



Legislation Details (With Text)

File #: ID 20-001226 **Version:** 1 **Name:**

Type: Action Item **Status:** Agenda Ready

File created: 9/14/2020 **In control:** City Council

On agenda: 10/15/2020 **Final action:**

Title: Actions pertaining to Commercial Cannabis Activity:
1. ***RESOLUTION - Adopting the 559th Amendment to the Master Fee Schedule Resolution No. 80-420 adding fees relating to Commercial Cannabis Business permit applications (Subject to Mayor's veto).
2. Approve the Cannabis Social Equity Assistance Program Services

Sponsors: Office of Mayor & City Manager

Indexes:

Code sections:

Attachments: 1. Resolution, 2. MFS Exhibit A Redline, 3. Cannabis Social Equity Program Summary

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

REPORT TO THE CITY COUNCIL

October 15, 2020

FROM: WILMA QUAN, City Manager
Office of the Mayor & City Manager

THROUGH: TIM ORMAN, Chief of Staff to the Mayor
Office of the Mayor & City Manager

BY: JENNIFER RUIZ, Project Manager
Office of the Mayor & City Manager

SUBJECT

Actions pertaining to Commercial Cannabis Activity:

1. ***RESOLUTION - Adopting the 559th Amendment to the Master Fee Schedule Resolution No. 80-420 adding fees relating to Commercial Cannabis Business permit applications (Subject to Mayor's veto).
2. Approve the Cannabis Social Equity Assistance Program Services

RECOMMENDATION

Staff recommends that the City Council take the following actions:

1. APPROVE the Resolution to Adopt the 559th Amendment to the Master Fee Schedule

Resolution No. 80-420 adding fees relating to Commercial Cannabis Business Permit Applications.

2. APPROVE the Cannabis Social Equity Assistance Program Services.

EXECUTIVE SUMMARY

The City will open the application process for Commercial Cannabis Business Permits beginning October 19, 2020. The approval of the actions described herein will establish a Cannabis Business Permit Application fee, and authorize the Cannabis Social Equity Assistance Program Services.

BACKGROUND

Commercial Cannabis Business (CCB) Permit Application Fee

Pursuant to Fresno Municipal Code (FMC) Section 9-3316(e), “at the time of filing, each applicant shall pay an application fee established by resolution of the City Council, to cover all costs incurred by the city in the application process.” The City Manager’s Office proposes to establish a CCB Permit Application Fee of \$7,920.00 which will be divided among the four phases of the application process.

The City engaged a consultant experienced in California’s commercial cannabis regulatory environment, to assist in developing the application process and the proposed fee analysis. The proposed fee is based on actual costs incurred by the City in developing the CCB permit application procedures and also includes the reasonable anticipated staff time for each phase of the application process through the awarding of the permit from the City Manager to qualified businesses.

The proposed fee is for the CCB Permit application process only and does not include other fees associated with the permit process, such as zoning verification approvals, background checks, or appeals. Further, it does not include the cost of any approvals applicants are required to obtain between final determination and official issuance of a CCB Permit.

The CCB permit application fee is comprised of the costs associated with each of the four phases of the application process (set forth in more detail below). Each phase of the application process has specific roles and responsibilities, which City staff will carry out, with related costs, which includes reasonable estimated overhead. Thus, each phase has a distinct cost associated with it. The purpose of this is to ensure that applicants only pay for the costs related to the phases they participate in. Subsequently, applicants will be reimbursed for the phases of the application process they do not participate in.

A 25% burden cost rate was applied to capture indirect costs. The City Manager’s Office currently does not have an established indirect cost rate. As a result, in order to establish the overhead costs for each phase of the application process a 25% burden cost rate was applied. This rate has been determined to be a standard reasonable rate used for several local government programs that minimizes what can be included in reimbursable cost, which eliminates any unnecessary cost associated with the program.

Lastly, FMC Section 9-3316(b)(6)(vi) requires that the City waive fees for all qualified social equity applicants. All costs associated with the Social Equity program, from the development of the social equity application through the review of the applications submitted by applicants who qualify as Social Equity Applicants based on the criteria set forth in FMC Section 9-3316(b)(6), are excluded

from this fee.

The fee analysis is based on the assumption that 30 applicants will participate in the application process. The estimated number of applicants advancing to each phase of the review process is based on the consultant's advice regarding changing trends in the Central Valley for the cannabis industry, particularly with regard to non-retail licenses and the potential impact of COVID-19 on businesses willing to participate in the market at this time. Due to a limited number of permits authorized in the FMC, the application costs and other business expenses required to start a CCB, and given that there is no guarantee of being awarded a permit, applicants may be less likely now, versus even a year ago, to invest in this process while also being impacted by the economic effects of the COVID-19 pandemic. This is particularly true with the commercial cannabis business types. Cultivators have a higher estimated start-up cost, while manufacturers and distributors have a lower estimate of revenue generation projections and are less common in the market than cannabis retail businesses.

Further, assumptions about the number of applicants considered the restrictive nature of the City's cannabis regulatory framework and a 45-day application window. At this time, there is no specific plan for future rounds of application acceptance.

