



# *City of New Bedford*

IN COMMITTEE

December 06, 2022

The Honorable City Council  
133 William Street  
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Special Committee on Cannabis Regulation and Host Community Agreements Review at a Meeting held on Thursday, November 17, 2022, considered a COMMUNICATION, Council President Morad, submitting a copy of Old Soul Gardens LLC, 226 South Main Street, Fall River, MA 02721, plans to operate a Craft Marijuana establishment in the City of New Bedford (To be Referred to the Special Committee on Licensing and Zoning for Cannabis.) (Ref'd 09/13/18) (12/19/18-tabled 30 days).

On motion by Councillor Burgo and seconded by Councillor Lima, the Committee VOTED: To recommend that the City Council take "No Further Action" on the COMMUNICATION, Council President Morad, submitting a copy of Old Soul Gardens LLC, 226 South Main Street, Fall River, MA 02721, plans to operate a Craft Marijuana establishment in the City of New Bedford. This motion passed on a voice vote.

IN SPECIAL COMMITTEE ON CANNABIS  
REGULATION AND HOST COMMUNITY  
AGREEMENTS REVIEW

*Ryan J. Pereira*

Councillor Ryan J. Pereira, Vice-Chairman

RJP/at



226 South Main Street, Fall River, MA 02721- 508-264-2530 - [www.oldsoulgardens.com](http://www.oldsoulgardens.com)  
August 16, 2018

Honorable City Council  
City of New Bedford  
133 William Street  
New Bedford, MA 02740

**RE: Host Agreement for Marijuana Establishment- 95-127 West Rodney French Blvd**

Dear Honorable City Council:

It is my pleasure to reach out to you today to introduce my company, Old Soul Gardens, LLC. I am an attorney by vocation, but I am focusing on operating Old Soul Gardens as a craft marijuana establishment in the City of New Bedford. We intend to operate a marijuana establishment for cultivation, manufacturing, and retail sales on a handcrafted quality basis. We are researching several locations, but once the moratorium expires we plan to present a detailed plan for a suitable parcel for the operation located at the Kilburn Mill, located at 95-127 West Rodney French Boulevard. Old Soul Gardens envisions New Bedford and this parcel as a premier destination for individuals to seek consistent access to quality cannabis products in a safe environment. Our vision showcases the natural beauty of our City and its views of Buzzards Bay from our historic mill with modern upgrades focused on energy efficiency.

Old Soul Gardens is envisioned as a wellness center modernly styled to provide secure and safe access to only the highest quality marijuana flower from our very own proprietary strains and the highest quality hand-crafted marijuana products including concentrates, edible infusions, custom handrolls, CBD hemp oils and topicals, and other natural and holistic remedies. The dispensary for retail sales is a secured location immersed within the wellness center including an art gallery highlighting local artists in various mediums, a wellness center offering meditation, therapeutic massage, yoga, reiki, other holistic treatments, and a music venue cafe. Enclosed please find draft floorplans detailing our concept. If you are familiar with the present Whaling Museum panorama, the stair landing onto the third floor places you within the art gallery/hallway that leads you to the exhibit and future wellness center. This will allow for the treatments upon the water views. Please understand these are concept drawings and I am finalizing agreements with the owners and fully engineered plans will be drafted for our permitting and licensing applications. Old Soul Gardens' strength is our dedication to a quality product, our unique brand image known for consistent quality, and the company's dynamic holistic approach of bringing wellness to our clients on all levels they may seek. Old Soul Gardens is my ambition for the future growth of Massachusetts and public acceptance of marijuana as a productive and beneficial part of society when properly sold and consumed. I plan to continue operating Old Soul Garden diligently and efficiently as its chief legal and executive officer as we seek license approval from the state and local municipality. My only partner is an experienced cannabis cultivator and craftsman I have known for fourteen years. He shares my core beliefs including helping others and has provided successful patient care to those of debilitating illnesses for several years in addition to his years of cultivation experience.



Old Soul Gardens endeavors to bring its passion and holistic approach of the natural benefits of cannabis to the public in order to encourage responsible recreational use. Our goal is economic empowerment for the cities we conduct business in and our local communities. We plan to responsibly empower our local community with elevated economic growth and an enlightened understanding of cannabis by exemplifying how marijuana is properly grown to meet test standards and consumed responsibly. Old Soul Gardens' lifted life values are built upon a foundation of social responsibility to our clients and local communities. Our commitment is demonstrated by our plan to operate locally and hire local employees of diverse and veteran statuses, and collaborate with non-profits focused on opioid abuse solutions, homelessness prevention, and career development. Old Soul Gardens' integrated values will be the model the world looks to because of our influence in obtaining peace, equality, responsible consumption, and success for our communities and people.

