



**City of Lemon Grove
City Council Virtual Regular Meeting Agenda
Tuesday, September 7, 2021 6:00 p.m.**

ZOOM MEETING LINK:

<https://us04web.zoom.us/j/6198253800>

Meeting Access ID: 619-825-3800

Password: 6198253800

Instructions for public participation are below.

City Council

Racquel Vasquez, Mayor
Jerry Jones, Mayor Pro Tem
Jennifer Mendoza, Councilmember
Liana LeBaron, Councilmember
George Gastil, Councilmember

A public agenda packet is available for review on the [City's website](#)

*In accordance with Executive Orders N-25-20, N-29-20 and N-35-20 paragraph 3, executed by the Governor of California on March 17, 2020, and as a response to mitigating the spread of Coronavirus known as COVID-19, the Regular Meeting of the City Council scheduled for Tuesday, September 7, 2021 at 6:00 p.m. will be a **virtual meeting – audio only**. Audio of the meeting will be posted to the City's website 72 hours following the meeting.*

Public Participation Options:

1. Listen to audio live via zoom (Link to the meeting is at the top of the page).
2. Submit a digital Public Comment via email.
 - Email your Public Comment to the Deputy City Clerk at amalone@lemongrove.ca.gov prior to the meeting deadline, which is **Tuesday, September 7, 2021 at 12:00 p.m.** Email subject line should read "PUBLIC COMMENT ITEM NO. ____"
 - Public Comments are limited to a maximum of three (3) minutes. Any comments read out-loud by staff extending passed the three (3) timeframe will be timed out.

Comments received after the deadline will not be read at the meeting, but will be maintained in the record.

Join the Meeting via Computer or Handheld Device

Before joining a Zoom meeting on a computer or handheld device, download the Zoom app from the [Zoom Download Center](#). Otherwise, you will be prompted to download and install Zoom when you click a join link. You will be required to have a Zoom account to use this platform. You can establish a free account one [here](#).

Prerequisites

- Each meeting has a **Meeting Access ID** (619-825-3800) and **Password** (6198253800) that will be required to join a Zoom meeting.
- [Sign up](#) for eNotification to be notified for upcoming City meetings. The email notifications will include the Meeting ID and Password.
- Meetings will be Audio only for all participants.

1. Open Zoom from your desktop app.
2. Join a meeting using one of the following methods:
 - Click [Join a Meeting](#) if you want to join in without signing in.
 - [Sign in](#) to Zoom then click join.
3. Enter the **Meeting ID** number 619 825 3800, **Password** 6198253800 and your display name.

Join the Meeting via Telephone

Find your local number: <https://us02web.zoom.us/j/6198253800>

1. Dial by your location:
 - +1 253 215 8782 US (**Tacoma**)
 - +1 346 248 7799 US (**Houston**)
 - +1 669 900 6833 US (**San Jose**)
 - +1 301 715 8592 US (**Washington D.C**)
 - +1 312 626 6799 US (**Chicago**)
 - +1 929 205 6099 US (**New York**)
2. Enter the **Meeting ID** number 619 825 3800 and **Password** 6198253800. All audio will be muted upon entering.

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City Council Virtual Regular Meeting Agenda
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The City Council also sits as the Lemon Grove Housing Authority, Lemon Grove Sanitation District Board, Lemon Grove Roadway Lighting District Board, and Lemon Grove Successor Agency

Call to Order

Pledge of Allegiance

Changes to the Agenda

Presentation

Emergency Preparedness Presentation, Steve Swaney, Fire Chief

Public Comment

Digitally submitted public comments received by the deadline via email to the Deputy City Clerk at amalone@lemongrove.ca.gov will be read into the record by the Deputy City Clerk. Per Lemon Grove Municipal Code Section 2.14.150, each comment is allowed up to three (3) minutes.

Consent Calendar

(Note: The items listed on the Consent Calendar will be enacted in one motion unless removed from the Consent Calendar by Council, staff, or the public.)

1.A Waive Full Text Reading of All Ordinances on the Agenda

Reference: Kristen Steinke, City Attorney

Recommendation: Waive the full text reading of all ordinances included in this agenda; Ordinances shall be introduced and adopted by title only.

1.B City of Lemon Grove Payment Demands

Reference: Rod Greek, Interim Administrative Services Director

Recommendation: Ratify Demands

1.C Approval of City Council Meeting Minutes

Reference: Audrey Malone, Deputy City Clerk

Recommendation: Approval of City Council Minutes, meeting of August 17, 2021.

- 1.D Acceptance of FY 2020 Assistance to Firefighters Grant (AFG) and Appropriation of Funds

Reference: Steve Swaney, Fire Chief

Recommendation: That the City Council adopt a resolution accepting the FY 2020 Assistance to Firefighters Grant (AFG) award, authorize the City Manager to execute appropriate agreements and/or grant documents required to receive and use said funds in accordance with AFG requirements, and appropriate the funds.

Reports to Council:

2. COVID-19 Update

Reference: Lydia Romero, City Manager

Recommendation: Receive information and discuss.

3. Sewer Rate Study Request for Proposal

Reference: Mike James, Assistant City Manager/Public Works Director and Michael Stauffer, Senior Management Analyst

Recommendation: That the District Board receives the report and provides feedback and direction to staff.

4. State Budget Allocation

Reference: Lydia Romero, City Manager

Recommendation: That the City Council receive the informational item.

5. League of California Cities – Resolutions for 2021 Annual Conference

Reference: Lydia Romero, City Manager

Recommendation: Adopt a resolution directing the City's voting delegate and alternate voting delegate on how to vote on the resolutions presented at the 2021 League of California Cities Annual Business Meeting.

City Council Reports on Meetings Attended at the Expense of the City

(GC 53232.3 (d)) (53232.3.(d) states that members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.)

City Manager Report

Adjournment

AFFIDAVIT OF NOTIFICATION AND POSTING

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) SS
CITY OF LEMON GROVE)

I, Audrey Malone, Deputy City Clerk of the City of Lemon Grove, hereby declare under penalty of perjury that a copy of the above Agenda of the Regular Meeting of the City Council of the City of Lemon Grove, California, was delivered and/or notice by email not less than 72 hours, before the hour of 6:00 p.m. on September 2, 2021 to the members of the governing agency, and caused the agenda to be posted on the City's website at www.lemongrove.ca.gov and at Lemon Grove City Hall, 3232 Main Street Lemon Grove, CA 91945.

/s/: Audrey Malone
Audrey Malone, Deputy City Clerk

In compliance with the Americans with Disabilities Act (ADA), the City of Lemon Grove will provide special accommodations for persons who require assistance to access, attend and/or participate in meetings of the City Council. If you require such assistance, please contact the City Clerk at (619) 825-3800 or email amalone@lemongrove.ca.gov. A full agenda is available for public review at City Hall.



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. 1.A
Meeting Date: September 7, 2021
Submitted to: Honorable Mayor and Members of the City Council
Department: City Manager's Office
Staff Contact: Kristen Steinke, City Attorney
Item Title: **Waive the Full Text Reading of all Ordinances**

Summary: Waive the full text reading of all ordinances included in this agenda. Ordinances shall be introduced and adopted by title only.

Environmental Review:

- Not subject to review Negative Declaration
 Categorical Exemption, Section | Mitigated Negative Declaration

Fiscal Impact: None.

Public Notification: None.



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. 1.B
Meeting Date: September 7, 2021
Submitted to: Honorable Mayor and Members of the City Council
Department: City Manager's Office
Staff Contact: Rod Greek, Interim Administrative Services Director
rgreek@lemongrove.ca.gov
Item Title: **City of Lemon Grove Payment Demands**

Recommended Action: Ratify Demands.

Environmental Review:

- Not subject to review Negative Declaration
 Categorical Exemption, Section | Mitigated Negative Declaration

Fiscal Impact: None.

Public Notification: None.

City of Lemon Grove Demands Summary

Approved as Submitted:

Yolanda Cerezo, Interim Finance Manager
For Council Meeting: 09/07/21

ACH/AP Checks 08/05/21-08/17/21 181,795.75

Payroll - 08/10/21 141,025.30

Total Demands 322,821.05

CHECK NO	INVOICE NO	VENDOR NAME	CHECK DATE	Description	INVOICE AMOUNT	CHECK AMOUNT
ACH	26897260 26897271 4036391745 82084219 7071MTV- 6/1 2259WA-6/11 8235MTV-6/10 2873Skyline- 6/19 City Hall- 6/1/ CommCrint- 5/30 Fax-CH-6/19/21 Fire 6/1/21 Fire Alarm-5/29 5/30/2021 Rec-6/4 780003 3104744534 8182333274 9881140740 9881820497 9881820498 9881821017 Fire-9880188496 Fire-9882337795	Wells Fargo	08/05/2021	Canon Financial Svcs - Canon Plotter Contract Charge 6/20/21-7/19/21 Canon Financial Svcs - Canon Plotter 2 Yr Carepack 6/20/21-7/19/21 Canon Solutions - Canon Maintenance-Copier Usage 2/27/21-5/26/21 Corelogic - RealQuest Graphics Package - May21 Cox - Calsense Modem Line: 7071 Mt Vernon/Berry St Pk 6/1/21-6/3 Cox - Calsense Modem Line: 2259 Washington 6/11-7/10/21 Cox - Calsense Modem Line: 8235 Mt Vernon/Berry St Pk 6/9/21-7/8 Cox - Phone/PW Yard/2873 Skyline- 6/19/21-7/18/21 Cox - Phone/City Hall 6/1/21-6/30/21 Cox - Internet/Comm Ctr- 5/30/21-6/29/21 Cox - Copy Room Fax Line- 6/18/21-7/17/21 Cox - MainPhone/Fire 6/1/21-6/30/21 Cox - City Hall Fire Alarm 5/27/21-6/26/21 Cox - PEG Circuit Svc- 5/30/21-6/29/21 Cox - Phone/Internet/Rec Ctr/3131 School Ln- 6/4/21-7/3/21 House of Automation - Prev Maintenance/Vehicle Gate Pitney Bowes - Postage Meter Rental 3/30/21-6/29/21 Shredit - Shredding Service 6/10/21 Verizon - Modems - Cardiac Monitors - 5/4/21-6/3/21 Verizon - City Phone Charges- 5/13/21-6/12/21 Verizon - PW Tablets- 5/13/21-6/12/21 Verizon - Mobile Broadband Access- 5/13/21-6/12/21 Verizon - MDC Engine Tablets- 4/21/21-5/20/21 Verizon - MDC Engine Tablets- 5/21/21-6/20/21	144.00 72.73 510.80 300.00 24.15 24.15 94.39 220.23 846.15 138.27 4.38 452.38 48.17 2,923.23 349.55 168.00 178.65 89.66 21.44 191.61 198.05 76.02 365.59 365.59	7,807.19
ACH	12109457	LEAF	08/05/2021	Ricoh C3502 Copier System-PW Yard - Jul'21	160.51	160.51
ACH	Refill 8/5/21	Pitney Bowes Global Financial Services LLC	08/06/2021	Postage Usage 8/5/21	250.00	250.00
ACH	Jul21	Wells Fargo	08/11/2021	Bank Service Charge - Jul'21	275.38	275.38
ACH	Jul21	Home Depot Credit Services	08/11/2021	Home Depot Purchases - Jul'21	2,235.91	2,235.91
ACH	Jul21	Wells Fargo	08/11/2021	Credit Card Processing-Mo.Svc - Jul'21 Credit Card Transaction Fees-Jul'21	9.95 947.16	957.11
ACH	Aug10 21	Employment Development Department	08/12/2021	State Taxes 8/10/21	9,373.72	9,373.72
ACH	Jul28-Aug10 21	Calpers Supplemental Income 457 Plan	08/13/2021	457 Plan 7/28/21-8/10/21	8,059.05	8,059.05
14712	L1072895VH	American Messaging	08/11/2021	Pager Replacement Program 8/1/21-8/31/21	50.71	50.71
14713	Aug2021 Aug2021	Benefit Coordinators Corporation (BCC)	08/11/2021	LTD Insurance - Aug'21 Life Insurance - Aug'21	707.13 591.30	1,298.43
14714	Sep 2021	California Dental Network Inc	08/11/2021	California Dental Insurance -Sep21	245.17	245.17
14715	1000309773	City of San Diego	08/11/2021	Fuel Services-PW: Jul'21	2,777.78	2,777.78
14716	48433	Colantuono, Highsmith & Whatley, PC	08/11/2021	Legal Svcs: Affordable Housing Jul'21	612.49	612.49
14717	IN282396	Geotab USA, Inc.	08/11/2021	Monthly ProPlus Plan	197.50	197.50
14718	8/10/21	ICMA	08/11/2021	ICMA Deferred Compensation Pay Period Ending 8/10/21	780.77	780.77
14719	Jaimes	Jaimes,Consuelo	08/11/2021	Refund/Jaimes, Consuelo/Deposit- LBH- 3/21/20 COVID-19 Refund/Jaimes, Consuelo/Rental- LBH- 3/21/20 COVID-19	300.00 1,150.00	1,450.00
14720	1689	Janazz, LLC SD	08/11/2021	Laptop/Laser Printer/Duplex Printing Wireless Network - PW	1,634.98	1,634.98
14721	LK Design	LK Design Group, Inc.	08/11/2021	Refund/LK Design Group Inc-3123 LGA/Cash Deposit/Bond-B19-0674	19,266.12	19,266.12
14722	Marin	Marin,Christina	08/11/2021	Refund/Marin, Christina/Deposit - LBH- 10/3/20 COVID-19 Refund/Marin, Christina/Rental - LBH- 10/3/20 COVID-19	400.00 300.00	700.00
14723	71332270	Occupational Health Centers of CA	08/11/2021	Annual DMV Medical Exam - 5/10/21	227.00	227.00
14724	3568860625/0821 4154920380/0821	SDG&E	08/11/2021	Electric Usage:St Light 7/1/21-7/31/21 Electric Usage:St Light 7/1/21-7/31/21	1,523.17 2,225.48	3,748.65
14725	8063070044	Staples Advantage	08/11/2021	Office Supplies & Copy Paper - City Hall	401.06	401.06
14726	0001384029-IN	WEX Health, Inc.	08/11/2021	COBRA - Monthly/Jul'21	85.00	85.00

