



CAMBRIDGE CITY COUNCIL

Craig A. Kelley
City Councillor

April 21, 2016

City Clerk Donna Lopez,

Please include the attached letter and document with the Communications and Reports from City Officers for the Regular City Council Meeting on Monday, April 25, 2016.

Thanks,

2016 APR 21 PM 2:46
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS



CAMBRIDGE CITY COUNCIL

Craig A. Kelley
City Councillor

2016 APR 21 PM 2:39
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

April 21, 2016

Fellow Councillors,

Before the Council takes action on either the MDD-3 Special District Zoning Petition, or on asking the City Manager to draft a letter of non-opposition to the Department of Public Health regarding Sage Cannabis, Inc., we should more intentionally look at the steps other cities are taking to incorporate Registered Marijuana Dispensaries (RMDs) into their urban areas, and benefit from their experience. The City of Worcester, for example, signed the second of two Community Host Benefit Agreements as recently as March 28, 2016, with an RMD seeking to operate in that city (attached).

That agreement, made with a RMD that will operate in an established distribution district, goes significantly further than the Letter of Commitment that our office has drafted and circulated. In the Community Host Benefit Agreement signed with Prime Wellness Centers, Inc., the RMD agreed to:

- 1) make a donation to the City of \$100,000 per year increasing to \$200,000 after 36 months of operation, and further tied the amount to inflation adjustments;
- 2) pay 1.5% of gross sales revenue during the first year, increasing to 2.5% after 36 months; and
- 3) contribute \$10,000 annually to a local charity "in the immediate vicinity of the RMD."

Other cities have taken similar steps. The City of Brockton will receive at least \$100,000 per year in an agreement with Good Health, Inc., and the Alternative Therapies Group agreed to pay Salem at least \$50,000 per year.

Prior to approving the rezoning proposal submitted by Sage Cannabis, Inc., we should at the very least have an intentional conversation about the terms and expectations we might place on the RMD should it open in the heart of the Central and Harvard Square neighborhoods.

Sincerely,

CITY OF WORCESTER
AND
PRIME WELLNESS CENTERS, INC.

COMMUNITY HOST BENEFIT AGREEMENT

This Community Host Benefit Agreement ("Agreement") is entered into this 28th day of March, 2016, by and between the city of Worcester, a Massachusetts municipal corporation, located at 455 Main Street, Worcester, MA 01608 ("the City") and Prime Wellness Centers, Inc. ("the Company"), a Massachusetts not-for-profit corporation with an address of 44 Independence Lane, Shrewsbury, Massachusetts 01545.

WHEREAS, Massachusetts voters approved the legal cultivation, processing, distribution, sale and use of marijuana for medical purposes through Chapter 369 of the Acts of 2012, An Act for Humanitarian Medical Use of Marijuana; and

WHEREAS, nothing in that Act or its implementing regulations at 105 CMR 725 supersedes Massachusetts law prohibiting the possession, cultivation, transportation, distribution or sale of marijuana for nonmedical purposes; and

WHEREAS, the City has agreed to approve no more than four Registered Marijuana Dispensary dispensing facilities within the city of Worcester for a period beginning on the date in the first paragraph of this Agreement and ending on June 30, 2019; and

WHEREAS, the Company has identified a site and wishes to locate a Registered Marijuana Dispensary dispensing facility ("RMD"), located at 0 Pullman Street, Worcester, Massachusetts in accordance with regulations issued by the Commonwealth of Massachusetts Department of Public Health ("DPH"); and

WHEREAS, the Company intends to provide certain benefits to the City in the event that it is licensed to operate a RMD and receives all required local approvals;

NOW THEREFORE, in consideration of the provisions of this Agreement, the Company offers and the City accepts this Agreement in accordance with G.L. c. 44, § 53A and agree as follows:

1. The Company agrees to make a donation to the City, in the amounts and under the terms provided in this Agreement ("Funds"). The Treasurer of the City shall hold the Funds in a separate gift account to be expended by the City Council, upon the recommendation of the City Manager, without further appropriation, pursuant to G.L. c. 44, § 53A, for the purposes of funding youth recreational programs and addressing potential health, safety, and other services, personnel, and facilities. While the purpose of this gift is to fund youth recreational programs, the City Manager may in his sole discretion expend the Funds for any other

public purpose as he deems appropriate.

2. Term: The term of this Agreement shall begin on the date the Company commences sales at the RMD (the "Commencement Date") and shall terminate on the earliest of:

- a. Any date in which any DPH or local license or permit is revoked, rescinded or expires without having been renewed; or
- b. Upon an Event of Default, as defined in this Agreement, and termination by the City.

3. The Company shall pay the City the following amounts:

a. In the first year after the Commencement Date:

1. The sum of One Hundred Thousand Dollars (\$100,000.00), annually in two (2) installments of Fifty Thousand Dollars (\$50,000.00) with the first payment due one hundred eighty (180) days after the Commencement Date and the second payment due on the anniversary of the Commencement Date; plus

2. 1.5% of gross sales revenue during the first year of operation, to be paid within ninety (90) days of the date that is one (1) year after the Commencement Date.