At this time, I have applications pending before the state's Cannabis Control Commission for cultivation, manufacturing and retail sales of marijuana. I am preparing all necessary plans, procedures and regulatory requirements in advance while conducting municipal engagement. We are preparing thoughtful simple marketing and advocacy for our company to promote the safe use of marijuana, including collaborating with other like-minded non-profits to spread information to the public about cannabis. I have a newspaper editorial ready to send out with our first community outreach event tentatively scheduled for the end of August to build support in the City. We would like to present this location or other locations more suitable to the City at this outreach event. Therefore, I respectfully request the City to consider Old Soul Gardens as a prospective marijuana establishment. As a lifelong resident of Acushnet and the current Town Moderator, New Bedford will always be my home City and hold a special place in my life. I endeavor to bring economic empowerment to the community of New Bedford with Old Soul Gardens as I have continued to do as an attorney assisting new businesses and low-to-moderate income individuals through my participation in the Justice Bridge program sponsored by UMass on Union Street. I plan to continue investing in New Bedford and it's people with Old Soul Gardens and several others as my family has done for generations. Upon approval, I will be seeking relocation of my homestead to my birth City- New Bedford- in order to manage Old Soul Gardens at a high level of professionalism required to turn this opportunity into a true success for New Bedford.

I thank you for reading my correspondence thus far, and if you have, I hope you have found some interest and support of my company and its cause. We would be honored if the City accepted our proposal to move forward at one of our selected locations by entering into a host agreement. Enclosed is a copy of a proposed Host Agreement and various summaries of our policies and procedures for you to understand our commitment to Old Soul Gardens and New Bedford. Please feel free to contact me with any questions or comments. Thank you for your time and consideration.

With the sincerest optimism and respect,



Nicholas A. Gomes, Esquire



**Documents Enclosed**

1. Host Community Agreement
2. Informational Flyer – “Never Settle – Lifted Life”
3. Concept Floorplan and Retail Dispensary Design
4. Economic Empowerment Statement
5. Hours of Operation
6. Security Plan
7. Emergency and Disaster Response
8. Energy, Conservation, and Environmental Impact
9. Cultivation Operations
10. Product Manufacturing
11. Retail Sales
12. Marijuana Strain Menu
13. Marijuana Handling
14. Marijuana Testing
15. Marijuana Storage
16. Record keeping
17. Inventory
18. Employee Staffing
19. Advertising
20. Leadership Rating Plan
21. Waste Disposal

HOST COMMUNITY AGREEMENT FOR THE SITING OF OLD SOUL GARDEN LLC'S  
MARIJUANA ESTABLISHMENT IN THE CITY OF NEW BEDFORD

This Agreement entered into this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between the City of New Bedford acting by and through its Mayor, Jon Mitchell, with a principal address of 133 William Street, New Bedford, MA 02740 (hereinafter the "City") and Old Soul Gardens, LLC, a Massachusetts corporation with a principal office address of 226 South Main Street, Fall River, MA 02721 (hereinafter "Company").

WHEREAS, Company wishes to locate a licensed Marijuana Establishment for cultivation, manufacturing, transportation and retail sales of marijuana products ("ME"), located at 95-127 West Rodney French Boulevard, New Bedford, MA 02744 (hereinafter the "Facility") in the City in accordance with the laws of the Commonwealth of Massachusetts and the laws and ordinances of the City;

WHEREAS, when permitted by local law, Company wishes to locate a recreational marijuana establishment which will include ancillary licenses to allow for the cultivation, manufacturing, transportation and retail sales of marijuana products at the Facility.

WHEREAS, Company, notwithstanding any exempt status, intends to pay all local taxes attributable to its operation, including real estate taxes, excise taxes, and any other allowable tax on the space within which the Facility is located;

WHEREAS, Company desires to be a responsible corporate citizen and contributing member of the business community of the City, and in the event the contingencies noted below are met, intends to provide certain benefits to the City over and above typical economic development benefits attributable with similar new manufacturing and retail concerns located within the City; and

WHEREAS, the City believes that the Company's operation of the ME at the Facility, coupled with its various contributions to the City, as set forth herein, would advance the public good.

NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged and for the mutual promises set forth below, the parties agree as follows:

**1. Host Community Payments and Contributions.**

- a. In the event that Company obtains a Final Certificate of Registration or its equivalent for the Company's operations of a ME at the Facility by the Massachusetts Department of Public Health or a Final Certificate of Registration or its equivalent for the Company's operations of a ME at the Facility by the Cannabis Control Commission and receives any and all necessary and required permits and licenses of the City, and at the expiration of any final appeal period related thereto said matter not being appealed further, which said permits and/or

licenses allow Company to locate, occupy and operate the ME at the Facility, then Company agrees to make the contributions contained in this Host Agreement.

- b. The Company shall pay the City a sum equal to three percent of gross revenue from all of the Company's marijuana operations in the City during each calendar year or portion thereof the Company operates at the Facility; provided, however, that in no event shall the Host Community Payment be less than twenty-five thousand dollars (\$25,000) per year; provided, further, that in the year that the Company commences operations, the minimum amount of the Host Community Payment shall be pro-rated according to the number of days in the year that the Company conducted operations at the facility.
- c. The Company shall donate one percent of its gross revenue to the Social Equity Training and Technical Assistance Fund as set forth in 935 CMR 500.040(3)(a).
- d. The Company shall donate an additional one percent of its net revenue to the City of New Bedford for the creation and operation of a board, tentatively the "New Bedford Cannabis Relief Commission" charged with annually distributing the funds to non-profit organizations aimed at providing opioid abuse solutions, homelessness prevention, marijuana resource information, and career development.
- e. Gross revenue shall include the revenue from production, sales, operations, or services in the City to the maximum extent permitted by law, regardless of whether those products contain, or facilitate the use, inhalation, or ingestion of marijuana.
- f. The calculation of gross revenue shall not include (i) revenue from operations under any other Host Community Agreement between the Company and the City, and (ii) transactions, within the City, strictly between the Company and any other marijuana establishment in the City operated by the Company.
- g. The company shall, within sixty (60) days from the close of each calendar year, submit a report to the City certifying the gross revenue from the preceding calendar year, in addition to any records or reports that may be required to submit to any state licensing or regulatory authority. The report shall specify the Host Community Payment as a calculated under this section and shall be prepared by a Certified Public Accountant in accordance with generally accepted accounting principles ("GAAP"). The Company shall maintain its books, financial records, and other compilations of data pertaining to all requirements of this Agreement in accordance with standard GAAP and all applicable state laws and regulations. The company shall keep such records for a period of at least seven (7) years.
- h. Annual payments of the Host Community Payment shall be due and payable no later than ninety (90) days from the close of the calendar year.

- i. In addition to the above-referenced report, the Company shall provide to the City an annual report detailing the following information for the preceding calendar year; (i) the total number of the Company's transactions in the City, (ii) descriptions of any on-site incidents at the Facility that resulted in a public safety response, and (iii) such other information as may be reasonably requested by the Mayor or Municipal Council.
- j. The Parties agree that the primary purpose of this Agreement is to assist the City in addressing community impacts to the City that are directly proportional and reasonably related to the Company's operation of the Facility. "Community impact" means, collectively, the following potential and actual impacts to the City directly related to or resulting from the construction and operation of the establishment such as (i) increased use of City services, (ii) increased use of City infrastructure, (iii) the need for additional City infrastructure, employees and equipment, (iv) increased traffic and congestion, (v) increased air, noise, light and water pollution, (vi) issues related to public safety and addictive behavior, (vii) loss of city revenue from displacement of current businesses, (viii) issues related to housing and education, (ix) quality of life, and (x) costs relating to mitigating other impacts to the City and its residents.

2. **Payments.** The Company shall make the payments set forth in Section 1, above, to the City of New Bedford. The parties understand and acknowledge that the City is under no obligation to use the payments described in Section 1(b) above in any particular manner.

3. **Permitting and other Payments.** Company agrees it shall obtain all necessary licensing and permitting for its operation of the ME including a special permit under finalized zoning ordinances, a municipal license from a finalized local licensing authority, and all state provisional and final licenses. Company will pay any and all fees associated with the permitting and licensing of the Facility. Company anticipates that it will make annual purchases of water, and sewer from all local government agencies.

4. **Re-Opener/Review.** The City will revisit the total amount and allocation noted above every 48 months to ensure that the City's priorities are being met and Company has fulfilled its commitment to City's satisfaction.

5. **Motor Vehicles.** The Company agrees that it shall cause any motor vehicles owned, leased, operated, or used by the Company in its operations at the Facility to be registered and principally garaged in the City. The purpose of this provision is to ensure that the City receives any motor vehicle excise tax otherwise due and payable that is attributable to the motor vehicles that the Company regularly uses in connection with its operations at the Facility.

