

**CITY COUNCIL OF THE CITY OF SONORA
STAFF REPORT**

MEETING DATE: FEBRUARY 20, 2018

TO: CITY COUNCIL

FROM: DOUGLAS L. WHITE, CITY ATTORNEY

SUBJECT: DISCUSSION AND POTENTIAL APPROVAL OF A PROPOSED REQUEST FOR PROPOSALS TO SELECT QUALIFIED CANDIDATES FOR PARTICIPATION IN THE SONORA CANNABIS BUSINESS PILOT PROGRAM

RECOMMENDATION:

Discussion and potential approval of a proposed Request for Proposals (“RFP”) to select qualified candidates for participation in the Sonora Cannabis Business Pilot Program (“Cannabis Business Pilot Program”).

BACKGROUND:

The City of Sonora (“City”) has reexamined its regulation of cannabis businesses due to recent changes in state law governing the use and sale of medicinal and adult-use cannabis¹.

On January 16, 2018, the Sonora City Council (the “City Council”) adopted an ordinance that would regulate cannabis businesses pursuant to the recommendations from the Cannabis Working Group formed by the City Council in 2017 (the “Cannabis Business Ordinance”). The Cannabis Business Ordinance establishes the Cannabis Business Pilot Program, which allows for the regulation of cannabis businesses through a development agreement and a conditional use permit process. A summary of the Cannabis Business Ordinance is provided below:

<u>Business Type</u>	<u>Regulations</u>	<u>Allowable Location</u>
Cannabis Dispensary	<ul style="list-style-type: none">• Medicinal businesses only.• Businesses are prohibited from operating within 600 feet of a school, youth center, day care, church, or park.• Locations in the Benefit Zone A downtown are prohibited.	<ul style="list-style-type: none">• Tourist and administrative (CO), commercial (C), general commercial (CG), and limited manufacturing (ML) zones
Cannabis Manufacturing	<ul style="list-style-type: none">• Medicinal and adult-use businesses allowable.• Volatile and non-volatile businesses permissible.	<ul style="list-style-type: none">• ML zone

¹ The terms “marijuana” and “cannabis” are used interchangeably.

<u>Business Type</u>	<u>Regulations</u>	<u>Allowable Location</u>
Cannabis Testing Laboratory	<ul style="list-style-type: none"> • Medicinal and adult-use businesses allowable. 	<ul style="list-style-type: none"> • ML zone
Commercial Cannabis Cultivation	<ul style="list-style-type: none"> • Prohibited. 	

Staff has prepared a draft RFP for the City Council’s consideration. The intent of the RFP is to form the basis for a selection process of qualified cannabis operators for participation in the Cannabis Business Pilot Program. The RFP only contemplates proposals for those license types allowed under the Cannabis Business Ordinance. Those businesses include cannabis dispensaries (and associated delivery services), manufacturing (volatile and non-volatile) businesses, and testing facilities.

The draft RFP establishes specific criteria and requirements. Applicants must demonstrate knowledge and experience in developing successful businesses. Applicants must include a proposal for the City’s consideration addressing the potential adverse impacts of commercial cannabis within the greater City limits and the applicant’s proposal to mitigate any negative effects. Following review of all responsive proposals, City staff will establish a list of candidates that may be invited for in person interviews. Any applicant seeking to operate a cannabis business in the City must complete the entire RFP process. The City will reject any cannabis business proposals that do not comply with the RFP requirements. The City Council would ultimately make the final applicant selections.

There is a 30-day deadline for dispensary proposals once the RFP is issued. All other proposals will be reviewed on a rolling basis.

FISCAL IMPACT:

The proposed RFP requires applicants pay a Seven Thousand Five Hundred Dollars (\$7,500) application fee to cover City staff time and attorneys’ fees associated with reviewing, evaluating, and processing the application.

ENVIRONMENTAL:

MAUCRSA provides an exemption under the California Environmental Quality Act (“CEQA”) for any ordinance, rule, or regulation by a city that requires discretionary review and approval for commercial cannabis activity.² Additionally, this item does not constitute a project under the CEQA, because it does not establish any entitlements or authorize any projects within the City.³

ATTACHMENTS:

Draft RFP for the Sonora Cannabis Business Pilot Program

² Bus. & Prof. Code, § 26055, subd. (h).

³ Pub. Res. Code, §§ 21065, 21080.

Request for Proposals

Introduction

The City of Sonora (the “City”) invites interested parties to submit a proposal in response to this Request for Proposals (“RFP”). The City is seeking proposals from qualified cannabis operators to be considered for participation in the Sonora Cannabis Business Pilot Program (the “Cannabis Business Pilot Program”).

The proposal may be for the following cannabis businesses currently legal under California state law and allowable pursuant to the Sonora Municipal Code:

- (1) Dispensary (medicinal only);
- (2) Manufacturing (volatile and non-volatile); and
- (3) Testing facilities.