- i. The Company shall notify the City, in writing, when it commences sales at the RMD.

b. In the second year after the Commencement Date:

1. The sum of One Hundred Fifty Thousand Dollars (\$150,000.00), annually in two (2) installments of Seventy Five Thousand Dollars (\$75,000.00) with the first payment due on the anniversary of the first payment as defined in 3(a)(1), and the second payment due on the anniversary of the Commencement Date; plus

2. 2% of gross sales revenue during the second year of operation, to be paid within ninety (90) days of the date that is two (2) years after the Commencement Date.

c. In the third and succeeding years after the Commencement Date:

1. The sum of Two Hundred Thousand Dollars (\$200,000.00), annually in two (2) installments of One Hundred Thousand Dollars (\$100,000.00) with the first payment due on the anniversary of the first payment, as defined in 3(a)(1), and the second payment due on the anniversary of the Commencement Date; plus

2. 2.5% of gross sales revenue of each year of operation, to be paid on a quarterly basis within sixty (60) days after the end of each quarter.

- d. In addition to the payments provided in subsection (c) above, upon the fourth and succeeding years, the parties shall calculate an appropriate inflation adjustment to the annual payment amount in subsection (c)(1) due to the City hereunder. The base month and year will begin on that date which is thirty-six (36) months after the Commencement Date of this Agreement. The Consumer Price Index, Boston –Brockton-Nashua shall be utilized when determining the level of inflation.
4. The term “gross sales” shall mean the grand total of all sales transactions, without any deductions included in the figure. This definition shall include any retail sales occurring at the RMD, including but not limited to, medical marijuana and any other products that facilitate the use of marijuana for medical purposes, such as vaporizers, and as further defined in 105 CMR 725.004, and any other products sold at the RMD, including retail merchandise, such as clothing.
5. The Company, in addition to any funds specified herein, shall contribute on an annual basis to a public charity or benefit of its choosing, in the immediate vicinity of the location of the RMD, Ten Thousand Dollars (\$10,000.00). The Company shall annually submit a list of said charitable contributions to the City.
 - a. The charitable contribution shall be based on a Company’s total presence in the community; therefore, if a Company has two facilities in the city of Worcester they may contribute Five Thousand Dollars (\$5,000.00) to each location.
6. This Agreement is contingent on the Company obtaining a license from the DPH for the operation of a RMD in the city, and the Company’s receipt of any and all local approvals to locate, occupy and operate a RMD.
7. This Agreement is contingent on the City Council’s acceptance of the gift pursuant to G.L. c. 44, § 53A.
8. No RMD shall sell or otherwise distribute medical marijuana or medical marijuana related products within the city of Worcester without entering into a Community Host Benefit Agreement with the City.
9. The provisions of this Agreement shall be applicable as long as the Company operates a RMD in the city of Worcester and is a not-for-profit organization operating within the purview of the DPH.
10. The Company agrees that all real property taxes owing for the property on which the RMD is located will be paid when due, and in no event shall the Company apply for a reduction or elimination of property taxes due to the Company’s not-for-profit

status.

11. Acknowledging that the City will benefit from the creation of jobs for its residents, the Company agrees that jobs created at the RMD will be taken by, or made available to city of Worcester residents.
12. This Agreement does not affect, limit, or control the authority of any City department, including boards and commissions, to carry out their respective duties in deciding whether to issue or deny any necessary local permits or licenses, required under the laws of the Commonwealth, the Worcester Zoning Ordinance, the Board of Health or any other applicable laws and regulations. By entering into this Agreement the City is not required to issue such permits or licenses.
13. The terms of this Agreement will not constitute a waiver of the City's regulatory authority or of the Company's applicant responsibilities not otherwise addressed by this Agreement.
14. Events of Default: The Company shall be deemed to have committed an event of default if any of the following occur:
 - a. the Company fails to locate a RMD in the city of Worcester;
 - b. the Company relocates the RMD out of the city, without prior approval from the City;
 - c. the Company fails to obtain, and maintain in good standing, all necessary local licenses and permits;
 - d. the Company ceases to operate a RMD dispensing facility in the city; and,
 - e. the Company fails to make payments to the City as required under this Agreement, and such failure remains uncured for thirty (30) days.
15. In the event that the DPH deems the Company has failed, committed an Event of Default (as defined by the state), or suspends or revokes any RMD's licenses or permits, the City may also declare an Event of Default and terminate this Agreement. The RMD shall be required to pay any amounts due upon the termination date; such amount to be determined by the period of occupation of the RMD within the city.
16. The City may terminate this Agreement upon the occurrence of any Event of Default.
17. Termination for Cause: The City may terminate this Agreement for cause at any time by giving at least thirty (30) days' notice, in writing, to the Company. Cause is defined as the Company's purposeful or negligent violation of any applicable laws of the Commonwealth, or local ordinances and regulations, with respect to the operation of a RMD. Notwithstanding the above, the Company shall not be relieved of liability to the City for damages sustained by the City for personal injury or property damage by virtue of any termination of the Agreement.
18. In the case that the Company desires to relocate the RMD within the city of Worcester it

must obtain approval of the new location by the City.