14727	D7677	A-Pot Rentals, Inc.	08/17/2021	Portable Restroom Rental - Bathroom Retrofit - 7/14/21-8/13/21	449.30	449.30
14728	I210727975	Alcatraz Locksmith	08/17/2021	Rekey & Duplicate Keys/Comm Ctr/Rec Ctr/Sr Ctr/PW Shop/City Hall	5,937.81	5,937.81
14729	5656631670 5656637313 5656647237	AutoZone, Inc.	08/17/2021	Funnel/Air Filter/Tubeless Tire Sealant/Tire Plug -PW Fleet Supp Cleaner/Degreaser/22" Wiper Blades - LGPW#26 Sanitation Air Filter/High Mileage Motor Oil/Disc Brake Quiet Spray/Hi Temp	91.90 48.35 40.03	180.28
14730	19531L-IN 19531L-IN 19651L-IN	Aztec Landscaping Inc	08/17/2021	Landscaping Labor - Irrigation Repairs - Various Locations Material - Irrigation Repairs - Various Locations Trolley Corridor Veg Maintenance- Clean Up & Spray Herbicide	1,120.00 592.55 3,424.00	5,136.55
14731	13078	Balestreri, Potocki & Holmes	08/17/2021	Legal Svcs: File 1019-224 - thru Jun'21	5,174.00	5,174.00
14732	2021.3185 2021.3249	Chen Ryan	08/17/2021	Prof Svc: Connect Main St Ph 1-2 thru 3/27/21 Prof Svc: Connect Main St Ph 1-2 thru 5/1/21	22,276.03 19,322.36	41,598.39
14733	22CTOFLGN01	County of San Diego- RCS	08/17/2021	800 MHZ Network - Jul'21	2,451.00	2,451.00
14734	INV1020256 INV1020314	George Hills Company	08/17/2021	TPA Claims- Adjusting/Other Services - Jul'21 Annual Admin Fee - 7/1/21-6/30/22	1,206.00 1,200.00	2,406.00
14735	5141407	Mallory Safety and Supply, LLC	08/17/2021	Nitrile Gloves/Glasses	333.11	333.11
14736	1118847	Michael Baker International	08/17/2021	Prof Eng Svcs: FY18/19 Sewer CIP Rehab Proj Design thru 5/30/21	15,920.64	15,920.64
14737	60734	Modern Septic Service Inc.	08/17/2021	Sewer Pump Station Main -6791 1/2 Central Ave 5/19/21	495.00	495.00
14738	133	RXR Plumbing, Inc.	08/17/2021	Plumbing Repair/Restroom - Fire Stn	170.00	170.00
14739	Jul21	SDG&E	08/17/2021	Gas & Electric 6/23/21-7/22/21	25,180.21	25,180.21
14740	4245 4263	Spring Valley Lawn Mower Shop	08/17/2021	Honda Recoil Assembly/Labor- PW/Streets Weed Whip/Heavy Duty Protective Caps- PW/Streets	69.81 67.86	137.67
14741	01007082	Statewide Traffic Safety & Signs Inc.	08/17/2021	Delineator Posts & Anchors - Lemon Grove Avenue Median	926.66	926.66
14742	115805757-0001 116007798-0001	Sunbelt Rentals Inc.	08/17/2021	Propane Propane	12.97 16.94	29.91
14743	12366Final	T-Man Traffic Supply	08/17/2021	Road Work Ahead Signs/Sign/Supplies - Streets - Bal Due	532.32	532.32
14744	08/04/21	Van Lant & Fankhanel, LLP	08/17/2021	FY2021 Audit & Related Reports- Prelim Billing	11,500.00	11,500.00
14745	73017450 73022994 73026234 73032166	Vulcan Materials Company	08/17/2021	Asphalt/SS1H 4.5 Gallon Bucket Asphalt Asphalt/SS1H 4.5 Gallon Bucket Asphalt/SS1H 4.5 Gallon Bucket	151.93 103.44 136.58 250.42	642.37
					181,795.75	181,795.75

**MINUTES OF THE VIRTUAL REGULAR MEETING
OF THE LEMON GROVE CITY COUNCIL
TUESDAY, August 17, 2021 at 6 PM**

*The City Council also sits as the Lemon Grove Housing Authority,
Lemon Grove Sanitation District Board, Lemon Grove Roadway Lighting District Board,
and Lemon Grove Successor Agency.*

The Regular Meeting of the City Council of the City of Lemon Grove, California, took place virtually pursuant to California Governor Executive Orders N-25-20, N-29-20 and N-35-20, and in the interest of public health and safety. City Council and other public meetings will be held virtual through Zoom audio only to prevent and mitigate the spread and effects of COVID.

Call To Order:

Mayor Racquel Vasquez called the Regular Virtual City Council Meeting to order at 6:03 p.m.

Present:

Mayor Racquel Vasquez, Mayor Pro Tem Jerry Jones, Councilmember Jennifer Mendoza, Councilmember Liana LeBaron, and Councilmember George Gastil.

Staff Members Present:

Lydia Romero, City Manager, Kristen Steinke, City Attorney, Mike James, Assistant City Manager/Public Works Director, Noah Alvey, Community Development Manager, Steve Swaney, Fire Chief, Patrick McEvoy, San Diego Sheriff's Lieutenant, and Audrey Malone, Deputy City Clerk.

Pledge of Allegiance:

Pledge of Allegiance to the Flag was led by Mayor Pro Tem Jones.

Changes to the Agenda:

None.

Public Comment:

Email Submitted – *Read out-loud by Audrey Malone, Deputy City Clerk*

- Barbara Gordon
- Carol Greene
- Daniel House (received passed deadline, not read out-loud)
- Jessyka Heredia
- Kelly McCormick
- Peggy Walker
- Dorinda Miller (received passed deadline, not read out-loud)

Consent Calendar:

- 1.A Waive Full Text Reading of All Ordinances on the Agenda
- 1.B City of Lemon Grove Payment Demands
- 1.C Approval of City Council Meeting Minutes Note and File Panning Commission Meeting Minutes
- 1.D Designation of Voting Delegate to the League of California Cities Annual Conference
- 1.E Amendment No. 1 to the Relocation and Lease Agreements with Outfront Media, LLC
- 1.F Institute for Local Government Beacon Program

Action: Motion by Councilmember Mendoza, seconded by Mayor Pro Tem Jones to approve the Consent Calendar.

The motion passed by the following vote:

Ayes: Vasquez, Jones, Mendoza, Gastil.

Noes: LeBaron.

Absent: None.

Reports to Council:

3. Homeless Outreach Program Update

Mayor Vasquez introduces Mike James, Assistant City Manager/Public Works Director to present.

During presentation Mr. James introduces Karina Hernandez, Home Start representative who explains Home Starts background, process, procedures and goals. Lauren Pollock, Home Start representative concludes Home Start's presentation with Home Start statistics. Mr. James continues presentation.

At the conclusion of Staff's presentation Council had questions for Staff/Home Start representatives.

Mayor Vasquez calls for a five-minute recess at 7:06 p.m.

Mayor Vasquez reconvenes the meeting at 7:12 p.m.

Council continue meeting with questions for Staff.

Mayor Vasquez calls for a five-minute recess at 7:22 p.m.

Mayor Vasquez reconvenes the meeting at 7:27 p.m.

Public Comment:

Email Submitted:

- None.

Motion: Call for a cloture for item 3. Homeless Outreach Program Update.

Action: Motioned by Mayor Pro Tem Jones and seconded by Councilmember Mendoza.

The motion passed by the following vote:

Ayes: Vasquez, Jones, Mendoza, Gastil.

Noes: LeBaron.

Absent: None.

4. Amendment No. 2 to the Agreement with Home Start

Mayor Vasquez introduces Mike James, Assistant City Manager/Public Works Director to present.

Council addressed staff with questions and comments.

Public Comment:

Email Submitted:

- Rick Wilson (received passed deadline)

Council addressed staff with final questions and comments.

Motion: Adopt a resolution approving Amendment No. 2 to the professional services agreement with Home Start for homeless outreach services.

Action: Motioned by Mayor Pro Tem Jones and seconded by Councilmember Mendoza.

The motion passed by the following vote:

Ayes: Vasquez, Jones, Mendoza, Gastil.

Noes: LeBaron.

Absent: None.

2. COVID Update

Mayor Vasquez addresses Ms. Romero regarding Item 2, COVID Update. Ms. Romero advises that she has been informed by Dr. Wooten's staff that she was still in the Board of Supervisors meeting and requests to move this item to the next Regular City Council Meeting of September 7, 2021.

Motion: Move Item 2, COVID Update to the next Regular City Council Meeting of September 7, 2021.

Action: Motioned by Mayor Pro Tem Jones and seconded by Councilmember Mendoza.

The motion passed by the following vote:

Ayes: Vasquez, Jones, Mendoza, LeBaron, Gastil.

Noes: None.

Absent: None.

5. Award the FY 2020-21 Community Development Block Grant (CDBG) Street Improvements and ADA Pedestrian Curb Ramp Project

Mayor Vasquez introduces Michael Stauffer, Senior Management Analyst to present.

Council addressed staff with questions and comments.

Public Comment:

Email Submitted:

- None.

Council addressed staff with final questions and comments.

Motion: Adopt a resolution awarding a contract to PAL General Engineering, Inc. for the FY 2020-21 CDBG Street Improvements and ADA Pedestrian Curb Ramp Project (Contract No. 2021-03).

Action: Motioned by Councilmember Mendoza and seconded by Mayor Pro Tem Jones.

The motion passed by the following vote:

Ayes: Vasquez, Jones, Mendoza, Gastil.

Noes: LeBaron.

Absent: None.

6. Senate Bills (SB) 9 & 10

Mayor Vasquez introduces Noah Alvey. Community Development Manager to present.

Council addressed staff with questions and comments.

Public Comment:

Email Submitted:

- None.

Council addressed staff with final comments.

Motion: To direct the City Manager to send a letter of opposition for SB 9 and SB 10.

Action: Motioned by Councilmember Gastil and seconded by Mayor Pro Tem Jones.

The motion passed by the following vote:

Ayes: Vasquez, Jones, Mendoza, LeBaron, Gastil.

Noes: None.

Absent: None.

City Manager, Lydia Romero checks in with the Council at 8:36 p.m.regarding the remaining items on the agenda.

Motion: To continue items 7 and 8 to the next Regular City Council Meeting of September 7, 2021.

Action: Motioned by Councilmember Gastil and seconded by Mayor Pro Tem Jones.

The motion passed by the following vote:

Ayes: Vasquez, Jones, Mendoza, LeBaron, Gastil.

Noes: None.

Absent: None.

City Council Reports on Meetings Attended at the Expense of the City

Councilmember Mendoza

- Attended the Grand Opening of the Hamlet Coffee Shop
- League of California Cities Meeting
- Food Distribution

Councilmember Gastil

- Attended memorial for Don Parent, Public Affairs Director for SDG&E (San Diego Region), retired.
- Attended the Grand Opening of the Hamlet Coffee Shop

Councilmember LeBaron

- Met with the business owners of the Hamlet Coffee Shop and Attended the Grand Opening
- Met with Business owner to assist is opening an veterinary clinic
- Organized a Clean-Up in conjunction with the Diversity Committee from the US Navy.
- Participated in school supply drive along with the Lions Club and Improving Lemon Grove.
- Met with Rick Wilson, CEO/President of East County Chamber of Commerce walked downtown business district.

Mayor Pro Tem Jones

- None.

Mayor Vasquez

- Attended the Grand Opening of the Hamlet Coffee Shop and present Proclamation in conjunction with the East County Chamber.
- Spoke on behalf of the City of Lemon Grove at the 79th Assembly District Conference. Accepted \$400,000 funds to build new restrooms in park.
- Movies in the Park, watched the Sandlot.
- Attended 79th Assembly District annual backpack give away.
- CAL-OES COVID-19 and Statewide Fires Update
- California Mayor Coalition Meeting
- Meeting with the office of Governor Newsom to discuss economic development opportunities in Lemon Grove.

City Manager Report:

Lydia Romero, City Manager

- None.

Mayor Vasquez calls for a five-minute recess at 8:58 p.m.

Mayor Vasquez reconvenes the meeting at 9:04 p.m.

Closed Session:

Kristen Steinke, City Attorney convenes into closed session at 9:04 p.m. to address the following items;

a. Public Employment
Public Employee Performance Evaluation: City Manager
Govt C §54957

b. Conference with legal counsel—anticipated litigation
(Govt C §54956.9(d)(2)-(4))

Lydia Romero, City Manager joins Closed Session at 9:49 p.m.

Councilmember LeBaron exits Closed Session and leaves meeting at 10:06 p.m.

Kristen Steinke, City Attorney reconvenes from Closed Session at 10:45 p.m.

- A. Ms. Steinke reports that the City Manager’s Evaluation was conducted
- B. Ms. Steinke reports that the City Council voted in favor, 4-1 with Councilmember LeBaron abstaining to move forward with an investigation regarding anticipated litigations from third party contractors.

Adjournment:

There being no further business to come before the Council, Mayor Vasquez adjourns meeting at 10:45 p.m. to the next Regular City Council Meeting on Tuesday, September 7, 2021.

Audrey Malone
Deputy City Clerk



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. 1.D
Meeting Date: September 7, 2021
Submitted to: Honorable Mayor and Members of the City Council
Department: Fire Department
Staff Contact: Steve Swaney, Fire Chief, sswaney@heartlandfire.org
Item Title: **Acceptance of FY 2020 Assistance to Firefighters Grant (AFG) and Appropriation of Funds**

Recommended Action: That the City Council adopt a resolution (**Attachment A**) accepting the FY 2020 Assistance to Firefighters Grant (AFG) award, authorize the City Manager to execute appropriate agreements and/or grant documents required to receive and use said funds in accordance with AFG requirements, and appropriate the funds.

Summary: The City of Lemon Grove has received an AFG award for the purchase and installation of a breathing air compressor. This award will replace the Fire departments 33-year-old compressor that is no longer in working order.

Due to the sudden complete failure of the compressor, the City of Lemon Grove had approved the transfer of reserve funds to cover the cost of the equipment on August 3, 2021. No financial or purchasing action has yet been taken. With the approval of this award, the City of Lemon Grove will be able to release funds back to the reserve account. Since the compressor replacement was an emergency and not a budgeted expense, AFG has confirmed that acceptance of this award will not be considered supplanting of funds.

The AFG program is managed by the Federal Emergency Management Agency (FEMA). FEMA offers a number of preparedness grants, including the State Homeland Security Grant Program and AFG. The primary goal of AFG is to meet the firefighting and emergency response needs of fire departments and nonaffiliated emergency medical service organizations. Since 2001, AFG has helped firefighters and other first responders to obtain critically needed equipment, protective gear, emergency vehicles, training, and other resources needed to protect the public and emergency personnel from fire and related hazards.

These grants are highly competitive, with a usual award rate of about 30%. In the 2020 grant year the award rate is estimated to be at about 20%.

The performance period for these funds ends 24 months from the date of the award (August 20, 2023). Due to the immediate need for this equipment, the expectation will be to have the funds expended, the equipment installed, and the claims submitted for reimbursement within 12 months.

Discussion:

The fire department identified the compressor for urgent replacement in 2019. We applied for AFG funding for two consecutive grant years, with success this year. When we originally applied for assistance, the equipment was at the end of its lifecycle but was still operational. It has now completely failed and is inoperable and unrepairable. Due to numerous factors, including issues with supplies and materials due to Covid-19, the project is anticipated to cost more than originally specified. The City of Lemon Grove will need to make up any differences between the federal award and the actual project costs. Receiving the federal funding will significantly benefit the City by allowing a much smaller portion of the reserves to be used for the purchase and installation of the compressor.

