stored in limited access secured room • Remote viewing for authorized personnel, including City • Roof, parking, all exterior video coverage • Interior will monitor all rooms, hallways, entrances, exits, registers, limited access areas, vault • Fire and burglar alarms monitored by GI Alarms, State license #AC07733 • The systems will be registered with the local police agency and will have battery back-up for four hours in case of a power outage. <p>Supplemental:</p> <ul style="list-style-type: none"> • The application contained all required information.
5. <u>100</u>	<p><u>Development Agreement. (MBMC 5.50.070(B)(1c))</u></p> <p>Comments:</p> <ul style="list-style-type: none"> • The application provided a detailed Proposed Development Agreement which includes: • The developer shall pay to the City on a quarterly basis a fee equal to five percent of gross receipts form the operation of proposed Use, until such time the City enacts a tax specifically directed at the Proposed Use or commercial cannabis activity. • The Developer shall pay to the City on a quarterly basis a fee equal to three

	<p>percent of net income from the operation of the proposed use for the purpose of funding the Developer’s Community Benefits Plan accompanying its commercial Medical Cannabis Operation Permit Application.</p> <ul style="list-style-type: none"> • The developer shall pay \$150,000.00 in-lieu parking fees pursuant to Section 17.44.020.C.7 of the City Municipal Code. <p>Supplemental:</p> <ul style="list-style-type: none"> • The application contained all required information.
6. <u>100</u>	<p><u>Odor Control.</u> (MBMC 5.50.110(C)) and (MBMC 5.50.070(B)(1d))</p> <p>Comments:</p> <ul style="list-style-type: none"> • The application included an odor control plan which states will meet or exceed standards set by the City of Morro Bay and State Law. • Industry standard; activated carbon filtration, photo catalytic oxidation, or similar air scrubber, will be installed. • Application states filtration plans will be submitted to the City for approval and audited within 30 days of commencing commercial cannabis. • Staff will be trained in procedures and protocols for air quality, odor control, and reporting. • The facility will utilize technology such as double-sealed doors and exhaust ventilation. • The filtration system will be routinely inspected. <p>Supplemental:</p> <ul style="list-style-type: none"> • The application contained all required information.
7. <u>25</u>	<p><u>Ownership.</u> (MBMC 5.50.070(B)(1e))</p> <p>Comments:</p> <ul style="list-style-type: none"> • The application included an Articles of Organization LLC with the Secretary of State, filed July 6, 2018, in the name of Connected Morro Bay Blvd, LLC, with a business address of 1900 Main Street, #500, Irvine, CA 92614. • The Digital Secretary of State Entity File Number, 201819010073, documents Elliot Lewis, Andrea Counts, and Travis Honzel, as managers. • The application included a 25 page detailed Operating Agreement, which was signed by all operating members. • The application included a document titled, “Schedule 1, Member’s Names, Capital Contributions, Membership Interests and Percentage Interests, detailed as: <ul style="list-style-type: none"> ○ EEL Holdings, LLC 3,750 Membership Interest ○ Andrea Counts 3,750 Membership Interest ○ Travis Honzel 1,250 Membership Interest ○ Kaley Honzel 1,250 Membership Interest <p>Supplemental:</p> <ul style="list-style-type: none"> • The application contained all required information.
8. <u>23</u>	<p><u>Seller’s Permit.</u> (MBMC 5.50.070(B)(1f))</p> <p>Comments:</p> <ul style="list-style-type: none"> • The application provided Department of Treasury, Internal Revenue Service documents, FEIN 83-1161582. • The application indicates the applicant applied for a Seller’s Permit; however the California Tax and Fee Administration had not received the Applicant’s