6. **Local Taxes.** At all times during the Term of this Agreement, property, both real and personal, owned or operated by Company shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid either directly by Company or by its landlord, and neither Company nor its landlord shall object or otherwise challenge the



taxability of such property and shall not seek a non-profit exemption from paying such taxes. Notwithstanding the foregoing, (i) if real or personal property owned, leased or operated by Company is determined to be non-taxable or partially non-taxable, or (ii) if the value of such property is abated with the effect of reducing or eliminating the tax which would otherwise be paid if assessed at fair cash value as defined in G.L. c. 59, §38, or (iii) if Company is determined to be entitled or subject to exemption with the effect of reducing or eliminating the tax which would otherwise be due if not so exempted, then Company shall pay to the City an amount which when added to the taxes, if any, paid on such property, shall be equal to the taxes which would have been payable on such property at fair cash value and at the otherwise applicable tax rate, if there had been no abatement or exemption; this payment shall be in addition to the payment made by Company under Section 1 of this Agreement. In the event the owner of any real estate upon which any of the Company's operations in the City are situated, or any person on behalf of any such owner, shall fail or refuse to pay any such tax, or shall take any action that results in such real estate no longer becoming taxable by the City in whole or in part, then the Company, in addition to any other obligation contained in this Agreement, shall pay to the City a payment in lieu of taxes equal to an amount which, when added to the taxes, if any, actually paid on such property, shall be equal to the taxes which would have been payable on such property at fair cash value and at the otherwise applicable tax rate, if there had been no abatement, exemption, or failure to pay.

**6. Community Support and Additional Obligations.**

- a. Local Vendors – To the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, Company will make every effort in a legal and non-discriminatory manner to give priority to local businesses and vendors in the provision of goods and services called for in the construction, maintenance and continued operation of the Facility. Company shall use good faith efforts to ensure that at least 50 percent (50%) of the vendors and/or contractors utilized by the Facility will be based in the City.
- b. Employment/Salaries – Except for senior management, and to the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, Company shall use good faith efforts to ensure that at least fifty percent (50%) of the employees at the Facility will be City residents.
- c. Company shall provide the City with annual reports indicating the percentages of vendors and employees in accordance with paragraphs (a) and (b) above.
- d. The Company shall, at least annually, provide the City with copies of all reports submitted to the Licensing Authority regarding operations at the Facility.

**7. Support.** The City agrees to submit to the Licensing Authority letters supporting the Company's application for the Certificates to operate a ME at the Facility. The City agrees to support Company's application with the Licensing Authority but makes no representation or promise that it will act on any other license or permit request in any particular way other than by



the City's normal and regular course of conduct and in accordance with their rules and regulations and any statutory guidelines governing them. The City agrees to use best effort to work with Company, if approved, to help advise Company on their community support and employee outreach programs.

8. **Security.** The Company shall at all times comply with all applicable laws and regulations regarding the operations of the Facility and the security thereof. Such compliance shall include, but will not be limited to: providing hours of operation; after-hours contact information and access to surveillance operations; and requiring dispensary agents to produce their identification to law enforcement upon request.

Company shall promptly report the discovery of the following to City police within 24 hours: diversion of marijuana; unusual discrepancies identified during inventory, theft, loss and any criminal action; unusual discrepancy in weight or inventory during transportation; any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport; any suspicious act involving the sale, cultivation, distribution, processing, or production of marijuana by any person; unauthorized destruction of marijuana; any loss or unauthorized alteration of records related to marijuana, registered qualifying patients, personal caregivers, or dispensary agents; an alarm activation or other event that requires response by public safety personnel; failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last longer than eight hours; and any other breach of security.

The company shall comply with the conditions of any special permit issued by the City, and shall at all times cooperate with the New Bedford Police Department (TPD), and shall coordinate with the TPB in the development and implementation of security measures at the Facility. The Company shall maintain a cooperative relationship with the TPD, including, but not limited to, periodic meetings to review operational concerns and communication to the TPD of any suspicious activities at the Facility.

9. **Approval of Manager.** If requested by the City, Company shall provide to the City, for review and approval, the name and relevant information, including but not limited to the information set forth in 105 CMR 725.030 (or applicable subsequent regulation), of the person proposed to act as the on-site managers of the Facility. The submittal shall include authorization to perform a criminal history (CORI) check. The City shall consider such request for approval within thirty day following submittal to determine, in consultation with the Chief of Police, if the person proposed is of suitable character to act as on-site manager. Such approval shall not be unreasonably denies, conditioned or delayed. In the event that the City does not provide confirmation or rejection of the proposed on-site manager within thirty days, that manager shall be deemed approved by City. This approval process shall also apply to any change of on-site manager. The provisions of this paragraph are subject to any and all other provisions of federal, state, or local law, regulation, or ordinance as the same may be now in effect or hereafter enacted, amended, or repealed.

