

CANNABIS IMPLEMENTING REGULATION NO. _____

IMPLEMENTING REGULATIONS GOVERNING REQUEST FOR PROPOSALS PROCESS FOR ALLOCATING LIMITED PRIVILEGE TO APPLY FOR A CANNABIS BUSINESS PERMIT

WHEREAS, on November 7, 2017, the City Council for the City of Alameda introduced on first reading Ordinance No. 3201 amending the Alameda Municipal Code (AMC) to add a new Article XVI (Cannabis Businesses) to Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES), that went into effect on January 18, 2018. This new article covers all aspects of regulating the operations of cannabis businesses, including requiring an operator's permit and granting the Community Development Department the authority to adopt implementing regulations ("regulatory ordinance"); and

WHEREAS, on December 5, 2017, the City Council introduced a separate ordinance, Ordinance No. 3206, on first reading governing land use by cannabis businesses, that amended the AMC by repealing section 30-5.15 (Medical Marijuana Dispensaries and Cultivation) in its entirety and adding a new section 30-10 (Cannabis) to conditionally permit specific types of cannabis businesses in certain zoning districts ("zoning ordinance"); and

WHEREAS, on November 7, 2017, because the City Council decided to cap the maximum number of permits to be issued by business category, staff recommended, and the Council agreed, that a Request for Proposals (RFP) process should be utilized to select the businesses in each category who would be eligible to move forward with operator permit and land use permit applications; and

NOW, THEREFORE: pursuant Section 6-59.16 of the regulatory ordinance, the Community Development Department adopts the following implementing regulations that shall govern the process for allocating the limited privilege to apply for cannabis business permits. The implementing regulations are as follows:

SECTION 1. Request for Proposal Implementing Regulations.

A. **Purpose.** The purpose of these regulations is to establish the process by which the City of Alameda will issue conditional award letters conferring the limited privilege of applying for the requisite approvals for an individual or entity to operate a Cannabis Business within the City of Alameda, including without limitation, a Use Permit, Business License, and Cannabis Business Operator's Permit (CBOP) pursuant to a RFP. The City of Alameda shall issue a single master RFP intended to identify potential cannabis businesses qualified to apply to obtain the requisite approvals.

B. **Issuance of RFP.** Based on direction from Council, the City Manager (or her designee) may issue a RFP inviting potential cannabis businesses to submit their

qualifications for the requisite approvals upon prior authorization from the City of Alameda in the form of a conditional award letter.

C. **Form of RFP.** These regulations and the RFP shall govern the process by which potential cannabis business shall provide information to assess their qualifications to apply for local approvals to operate a Cannabis Business in the City of Alameda.

D. **Letter of Intent.** All Proposers to the RFP must submit a Letter of Intent (LOI) by the specified date and time in the RFP. Failure to do so will lead to disqualification from further participation in the RFP process.

- i. The Community Development Department will review the LOIs to determine if a Proposer meets the following Minimum Requirements.
 - a) Timely submission of LOI, as set forth in the RFP.
 - b) Timely payment of Pre-Application Review Deposit of \$1,000.00.
 - c) Evidence of a secured location for the proposed Cannabis Business in the manner set forth in the RFP.
 - d) Evidence that the proposed location is outside of the applicable cannabis buffer zones for sensitive uses.
- ii. All Proposers will be notified whether their LOI meets the Minimum Requirements. Proposers with qualifying LOIs will be invited to submit a proposal in response to the RFP. A determination that a LOI fails to meet the Minimum Requirements is a final determination.
- iii. If the Community Development Department receives fewer LOIs than the cap in any given permit category, all individuals or entities identified in the LOI will be considered qualified, terminating the RFP process, and entitled to apply for the requisite approvals.

E. **Rating and Ranking of Proposers to RFP.** Proposals shall be rated and ranked according to the criteria set forth in the master RFP approved by the City Council.

- i. Proposal Submission. Proposals must be submitted according to the terms of the published RFP issued by the City Manager.
- ii. Selection Criteria. City staff to be designated by the City Manager shall assign points as provided in the evaluation criteria contained in the RFP to each proposal and rank the cannabis businesses as set forth in

the RFP based on their written materials submitted in response to the RFP and based on following criteria:

- a) Statement of Qualifications. Proposers must describe the Cannabis Business Owners' qualifications relative to the proposal, including experience running businesses similar to the one proposed, including cannabis and/or non-cannabis businesses.
- b) Proposal Implementation. Proposers must provide verifiable, detailed descriptions of the persons or type of resources, and other background information for *key individuals and owners of 20% or more* of the business and describe resources, including financial resources, dedicated to implement the proposal.
- c) Understanding and Approach. Proposers must provide a statement demonstrating the business' understanding and approach to running the proposed cannabis business and how that approach will integrate the business into the community in which it is located.
- d) Local Hire (Optional). Proposers may provide a plan demonstrating how they would hire locally. A local hire plan could address:
 1. A minimum percentage of the business' employment base hired locally.
 2. A recruitment plan for new hires, including outreach methods.
 3. The hourly wage of the lowest-paid employee.
 4. Estimated number of employees in the first year, second year, third year, fourth year and fifth year.
 5. Available job pathways.
 6. Describe any plans to train employees and promote lower-level employees.
 7. Estimated number of full-time and part-time positions in years one through five.
- e) Local Ownership (Optional). Proposers may furnish materials to demonstrate they are locally owned. More than 50% ownership of the business by a three-year resident(s) or business owner(s) constitutes local ownership. The local owners must provide

verifiable information regarding the number of years each owner has lived in, and/or owned a business in, Alameda.