As part of the grant process we completed an Environmental and Historic Preservation (EHP) Screening Form. Acceptance of the grant means complying with all federal requirements, including that of the EHP. Fire staff will work with all appropriate city departments to make sure requirements are met.

This grant requires a 10% match of the federal funding from the grant recipient.

Project Total	Local Share	Federal Assistance
\$58,481.00	\$5,316.45	\$53,164.55

Budgeting for service and maintenance of the equipment will be the responsibility of the City of Lemon Grove.

The grant will be managed by the fire department, in coordination with Lemon Grove staff and departments. The grant management includes acceptance of the grant, managing the grant assurance, appropriating funds, issuing purchase orders for the equipment and services, identifying the equipment in inventory systems, submitting reimbursement documents, completing performance updates and closeout documents, and participating in desk monitoring or/audits.

Environmental Review:

- Not subject to review
- Negative Declaration
- Categorical Exemption, Section | |
- Mitigated Negative Declaration

Fiscal Impact: The award for the compressor replacement is for a project totaling \$58,481. The amount of the federal funding award is \$53,164.55. The City of Lemon Grove is responsible for a cost share of 10% of the federal funding (\$5,316.45). The City of Lemon Grove is responsible for any overages in the project.

Public Notification: None.

Staff Recommendation: That the City Council adopt a resolution (**Attachment A**) accepting the FY 2020 Assistance to Firefighters Grant, authorize the City Manager to execute appropriate agreements and/or grant documents required to receive and use said funds in accordance with federal and AFG requirements, and appropriate the funds.

Attachments:

Attachment A – FY 2020 Resolution

Attachment B – FY 2020 Award Packet

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE,
CALIFORNIA, ACCEPTING FISCAL YEAR 2020 ASSISTANCE TO
FIREFIGHTERS GRANT (AFG) AWARD**

WHEREAS, the City of Lemon Grove is dedicated to providing high quality fire and EMS services to its citizens and maintaining the highest level of preparedness in order to respond to and mitigate acts of terrorism and other catastrophic events; and

WHEREAS, the Assistance to Firefighters Grant program awarded \$53,164.55 in federal funding to the City of Lemon Grove, with a cost share of \$5,316.45, to be used to replace and install a breathing air compressor; and

WHEREAS, the allocated funds will be used purchase and install the breathing air compressor;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California, hereby

1. Accepts the Fiscal Year 2020 Assistance to Firefighters Grant award; and
2. Authorizes the City Manager to execute required grant documents and/or agreements necessary for the receipt and use of said funds; and
3. Appropriate the cost share and additional project funding.

PASSED AND ADOPTED on September 7, 2021, the City Council of the City of Lemon Grove, California, adopted Resolution No. _____, passed by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Racquel Vasquez, Mayor

Attest:

Audrey Malone, Deputy City Clerk

Approved as to Form:

Kristen Steinke, City Attorney

Award Letter

U.S. Department of Homeland Security
Washington, D.C. 20472

Effective date: 08/16/2021



Heather Sheppard
LEMON GROVE, CITY OF
3232 MAIN STREET
LEMON GROVE, CA 91945

EMW-2020-FG-17198

Dear Heather Sheppard,

Congratulations on behalf of the Department of Homeland Security. Your application submitted for the Fiscal Year (FY) 2020 Assistance to Firefighters Grant (AFG) Grant funding opportunity has been approved in the amount of \$53,164.55 in Federal funding. As a condition of this grant, you are required to contribute non-Federal funds equal to or greater than 10.0% of the Federal funds awarded, or \$5,316.45 for a total approved budget of \$58,481.00. Please see the FY 2020 AFG Notice of Funding Opportunity for information on how to meet this cost share requirement.

Before you request and receive any of the Federal funds awarded to you, you must establish acceptance of the award through the FEMA Grants Outcomes (FEMA GO) system. By accepting this award, you acknowledge that the terms of the following documents are incorporated into the terms of your award:

- Summary Award Memo - included in this document
- Agreement Articles - included in this document
- Obligating Document - included in this document
- 2020 AFG Notice of Funding Opportunity (NOFO) - incorporated by reference

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award.

Sincerely,

A handwritten signature in blue ink that reads "Robert Farmer".

Robert Farmer
Acting Deputy Assistant Administrator
Grant Programs Directorate

Summary Award Memo

Program: Fiscal Year 2020 Assistance to Firefighters Grant

Recipient: LEMON GROVE, CITY OF

DUNS number: 095899696

Award number: EMW-2020-FG-17198

Summary description of award

The purpose of the Assistance to Firefighters Grant program is to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards. After careful consideration, FEMA has determined that the recipient's project or projects submitted as part of the recipient's application and detailed in the project narrative as well as the request details section of the application - including budget information - was consistent with the Assistance to Firefighters Grant Program's purpose and was worthy of award.

Except as otherwise approved as noted in this award, the information you provided in your application for FY 2020 Fiscal Year (FY) 2020 Assistance to Firefighters Grants funding is incorporated into the terms and conditions of this award. This includes any documents submitted as part of the application.

Amount awarded table

The amount of the award is detailed in the attached Obligating Document for Award.

The following are the budgeted estimates for object classes for this award (including Federal share plus your cost share, if applicable):

Object Class	Total
Personnel	\$0.00
Fringe benefits	\$0.00
Travel	\$0.00
Equipment	\$58,481.00
Supplies	\$0.00
Contractual	\$0.00
Construction	\$0.00
Other	\$0.00
Indirect charges	\$0.00
Federal	\$53,164.55
Non-federal	\$5,316.45
Total	\$58,481.00
Program Income	\$0.00

Approved scope of work

After review of your application, FEMA has approved the below scope of work. Justifications are provided for any differences between the scope of work in the original application and the approved scope of work under this award. You must submit scope or budget revision requests for FEMA's prior approval, via an amendment request, as appropriate per 2 C.F.R. § 200.308 and the FY2020 AFG NOFO.

Approved request details:

Equipment

Air Compressor/Cascade/Fill Station (Fixed or Mobile) for filling SCBA

DESCRIPTION

Four stage compressor and two cylinder fill station (\$49,781 with tax). Labor to remove old compressor and install new compressor (\$3,700). Electrical upgrades from 110v to 220v: Materials (\$1500 including tax) and labor (\$3500). We used a combination of GSA and local pricing for equipment, conversations with vendors to get an idea of shipping and labor, and conversations with local electrical contractors to estimate the cost of the upgrade.

	QUANTITY	UNIT PRICE	TOTAL	BUDGET CLASS
Cost 1	1	\$58,481.00	\$58,481.00	Equipment

Agreement Articles

Program: Fiscal Year 2020 Assistance to Firefighters Grant

Recipient: LEMON GROVE, CITY OF

DUNS number: 095899696

Award number: EMW-2020-FG-17198

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Article 1**Assurances, Administrative Requirements, Cost Principles, Representations and Certifications**

DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances – Non-Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions. DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200, and adopted by DHS at 2 C.F.R. Part 3002. By accepting this agreement, the recipient and its executives, as defined in 2 C.F.R. § 170.315, certify that the recipient policies are in accordance with OMB guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

Article 2**DHS Specific Acknowledgements and Assurances**

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. 1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS. 2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance. 3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports. 4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance. 5. Recipients of federal financial assistance from DHS must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award or, for State Administrative Agencies, thirty (30) days from receipt of the DHS Civil Rights Evaluation Tool from DHS or its awarding component agency. After the initial submission for the first award under which this term applies, recipients are required to provide this information once every two (2) years if they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>. The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

Article 3**Acknowledgement of Federal Funding from DHS**

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

Article 4**Activities Conducted Abroad**

Recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article 5**Age Discrimination Act of 1975**

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Pub. L. No. 94-135 (1975) (codified as amended at Title 42, U.S. Code, § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

Article 6**Americans with Disabilities Act of 1990**

Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101–12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

Article 7**Best Practices for Collection and Use of Personally Identifiable Information**

Recipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf and Privacy Template at https://www.dhs.gov/sites/default/files/publications/privacy_pia_template_2017.pdf as useful resources respectively.

Article 8**Civil Rights Act of 1964 – Title VI**

Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. § 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

Article 9**Civil Rights Act of 1968**

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. § 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

Article 10**Copyright**

Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

Article 11**Debarment and Suspension**

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

Article 12**Drug-Free Workplace Regulations**

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101-8106).

Article 13**Duplication of Benefits**

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

Article 14	Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318 (1972) (codified as amended at 20 U.S.C. § 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.
Article 15	Energy Policy and Conservation Act Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. 94- 163 (1975) (codified as amended at 42 U.S.C. § 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.
Article 16	False Claims Act and Program Fraud Civil Remedies Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. §§ 3729-3733, which prohibit the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made.)
Article 17	Federal Debt Status All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)
Article 18	Federal Leadership on Reducing Text Messaging while Driving Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.
Article 19	Fly America Act of 1974 Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

Article 20**Hotel and Motel Fire Safety Act of 1990**

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225a, recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, (codified as amended at 15 U.S.C. § 2225.)

Article 21**Limited English Proficiency (Civil Rights Act of 1964, Title VI)**

Recipients must comply with Title VI of the Civil Rights Act of 1964, (42 U.S.C. § 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

Article 22**Lobbying Prohibitions**

Recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

Article 23**National Environmental Policy Act**

Recipients must comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), Pub. L. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 et seq.) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Article 24**Nondiscrimination in Matters Pertaining to Faith-Based Organizations**

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Article 25 Non-Supplanting Requirement

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

Article 26 Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

Article 27 Patents and Intellectual Property Rights

Recipients are subject to the Bayh-Dole Act, 35 U.S.C. § 200 et seq, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

Article 28 Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Article 29 Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (1973) (codified as amended at 29 U.S.C. § 794) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Article 30	Reporting of Matters Related to Recipient Integrity and Performance If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.
Article 31	Reporting Subawards and Executive Compensation Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.
Article 32	SAFECOM Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.
Article 33	Terrorist Financing Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.
Article 34	Trafficking Victims Protection Act of 2000 (TVPA) Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. § 7104. The award term is located at 2 C.F.R. § 175.15, the full text of which is incorporated here by reference.
Article 35	Universal Identifier and System of Award Management Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

Article 36**USA PATRIOT Act of 2001**

Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Pub. L. No. 107-56, which amends 18 U.S.C. §§ 175-175c.

Article 37**Use of DHS Seal, Logo and Flags**

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article 38**Whistleblower Protection Act**

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.

Article 39**Acceptance of Post Award Changes**

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@fema.dhs.gov if you have any questions.

Article 40**Prior Approval for Modification of Approved Budget**

Before making any change to the FEMA approved budget for this award, you must request prior written approval from FEMA where required by 2 C.F.R. § 200.308. FEMA is also utilizing its discretion to impose an additional restriction under 2 C.F.R. § 200.308(f) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the federal share is greater than the simplified acquisition threshold (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget FEMA last approved. You must report any deviations from your FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

Article 41**Disposition of Equipment Acquired Under the Federal Award**

When original or replacement equipment acquired under this award by the recipient or its subrecipients is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, you must request instructions from FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. § 200.313.

Article 42**Environmental Planning and Historic Preservation (EHP) Review**

DHS/FEMA funded activities that may require an EHP review are subject to the FEMA Environmental Planning and Historic Preservation (EHP) review process. This review does not address all federal, state, and local requirements.

Acceptance of federal funding requires recipient to comply with all federal, state, and local laws. DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/FEMA grant funds, through its EHP Review process, as mandated by the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and, any other applicable laws and Executive Orders. To access the FEMA EHP screening form and instructions, go to the DHS/FEMA website at:

<https://www.fema.gov/media-library/assets/documents/90195>. In order to initiate EHP review of your project(s), you must complete all relevant sections of this form and submit it to the Grant Programs Directorate (GPD) along with all other pertinent project information. The EHP review process must be completed before funds are released to carry out the proposed project; otherwise, DHS/FEMA may not be able to fund the project due to noncompliance with EHP laws, executive order, regulations, and policies. If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archeological resources are discovered, applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA.

Article 43**Award Performance Goals**

FEMA will measure the recipient's performance of the grant by comparing the number of items requested in its application, the numbers acquired (ordered, paid, and received) within the period of performance. In order to measure performance, FEMA may request information throughout the period of performance. In its final performance report submitted at closeout, the recipient is required to report on the recipients compliance with the applicable industry, local, state and national standards described in the NOFO.

Article 44 EHP Compliance Review Required

Under the Modification to a Facility, Equipment, or a component in the Wellness and Fitness Activity, this award includes work, such as ground disturbance, that triggers an EHP compliance review. The recipient is prohibited from committing, obligating, expending, or drawing down FY20 Assistance to Firefighters Grant funds in support of the Modification to Facility, Equipment or a component in the Wellness and Fitness Activity that requires the EHP compliance review, with a limited exception for any approved costs associated with the preparation, conducting, and completion of required EHP reviews. See the FY20 Assistance to Firefighters Grant NOFO for further information on EHP requirements and other applicable program guidance, including FEMA Information Bulletin No. 404. The recipient is required to obtain the required DHS/FEMA EHP compliance approval for this project pursuant to the FY20 Assistance to Firefighters Grant NOFO prior to commencing work for this project. DHS/FEMA will notify you when the EHP compliance review is complete, and work may begin. If the recipient requests a payment for one of the activities requiring EHP compliance review, FEMA may not make a payment for that work while the EHP compliance review is still pending. If FEMA discovers that work has been commenced under one of those activities prematurely, FEMA may disallow costs incurred prior to completion of the EHP compliance review and the receipt of DHS/FEMA approval to begin the work. Please contact your DHS/FEMA AFG Help Desk at 1-866-274-0960 or FireGrants@fema.dhs.gov to receive specific guidance regarding EHP compliance. If you have questions about this term and condition or believe it was placed in error, please contact the relevant Preparedness Officer.