9. **Term and Termination.** (a) This Agreement shall take effect on the day above written, subject to the contingencies noted herein. This agreement shall continue in effect for so long as Company operates the Facility. In the event Company does not commence operations within one

year of the date of this Agreement, or ceases to conduct business in the City for longer than sixty consecutive days, or in any way loses or has its Certificates revoked by the State with respect to the Facility, this agreement shall become null and void.

(b) Notwithstanding any other provision of this Agreement, the Company shall be obligated to pay the Host Community Payment for the period of time beginning with the date that the Company commences operations at the Facility ("Commencement Date") and continuing for a period of five (5) years thereafter. In the event that the company wishes to operate at the Facility longer than five years after the date upon which it commences operations, then the Company shall notify the City of the same in writing no later than four years and six months after the Commencement Date. Thereupon, the City and the Company shall meet and negotiate the amount and calculation of the amount of the Host Community Payment for the succeeding five year period. In the event that the parties cannot reach an agreement within six months, the parties shall submit the matter to the American Arbitration Association for final and binding arbitration by a panel of three arbitrators, one selected by the City, one selected by the Company, and the third to be selected by the first two arbitrators. In any such arbitration, the Company and the City shall each pay all of its own costs and attorneys fees, and in such proceedings, it shall be presumed that the Host Community Payment for the succeeding five-year period shall be an amount equal to three percent of gross revenue or \$125,000, whichever is greater, unless the Company can demonstrate by a preponderance of the evidence that the impact to the City from the Company's operations at the Facility is a lesser amount. The Company shall not be required to cease operations during the time that such negotiations or arbitration proceedings are pending.

10. **Governing Law and Forum Selection.** This Agreement shall be governed, enforced, and interpreted in accordance with the laws of the Commonwealth of Massachusetts and venue for any dispute hereunder shall be in the courts of Bristol County.

11. **Amendments/Waiver.** Amendments, or waivers of any term, condition, covenant, duty or obligation contained in this Agreement may be made only by written amendment executed by all signatories to the original Agreement, prior to the effective date of the amendment.

12. **Severability.** If any term or condition of the Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the 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.

13. **Successors/Assigns.** This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the City nor Company shall assign or transfer any interest in the Agreement without the written consent of the other.

14. **Entire Agreement.** This Agreement constitutes the entire integrated agreement between the parties with respect to the matters described. 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.

15. **Notices.** Except as otherwise provided herein, any notices given under this Agreement shall be addressed as follows:

To City: Mayor's Office  
City of New Bedford  
133 William Street  
New Bedford, MA 02740

Municipal Council  
City of New Bedford  
133 William Street  
New Bedford, MA 02740

Office of the City Solicitor  
City of New Bedford  
133 William Street  
New Bedford, MA 02740

To Company: Old Soul Gardens, LLC  
Nicholas A. Gomes, Esquire  
226 South Main Street, Suite #6  
Fall River, MA 02721

Notice shall be deemed given (a) two (2) business days after the date when it is deposited with the U.S. Post Office, if sent by first class or certified mail, (b) one (1) business day after the date when it is deposited with an overnight courier, if next business day delivery is required, (c) upon the date personal delivery is made, or (d) upon the date when it is sent by facsimile, if the sender receives a facsimile report confirming such delivery has been successful and the sender mails a copy of such notice to the other party by U.S. first-class mail on such date.

In witness whereof, the parties have hereafter set faith their hand as of the date first above written.

City of New Bedford

Old Soul Gardens LLC

\_\_\_\_\_  
Jon Mitchell, Mayor

\_\_\_\_\_  
Nicholas A. Gomes, Esquire

**COMMONWEALTH OF MASSACHUSETTS**

BRISTOL, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2018 before me, the undersigned Notary Public, personally appeared the above-named Nicholas A. Gomes, Esquire, proved to me by satisfactory evidence of identification, being driver's license or other state or federal government document bearing a photographic image, oath or affirmation of a 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 the foregoing to be signed by him voluntarily for its stated purpose, as the duly authorized Manager of Old Soul Gardens, LLC.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

BRISTOL, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2018 before me, the undersigned Notary Public, personally appeared the above-named Jon Mitchell proved to me by satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal government document bearing a photographic image, oath or affirmation of a 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 the foregoing to be signed by him voluntarily for its stated purpose, as the duly authorized Mayor of New Bedford.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_