- f) Community Benefit (Optional). Proposers may provide a plan demonstrating how the community at-large would benefit from their proposal. A community benefit program could include college scholarships, incubation of minority businesses, business training sponsorships, supporting or sponsoring community programs, training programs, targeted donations, or a combination of the aforementioned or benefits of another kind.
- g) Schedule. Proposers must provide a schedule to ensure the commencement of operations for the proposed Cannabis Business. The schedule should include dates for the following:
 - 1. Design review approval, if applicable.
 - 2. Signage approval, if applicable.
 - 3. State license(s) issuance.
 - 4. CBOP/Land Use permit issuance.
 - 5. Building permit issuance.
 - 6. Issue of other regulatory permits (e.g., EBMUD discharge permit, etc.).
 - 7. Completion of construction.
 - 8. Opening and commencement of operations.
- iii. The score cut-off to be used by the Selection Panel when reviewing the proposals to determine which Proposers are granted an oral interview is 60 points (or a score of at least 75%).

F. Selection Panel. Proposers who have timely submitted complete proposals and paid the Pre-Application Review Deposit of \$6,500.00 shall have their proposals rated and ranked by the Selection Panel.

- i. The Selection Panel shall consist of: (1) Chief of Police, (2) a representative from the Community Development Department, and (3) a representative from the City Manager's Office.

- ii. The City Manager shall have the authority to appoint alternates in the event any of the foregoing panelists cannot serve on the Selection Panel.
- iii. The Selection Panel, in its sole discretion, may make a determination of qualification based on all information submitted as part of the RFP process, including all materials submitted in writing or orally.
- iv. Proposers who meet the score cutoff may be invited to an oral interview before the Selection Panel. Following the oral interview, Proposers may either receive an awarding letter or be placed on the RFP waitlist depending on their rating and ranking.

G. **Awarding Letter.** Proposers determined to be qualified by the Selection Panel according to the score cutoff shall be issued a letter conditionally awarding to the potential applicant named therein the privilege to apply for the limited number of Cannabis Business permits. Awarding letters are non-transferrable.

- i. Once an award letter is issued, the awardee has sixty (60) days from the date of the awarding letter to apply for a Cannabis Business Permit. Failure to do so may lead to disqualification from further consideration and immediate revocation of the award letter.
- ii. The awarding letter shall also set forth any conditions on the determination that the Proposer was qualified to apply. Failure to meet any conditions of the award letter, may lead to disqualification from further consideration and immediate revocation of the award letter.
- iii. If an award letter is revoked, the City Manager, in his/her sole discretion, may issue a new award letter to the next highest ranked Proposer on the RFP wait list.
- iv. The awardee must secure all the requisite approvals to begin commencement of operations, including without limitation, obtaining a use permit, business license, and operator's permit, within their proposed schedule, or one (1) year from the date of the award letter, whichever is sooner. The City Manager may extend this one-year time deadline for "good cause," as that term is defined in the regulatory ordinance.

H. **RFP Wait List.** The Community Development Department shall maintain a list for one (1) year, containing all Proposers that were not ultimately issued an awarding letter but received a score qualifying them to be wait-listed.

- i. The following are the non-exhaustive instances in which a Proposer may move off the wait list:

- a) A Proposer has requested in writing to be removed from further consideration.
- b) An award letter has been revoked for failure to meet the conditions stated therein.

I. **Appeal Procedure.** The RFP shall establish the appeal procedure for a Proposer to contest the decision to issue an awarding letter to a Proposer. There shall be no right to appeal a failure to meet the Minimum Requirements. Any such determination is a final decision by the City of Alameda.

SECTION 2. CEQA. Adoption of these regulations is not a project and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, sections 15378 and 15061(b)(3) (General Rule).

SECTION 3. Severability. If any provision of these regulations are held by a court of competent jurisdiction to be invalid, this invalidity shall not affect other provisions of these regulations that can be given effect without the invalid provision and therefore the provisions of these regulations are severable. The Community Development Department declares that it would have enacted each section, subsection, paragraph, subparagraph and sentence notwithstanding the invalidity of any other section, subsection, paragraph, subparagraph or sentence of these regulations.

SECTION 4. Effective Date. These regulations shall become effective upon its adoption, _____.

Community Development Department Director