Obligating document

1. Agreement No. EMW-2020-FG-17198	2. Amendment No. N/A	3. Recipient No. 953144560	4. Type of Action AWARD	5. Control No. WX00641N2021T
6. Recipient Name and Address LEMON GROVE, CITY OF 3232 MAIN ST LEMON GROVE, CA 91945	7. Issuing FEMA Office and Address Grant Programs Directorate 500 C Street, S.W. Washington DC, 20528-7000 1-866-927-5646		8. Payment Office and Address FEMA, Financial Services Branch 500 C Street, S.W., Room 723 Washington DC, 20742	
9. Name of Recipient Project Officer Heather Sheppard	9a. Phone No. 6196671318	10. Name of FEMA Project Coordinator Assistance to Firefighters Grants Grant Program		10a. Phone No. 1-866-274-0960
11. Effective Date of This Action 08/16/2021	12. Method of Payment OTHER - FEMA GO	13. Assistance Arrangement COST SHARING	14. Performance Period 08/23/2021 to 08/22/2023 Budget Period 08/23/2021 to 08/22/2023	

15. Description of Action a. (Indicate funding data for awards or financial changes)

Program Name Abbreviation	Assistance Listings No.	Accounting Data(ACCS Code)	Prior Total Award	Amount Awarded This Action + or (-)	Current Total Award	Cumulative Non-Federal Commitment
AFG	97.044	2021-F0-GB01 - P410-xxxx-4101-D	\$0.00	\$53,164.55	\$53,164.55	\$5,316.45
Totals			\$0.00	\$53,164.55	\$53,164.55	\$5,316.45

b. To describe changes other than funding data or financial changes, attach schedule and check here:

N/A

~~**16.FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address)**~~

This field is not applicable for digitally signed grant agreements

17. RECIPIENT SIGNATORY OFFICIAL (Name and Title)	DATE
18. FEMA SIGNATORY OFFICIAL (Name and Title) Robert Farmer, Acting Deputy Assistant Administrator Grant Programs Directorate	DATE 08/16/2021



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. 2
Meeting Date: September 7, 2021
Submitted to: Honorable Mayor and Members of the City Council
Department: City Manager's Office
Staff Contact: Lydia Romero, City Manager, lromero@lemongrove.ca.gov
Item Title: **COVID-19 Update**

Recommended Action: Receive information and discuss.

Background and Discussion: At the request of Mayor Vasquez, an update was requested on COVID-19 and the effect of the Delta Variant in the County of San Diego and specifically in the City of Lemon Grove. Dr. Wilma Wooten will be in attendance to update the City Council on the public health effects.

Lemon Grove has been working in partnership with the County of San Diego Public Health Department to bring free testing and a free vaccine clinic to Lemon Grove.

Environmental Review:

- Not subject to review Negative Declaration
 Categorical Exemption, Section | Mitigated Negative Declaration

Fiscal Impact: None.

Public Notification: None

Staff Recommendation: Receive information and discuss.



LEMON GROVE SANITATION DISTRICT

DISTRICT BOARD STAFF REPORT

Item No. 3
Meeting Date: September 7, 2021
Submitted to: Honorable Chair and Members of the Board
Department: Public Works Department
Staff Contact: Mike James, Assistant City Manager / Public Works Director,
mjames@lemongrove.ca.gov and
Michael Stauffer, Senior Management Analyst,
mstauffer@lemongrove.ca.gov
Item Title: Sewer Rate Study Request for Proposals

Recommended Action: That the District Board receives the report and provides feedback and direction to staff.

Summary: On May 2, 2017, the Lemon Grove Sanitation District Board (Board) adopted a 5-year sewer rate study, which included annual rate increase and annual sewer rates charged to users throughout the study period. The study provided a financial roadmap covering Fiscal Years 2016-17 through 2021-22. Fees assessed and collected during the period funded Lemon Grove Sanitation District (District) operations a maintenance, including current and future planned capital projects and fund reserves. On May 18, 2021, the Board adopted the FY 2021-22 rate increase and sewer charges for the final year of the 5-year rate study period. In order to continue the Board's practice of providing prudent financial planning for District operations, a new 5-year study will need to be completed.

Discussion: Every five years, the District evaluates the sewer rates paid by District users. The rates charged per equivalent dwelling unit (EDU) fund expenditures related to the transfer and treatment of wastewater through the District's sanitary sewer system to the City of San Diego, the cost associated with the annual capital improvement program, and the expense to maintain a mandatory reserve fund.

In December 2015, the District retained the services of NBS Governmental Financial Group to conduct a 5-year sewer rate study. The purpose of the study was to create a financial roadmap that analyzed the various costs needed to operate and manage the District’s sanitary sewer system and recommend annual rate increases and rates charged to support sewer system operations and maintenance during the study period. The final version of the study was presented to the Board on February 7, 2017. That study recommended a 5.75% rate increase for each year of the study period, Fiscal Years 2017-18 through 2021-22. The 5-year sewer rate study, annual rate increases and annual rates charged were subsequently adopted by the Board on May 2, 2017. Since then, the District has contracted with Dexter Wilson Engineering (Dexter Wilson) to conduct annual reviews of the rates and to recommend any changes. As a result, rate increases were reduced by the Board from 5.75% to 2.875% for Fiscal Years 2018-19 through 2021-22. The actual rate increases and charges during the study period were as follows:

	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
Rate Increase	5.75%	2.875%	2.875%	2.875%	2.875%
Sewer Rate Charge per EDU	\$584.98	\$601.80	\$619.10	\$636.90	\$655.21

On May 18, 2021, the Board adopted Ordinance No. 32, establishing a rate increase and sewer charges for the final year of the 5-year rate study period (FY 2021-22). Ordinance No. 32 describes the methodology for how the rates are currently calculated (**Attachment A**). In summary:

The annual sewer service charge is made up of two components. The first component is generally based on the District’s annual cost to collect and transport wastewater, and is equally divided among the number of equivalent dwelling units (EDUs) connected to the District’s system. The second component is generally the District’s cost for wastewater treatment and disposal as fees paid to the City of San Diego for capacity and use of the San Diego Metropolitan Sewer System, and is allocated to users of the District’s system based on the users generation of annual wastewater flow, biochemical oxygen demand, and suspended solids discharged into the District’s system.

The discharge characteristics of an average single family user is one EDU and shall be composed of wastewater flow of 240 gallons per day for 365 days per year and constituent levels of sewage strength of 200 milligrams per liter (mg/l) biochemical oxygen demand (BOD) and 200 milligrams per liter (mg/l) suspended solids (SS).

The discharge characteristics of commercial/industrial users is a minimum sewer capacity of 1.2 EDU for each business unit with flow quantity and strength as measured by BOD and SS as set forth in the current edition of the California State Water Resources Control Board (State) publication “Policy For Implementing The State Revolving Fund For Construction Of Wastewater Treatment Facilities”, or comparable industry standards acceptable to the State and approved by the District’s Engineer. Minimum sewage strength capacity per commercial/industrial EDU is 200 mg/l BOD and mg/l SS.

As part of the May 18, 2021 report, the Board received information on the next 5-year rate study, which will include an analysis of the existing methodology to derive the rates for residential, commercial and industrial properties. Additionally, consideration may be given to the assessment of a hybrid model, where a portion of the EDU rate is based on water consumption. Staff is finalizing the request for proposals, which includes the following key objectives of the study:

- Evaluate existing sewer rates and rate equitability among user classifications;
- Develop a wastewater cost of service and rate model for the District covering a 5-year study (Fiscal Years 2022/23 through 2026/27) period for both on-going operations and planned capital improvements;
- Explore and identify alternative best management practice rate models and structures to be considered, including a hybrid model partially based on water usage (evaluate hybrid option for a Year 4 implementation);
- Develop a 5-year wastewater service charge program that produces revenues adequate to meet the financial needs of the District for both the required funding of the City of San Diego’s Pure Water Program and the District’s operational and capital needs, while recognizing customer cost of service, and local and state legal and policy considerations (Prop 218 & 26);
- Recommend appropriate reserve levels for operational and capital needs based on industry and financial standards; and
- Prepare and complete the Prop. 218 ballot noticing and mailing process on behalf of the District.

Tentative Selection and Project Schedule:

- Issue RFP – September 2021
- Proposals Due – September-October 2021
- Oral Interviews – if needed, October-November 2021
- Board Authorization – November 2021
- Award Contract – December 2021
- Notice to Proceed – December 2021
- Final Study Due – March 2022
- Board Review & Discussion – April 2022
- Board Adoption – April-May 2022

Environmental Review:

- Not subject to review Negative Declaration
 Categorical Exemption, Section | Mitigated Negative Declaration

Fiscal Impact: Sufficient funding for this project has been allocated in Fund 15 Lemon Grove Sanitation District for FY 2021-22.

Public Notification: None.

Staff Recommendation: That the District Board receives the report and provides feedback and direction to staff.

Attachments:

Attachment A – Ordinance No. 32

Attachment B – Draft Request for Proposals

ORDINANCE NO. 32

**AN ORDINANCE AMENDING ORDINANCE NO. 28 OF THE
LEMON GROVE SANITATION DISTRICT
DESCRIBING METHODS FOR CALCULATING SEWER
USE CHARGES AND REPEALING ORDINANCE NO. 31**

The Board of Directors of the Lemon Grove Sanitation District does ordain as follows:

SECTION 1. Ordinance No. 28, Article III shall be amended to read as follows:

ARTICLE III

SEWER SERVICE CHARGES

SECTION 30. ESTABLISHMENT OF SEWER SERVICE CHARGE. There is hereby levied and assessed upon each premise within the district that discharges sewage into the sewer lines of the District and upon each person owning, letting or occupying such premises an annual sewer service charge.

The annual sewer service charge is made up of two components. The first component is generally based on the District's annual cost to collect and transport wastewater, and is equally divided among the number of equivalent dwelling units (EDUs) connected to the District's system. The second component is generally the District's cost for wastewater treatment and disposal as fees paid to the City of San Diego for capacity and use of the San Diego Metropolitan Sewer System, and is allocated to users of the District's system based on the users generation of annual wastewater flow, biochemical oxygen demand, and suspended solids discharged into the District's system.

For the purpose of this ordinance, the discharge characteristics of an average single family user is one EDU and shall be composed of wastewater flow of 240 gallons per day for 365 days per year and constituent levels of sewage strength of 200 milligrams per liter (mg/l) biochemical oxygen demand (BOD) and 200 milligrams per liter (mg/l) suspended solids (SS).

For the purpose of this ordinance, the discharge characteristics of commercial/industrial users is a minimum sewer capacity of 1.2 EDU for each business unit with flow quantity and strength as measured by BOD and SS as set forth in the current edition of the California State Water Resources Control Board (State) publication "*Policy For Implementing The State Revolving Fund For Construction Of Wastewater Treatment Facilities*", or comparable industry standards acceptable to the State and approved by the District's Engineer. Minimum sewage strength capacity per commercial/industrial EDU is 200 mg/l BOD and mg/l SS.

The flow and strength rate EDUs are determined for individual business units as set forth herein in Section 30.3 and are applicable to each of the various District's users under the jurisdiction of this Ordinance. The District's Engineer shall assign flow rates, BOD, and SS based upon the estimated amount of and strength of wastewater that is typically generated for each business unit. The EDUs, flow rates, BOD, and SS so assigned shall be used in computing the sewer service charges.

If potable water delivered through the water meter is used by the District to estimate the volume of wastewater discharged over a period of time, then 90% of water meter flow is estimated to be discharged into the sewer unless the discharger or legal owner presents evidence to the contrary and this evidence is satisfactory to the District's Engineer. The District's Engineer may adjust the charges for wastewater treatment and disposal in proportion to the estimated volume of wastewater discharged to the sewer.

SECTION 30.1 Annual Sewer Service charges shall be determined by the following formula (rounded to the nearest dollar):

$$SSC = (n/N \times D) + (f/F \times M_F) + (s/S \times M_S) + (b/B \times M_b)$$

In the above formula, the following terms have the meanings and definitions as shown:

- n = Number of EDUs assigned to a particular user. EDUs are assigned as follows: 1.0 EDU each for single family dwellings, condominiums, each living unit of a multi-family dwelling, and each space for a mobile home park. Commercial/Industrial users are assigned a minimum of 1.2 EDUs, and additional EDUs may be assigned based upon Section 30.3 of this ordinance.
- f = Flow of a particular user in million gallons per year, based either upon assigned EDUs or water meter records.
- s = Suspended Solids of a particular user in pounds per year, based either upon State standards or comparable industry standards approved by the State.
- b = Biochemical Oxygen Demand of a particular user in pounds per year, based either upon State standards or comparable industry standards approved by the State.
- N = Total number of EDUs in the District. This is a summation of the EDUs assigned to all users.
- D = District budgeted costs for the fiscal year in dollars, to collect and transport wastewater. This is a net cost for District customers after non-operating revenues have been subtracted from the total District budget costs. Such budgeted costs shall include, but not be limited to operation and maintenance costs of pipelines, pump stations, and meter stations; design and construction cost of replacement facilities; and administration costs including fee collection, accounting, record maintenance, planning and code enforcement.
- M = Total District budgeted cost for the fiscal year in dollars, for treatment and disposal of wastewater. Such cost shall include, but not necessarily be limited to, fees paid to the City of San Diego for capacity in and use of the Metro System. The Metro treatment and disposal costs are further divided into cost categories as determined by the City of San Diego and allocated as follows: Flow Cost = M_F (43.7% costs); BOD Cost = M_b (30.1% of costs) and SS Cost = M_S (26.2% of costs).

F = Total flow in the District in million gallons per year from a summation of users' flows, based either upon assigned EDUs or potable water meter records.

S = Total Suspended Solids in the District impounds per year, from a summation of users' SS loading, based either upon State standards, or comparable industry standards approved by the State.

B = Total Biochemical Oxygen Demand in the District impounds per year from a summation of users' BOD loading, based either upon State standards, or comparable industry standards approved by the State.

SECTION 30.2 The SSC for the Lemon Grove Sanitation District for residential units are as follows:

FISCAL YEAR 2021-2022:

<u>Type</u>	<u>EDU Capacity</u>	<u>Estimated Flow</u>	<u>Annual SSC</u>
Single Family	1	240 gpd	\$655.20
Condominium	1	240 gpd	\$655.20
Multi-Family	1	240 gpd*	\$655.20
Mobile Home	1	240 gpd*	\$655.20

*Note that rates may be adjusted to reflect flow based upon potable water records.

SECTION 30.3 Assignment of sewer capacity for Commercial/ Industrial business units shall be assigned in terms of EDUs. The minimum charge per commercial unit shall be 1.2 EDUs or \$786.24 per annum during FY 21/22. Higher charges will be assessed for commercial/industrial EDU's with sewage strength higher than combined 400 mg/l BOD and SS. Flow based sewer capacity to business units shall be assigned as described in Section 50.3.

SECTION 50.3 COMMERCIAL/INDUSTRIAL FACILITIES

Sewer capacity for Commercial/Industrial business units shall be assigned in terms of Equivalent Dwelling Units as follows:

a. Food Service Establishments

EDUs

- 1) Take-out Restaurants with disposable Utensils, no dishwasher, and no public rest rooms. 3.0
- 2) Miscellaneous food establishments- ice-cream/yogurt shops, bakeries (sales on premises only). 3.0
- 3) (I)Take-out/eat in restaurants with disposable utensils, but with seating and public rest rooms. 3.0 minimum

(II)	Restaurants with re-usable utensils, seating and public rest rooms.	3.0 minimum
	One EDU is assigned for each 6-seat unit as follows:	
	0 – 18 seats=	3.0 minimum
	Each additional 6-seat unit will be assigned	1.0
b.	Hotels and Motels	
	1) Per living unit without kitchen	0.38
	2) Per living unit with kitchen	0.60
c.	Commercial, Professional, Industrial Buildings, Establishments not specifically listed herein.	
	1) Any office, store, or industrial condominium or establishment. First 1,000 sq. ft.	1.20
	Each additional 1,000 sq. ft. or portion thereof	0.70
	2) Where occupancy type or usage is unknown at the time of application for service, the following EDUs shall apply. This shall include but not be limited to shopping centers, industrial parks, and professional office buildings.	
	First 1,000 square feet of gross building floor area.	1.20
	Each additional 1,000 square feet of gross Building floor area. Portions less than 1,000 square feet will be prorated.	0.70
d.	Self-service laundry per washer	1.00
e.	Churches, theaters and auditoriums per each 150 person seating capacity, or any fraction thereof. (Does not include office spaces school rooms, day care facilities, food preparation areas, etc. Additional EDUs will be assigned for these supplementary uses.)	1.50
f.	Schools	
	Elementary schools for 50 pupils or fewer	1.00

Junior High Schools for 40 pupils or fewer values	1.00
High School for 24 pupils or fewer	1.00

Additional EDUs will be prorated based upon the above values.