Below is a breakdown of the activities and costs associated with each phase of the application process:

	Application Activity Description	Fee Amount
Phase 1	Determination of Eligibility and Program Development Costs	\$4,406
Phase 2	Criteria Evaluation and Initial Ranking	\$2,576
Phase 3	Selection Committee Interviews	\$696
Phase 4	City Manager Final Selection	\$242
Total:		\$7,920

Phase I

Phase I of the application process includes the costs already incurred by the City relating to the development of the application forms, processes, and procedures. These costs include staff costs, consultant's fees, and miscellaneous travel expenditures for trips conducted for program research. The staff costs include an estimate of time spent drafting application review procedures, preparing forms, issuing reports, and other analysis dedicated specifically to developing the application process. The hours included for application development were based on an estimate considering the number of meetings, application revision drafts, and review time spent by the Project Manager and other City staff during the application development process.

The application review conducted in Phase I is limited to a review of the submitted applications to determine eligibility. This review is performed by the Cannabis Project Manager. Costs associated with this work are based on a reasonable estimate of the time that will be required for the Cannabis Project Manager to complete this initial review to ensure submitted applications are complete. The Project Manager's time for Phase I review is estimated to be 15 hours (half an hour per application). This review time was estimated based on the City utilizing an electronic application system which increases the efficiency of checking applications for completeness. During Phase I, the Cannabis Project Manager will also oversee assignment of application review tasks to City staff through the

Cannabis Permit Portal, the City's electronic application system. This provides staff with access to and notification of the necessary application components assigned to them for review.

Phase II

Phase II of the application process involves criteria evaluation and ranking. It is assumed that 30 applicants will participate in Phase II. It is expected that prior to submitting an application, applicants will consider the application process and permitting requirements and will therefore submit the documents required to proceed past Phase I and participate in the initial review, scoring, and ranking that occurs during Phase II.

The Phase II costs include projected costs for assigned staff to review the application materials. These costs were calculated based on a reasonable estimate of the staff time that will be required to perform the Phase II review. The time estimate for each task and staff member during Phase II is based on the assigned workload, which considers the review criteria of each section, the page limitation, and the consultant's experience of processing over 2,400 applications for other jurisdictions.

In addition to the application form and supplemental application requirements, applicants are required to submit detailed information in response to each section of the application evaluation criteria, found in 'Appendix A' of the Application Procedures. These evaluation sections include:

- Section 1: Business Plan
- Section 2: Social Policy and Local Enterprise Plan
- Section 3: Neighborhood Compatibility Plan
- Section 4: Safety Plan
- Section 5: Security Plan

The staff responsibilities were assigned to specific staff based on the level and area of expertise required for each section of the application criteria review. In addition, in some cases, tasks are assigned to a specific department, as required in the FMC. For example, FMC Section 9-3310(b)(2) requires the Police Department to approve the Security Plan.

The amount of time attributed for review by each staff person was estimated based on the detailed criteria listed within each section that applicants are required to respond to, as some sections require a more lengthy response than others based on the requirements of each section. Some of these requirements were included because they are required by Article 33 of the FMC, while others were included as part of additional objective review criteria developed by the City Manager's Office pursuant to FMC Section 9-3316(a).

Phase III

After the application documents have been scored and ranked in Phase II, the top applicants, as determined by the City, will proceed to Phase III. Applicants advancing to Phase III will participate in the Selection Committee interview process. The costs for this phase include staff time to review application materials, issue status letters, schedule interviews, conduct interviews, and prepare final interview rankings. The fee analysis assumes 24 applicants will advance to Phase III. This number was derived from the assumption that the City will be interviewing two times the number of retail permits (12) which can be awarded excluding the social equity permits (2). This assumes the City will not receive non-retail applications due to the current trend of cities not receiving applications for these types of licenses at this time due to COVID or saturation of the market.

Phase IV

The final phase is the City Manager's Final Selection. The scores from Phase II and Phase III will be tabulated, and will be provided to the City Manager in order to make the final selection. The staff costs represented in this phase correspond to the time for final deliberation and awarding of the permits by the City Manager. The fee assumes that all 24 applicants interviewed in Phase III will move to Phase IV for final consideration.

Cannabis Social Equity Assistance Program Services

Section 9-3316(b)(6)(vii) of the FMC states that an Equity Assistance Program shall be established by the City Manager, contingent upon Council approval. The attached City of Fresno Cannabis Social Equity Program services document lists the technical assistance that will be available to Cannabis Social Equity Applicants during the application process. The services will be provided by a qualified vendor and are not expected to exceed \$49,900.00. The actual amount will be determined by the total number of qualified social equity applicants and the type of technical service requested. The technical assistance services are provided at no cost to qualified social equity applicants during the application process.

It should be noted that Section 9-3316(b)(6)(vii) also indicates two elements not addressed in the current proposed services: assistance in paying state regulatory and licensing fees, and business loan and/or grants to equity applicants. The ordinance indicates that these services shall be established "once funding becomes available" and that has not yet occurred. However, the City will have the opportunity to apply for the next round of State equity funding, which would make these services feasible for successful equity permittees.

ENVIRONMENTAL FINDINGS

Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15378, adoption of a Commercial Cannabis Business Permit Application fee is not a project.

Pursuant to CEQA Guidelines Section 15378, the Cannabis Social Equity Assistance Program is not a project.

LOCAL PREFERENCE

Local preference was not implemented as this item does not include the bid or award of a construction, services, or consulting contract.

FISCAL IMPACT

There will be no impact to the General Fund as the fee is designed to recoup the costs related to reviewing and issuing Commercial Cannabis Business permits.

Attachments:

Resolution

MFS Exhibit A Redline

Cannabis Social Equity Program Summary