	<p>registration from the Secretary of State of California at time of application; therefore, a Seller's Permit could not be issued.</p> <ul style="list-style-type: none"> The application indicated the applicant will reapply for Seller's Permit after the Secretary of State uploads the Applicant's registration to the California Department of Tax and Fee Administration. <p>Supplemental:</p> <ul style="list-style-type: none"> The application contained all required information.
9. 25	<p><u>Other Licenses and Permits.</u> (MBMC 5.50.070(B)(1g))</p> <p>Comments:</p> <ul style="list-style-type: none"> The application provided existing licenses and permits for the following Connected Cannabis Co: <ul style="list-style-type: none"> Connected Belmont Shore, Long Beach BCC License #M10-180000178-Temp Connected Santa Ana, BBC License #A10-17-0000088-Temp Connected Santa Ana, BBC License #M10-17-0000136-Temp Connected Santa Ana, BBC License #A10-17-000092-Temp Connected Sacramento, BBC License #M10-17-0000140-Temp MSTMA, INC, San Francisco, BBC License # A10-18-0000168-Temp MSTMA, INC, San Francisco, BBC License # M10-18-0000155-Temp Stockton Business Strategies, Stockton, BBC License #M10-18-0000166-Temp <p>Supplemental:</p> <ul style="list-style-type: none"> The application contained all required information.
10. 50	<p><u>Physical.</u> (MBMC 5.50.070(B)(1h))</p> <p>Comments:</p> <ul style="list-style-type: none"> Street address: 455 Morro Bay Boulevard, Morro Bay, CA 93442 Assessor's Parcel Number: 066-064-017 Site Square Footage: 2,882 Building Square Footage: 2,904 Surrounding Area: Located in the City's C-1, S.4 Zone with no sensitive uses within 600 feet. <p>Supplemental:</p> <ul style="list-style-type: none"> The application contained all required information.
11. 48	<p><u>Floor Plan.</u> (MBMC 5.50.070(B)(1i))</p> <p>Comments:</p> <ul style="list-style-type: none"> The application included an existing and proposed scaled floor plan prepared by FH Design Inc., a licensed architect. The floor plan failed to identify the limited access and retail sales area. All areas to the left of the point of sales and security room should be designated limited access areas. Although not listed on the floor plan, Section 4-A, pages 11-15, identify designated Limited Access Areas and floor operations. <p>Supplemental:</p> <ul style="list-style-type: none"> The application contained all required information.
12. 50	<p><u>Site Plan.</u> (MBMC 5.50.070(B)(1j))</p>

	<p>Comments:</p> <ul style="list-style-type: none"> The application included a Site Plan, Project Data, Exterior Lighting Plan, prepared by FH Design, Inc., a licensed architect. The Site plan also included a Neighborhood Context Map, Floor Plan, Roof Security Plan, photometric, and Exterior Elevation for reference. <p>Supplemental:</p> <ul style="list-style-type: none"> The application contained all required information.
13. 25	<p><u>Hours of Operation.</u> (MBMC5.50.070(B)(1k))</p> <p>Comments:</p> <ul style="list-style-type: none"> The application provided a seven (7) day a week Brick-and-Mortar Dispensary Operating Schedule, which states: The Morning shift will open at 9:00 am for non-public operations. The dispensary will open to the public from 10:00 am to 10:00pm. The evening shift will secure the facility at 10:00 pm and close at 11:00pm after returning all product to storage. <p>Supplemental:</p> <ul style="list-style-type: none"> The application contained all required information.
14. 25	<p><u>Consent of Criminal Investigation.</u> (MBMC 5.50.070(B)(2d))</p> <p>Comments:</p> <ul style="list-style-type: none"> The application failed to provide written consent from all employees for fingerprinting and criminal investigations. <p>Supplemental:</p> <ul style="list-style-type: none"> The application provided written and signed consent from all listed employees for fingerprinting and criminal investigations.
15. 25	<p><u>Identification.</u> (MBMC 5.50.070(B)(2e))</p> <p>Comments:</p> <ul style="list-style-type: none"> The application included four colored copies of valid ID for the following: <ul style="list-style-type: none"> Elliot Evan Lewis – EEL Holding, Business Owner/Member Andrea Robin Counts – Business Owner/Member Travis Richard Honzel – Business Owner/Member Kaley Reanne Honzel – Business Owner/Member <p>Supplemental:</p> <ul style="list-style-type: none"> The application contained all required information.
16. 25	<p><u>Land Owner.</u> (MBMC 5.50.070(B)(2f))</p> <p>Comments:</p> <ul style="list-style-type: none"> Owner Name: EEL Holdings, LLC Owner Address: 1900 Main Street #500, Irvine, CA 92614 Owner Phone Number: (562) 370-3780 Real Estate Contracts were provided listing EEL Holdings, LLC as the owner <p>Supplemental:</p> <ul style="list-style-type: none"> The application contained all required information.
17. 50	<p><u>Compliance with State Law.</u> (MBMC 5.50.070(B)(3b))</p> <p>Comments:</p> <ul style="list-style-type: none"> The application stated all operations will be performed in compliance with State

	<p>and local regulations.</p> <p>Supplemental:</p> <ul style="list-style-type: none"> The application contained all required information.
18. <u>25</u>	<p>Insurance. (MBMC 5.50.080(D)(2)) and (MBMC 5.50.070(B)(3c))</p> <p>Comments:</p> <ul style="list-style-type: none"> All four applicants completed and signed page 5, section H. (Indemnification and Release). The application provided a “Will Serve” Letter from Vantreo Insurance Brokerage for General Liability Coverage by International Insurance Company of Hannover <ul style="list-style-type: none"> \$2 million per occurrence \$4 million General Aggregate Workers Compensation will be covered by Applied Underwriters <ul style="list-style-type: none"> \$1 million per accident \$1 million Deceased policy limit \$1 million Disease coverage per each employee <p>Supplemental:</p> <ul style="list-style-type: none"> The application contained all required information.