The number of pupils shall be based on the average daily attendance of pupils at the school during the preceding fiscal year, computed in accordance with the education code of the State of California. However, where the school has had no attendance during the preceding fiscal year, the Director shall estimate the average daily attendance for the fiscal year for which the fee is to be paid and compute the fee based on such estimate.

SECTION 2. DATE OF LEVY OF NEW CHARGES. The Charges referenced above shall take effect on July 1, 2021 in the manner allowed by law.

**LEMON GROVE
SANITATION DISTRICT**



REQUEST FOR PROPOSALS

FOR

**SANITATION DISTRICT
RATE STUDY
CONTRACT NO. 2021-18**

***Proposals are due to the District by:
TBD***

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INTRODUCTION

The Lemon Grove Sanitation District (District) is seeking the services of a consultant to complete a Sanitation District Rate Study for the next 5-year period. The District will accept proposals until DATE TBD. Please address your proposals to: Michael Stauffer, Senior Management Analyst, Engineering Division, 3232 Main Street, Lemon Grove, CA 91945. Any late proposals will not be accepted and will be returned, un-opened.

BACKGROUND AND PROJECT PURPOSE

Lemon Grove is a general law city and was incorporated in 1977. Approximately 3.8 square miles, Lemon Grove is located directly east of the City of San Diego and adjacent to State Route 94. The City's population is currently just over 26,000. SANDAG forecasts that by the year 2030 the population will increase to approximately 28,000.

On May 2, 2017, the District Board adopted a five-year rate study that recommended annual sewer rates to support District operations through June 30, 2022. On May 18, 2021, the District Board adopted the final sewer rates for that five-year period. The District is now in the process of selecting a new consultant to study and recommend sewer rates for the next five-year period.

The general duty of the consultant involves the preparation of a sanitation rate study/update for the Lemon Grove Sanitation District. The final product will consist of a report documenting the findings and making recommendations for the sanitation district rates for the next five years.

The specific goals of the study are to:

- Evaluate existing sewer rates and rate equitability among user classifications;
- Develop a wastewater cost of service and rate model for the District covering a five-year study (Fiscal Years 2022/23 through 2026/27) period for both on-going operations and planned capital improvements;
- Explore and identify alternative best management practice rate models and structures to be considered, including a hybrid model partially based on water usage (evaluate hybrid option for a Year 4 implementation) ;
- Develop a five-year wastewater service charge program that produces revenues adequate to meet the financial needs of the District for both the required funding of the City of San Diego's Pure Water Program and the District's operational and capital needs, while recognizing customer cost of service, and local and state legal and policy considerations (Prop 218 & 26);
- Recommend appropriate reserve levels for operational and capital needs based on industry and financial standards; and
- Prepare and complete noticing and mailing requirements for the Prop. 218 ballot process on behalf of the District.

PROJECT SCHEDULE

The schedule for the completion of the study is anticipated to be four months from the date of execution of the contract between the District and the Consultant. The Consultant is encouraged to begin the study immediately after the execution of the contract.

Tentative Selection and Project Schedule

- Issue RFP – September 2021
- Proposals Due –September/October 2021
- Oral Interviews – if needed, October/November 2021
- Board Authorization – November 2021
- Award Contract – December 2021
- Notice to Proceed – December 2021
- Final Study Due – March 2022
- Board Review & Discussion – April 2022
- Board Adoption – April/May 2022

STAFF PARTICIPATION

The District envisions that the Consultant will be responsible for the majority of the tasks involved with this project. Key tasks that the City staff can assist with include:

- A. Collection of pertinent secondary source information.
- B. Provision of any existing level of service standards, if available.
- C. Identification of future CIP projects.
- D. Provision of financial and budgetary documentation as requested.
- E. Review of draft reports prior to their reproduction and distribution.
- F. Coordination of and scheduling of meetings between the Consultant and City Staff.
- G. Provision of interim briefings to the District Board on the progress of the project.
- H. Additional team involvement as mutually agreed upon.

SUBMITTAL REQUIREMENTS

Four hard copies and one electronic copy on thumb drive of the proposal shall be delivered to:

City of Lemon Grove
Engineering Division
Attn: Michael Stauffer, Senior Management Analyst
3232 Main Street
Lemon Grove, CA 91945

Proposals are to be submitted in sealed packages with the following information clearly marked on the outside of each package:

Name of Respondent
RFP - Sanitation Rate Study
Contract No. 2021-18
Package Number (e.g., 1 of ____, 2 of ____)

Late submittals, facsimiles, and emails will not be considered.

PROPOSAL CONTENTS

The Proposal contents are to include, but not be limited to:

Contents

All respondents are required to submit four hard copies and one electronic copy of the proposal. The proposal is to follow the order specified below:

1. Executive Summary

Include a 1-2 page overview of the proposal describing its most important elements.

2. Identification of the Respondent

- A. Legal name and address of company.
- B. Legal form of company (partnership, corporation, joint venture, etc.). If joint venture, identify the members of the joint venture and provide all information required within this section for each member.
- C. If company is wholly-owned subsidiary of “parent company.”
- D. Address(es) of office(s) working on this project.
- E. Name, title, address, and telephone number of the contact person for the proposal.

3. Experience and Technical Competence

Describe the respondent’s experience in completing similar studies / projects. List three (3) successfully completed projects of a similar nature, with the name of the agency and project manager, telephone numbers, and type of work performed (provide one copy of each project). Projects currently being performed may be submitted for consideration. The District is most interested in the respondent’s experience in converting a wastewater agency from an equivalent dwelling unit (EDU) cost allocation system of charges to a water based system of charges which would include both a fixed and variable charge including the strength based billing parameters of BOD and TSS.

4. Proposed Method to Accomplish the Work

Describe the respondent’s technical and management approach to the project and how the respondent will plan for and accommodate each into the project effort. Discuss lines of communication necessary to maintain the project schedule. Describe how information will be gathered for this project.

5. Knowledge and Understanding of Local Government

Describe the respondent’s experience working with local governments and/or sanitation districts.

6. Project Organization and Key Personnel

- A. Describe proposed project organization. Include identification and responsibilities for key personnel and all sub-consultants. Indicate the extent of the commitment of key personnel for the duration of the project. Provide an indication of the staffing level for the project. Please provide which of the team members will actually be providing the hands-on work

for each of the tasks under Content No. 4 above. Make sure to include resumes showing the years of consulting practice for each team member who will be working on the project.

- B. Provide a detailed description of the experience of the respondent's project team, including the team's project manager, and other key staff members, on projects of similar type, and size. For each similar project, include the client's name, contact person, and telephone number as well as which of the proposed team actually worked on the similar projects and in what capacities. If a sub consultant is proposed please include a detailed description of their project background and resume, if they have worked with the respondents team before, and if they have worked on any of the similar projects.

7. Suggested Additions, Revisions, Deletions, etc. to the Scope of Work

8. Cost Estimate (SEALED IN A SEPARATE ENVELOPE)

Provide an estimate of the total cost, with subtotals by task, identified in the scope of work. The cost breakdown shall identify:

- A. Hourly rates and titles for professional and administrative staff committed to this project (if applicable).
- B. All other direct costs, such as materials and reproduction costs.
- C. Sub-consultant services, if applicable.

EVALUATION CRITERIA

The District encourages cooperative, creative, innovative and efficient approaches in proposals. The importance of these characteristics will be formally recognized in the evaluation of consultant responses. Responses which propose modifications or alternatives to the tasks, products and schedules identified in the Scope of Work section that the consultant believes better accomplish the objectives of this project are welcome. Proposals from consultant teams are also encouraged, when cooperative work will improve the quality of results.

Proposals will be evaluated according to the following criteria:

Proposal Conforms to Format.....	5 pts
Experience and Technical Competence	20 pts
Proposed Method to Accomplish Work	30 pts
Knowledge and Understanding of Local Government	10 pts
Project Organization and Key Personnel	20 pts
Cost Estimate (lowest cost proposal will receive the most points, all others will receive a proportionate amount)	15 pts

SELECTION PROCESS

Following proposal opening at the time and location specified in the notice inviting proposals, the original copy of the proposal shall be retained by the City of Lemon Grove, Public Works Department.

- A. Following the opening of the proposals at the date and time indicated above, the proposals shall be reviewed by a Selection Committee.
- B. The Selection Committee will evaluate and rank firms/teams accordingly.
- C. The Selection Committee may invite firms/teams to attend an oral interview. Submitters will be contacted after the bid opening to schedule a time and location for the interview.
- D. The Selection Committee will make a recommendation on the top firm.
- E. The Selection Committee's recommendation will be forwarded to the District Board for consideration.

DETAILED SCOPE OF WORK

Task 1 – Project Management

This project component includes general project coordination and administrative activities throughout the course of the project. Specific subtasks are:

- A. Receive direction from staff as required to meet project objectives and deadlines. Ensure adequate levels of pertinent information throughout the course of the project. Review all study-related work, which are subject to staff review and approval, and provide overall quality assurance.
- B. Present study results to various elected officials and the public at a Board meeting.
- C. Perform general administrative duties, including client correspondence, billing, project documentation, and administer study control plan.

Task 2 – Project Initiation Meeting and Data Collection

This project component will provide an opportunity to establish lines of communication; review project missions, goals, and objectives; review project schedule and major milestones; collect pertinent data for the study, and discuss any relevant background information. The session will also facilitate discussions of the overall approach and strategies that will be used by the District and Consultant during the course of the project. Specific subtasks are:

- A. Prepare an initial request for financial and operational data and other pertinent information needed prior to the first meeting with District staff. To the extent possible, Consultant will use information from the prior rate study. A preliminary list of typical data which may be required for the study includes:
 - a. ...Summary of total wastewater customers by customer classification.
 - b. ...Summary of the District's wastewater fund, and City's current budget if available.
 - c. ...District's capital facilities plan, and data pertinent to the future planned growth, if available.
 - d. ...Prior rate study.
 - e. ...Request water usage data from the Helix Water District for analyzing a water based rate study alternative.
- B. Obtain and review the above data and other relevant data to determine completeness and accuracy.

- C. Review the District's current practices and policy objectives, identify major interests and concerns, and review District billing information.

Task 3 – Capital Facilities Plan Assessment

Identify all capital improvements including annual replacements, additions and improvements to the District's wastewater collection system for impacts and inclusion in the 5-year rate study. Alternative methods of financing the improvements, including grants, low-interest loans, long-term debt, annual operating revenues, system development charge revenues, funds on hand, direct contributions, special assessments, and property taxes, will be evaluated. Financing plans to meet the projected capital improvements throughout the study period will be developed.

- A. Review capital facilities plans and other available information regarding needed replacements, improvements, and expansions of the wastewater system. Also, review for inclusion in the study, projected City of San Diego Metro and Spring Valley Sanitation capital facilities plans and other pertinent information, such as the City of San Diego's Pure Water Program. Prioritize internal District projects to be constructed within the study planning period. Review for reasonableness the cost estimates of the District's needed capital improvements.
- B. Evaluate and recommend appropriate reserve requirements to be maintained on an annual basis for capital projects.

Task 4 – Revenue Requirement Projections

The objective of this task is to project the District's revenue needs for the 5-year study period. This major task requires: an assessment of revenues based on the existing rates and fee schedules; an estimation of future revenue requirements; the District's ability to meet projected revenue requirements; and the determination of the level of revenue adjustments and additional financing requirements. The following subtasks will be completed:

- A. Estimate revenues based on current rates and fee levels, incorporating the projected number of customers and service requirements. Historical growth trends, quantity of service provided, and patterns in customer service characteristics will be evaluated. Recent studies of population trends, growth and new development will be reviewed and used in making projections of customers and associated usage.
- B. Review and project revenues from miscellaneous sources such as interest earnings, miscellaneous service fees, or other sources.
- C. Develop annual revenue requirements of the District taking into consideration the following factors:
 - a. ..Historical data and current year budget
 - b. ..Current operation and maintenance expenses
 - c. ..Routine and major capital expenditures
 - d. ..Future system service requirements
 - e. ..Expected operational changes and inflation
 - f. ...Debt service on existing and any proposed new financing methods including appropriate reserves
 - g. ..Other cash obligations
- D. Develop future cash flow analyses for a fifteen-year study period showing application of revenue under existing rate levels. Such an analysis is imperative to meet the estimated

annual revenue requirements. An example of these results needs to be shown graphically, including how the proposed rates would meet revenue requirements.

- E. Evaluate and recommend reserve balances that need to be maintained in the City's operating, capital and Pure Water funds.

Task 5 – Classification of Costs

This task includes the determination (subject to staff review and approval) of appropriate cost allocation functional components; an assessment of the adequacy of the current wastewater system to accumulate, record and report costs of the desired components. The subtasks include:

- A. Determine appropriate functional classifications of costs for allocation purposes for the wastewater system. Such classification could include volume and allocated general, administrative, and overhead costs. The District is a member of the City of San Diego Metro System and thus must comply with Federal Revenue Program Guidelines. Therefore, costs such as Metro charges must also be appropriately allocated to the sewage strength parameters of BOD and TSS.
- B. Assess the adequacy of the District's wastewater system to accumulate, record, and report costs of the desired cost allocation classification. Recommend if necessary, changes related to future presentation of required data.

Task 6 – Cost of Service Analyses

Consultant will review existing wastewater customer classifications for appropriateness and equitability of rates charged, review and analyze historical customer class characteristics, and allocate cost of service to customer classifications for the 5-year period. Variables to be considered will include, but not necessarily be limited to residential and commercial classes broken down in subclasses based on significant use/contribution differences, industrial, institutional, multiple dwelling, and others to be identified, if appropriate. Specific subtasks include the following:

- A. Review and analyze historical billing data by customer class or subclass. Special attention will be paid to the water usage, where available, expected wastewater generation, and infiltration and inflow (I & I). Such information will be used to provide the basis for wastewater flow forecasts.
- B. Allocate the cost of service to the various cost of service components, which constitute a functional classification of the different types of service the District provides. Functional cost components will include volume, sewage strength, I & I, and customer costs for wastewater. These will represent the revenue requirements to be met from sewer charges over the study period.
- C. Distribute the costs by functional components to the various customer classifications, identified above, on the basis of the relative responsibility of each classification for service provided. Costs will be allocated based on the determination of unit of service for each customer classification and the application of unit costs of service to the respective units.
- D. Compare existing revenue under existing rates by each customer class with the allocated cost of service to determine:
 - a. The adequacy of present revenue levels for each class.
 - b. The indicated adjustment in rates required to equitably distribute costs to the respective classes of customers.

