



REPORT TO THE CITY COUNCIL OF THE CITY OF GUADALUPE
Agenda of May 28, 2024

Todd Bodem

Prepared by:
Todd Bodem, City Administrator

SUBJECT: Amending the Master Fee Schedule for commercial cannabis business related fees.

RECOMMENDATION:

Adopt Resolution No. 2024-36 amending the Master Fee Schedule by increasing the pre-license inspection and annual regulatory fees for commercial cannabis businesses.

BACKGROUND:

The City Council adopted its Commercial Cannabis Businesses Ordinance (Guadalupe Municipal Code (GMC) Chapter 9.22) on May 25, 2021. From the very beginning of the process leading up to the adoption of this ordinance, City staff assured the City Council that the City's costs from the enactment of the ordinance through the completion of the process would be fully recovered. Soon after adoption of the ordinance, the Council adopted Application Guidelines and Procedures for Commercial Cannabis Business (CCB) Permit ("Guidelines") with final adoption on September 14, 2021. The Guidelines included the establishment of an application fee (in the amount of \$10,500) that was intended to cover the cost of time spent by City staff and its consultants to evaluate legalization of commercial cannabis uses, enactment of an ordinance for commercial cannabis businesses, creation of the application procedures, for reviewing applications, and administering the application process. The proposed fee was equal to, or less than, the full amount of these costs.

The application fees covered the City's costs only through the completion of the application and selection process. The City was still able to recover its costs associated with the required conditional use permits required for the selected candidates as fees associated with processing conditional use permits were already included on the City's Master Fee Schedule; however, once the conditional use permits were approved, the ongoing costs the City expected to incur related to the creation, negotiations, and execution of the required community benefit agreements for the selected cannabis businesses, as well as certain regulatory and pre-license fees, did not have adopted fees approved by the Council to cover these additional costs.

To address this issue, and to ensure that these additional City costs associated with commercial cannabis businesses were recovered, the City requested that HdL Companies ("HdL") assist it to calculate the fee(s) that would be necessary to establish to ensure full cost recovery of these additional costs not covered

by the application fee (or by the fees imposed for processing the conditional use permit applications). HdL had previously calculated the amount of the application fee for full cost recovery from the enactment of the ordinance through the completion of the application and selection process.

Using HdL's cost analysis for the additional post-selection costs to the City related to commercial cannabis businesses, City staff brought an item to the City Council at its meeting on February 14, 2023, proposing three new fees to add to the City's Master Fee Schedule to recover costs for: (1) commercial cannabis community benefit fee negotiations and agreement preparation (\$3,013 per permittee or \$9,039 total); (2) pre-license inspections (\$1,600 per inspection); and (3) annual regulatory processes (\$19,904 per permittee). The City Council approved these fees at the February 14, 2023.

DISCUSSION:

One of the recommendations staff made to the Council at the February 14, 2023, meeting was that the Council should review and adjust these fees on an annual basis to reflect actual regulatory costs. City staff recently reached out to HdL to obtain its assistance with a cost analysis to determine if the current fee for annual regulation should be adjusted.

HdL conducted another fee study and concluded that the pre-license site and annual regulatory fees should be increased. In addition to noting that hourly rates for City staff have increased in the past year, the costs for HdL's pre-license site visits and annual regulatory compliance costs have also increased. HdL recommended increasing the cost of the pre-license site inspection from \$1,600 to \$2,500 and increasing the annual regulatory fee from \$19,904 to \$20,904. These price increases were based primarily on HdL's own internal evaluation of staff time and rates for conducting each service, but also, in acknowledgment of increased City staff hourly rates. HdL's fee study documentation is attached to this staff report as **Attachment 2**.

HdL did not recommend any increase for the community benefit agreement (CBA) fee (\$3,013) since these expenses have largely been incurred already for all three of the permittees; however, the City did not require payment of this fee from the three permittees when it should have been imposed, and it has been nearly 12 months since the first of the three CBAs, and more than eight (8) months since the last of the three CBAs, were approved by the City Council. Staff is requesting direction from the Council whether to proceed to impose the fees, absorb the cost and waive the fees, or possibly, offer the permittees the option of paying the fee to the City or increasing the amount of their community funding identified in the CBAs by the amount of the CBA fee.

FISCAL IMPACT:

If adopted, the fees to be added to the Master Fee Schedule will allow the City to fully recover (or nearly fully recover) its costs related to pre-licensing inspections and annual regulatory costs related to commercial cannabis businesses without exceeding these costs.

ATTACHMENTS:

1. Resolution No. 2024-36 Amending the Master Fee Schedule for Commercial Cannabis Business Related Pre-License Inspection and Annual Regulatory Fees.
2. HdL fee study.