MEDICAL RETAIL SUBMITTAL REQUIREMENTS

SCORE	REQUIREMENTS
1. <u>200</u>	<p>Dispensing and Storage Areas. (MBMC 5.50.120(H))</p> <p>Comments:</p> <ul style="list-style-type: none"> The application included a detailed security description of the dispensing and storage areas The application listed a single point of entry and exit. A secured waiting area for the public to enter the facility and for validation of status of patients during business hours of 10:00am to 10:00pm. Access will be controlled by a licensed, contracted security guard at all times during business hours. The application stated all secured, limited access areas, including product storage areas, will only be accessible to monitored/recorded employees and authorized personnel and will be equipped with commercial grade locks on all doors/entrances. The secured and guarded retail area will only be accessible to qualified patients, caregivers, and employees. <p>Supplemental:</p> <ul style="list-style-type: none"> The application contained all required information.
2. <u>150</u>	<p>Interior Lighting. (MBMC 5.50.120(J))</p> <p>Comments:</p> <ul style="list-style-type: none"> The application indicated all interior lighting shall meet or exceed the requirement of two-foot candles as stated in the ordinance. 10-foot candles for walk-in refrigeration units and dry storage areas. 20-foot candles at a surface where finished medicinal cannabis or medicinal

	<p>cannabis products are sold.</p> <ul style="list-style-type: none"> • 50-foot candles where an employee is working with finished medicinal cannabis and medicinal cannabis products or working utensils/equipment. <p>Supplemental:</p> <ul style="list-style-type: none"> • The application contained all required information.
3. <u>150</u>	<p><u>Sanitation Procedures.</u> (MBMC5.50.120(M))</p> <p>Comments:</p> <ul style="list-style-type: none"> • The application provided a detailed written procedure for maintaining the highest industry standards of sanitation and cleanliness for the operation to ensure the distribution of cannabis remains free of harmful contaminants. • The plan also included employee hygiene standards and training. <p>Supplemental:</p> <ul style="list-style-type: none"> • The application contained all required information.
4. <u>150</u>	<p><u>Training.</u> (MBMC 5.50.120(N))</p> <p>Comments:</p> <ul style="list-style-type: none"> • The application provided a detailed and well-organized employee training manuals including: • A detailed Local Enterprise and Employment Plan. • Fire Prevention and Life Safety Assessment Training Plan for all employees provided by RFS Consulting. • Medical Cannabis Retailer Operations Plan. • Employee Hygiene Requirements. • Medical Cannabis Security Plan. <p>Supplemental:</p> <ul style="list-style-type: none"> • The application contained all required information.
5. <u>100</u>	<p><u>Public Information.</u> (MBMC 5.50.120(S))</p> <p>Comments:</p> <ul style="list-style-type: none"> • The application included rules and regulations governing medical cannabis use and consumption within the City and recommendations on sensible medical cannabis etiquette. • A Neighborhood Compatibility Plan and Community Benefits Plan was provided. • A Community Outreach Manager shall be appointed to educate the public and address any concerns that may arise. • Veteran hiring will be given priority and will be targeted with job offers and postings. • An Advisory Board will be created to ensure the applicant has input from the community. • Create a program to direct revenue towards those most in need in low income residents and homelessness. • Coordinate with the Central Coast Maritime Museum to expand upon and build a permanent cultural, maritime, and/or historical museum. <p>Supplemental:</p> <ul style="list-style-type: none"> • The application contained all required information.

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VERIFICATION

State of California, County of Los Angeles

I have read the foregoing **VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR: (1) PEREMPTORY WRIT OF MANDAMUS; and (2) INJUNCTIVE RELIEF**; and know its contents.

I have been authorized by Petitioner and Plaintiff EEL Holdings, LLC, to make this verification for and on its behalf, and I make this verification for that reason.

I am informed and believe and on that basis allege that the claims, allegations and averments stated in the foregoing document are true based upon the information reasonably available to me.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 28, 2019, at Long Beach, California.



ELLIOT LEWIS