- E. Throughout the cost allocation process, Consultant will comply with District policy considerations, procedures, and all currently known federal, state, and local rules, regulations, and guidelines applicable to charges for wastewater service.

Task 7 – Review and Development of Rate Structure

The wastewater revenue requirements from each customer class over the 5-year period will be recovered through a rate structure designed to stand alone as a separate revenue source. Any rate structure that is developed shall be reviewed and approved by District Staff. The following subtasks will be performed:

- A. Review the basis for the existing allocation of capital facilities and improvement charge for wastewater system.
- B. Review bases for charges and recommend improvements and modifications as necessary. The District currently allocates costs to their customers on an assigned EDU system. The District is interested in exploring converting some or all of their users to a water based cost allocation system. The consultant should analyze and be prepared to discuss the pro's and con's of this conversion with the District.
- C. Survey best management practices for comparable agency rate structures and provide alternatives for consideration.

Task 8 – Rate Design

Based on the wastewater rate structures developed in Task 7 above, wastewater rates will be developed so as to take effect on the date selected by the District and in conjunction with the County's tax collection dates. The rates will be determined taking into consideration total annual revenue requirements, allocated costs of service, District policy considerations and compliance with state guidelines. The final set of sanitation rates shall be reviewed and approved by District Staff. The rate design portion of the study will include the following subtasks:

- A. Design schedule of wastewater rates to equitably recover total revenue requirements from classes of customers. The rates will be designed in accordance with the results of the cost of service analysis.
- B. Prepare comparisons of typical wastewater monthly bills for each customer class under existing and proposed rates for typical levels of usage/contribution.
- C. Prepare comparisons of the City's proposed rates with neighboring cities.
- D. Prepare and complete all Prop 218 related ballot requirements.

Sanitation rate design is both art and science. Consultant is expected to assist the District in tailoring a rate structure that satisfies customer concerns, meet financial needs, and attains policy objectives. It should be understood that alternative rate structures are to be considered as part of the study and that the District may decide to include some modifications that might improve equity, promote greater water conservation, etc.

Task 9 – Prop 218 Noticing

Consultant will prepare and complete all Prop 218 ballot noticing and mailing requirements necessary for rate approval.

Task 10 – Preliminary Draft Report and Meeting

Consultant will prepare three hard copies and one electronic copy on thumb drive of a draft report, prepared to the satisfaction of the District Engineer and meet with District staff, and other members deemed appropriate by the District, to discuss preliminary results of the study. The study and rate design will be reviewed and general consensus will be obtained for the proposed rate structure and rate design recommended.

- A. Prepare three hard copies and one electronic copy of the draft report, which will include the findings and recommendations.
- B. Attend one mid-term meeting for update on project progress and to review results of the cash flow analysis. The meeting with staff will be designed to encourage dialogue, review results and impacts and seek direction.
- C. Attend up to five meetings as requested by District staff to meet with elected officials to discuss the preliminary results of the study.

ANTICIPATED MEETINGS

Four Anticipated Staff Meetings:

- A. Collect pertinent documents and gain insight into budgeting and growth issues.
- B. Review and evaluate cost estimates being used for future CIPs. Finalize fee update methodologies.
- C. Review results of growth projections and recommend criteria to be used in proceeding with the completion of the project.
- D. Discuss with staff the proposed fees and receive input to be incorporated into the study.

Two Anticipated Board Meetings:

- Consultant will present recommendations at the public hearing. State statutes require a public hearing after the formal report is released to the public.
 - Consultant will be available to answer any questions relating to the adoption of the new rate.
- Attend and present at Prop 218 public hearings.

Consultant will prepare and submit all documents necessary to be in compliance with California State Statutes such as ordinances, resolutions, and public notices.

PROJECT DELIVERABLES FROM CONSULTANT

- A. Three (3) hard copies and one (1) electronic copy of any draft report to be presented at a public meeting must be submitted to the District at least 7 days prior to the public meeting.

- B. Twenty (20) hard copies and one (1) electronic copy of final report to be presented to the District Board must be submitted to the Board at least 14 days prior to the District Board meeting.
- C. One electronic copy of the final rate model and training on how to use it for District staff. This model should be compatible with Microsoft Excel, become the property of the District, and should not include any licensing fees, etc.
- D. Final and Draft reports will be transmitted both electronically (via e-mail, thumb drive or share service) and mailed to the District prior to the meeting date.

CONTACT INFORMATION

The Lemon Grove Sanitation District looks forward to receiving a proposal from your firm. All questions relating to the RFP may be directed to:

Michael Stauffer, Senior Management Analyst
mstauffer@lemongrove.ca.gov
Phone: 619-825-3811

The District reserves the right to revise the RFP prior to the date the proposals are due. Revisions shall be mailed to all potential respondents and all holders of the RFP.

**ATTACHMENT
SAMPLE CONTRACT**

**AGREEMENT
BY AND BETWEEN
THE CITY OF LEMON GROVE
AND
CONSULTANT**

THIS AGREEMENT is entered into this XX day of XXX, 2021 by and between the CITY OF LEMON GROVE, a municipal corporation (the "CITY"), and XXX, a professional sewer rate consulting firm (the "CONSULTANT").

RECITALS

WHEREAS, the CITY desires to employ a CONSULTANT for the preparation of a sanitation rate study/update for the Lemon Grove Sanitation District. The final product will consist of a report documenting the findings and making recommendations for the sanitation district rates for the next five years.

WHEREAS, the CITY has determined that the CONSULTANT is a professional sewer rate consulting firm and is qualified by experience and ability to perform the services desired by the CITY, and the CONSULTANT is willing to perform such services.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY AGREE AS FOLLOWS:

1. **ENGAGEMENT OF CONSULTANT.** The CITY hereby agrees to engage the CONSULTANT and the CONSULTANT hereby agrees to perform the services hereinafter set forth in accordance with all terms and conditions contained herein.

The CONSULTANT represents that all services required hereunder will be performed directly by the CONSULTANT or under direct supervision of the CONSULTANT.

2. **SCOPE OF SERVICES.** The CONSULTANT will perform services as set forth in the attached Exhibit "A".

The CONSULTANT shall be responsible for all research and reviews related to the work and shall not rely on personnel of the CITY for such services, except as authorized in advance by the CITY. The CONSULTANT shall appear at meetings cited in Exhibit "A" to keep staff and City Council advised of the progress on the project.

The CITY may unilaterally, or upon request from the CONSULTANT, from time to time reduce or increase the Scope of Services to be performed by the CONSULTANT under this Agreement. Upon doing so, the CITY and the CONSULTANT agree to meet in good faith and confer for the purpose of negotiating a corresponding reduction or increase in the compensation associated with said change in services.

3. **PROJECT COORDINATION AND SUPERVISION.** Senior Management Analyst, Public Works Department, Engineering Division is hereby designated as the Project Coordinator for the CITY and will monitor the progress and execution of this Agreement. The CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for the CONSULTANT. XXX thereby is designated as the Project Director for the CONSULTANT.

4. **COMPENSATION AND PAYMENT.** Compensation for the CONSULTANT shall be based on monthly billings covering actual work performed. Billings shall include labor classifications, respective rates listed in Exhibit "A", hours worked and also materials, if any. The total cost for all work described in Exhibit "A" shall not exceed XXX dollars and XX cents (\$XXX) (the base amount) without prior written authorization from the City Council. Monthly invoices will be processed for payment and remitted within thirty (30) days from receipt of invoice, provided that work is accomplished consistent with Exhibit "A" as determined by and in the sole discretion of the CITY.

The CONSULTANT shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by the CITY and for furnishing of copies to the CITY, if requested.

5. **LENGTH OF AGREEMENT.** The start date of this agreement is effective upon execution by the CITY and will expire in one (1) year. The agreement may be extended, by the City Manager or her designee, for six months, during which time the CITY will evaluate the existing agreement to decide if the service shall be further extended by City Council approval or advertising a new request for proposal.

6. **DISPOSITION AND OWNERSHIP OF DOCUMENTS.** The Memoranda, Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONSULTANT for this Project, whether paper or electronic, shall become the property of the CITY for use with respect to this Project, and shall be turned over to the CITY upon completion of the Project, or any phase thereof, as contemplated by this Agreement.

Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY and CONSULTANT thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications or other work prepared under this agreement, except upon the CITY's prior authorization regarding reproduction, which authorization shall not be unreasonably

withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

The CONSULTANT agrees that the CITY may use, reuse, alter, reproduce, modify, assign, transfer, or in any other way, medium or method utilize the CONSULTANT's written work product for the CITY's purposes, and the CONSULTANT expressly waives and disclaims any residual rights granted to it by Civil Code Sections 980 through 989 relating to intellectual property and artistic works.

Any modification or reuse by the CITY of documents, drawings or specifications prepared by the CONSULTANT shall relieve the CONSULTANT from liability under Section 14 but only with respect to the effect of the modification or reuse by the CITY, or for any liability to the CITY should the documents be used by the CITY for some project other than what was expressly agreed upon within the Scope of this project, unless otherwise mutually agreed.

7. **INDEPENDENT CONSULTANT.** Both parties hereto in the performance of this Agreement will be acting in an independent capacity and not as agents, employees, partners or joint venturers with one another. Neither the CONSULTANT nor the CONSULTANT'S employees are employees of the CITY and are not entitled to any of the rights, benefits, or privileges of the CITY's employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

This Agreement contemplates the personal services of the CONSULTANT and the CONSULTANT's employees, and it is recognized by the parties that a substantial inducement to the CITY for entering into this Agreement was, and is, the professional reputation and competence of the CONSULTANT and its employees. Neither this Agreement nor any interest herein may be assigned by the CONSULTANT without the prior written consent of the CITY. Nothing herein contained is intended to prevent the CONSULTANT from employing or hiring as many employees, or subCONSULTANTS, as the CONSULTANT may deem necessary for the proper and efficient performance of this Agreement. All agreements by CONSULTANT with its subCONSULTANT(s) shall require the subCONSULTANT to adhere to the applicable terms of this Agreement.

8. **CONTROL.** Neither the CITY nor its officers, agents or employees shall have any control over the conduct of the CONSULTANT or any of the CONSULTANT's employees except as herein set forth, and the CONSULTANT expressly agrees not to represent that the CONSULTANT or the CONSULTANT's agents, servants, or employees are in any manner agents, servants or employees of the CITY, it being understood that the CONSULTANT, its agents, servants, and employees are as to the CITY wholly independent CONSULTANTS and that the CONSULTANT's obligations to the CITY are solely such as are prescribed by this Agreement.

9. **COMPLIANCE WITH APPLICABLE LAW.** The CONSULTANT, in the performance of the services to be provided herein, shall comply with all applicable State and Federal statutes and regulations, and all applicable ordinances, rules and regulations of the CITY OF LEMON GROVE, whether now in force or subsequently

enacted. The CONSULTANT, and each of its subCONSULTANTS, shall obtain and maintain a current CITY OF LEMON GROVE business license prior to and during performance of any work pursuant to this Agreement.

10. **LICENSES, PERMITS, ETC.** The CONSULTANT represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. The CONSULTANT represents and covenants that the CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for the CONSULTANT to practice its profession.

11. **STANDARD OF CARE.**

A. The CONSULTANT, in performing any services under this Agreement, shall perform in a manner consistent with that level of care and skill ordinarily exercised by members of the CONSULTANT'S trade or profession currently practicing under similar conditions and in similar locations. The CONSULTANT shall take all special precautions necessary to protect the CONSULTANT's employees and members of the public from risk of harm arising out of the nature of the work and/or the conditions of the work site.

B. Unless disclosed in writing prior to the date of this agreement, the CONSULTANT warrants to the CITY that it is not now, nor has it for the five (5) years preceding, been debarred by a governmental agency or involved in debarment, arbitration or litigation proceedings concerning the CONSULTANT's professional performance or the furnishing of materials or services relating thereto.

C. The CONSULTANT is responsible for identifying any unique products, treatments, processes or materials whose availability is critical to the success of the project the CONSULTANT has been retained to perform, within the time requirements of the CITY, or, when no time is specified, then within a commercially reasonable time. Accordingly, unless the CONSULTANT has notified the CITY otherwise, the CONSULTANT warrants that all products, materials, processes or treatments identified in the project documents prepared for the CITY are reasonably commercially available. Any failure by the CONSULTANT to use due diligence under this subparagraph will render the CONSULTANT liable to the CITY for any increased costs that result from the CITY's later inability to obtain the specified items or any reasonable substitute within a price range that allows for project completion in the time frame specified or, when not specified, then within a commercially reasonable time.

12. **NON-DISCRIMINATION PROVISIONS.** The CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. The CONSULTANT will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and

applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

13. **CONFIDENTIAL INFORMATION.** The CITY may from time to time communicate to the CONSULTANT certain confidential information to enable the CONSULTANT to effectively perform the services to be provided herein. The CONSULTANT shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the CITY. The CONSULTANT shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services to be provided herein. The foregoing obligation of this Section 13, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of the CONSULTANT, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the CONSULTANT without any obligation of confidentiality; (iv) has been or is hereafter rightfully disclosed to the CONSULTANT by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party; or (v) is disclosed according to law or court order.

The CONSULTANT shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of the CITY. In its performance hereunder, the CONSULTANT shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

CONSULTANT shall be liable to CITY for any damages caused by breach of this condition, pursuant to the provisions of Section 14.

14. **INDEMNIFICATION AND HOLD HARMLESS.** The CONSULTANT shall indemnify, defend, and hold harmless the CITY, and its officers, officials, agents and employees from any and all claims, demands, costs or liability that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its employees, agents, and subCONSULTANTS in the performance of services under this Agreement. CONSULTANT's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the CITY or its elected officials, officers, agents, and employees. CONSULTANT's indemnification obligations shall not be limited by the insurance provisions of this Agreement. The CITY AND CONSULTANT expressly agree that any payment, attorney's fees, costs or expense CITY incurs or makes to or on behalf of an injured employee under the CITY 's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

15. **WORKERS' COMPENSATION.** The CONSULTANT shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Government Code and all amendments thereto; and all similar state or Federal acts or laws applicable; and shall indemnify, and hold harmless the CITY and its officers, and

employees from and against all claims, demands, payments, suits, actions, proceedings and judgments of every nature and description, including reasonable attorney's fees and defense costs presented, brought or recovered against the CITY or its officers, employees, or volunteers, for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by the CONSULTANT under this Agreement.