19. In the case that the Company relocates the RMD facility out of the city of Worcester, an adjustment of funds due to the City hereunder shall be calculated based upon the period of occupation of the RMD within the city, but in no event shall the City be responsible for the return of any funds already provided to it by the Company.
20. This Agreement applies solely to the operations of the RMD dispensing facility in accordance with the DPH License, specifically for the purpose of dispensing medical marijuana. If, during the term of this Agreement, it becomes permissible under Massachusetts law for the Company to sell or distribute marijuana for any other purpose than initially authorized by the DPH License, recognizing that the effects on the City may be greater, the parties agree to renegotiate the terms of this Agreement, including but not limited to increasing the amount of payments to be made to the City, in recognition that the additional purposes of the RMD may have greater impacts on the City. In no case shall the payments be reduced from the amounts specified in Paragraph 3 of this Agreement unless necessary to comply with rules enacted or amended by the Commonwealth of Massachusetts.
21. In the event that the Company enters into a Community Host Benefit Agreement with another municipality in the Commonwealth of Massachusetts for the siting of a RMD in that municipality, or compensates another municipality in any way for siting a RMD in that municipality, and the amount of compensation to the other municipality exceeds the Company's percentage payments under paragraph 3(c)(2) of this Agreement, the Company and the City shall amend this Agreement to reflect the difference between the percentage of gross sales revenue paid to the other municipality described in this paragraph. For example, if the Company enters into an agreement with another municipality in which it pays 5% of gross sales revenue, Paragraph 3(c)(2) of this Agreement shall be amended to reflect that the Company shall pay the City 5% of gross sales revenue.
22. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, and the Company submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.
23. Any and all notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed, postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the parties at the following addresses:

The City: Edward M. Augustus, Jr.
 City Manager
 Worcester City Hall
 455 Main Street
 Worcester, MA 01608

with a copy to: David M. Moore, Esquire
City Solicitor
Worcester City Hall
455 Main Street
Worcester, MA 01608

Company: Prime Wellness Centers, Inc.
Attn: John P. Glowik, Jr.
44 Independence Lane
Shrewsbury, MA 01545

24. The Company shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the City, and shall not assign any of the moneys payable under this Agreement, except by and with the written consent of the City.
25. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the City nor the Company shall assign or transfer any interest in the Agreement without the written consent of the other.
26. The Company shall comply with all laws, rules, regulations and orders applicable to the RMD; such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits and approvals required for the performance of such work.
27. If any term or condition of this Agreement, or any application thereof, shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
28. This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the Company and the City with respect to the matters described.
29. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.
30. Each of the parties acknowledges that it has been advised by counsel, or had the opportunity to be advised by counsel, in the drafting, negotiation, execution and delivery of this Agreement, and has actively participated in the drafting, negotiation, execution and delivery of this Agreement. In no event will any provision of this Agreement be construed for or against either party as a result of such party having drafted all or any portion hereof.

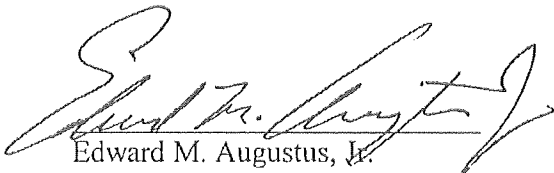
portion hereof.

31. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one in the same agreement.


In WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

CITY OF WORCESTER

Approved as to legal form:




Edward M. Augustus, Jr.
City Manager



David M. Moore
City Solicitor

COMPANY:
Prime Wellness Centers, Inc.

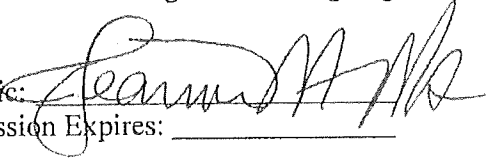

By John P. Glowik, Jr.
Title: Chief Executive Officer

COMMONWEALTH OF MASSACHUSETTS

Worcester, SS.

March 28, 2016

On this 28th day of March, 2016, before me, the undersigned notary public personally appeared of Prime Wellness Centers, Inc., and proved to me through satisfactory evidence of identification being Driver's license or other state or federal government document bearing a photographic image; Oath of affirmation of credible witness known to me who knows the above signatory, or My own personal knowledge of the identity of the signatory, to be the person whose name is signed above; and acknowledged to me that he/she signed the foregoing document voluntarily for its stated purpose.

Notary Public: 
My Commission Expires: _____

JEANNIE M. MICHELSON
Notary Public
Commonwealth of Massachusetts
My Commission Expires
July 24, 2020