RESOLUTION NO. 2024-36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUADALUPE AMENDING THE CITY'S MASTER FEE SCHEDULE FOR COMMERCIAL CANNABIS BUSINESS RELATED PRE-LICENSE INSPECTION AND ANNUAL REGULATORY FEES

WHEREAS, the City Council is empowered to impose reasonable fees, rates, and charges for municipal services; and

WHEREAS, the City of Guadalupe Municipal Code section 3.32.030.A provides that all fees charged by the City for the use of City facilities, delivery of City services, business licenses, and other regulatory or revenue-producing activities not otherwise preempted by County, State, or federal jurisdictions, shall be established and adjusted by City Council resolution; and

WHEREAS, consistent with the City Council's direction to staff that all costs incurred by the City related to the enactment of an ordinance legalizing commercial cannabis businesses, and the application and selection process of successful candidates be fully recovered, the City Council approved an application fee for commercial cannabis business permit applications as part of the Application Guidelines and Procedures for Commercial Cannabis Business (CCB) Permit ("Guidelines") adopted on September 14, 2021, which fee covered the City's costs through the completion of the application and selection process; and

WHEREAS, after the selection of the three successful candidates, the City was able to recover its costs associated with the conditional use permit applications required for the successful candidates from fees imposed for processing conditional use permits which were already included on the City's Master Fee Schedule, but there were no approved fees to recover the further and ongoing costs the City expected to incur; and

WHEREAS, to ensure that these additional costs associated with commercial cannabis businesses were recovered, the City requested that HdL Companies ("HdL") assist it to calculate the fee(s) that would be necessary to ensure full cost recovery of these additional costs not covered by the application fee (or by the fees imposed for processing the conditional use permit applications); and

WHEREAS, at its February 14, 2023, meeting, the City Council considered and approved three new fees intended to recover City costs related to: (1) commercial cannabis community benefit fee negotiations and agreement preparation (\$3,013 per permittee or \$9,039); (2) pre-license inspections (\$1,600 per inspection); and (3) annual regulatory processes (\$19,904 per permittee); and

WHEREAS, these fees were based on a fee study conducted by HdL Companies ("HdL") which determined the amount of the fees to be imposed on each of the successful candidates for the additional costs to the City to be recovered, and that these fees did not exceed the City's additional costs; and

WHEREAS, one of the recommendations staff made to the Council at the February 14, 2023, meeting was that the Council should review and adjust these fees on an annual basis to reflect actual regulatory costs; and

WHEREAS, City staff recently reached out to HdL once again to obtain its assistance with a cost analysis to determine if the current fees should be adjusted; and

WHEREAS, HdL conducted another fee study to ascertain if the fees needed to be adjusted to reflect actual regulatory costs, and which study the City Council has reviewed and considered; and

WHEREAS, HdL determined that the pre-license inspection fee and the annual regulatory fee should be increased, but did not recommend any change to the fee for the community benefit agreement; and

WHEREAS, based on the HdL fee study, City staff recommends that the Council approve new fees as follows:

Annual Regulatory Fee:	\$ 20,904
Pre-License Site Inspection:	\$ 2,500.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Guadalupe as follows:

SECTION 1. The recitals herein are adopted as findings of the City Council.

SECTION 2. The above-listed fees are hereby approved by this resolution, are effective immediately, and will be included on Part 1, page A-8 of the City Master Fee Schedule.

SECTION 3. The establishment of rates herein is exempt from the requirements of the California Environmental Quality Act pursuant to Public Resources Code Section 21080(b)(8) and the adoption of this resolution is for the purposes of meeting operating expenses incurred as a result of development, including employee wage rates and fringe benefits.

SECTION 4. The City Clerk is hereby authorized to make minor changes herein to address clerical errors, so long as substantial conformance of the intent of this document is maintained. In doing so, the City Clerk shall consult with the City Administrator and City Attorney concerning any changes deemed necessary.

PASSED AND ADOPTED at a regular meeting on the 28th day of May 2024 by the following vote:

MOTION:

AYES:

NOES:

ABSENT:

ABSTAINED:

I, Amelia M. Villegas, City Clerk of the City of Guadalupe, DO HEREBY CERTIFY that the foregoing Resolution, being **Resolution No. 2024-36**, has been duly signed by the Mayor and attested by the Deputy City Clerk, all at a regular meeting of the City Council, held May 28, 2024, and that same was approved and adopted.