16. **INSURANCE.** The CONSULTANT, at its sole cost and expense, shall purchase and maintain, and shall require its subCONSULTANTS, when applicable, to purchase and maintain throughout the term of this agreement, the following insurance policies:

A. If checked, Professional Liability Insurance (errors and omissions) with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate.

B. Automobile insurance covering all bodily injury and property damage incurred during the performance of this Agreement, with a minimum coverage of \$1,000,000 combined single limit per accident. Such automobile insurance shall include non-owned vehicles.

C. Comprehensive general liability insurance, with minimum limits of \$1,000,000 combined single limit per occurrence, covering all bodily injury and property damage arising out of its operation under this Agreement.

D. Workers' compensation insurance covering all of CONSULTANT's employees.

E. The aforesaid policies shall constitute primary insurance as to the CITY, its officers, employees, and volunteers, so that any other policies held by the CITY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the CITY of cancellation or material change.

F. Said policies, except for the professional liability and worker's compensation policies, shall name the CITY and its officers, agents and employees as additional insureds.

G. If required insurance coverage is provided on a "claims made" rather than "occurrence" form, the CONSULTANT shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Agreement.

H. Any aggregate insurance limits must apply solely to this Agreement.

I. Insurance shall be written with only California admitted companies which hold a current policy holder's alphabetic and financial size category rating of not less than A VIII according to the current Best's Key Rating Guide, or a company equal financial stability that is approved by the CITY.

J. This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the CITY. If the CONSULTANT does not keep all of such insurance policies in full force and effect at all times during the terms of this Agreement, the CITY may elect to treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.

17. **LEGAL FEES.** If any party brings a suit or action against the other party arising from any breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether

by final judgment or out-of-court settlement, shall be entitled to have and recover of and from the other party all reasonable costs and expenses of suit, including reasonable attorneys' fees.

For purposes of determining who is to be considered the prevailing party, it is stipulated that attorney's fees incurred in the prosecution or defense of the action or suit shall not be considered in determining the amount of the judgment or award. Attorney's fees to the prevailing party if other than the CITY shall, in addition, be limited to the amount of attorney's fees incurred by the CITY in its prosecution or defense of the action, irrespective of the actual amount of attorney's fees incurred by the prevailing party.

18. **MEDIATION/ARBITRATION.** If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties agree first to try, in good faith, to settle the dispute by mutual negotiation between the principles, and failing that through nonbinding mediation in San Diego, California, in accordance with the Commercial Mediation Rules of the American Arbitration Association (the "AAA"). The costs of mediation shall be borne equally by the parties.

19. **TERMINATION.** A. This Agreement may be terminated with or without cause by the CITY. Termination without cause shall be effective only upon 30-day's written notice to the CONSULTANT. During said 30-day period the CONSULTANT shall perform all services in accordance with this Agreement. The CONSULTANT may terminate this agreement upon thirty (30) days prior notice in the event of a continuing and material breach by the City of its obligations under this Agreement including but not limited to payment of invoices.

B. This Agreement may also be terminated immediately by the CITY for cause in the event of a material breach of this Agreement that is not cured to the City's satisfaction within a ten (10) day prior cure period, or material misrepresentation by the CONSULTANT in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the CITY.

C. Termination with or without cause shall be effected by delivery of written Notice of Termination to the CONSULTANT as provided for herein.

D. In the event of termination, all finished or unfinished Memoranda Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONSULTANT, whether paper or electronic, shall immediately become the property of and be delivered to the CITY, and the CONSULTANT shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and other materials up to the effective date of the Notice of Termination, not to exceed the amounts payable hereunder, and less any damages caused the CITY by the CONSULTANT's breach, if any. Thereafter, ownership of said written material shall vest in the CITY all rights set forth in Section 6.

E. The CITY further reserves the right to immediately terminate this Agreement upon: (1) the filing of a petition in bankruptcy affecting the CONSULTANT; (2) a reorganization of the CONSULTANT for the benefit of creditors; or (3) a business reorganization, change in business name or change in business status of the CONSULTANT.

20. **NOTICES.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or telegraphed or cabled; or delivered or sent by telex, telecopy, facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days (ten (10) days if the address is outside the State of California) after the date of deposit in a post office, mailbox, mail chute, or other like facility regularly maintained by the United States Postal Service, (iv) if given by telegraph or cable, when delivered to the telegraph company with charges prepaid, or (v) if given by telex, telecopy, facsimile or fax, when sent. Any notice, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To the CITY: Senior Management Analyst
Public Works Department, Engineering Division
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945-1701

To the CONSULTANT: Name Address
City, State
Zip Code

Notice of change of address shall be given by written notice in the manner specified in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent. Any notice, request, demand, direction or other communication sent by cable, telex, telecopy, facsimile or fax must be confirmed within forty-eight (48) hours by letter mailed or delivered as specified in this Section.

21. **CONFLICT OF INTEREST AND POLITICAL REFORM ACT OBLIGATIONS.** During the term of this Agreement, the CONSULTANT shall not perform services of any kind for any person or entity whose interests conflict in any way with those of the CITY OF LEMON GROVE. The CONSULTANT also agrees not to specify any product, treatment, process or material for the project in which the CONSULTANT has a material financial interest, either direct or indirect, without first notifying the CITY of that fact. The CONSULTANT shall at all times comply with the terms of the Political Reform Act and the Lemon Grove Conflict of Interest Code. The CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. The CONSULTANT represents that it

has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the CITY.

If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act and the CITY OF LEMON GROVE Conflict of Interest Code. Specifically, the CONSULTANT shall file a Statement of Economic Interests with the City Clerk of the CITY OF LEMON GROVE in a timely manner on forms which the CONSULTANT shall obtain from the City Clerk.

The CONSULTANT shall be strictly liable to the CITY for all damages, costs or expenses the CITY may suffer by virtue of any violation of this Paragraph 21 by the CONSULTANT.

22. **MISCELLANEOUS PROVISIONS.**

A. *Computation of Time Periods.* If any date or time period provided for in this Agreement is or ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 5:00 p.m. Pacific Time of the next day which is not a Saturday, Sunday or federal, state or legal holiday.

B. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

C. *Captions.* Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

D. *No Obligations to Third Parties.* Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.

E. *Exhibits and Schedules.* The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference for all purposes.

F. *Amendment to this Agreement.* The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

G. *Waiver.* The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

H. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California.

I. *Entire Agreement.* This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

J. *Successors and Assigns.* This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

K. *Construction.* The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement, (iii) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement, (iv) each party and such party's counsel and advisors have reviewed this Agreement, (v) each party has agreed to enter into this Agreement following such review and the rendering of such advice, and (vi) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF LEMON GROVE

CONSULTANT

(Corporation—signatures of 2 corporate officers)

(Partnership – one signature)

(Sole proprietorship – one signature)

By: _____
Lydia Romero
City Manager

By: _____
(Name)

(Title)

APPROVED AS TO FORM:

Kristen Steinke
City Attorney

By: _____
(Name)

(Title)

Exhibit "A"
SCOPE OF SERVICES



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. 4
Meeting Date: September 7, 2021
Submitted to: Honorable Mayor and Members of the City Council
Department: City Manager's Office
Staff Contact: Lydia Romero, City Manager, lromero@lemongrove.ca.gov
Item Title: **State Budget Allocation**

Recommended Action: That the City Council receive the informational item.

Discussion: During the Capital Improvement Budget discussion, the City Council deliberated on the dismal state of the public restrooms at Lemon Grove and Berry Street Parks. These restrooms are aged and deteriorating, as well as not being ADA compliant. Although the City Council allocated funds to perform emergency repairs, those repairs were purely short term in nature to meet the high demands during the summer time as well as grant more time for staff to search and apply for grant funds to build new restrooms. In April 2021, an opportunity was presented to the City to request one-time, restricted use funds from the State through Assembly Member Dr. Weber's office. Staff applied for the one-time funding (**Attachment A**) and was awarded an allocation for \$400,000 to purchase and install new park restrooms at Lemon Grove and Berry Street Parks. These funds are specifically designed for this purpose and cannot be reallocated for another use.

Environmental Review:

- Not subject to review Negative Declaration
 Categorical Exemption, Section | Mitigated Negative Declaration

Fiscal Impact: None.

Public Notification: None

Staff Recommendation: That the City Council receive this information item.

Attachments:

Attachment A – Letter Requesting Funds



CITY OF LEMON GROVE

"Best Climate On Earth"

Office of the Mayor

Sent Via Electronic Mail

April 29, 2021

Honorable Dr. Akilah Weber
Assemblymember
California State Assembly 79th District
1350 Front Street, Suite 6046
San Diego, CA 92101

Subject: City of Lemon Grove - Community Funding Request

Dear Honorable Dr. Weber,

I am excited that we may collaborate to bring a much needed resource to City of Lemon Grove! As you know, Lemon Grove has experienced a series of structural deficits and only by the grace of unexpected one-time funds and a series of hard decisions, demonstrating fiscal prudence and responsibility by the entire City Council, were we able to continue to provide basic services for nearly 27,000 residents.

However, as you know, cities should not exist just to provide a service. It should strive to provide more. This is exactly where I believe that the State's one time allocation can make a positive impact to Lemon Grove families and the entire east county region, for years to come. The solution is to purchase and install two new prefabricated park restrooms at Lemon Grove's two largest parks: Berry Street Park and Lemon Grove Park.

At a combined size of 10 acres, these parks serve as the much-needed recreational space for all Lemon Grove residents to exercise, barbeque, play, walk their pets, and enjoy the solace of green open space. On any given day, you will find each park busy with families, and what I've realized over the years is that these families are not just Lemon Grove families they are families from La Mesa, San Diego, Spring Valley and beyond.

So, while they may not be recognized as regional parks, I think it is safe to say that they are definitely used as though they are. This is where your support to fund the new restrooms will be so critical. Simply put, my City does not have the funding to construct this project even though the public has voiced their concerns about the quality of the restrooms year after year. The City is struggling to maintain the aged, deteriorated restrooms at each park and that struggle is now further exacerbated by the ADA mandated improvements that far exceed \$140,000. Because Lemon Grove is so "park poor" (*0.536 ratio of park acreage per 1,000 residents*) these two parks are even more of a necessity to encourage healthy and active lifestyles.

3232 Main Street Lemon Grove California 91945-1705
(619) 825 - 3810 Fax: (619) 825 - 3818 www.lemongrove.ca.gov

On the verge of a new post-COVID world, I can tell that my residents are eager to do more outside. The new restrooms will provide so many benefits to each park patron as well as ease the maintenance costs to the City. The need is real and I hope that you can see that too.

Just this week the City Council received staff's presentation of the City's Five Year Capital Improvement Program. During the presentation, staff outlined the current plumbing needs at both park restrooms estimated to equal \$40,000. When you add the ADA improvements of \$140,000, Lemon Grove is facing at least \$180,000 of repairs that won't even enhance the functionality of the restrooms. It will simply maintain them until they break again. With this said, I am humbly requesting up to \$400,000 to complete both restroom projects. Since my staff just received positive feedback from the full City Council this week to analyze the benefits of new restrooms versus maintaining the old restrooms they have not had the time to create a formal design/construction estimate.



I am estimating that \$400,000 will be enough to fund two quality-prefabricated gender neutral restrooms that will look similar to the picture above. If you have further questions about this project, please contact Lydia Romero, City Manager at 619-825-3801.

In closing, thank you for reaching out to me to let me know about the State's grant program and allowing me to submit this request for funds. I wholeheartedly believe that this project will enhance the quality of life for all Lemon Grove residents as well as all residents of East San Diego County. I truly value our partnership to serve our one community in unity.

Respectfully yours,

A handwritten signature in blue ink that reads "Racquel Vasquez". The signature is fluid and cursive.

Racquel Vasquez
Mayor, City of Lemon Grove



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. 5
Meeting Date: September 7, 2021
Submitted to: Honorable Mayor and Members of the City Council
Department: City Manager's Office
Staff Contact: Lydia Romero, City Manager, lromero@lemongrove.ca.gov
Item Title: **League of California Cities Annual Conference Resolutions**

Recommended Action: Adopt a resolution (**Attachment A**) directing the City's voting delegate and alternate voting delegate on how to vote on the resolutions presented at the 2021 League of California Cities Annual Business Meeting.

Background: The League of California Cities is holding its 2021 Annual Conference in Sacramento, California. At the Conference, the League of California Cities (League) holds its annual business meetings to vote on resolutions that establish League Policy. Each Member City designates a voting delegate to represent the City at the Annual Business Meeting. At the City Council meeting of August 17, 2021, Council Member Mendoza and Mayor Vasquez were appointed voting delegate and alternate voting delegate, respectively.

In order to properly represent the City's interest at the Annual Business meeting, Council Member Mendoza and Mayor Vasquez requested that the proposed League of California Cities resolutions be agenzized for City Council discussion and direction.

Discussion: Two Resolution were submitted for consideration by the voting delegates at the business meeting during the conference business meeting.

The first resolution calls for online sales tax equity. The issue is the recent change on how online retailers' sales tax is allocated. In early 2021, the largest on-line retailer shifted ownership structure creating an in-state sales nexus. The California Department of Tax and Fee Administration (CDTFA) determine that fulfillment centers satisfy the "situs" criteria for online retailers shifting the sales tax allocations to the specific city where the fulfillment center is located and shifting the sales tax allocation from the county pool. The

effect this change has on the taxing structure to Lemon Grove is significant loss in sales tax revenue. Staff recommends support of this measure.

The second resolution was submitted by the City of South Gate. The resolution seeks support from the Governor and the State Legislature to provide the necessary funding to the California Public Utilities Commission (CPUC) to increase oversight of railroad companies to inspect, clean and maintain their right of ways. It is the duty of rail agencies to set aside funds to maintain and keep their property clean and not push that responsibility on the local jurisdiction. In Lemon Grove we have seen landscape maintenance, illegal dumps, trash and homeless encampments along our railway. Staff recommends support of this resolution.

Attachment B, to this staff report is the full resolutions packet with each resolution, background that was prepared by League of California Cities staff and supporting letters from other cities.

Environmental Review:

- Not subject to review Negative Declaration
 Categorical Exemption, Section | Mitigated Negative Declaration

Fiscal Impact: Cost to attend the Conference is currently budgeted in the City Council’s travel and training line item.

Public Notification: None

Staff Recommendation: Adopt a resolution (Attachment A) directing the City’s voting delegate and alternate voting delegate on how to vote on the resolutions presented at the 2021 League of California Cities Annual Business Meeting.