Following review of all responsive proposals, City staff will establish a list of candidates that will be invited for in person interviews. The Cannabis Business Pilot Program may allow one (1) or more cannabis businesses to operate in the City for a specified term. The goal of the RFP is to elicit cannabis business opportunities from business proprietors themselves. This RFP will allow the Sonora City Council (“City Council”) to review the types of businesses interested in working with the City and determine which, if any, proposals will proceed.

Interested parties must complete the requirements of this RFP by clearly articulating how the proposed businesses would operate within the confines of existing state law. This includes securing any applicable state licenses necessary for the operation of any cannabis business. Applicants will have to demonstrate how the proposed business intends to mitigate any negative impacts on the City’s community that may arise from a cannabis operation.

Qualifications

Any selected parties are expected to have the following qualifications:

- (1) a demonstrated knowledge and experience in developing successful businesses;
- (2) an expertise in the existing laws and regulations relating to cannabis;
- (3) an innovative, responsive, competent and practical business acumen;
- (4) a demonstrated ability to operate the proposed cannabis business as an integrated part of the community; and
- (5) a demonstrated ability and willingness to work with the City in developing any proposed business rules and regulations specific to cannabis businesses.

Cannabis Background

Below is a brief summary of recent federal and state cannabis¹ (adult-use and medicinal) policy.

Federal Law

Under federal law, cannabis remains an illegal Schedule I narcotic.² Schedule I narcotics are substances with a high potential for abuse that have no accepted medical value and cannot be used safely, even under a doctor's supervision.

In recent years, the United States Department of Justice has chosen not to prosecute most cannabis users and businesses that follow state and local laws. However, this federal policy relating to medicinal cannabis, recreational cannabis, or both, could change under the current administration.

California

On November 6, 1996, the voters of California approved Proposition 215, the Compassionate Use Act of 1996 ("CUA"). Under the CUA, doctors are not punished for recommending medicinal marijuana to their patients. The CUA allows patients and their caregivers to legally possess, use, and cultivate medicinal marijuana with a doctor's recommendation.

In 2003, the California Legislature adopted Senate Bill 420, entitled the Medical Marijuana Program ("MMP"). The MMP created a voluntary identification card program for patients using medicinal marijuana and their primary caregivers. The MMP provided immunity under the California Penal Code to patients and their caregivers for their personal or collective use and cultivation.

On October 9, 2015, Governor Jerry Brown enacted state regulation of medicinal cannabis by signing the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA required a business to obtain a state license and a local permit in order to operate a medicinal cannabis business. Under MCRSA, the Bureau of Medical Cannabis Regulation regulates labeling, testing, transportation, and packaging of medicinal cannabis, the Department of Food and Agriculture regulates cultivation, and the Department of Public Health regulates the manufacturing of medicinal cannabis.

On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act ("AUMA"). AUMA legalizes the cultivation, commercial sale, and possession of recreational marijuana for adults age 21 and older. While MCRSA explicitly requires businesses to obtain a local permit before getting a state license, AUMA does not.

¹ The terms "marijuana" and "cannabis" are used interchangeably because state law has used both terms to mean the same thing.

² 21 C.F.R. § 1308.11.

On June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), which combined MCRSA and AUMA to create a single regulatory scheme for both medicinal and adult-use cannabis businesses. Effective January 1, 2018, MAUCRSA provides the statutory framework for cannabis businesses to legally operate within the state. MAUCRSA retains the provisions in AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in their jurisdiction.

On December 7, 2017, the Bureau of Cannabis Control, the Department of Food and Agriculture, and the Department of Public Health issued final emergency regulations for all medicinal and adult-use cannabis businesses allowed under MAUCRA. The regulations require, among other things, background checks of business owners and employees, a plan of business operation, a security plan, and environmental pollution and waste plans.

City of Sonora

The City is located in the beautiful Sierra Nevada Foothills in the heart of California’s Gold Country in Tuolumne County. Known as the “Queen of the Southern Mines”, the City still holds on to its historic downtown charm while thriving as the commercial, government and cultural center for the region. The City is conveniently located near Yosemite National Park and other regional favorites, including Columbia and Railtown State Historic Parks. The City government is comprised of a five-person city council that includes an elected mayor.

On May 23, 2017, the City Council held a public meeting to discuss the regulatory framework of cannabis in California and ultimately moved to form a Marijuana Working Group (“Working Group”). The goal of the Working Group was to make recommendations to the City Council concerning the local regulation of cannabis for the City Council’s consideration. Thereafter, the Working Group met for several months and discussed numerous aspects of cannabis regulation for commercial purposes. On November 20, 2017, the City Council decided to adopt the Working Group’s recommendations for the local regulation of cannabis businesses.