ATTEST:

Amelia M. Villegas, City Clerk

Ariston Julian, Mayor

APPROVED AS TO FORM:

Philip F. Sinco, City Attorney



CITY OF GUADALUPE - CANNABIS FEE SCHEDULE		
Fee Title	Fee	Unit
Community Benefit Agreement	\$ 3,013	CBA
Annual Regulatory Fee	\$ 20,904	Permittee
Pre-License Site Inspection	\$ 2,500	Inspection



Guadalupe Community Benefit Agreement Cost Analysis

ASSUMPTIONS

Est. # CBA's: 3

Loaded rates:

<u>Dep; Position</u>	<u>Department</u>
CM <i>City Manager</i>	City Manager's Office
CC <i>City Attorney</i>	City Council
CM <i>Administrative Assistant</i>	Community Development Department
PD <i>Chief of Police</i>	Police Department

COMMUNITY BENEFIT AGREEMENT FEE		
PROCESS	DESCRIPTION	PER APPLICATION
City of Guadalupe Staff		
Development of CBA Template	Review and approval of Community Benefit Agreement template prepared by consultant. Update individual CBA's to include specific terms proposed by applicants.	\$ 156.73
		\$ 466.67
CBA Negotiation	Negotiate final terms of Community Benefit Agreement with applicant. Update draft CBA with mutually agreeable terms relating to fee payment and/or other community benefits.	\$ 78.37
		\$ 116.67
CBA Adoption	Preparation of City Council Letter and supporting attachments for presentation of CBA to City Council. Preparation of presentation if necessary.	\$ 166.64
Recording	Recording of CBA with County Clerk.	\$ 27.77
Consultant Services		
Development of CBA Template	Draft Community Benefit Agreement for City staff review.	\$ 2,000.00
Total Per Application		\$ 3,012.85

Guadalupe Annual Regulatory Cost Analysis

ASSUMPTIONS

Est. # Businesses 3

Loaded rates:

<u>Dept</u>	<u>Position</u>	<u>Department</u>
CM	City Manager	City Manager's Office
CC	City Attorney	City Council
CM	Administrative Assistant	City Manager's Office
PD	Chief of Police	Police Department
PD	Code Enforcement Officer	Police Department
PD	Police Officer	Police Department
FD	Deputy Fire Marshal	Fire Department
FD	Fire Systems Inspector	Fire Department
FM	Accountant	Finance

ANNUAL REGULATORY FEE				
PROCESS	DESCRIPTION	UNIT	TOTAL (ESTIMATED)	PER LICENSEE
City of Guadalupe Staff				
Policy development and program management	Coordinate multi-Department efforts to regulate the cannabis industry, including business regulation and enforcement. Provide central point of contact for City Council and businesses on cannabis related issues. Work with City Council and departments to continually update and refine cannabis policies and procedures.	Licensee	\$ 4,231.80	\$ 1,410.60
Legal support	Provide legal support to interpret local ordinances, understand evolving State and Federal legislation, and review case law related to cannabis. Defend the City in cannabis litigation and administrative proceedings, and assist with enforcement of licensed facilities as needed.	Licensee	\$ 9,450.00	\$ 3,150.00
Administrative enforcement	Lead administrative oversight/enforcement of licensed cannabis businesses. Code Enforcement staff will field complaints, track cases, schedule field visits, issue warnings and citations, process license suspension/revocations, and manage other general administrative duties. Police Department available to provide oversight/assistance when needed.	Licensee	\$ 1,167.48	\$ 389.16
		Licensee	\$ 1,618.20	\$ 539.40
General administrative functions	Handle administrative functions including license renewals, transfers of ownership, change in location, modification of premises, PRA response, and other cannabis specific services.	Licensee	\$ 2,999.52	\$ 999.84
Fire Safety	Review, certify, and inspect licensed cannabis businesses to ensure ongoing compliance with California Fire Code, California Building Code, California Electrical Code, and other state and local requirements. Cannabis facilities frequently involve highly specialized equipment to address security, fire suppression, electrical, air filtration, cooling, hazardous materials, lighting, and other unique needs. The Fire Department may also provide support to the cannabis administrative enforcement team when needed.	Licensee	\$ 1,133.28	\$ 377.76
		Licensee	\$ 1,133.28	\$ 377.76
Payment processing and fee collection	Receive, count, process and deposit fee payments from sanctioned businesses. Administer cannabis audit program.	Licensee	\$ 3,477.96	\$ 1,159.32
Consultant Services				
Compliance Inspections	Annual on-site inspection of cannabis businesses to verify ongoing compliance with state and local laws. Includes scheduling, preparation, inspection, and follow-up.	Licensee	\$ 7,500.00	\$2,500.00
Financial Audits	Annual audits to verify accurate reporting/remittance of public benefit fee.	Licensee	\$ 30,000.00	\$10,000.00
Total			\$ 25,211.52	\$ 20,903.84

Guadalupe Pre-License Site Inspection Cost Analysis

OTHER FEES						
PROCESS	DESCRIPTION	Estimated Hours	HOURS/YEAR	UNIT	TOTAL (ESTIMATED)	PER LICENSEE
Consultant Services						
Pre-License Inspections	On-site inspection of cannabis businesses to verify ongoing compliance with state and local laws. Includes scheduling, preparation, inspection, and follow-up.	N/A	N/A	Licensee	\$ 7,500.00	\$2,500.00
Total					\$ 7,500.00	\$ 2,500.00