On January 16, 2018, the City Council adopted an ordinance that would regulate cannabis businesses, pursuant to the Working Group’s recommendations (the “Cannabis Business Ordinance”). The Cannabis Business Ordinance establishes a Cannabis Business Pilot Program which allows for the regulation of cannabis businesses through a development agreement and a conditional use permit process.

On February 20, 2018, the City Council instructed staff to draft this RFP to continue development of the Cannabis Business Pilot Program. The goal of the program is for the City to gain a better understanding of the impacts of cannabis businesses by allowing a selected business or businesses to operate for a specified term.

Submittal Requirements and Evaluation Criteria

Proposals shall address the submittal criteria delineated herein. The City requests that each proposal be clear and concise, as the City does not wish to receive voluminous proposals with extensive background materials. Please only present material that is requested, or in your best judgement, contributes or is relevant to this request. Submittals shall be limited to no more than twenty (20) pages and shall include a table of contents, title pages, and page numbers. The table of contents shall not count towards the page limit. Proposals that do not meet the submittal criteria specified herein are subject to disqualification.

- **Introduction** - A brief overview and introduction to the proposed business and owners, the organization structure, and rationale for such business and structure. Please include whether it is a medicinal or adult-use cannabis business, rationale for that determination, and describe the requisite state licenses required for operation of the business and a schedule for completing the necessary licensure. (25%)
- **Personnel/Project Team** - Description and professional resume of key project team members who will be managing the business, any executive team members, advisors or consultants to the executive team, and a statement as to the availability of each person and their respective services. The qualifications should include descriptions of any similar cannabis or non-cannabis projects, complete with references. (20%)
- **Project Plan** - Detailed plan providing the scope of the proposed business. Please also include a projected timeline of commencing business, the business's proposed operation and security plan, and any environmental impacts. Describe how the business will contribute to the community; and describe any existing ties to the community. Applicants must include a proposal for the City's consideration addressing the potential adverse impacts of commercial cannabis within the greater City limits and the applicant's proposal to mitigate any negative effects. (30%)
- **Economics** – Submit any publicly available financial documentation of the proposed business owners. Please do not submit any confidential information. Also, include a breakdown of the projected income and hiring by the business. (20%)
- **Format** – Proposals must be organized, labeled or tabbed consistent with these requirements. The submittal must consist of 8 1/2" by 11" paper. (5%)

RFP Process

1. Phase I – Request for Proposals (RFP)

- Interested parties prepare a project plan (and a clear statement of the project plan and objectives).
- Attendance at a pre-submittal conference for prospective parties.
- RFP responses received and reviewed. Applicant due diligence performed.
- In person applicant presentations by all RFP respondents.
- Selection of the preferred applicant(s).

2. Phase II – Permit or Development Agreement

- Funding Agreement signed between the City and applicants setting forth all major business terms, negotiations commenced, and development agreement drafted.
- Project goes to the Sonora Planning Commission and City Council for approval.
- All documents executed, and City ordinances drafted.

Pre-Submittal Conference

The City is seeking qualified candidates to develop the Cannabis Business Pilot Program; therefore, attendance at a pre-submittal conference by a representative of the project team is strongly encouraged but not required. The pre-submittal conference will be held on _____, _____, **2018, from 1:30 p.m. to 3:00 p.m.**, located at 94 Washington Street, Sonora, CA 95370. The purpose of the pre-submittal conference is to provide background on the City's goal, the vision of the Cannabis Business Pilot Program and to answer any questions from the public.

Selection Process

Applicants are required to pay a non-refundable Seven Thousand Five Hundred Dollars (\$7,500) application fee to cover City staff time and attorneys' fees associated with reviewing, evaluating, and processing the application.

Upon the close of the RFP period, a selection committee will review the proposals received in response to this request. The proposals with the most responsive proposals, if any, may be selected to participate in the RFP process.

Any applicants seeking to operate a cannabis business in the City must complete the entire RFP process. The City will reject any cannabis business proposals that do not comply with the RFP requirements.

The City reserves the right to reject all proposals or modify or amend the scope of the RFP. Acceptance of proposals pursuant to this request is not a commitment to award.

Submittal Deadline

Dispensary applicants shall have thirty (30) days from the issuance of this RFP to submit their proposals and pay the application fee. Sealed dispensary proposals containing five (5) physical copies and one (1) USB drive containing an electronic version of the RFP, must be received at the office of the City Administrator no later than **3:00 p.m., on _____, _____, 2018.**

All other cannabis business applicants will be reviewed on a rolling basis. Questions and further information pertinent to the RFP may be obtained from the undersigned. Proposals shall be submitted to:

Timothy A. Miller, City Administrator
94 North Washington Street
Sonora, CA 95370
TEL (209) 532-4541
E-Mail: tmiller@sonoraca.com