Attachments:

Attachment A – Resolution

Attachment B – Resolutions Packet from the League of California Cities

RESOLUTION NO. 2021 -

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE,
CALIFORNIA DIRECTING COUNCIL MEMBER JENNIFER MENDOZA AND
MAYOR RACQUEL VASQUEZ, AS DELEGATE AND ALTERNATE
DELEGATE, THE CITY'S' POSITION ON THE ANNUAL CONFERENCE
RESOLUTIONS FOR THE 2021 LEAGUE OF CALIFORNIA CITIES ANNUAL
BUSINESS MEETING**

WHEREAS, the League of California Cities is holding its 2121 Annual Conference in Sacramento, California from September 22nd through 24th; and

WHEREAS, the League of California Cities is holding its Annual Business Meeting at the Annual Conference to establish League Policy; and

WHEREAS, in order to vote at the Annual Business Meeting, each Member City must be in good standing and must appoint a voting delegate; and

WHEREAS, Council Member Jennifer Mendoza was appointed as the voting delegate and Mayor Vasquez was appointed as the alternate voting delegate to represent the City of Lemon Grove at the League of California Cities Annual Business Meeting; and

WHEREAS, the League of California Cities Annual Conference Resolutions will be voted on at its Annual Business Meeting and direct the delegate to vote on these resolutions reflecting the wishes of the full elected body.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California hereby directs the voting delegate and alternate voting delegate to support Resolution 1, Online Sales tax Equity, at the League of California Cities Annual Business Meeting; and

FURTHER, BE IT RESOLVED, that the City Council of the City of Lemon Grove, California hereby directs the voting delegate and alternate voting delegate to support Resolution 2, Securing Railroad Property Maintenance, at the League of California Cities Annual Business Meeting.

PASSED AND ADOPTED on September 7, 2021, the City Council of the City of Lemon Grove, California, adopted Resolution No. _____, passed by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Racquel Vasquez, Mayor

Attest:

Audrey Malone, Deputy City Clerk

Approved as to Form:

Kristen Steinke, City Attorney



*Annual Conference
Resolutions Packet*

2021 Annual Conference Resolutions



September 22 - 24, 2021

GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within Cal Cities. The principal means for deciding policy on the important issues facing cities is through Cal Cities seven standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop Cal Cities policy. Resolutions should adhere to the following criteria.

Guidelines for Annual Conference Resolutions

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing Cal Cities policy.
4. The resolution should be directed at achieving one of the following objectives:
 - (a) Focus public or media attention on an issue of major importance to cities.
 - (b) Establish a new direction for Cal Cities policy by establishing general principals around which more detailed policies may be developed by policy committees and the board of directors.
 - (c) Consider important issues not adequately addressed by the policy committees and board of directors.

INFORMATION AND PROCEDURES

RESOLUTIONS CONTAINED IN THIS PACKET: The League of California Cities (Cal Cities) bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, two resolutions have been introduced for consideration at the Annual Conference and referred to Cal Cities policy committees.

POLICY COMMITTEES: Three policy committees will meet virtually one week prior to the Annual Conference to consider and take action on the resolutions. The sponsors of the resolutions have been notified of the time and location of the meetings.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet at 1:00 p.m. on Thursday, September 23, to consider the reports of the policy committees regarding the resolutions. This committee includes one representative from each of Cal Cities regional divisions, functional departments, and standing policy committees, as well as other individuals appointed by the Cal Cities president. Please check in at the registration desk for room location.

CLOSING LUNCHEON AND GENERAL ASSEMBLY: This meeting will be held at 12:30 p.m. on Friday, September 24, at the SAFE Credit Union Convention Center.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a petition resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Closing Luncheon & General Assembly. This year, that deadline is 12:30 p.m., Thursday, September 23. Resolutions can be viewed on Cal Cities Web site: www.cacities.org/resolutions.

Any questions concerning the resolutions procedures may be directed to Meg Desmond mdesmond@cacities.org.

KEY TO ACTIONS TAKEN ON RESOLUTIONS

Resolutions have been grouped by policy committees to which they have been assigned.

Number Key Word Index Reviewing Body Action

		1	2	3
--	--	---	---	---

1 - Policy Committee Recommendation to General Resolutions Committee
 2 - General Resolutions Committee
 3 - General Assembly

HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT POLICY COMMITTEE

		1	2	3
2	Securing Railroad Property Maintenance			

REVENUE & TAXATION POLICY COMMITTEE

		1	2	3
1	Online Sales Tax Equity			

TRANSPORTATION, COMMUNICATION & PUBLIC WORKS POLICY COMMITTEE

		1	2	3
2	Securing Railroad Property Maintenance			

KEY TO ACTIONS TAKEN ON RESOLUTIONS (Continued)

Resolutions have been grouped by policy committees to which they have been assigned.

KEY TO REVIEWING BODIES

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

KEY TO ACTIONS TAKEN

- | | |
|-----|---|
| A | Approve |
| D | Disapprove |
| N | No Action |
| R | Refer to appropriate policy committee for study |
| a | Amend+ |
| Aa | Approve as amended+ |
| Aaa | Approve with additional amendment(s)+ |
| Ra | Refer as amended to appropriate policy committee for study+ |
| Raa | Additional amendments and refer+ |
| Da | Amend (for clarity or brevity) and Disapprove+ |
| Na | Amend (for clarity or brevity) and take No Action+ |
| W | Withdrawn by Sponsor |

ACTION FOOTNOTES

* Subject matter covered in another resolution

** Existing League policy

*** Local authority presently exists

Procedural Note:

The League of California Cities resolution process at the Annual Conference is guided by the Cal Cities Bylaws.

1. RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES (“CAL CITIES”) CALLING ON THE STATE LEGISLATURE TO PASS LEGISLATION THAT PROVIDES FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE BRADLEY BURNS 1% LOCAL SALES TAX FROM IN-STATE ONLINE PURCHASES, BASED ON DATA WHERE PRODUCTS ARE SHIPPED TO, AND THAT RIGHTFULLY TAKES INTO CONSIDERATION THE IMPACTS THAT FULFILLMENT CENTERS HAVE ON HOST CITIES BUT ALSO PROVIDES A FAIR SHARE TO CALIFORNIA CITIES THAT DO NOT AND/OR CANNOT HAVE A FULFILLMENT CENTER WITHIN THEIR JURISDICTION

Source: City of Rancho Cucamonga

Concurrence of five or more cities/city officials:

Cities: Town of Apple Valley; City of El Cerrito; City of La Canada Flintridge; City of La Verne; City of Lakewood; City of Moorpark; City of Placentia; City of Sacramento

Referred to: Revenue and Taxation Policy Committee

WHEREAS, the 2018 U.S. Supreme Court decision in *Wayfair v. South Dakota* clarified that states could charge and collect tax on purchases even if the seller does not have a physical presence in the state; and

WHEREAS, California cities and counties collect 1% in Bradley Burns sales and use tax from the purchase of tangible personal property and rely on this revenue to provide critical public services such as police and fire protection; and

WHEREAS, in terms of “siting” the place of sale and determining which jurisdiction receives the 1% Bradley Burns local taxes for online sales, the California Department of Tax and Fee Administration (CDTFA) determines “out-of-state” online retailers as those with no presence in California that ship property from outside the state and are therefore subject to use tax, not sales tax, which is collected in a countywide pool of the jurisdiction where the property is shipped from; and

WHEREAS, for online retailers that have a presence in California and have a stock of goods in the state from which it fulfills orders, CDTFA considers the place of sale (“situs”) as the location from which the goods were shipped such as a fulfillment center; and

WHEREAS, in early 2021, one of the state’s largest online retailers shifted its ownership structure so that it is now considered both an in-state and out-of-state retailer, resulting in the sales tax this retailer generates from in-state sales now being entirely allocated to the specific city where the warehouse fulfillment center is located as opposed to going into a countywide pool that is shared with all jurisdictions in that County, as was done previously; and

WHEREAS, this all-or-nothing change for the allocation of in-state sales tax has created winners and losers amongst cities as the online sales tax revenue from the retailer that was once spread amongst all cities in countywide pools is now concentrated in select cities that host a fulfillment center; and

WHEREAS, this has created a tremendous inequity amongst cities, in particular for cities that are built out, do not have space for siting a 1 million square foot fulfillment center, are not located along a major travel corridor, or otherwise not ideally suited to host a fulfillment center; and

WHEREAS, this inequity affects cities statewide, but in particular those with specific circumstances such as no/low property tax cities that are extremely reliant on sales tax revenue as well as cities struggling to meet their RHNA obligations that are being compelled by the State to rezone precious commercial parcels to residential; and

WHEREAS, the inequity produced by allocating in-state online sales tax revenue exclusively to cities with fulfillment centers is exasperated even more by, in addition to already reducing the amount of revenue going into the countywide pools, the cities with fulfillment centers are also receiving a larger share of the dwindling countywide pool as it is allocated based on cities' proportional share of sales tax collected; and

WHEREAS, while it is important to acknowledge that those cities that have fulfillment centers experience impacts from these activities and deserve equitable supplementary compensation, it should also be recognized that the neighboring cities whose residents are ordering product from that center now receive no revenue from the center's sales activity despite also experiencing the impacts created by the center, such as increased traffic and air pollution; and

WHEREAS, the COVID-19 pandemic greatly accelerated the public's shift towards online purchases, a trend that is unlikely to be reversed to pre-pandemic levels; and

NOW, THEREFORE, BE IT RESOLVED that Cal Cities calls on the State Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

Background Information to Resolution

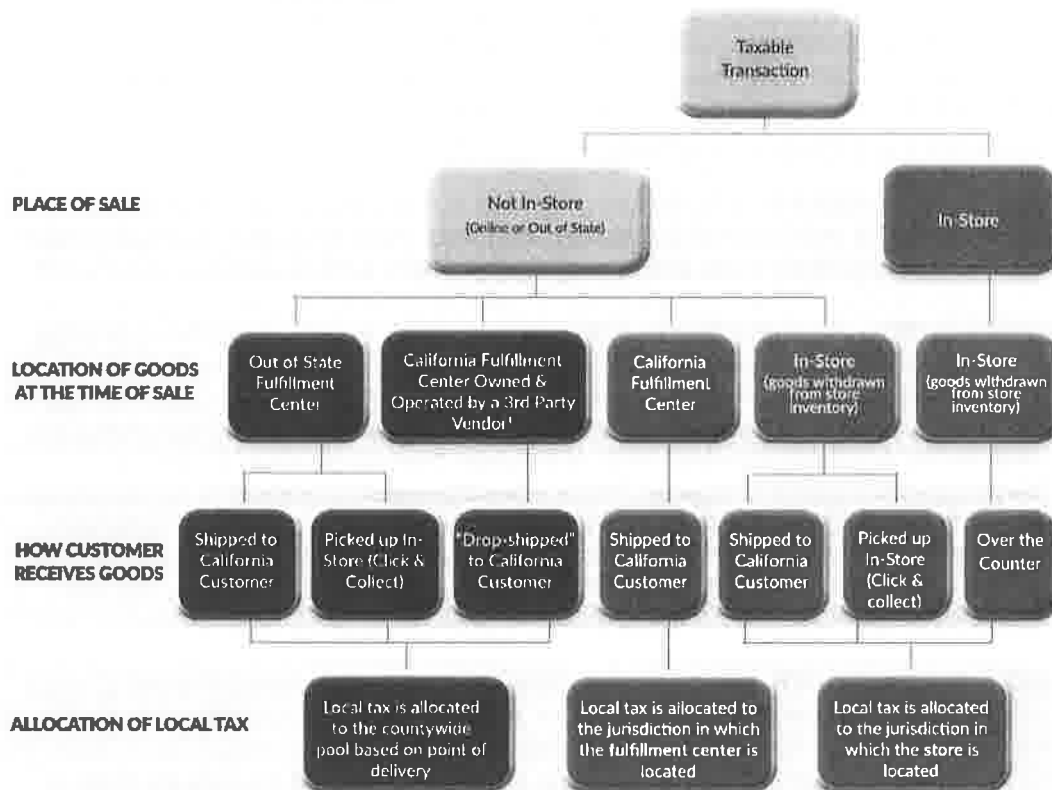
Source: City of Rancho Cucamonga

Background:

Sales tax is a major revenue source for most California cities. Commonly known as the local 1% Bradley-Burns tax, since the 1950's, cities have traditionally received 1 cent on every dollar of a sale made at the store, restaurant, car dealer, or other location within a jurisdiction's boundaries.

Over the years, however, this simple tax structure has evolved into a much more complex set of laws and allocation rules. Many of these rules relate to whether or not a given transaction is subject to sales tax, or to use tax – both have the same 1% value, but each applies in separate circumstances. The California Department of Tax and Fee Administration (CDTFA) is responsible for administering this system and issuing rules regarding how it is applied in our state.

The following chart created by HdL Companies, the leading provider of California sales tax consulting, illustrates the complex structure of how sales and use tax allocation is done in California, depending on where the transaction starts, where the goods are located, and how the customer receives the goods:



¹ In this scenario the retailer does not own a stock of goods in California and sales orders are negotiated/processed out of state. An out of state company is not required to hold a seller's permit for an in-state third party warehouse if they do not own a stock of goods at the time of sale.

With the exponential growth of online sales and the corresponding lack of growth, and even decline, of shopping at brick and mortar locations, cities are seeing much of their sales tax

growth coming from the countywide sales tax pools, since much of the sales tax is now funneled to the pools.

Recently, one of the world's largest online retailers changed the legal ownership of its fulfillment centers. Instead of having its fulfillment centers owned and operated by a third-party vendor, they are now directly owned by the company. This subtle change has major impacts to how the 1% local tax is allocated. Following the chart above, previously much of the sales tax would have followed the green boxes on the chart and been allocated to the countywide pool based on point of delivery. Now, much of the tax is following the blue path through the chart and is allocated to the jurisdiction in which the fulfillment center is located. (It should be noted that some of the tax is still flowing to the pools, in those situations where the fulfillment center is shipping goods for another seller that is out of state.)

This change has created a situation where most cities in California – more than 90%, in fact – are experiencing a sales tax revenue loss that began in the fourth quarter of calendar year 2021. Many cities may not be aware of this impact, as the fluctuations in sales tax following the pandemic shutdowns have masked the issue. But this change will have long-term impacts on revenues for all California cities as all these revenues benefiting all cities have shifted to just a handful of cities and counties that are home to this retailer's fulfillment centers.

This has brought to light again the need to address the issues in how sales and use taxes are distributed in the 21st century. Many, if not most cities will never have the opportunity have a warehouse fulfillment center due to lack of space or not being situated along a major travel corridor. These policies especially favor retailers who may leverage current policy in order to negotiate favorable sales tax sharing agreements, providing more money back to the retailer at the expense of funding critical public services.

With that stated, it is important to note the many impacts to the jurisdictions home to the fulfillment centers. These centers do support the ecommerce most of us as individuals have come to rely on, including heavy wear and tear on streets – one truck is equal to about 8,000 cars when it comes to impact on pavement – and increased air pollution due to the truck traffic and idling diesel engines dropping off large loads. However, it is equally important that State policies acknowledge that entities without fulfillment centers also experience impacts from ecommerce and increased deliveries. Cities whose residents are ordering products that are delivered to their doorstep also experience impacts from traffic, air quality and compromised safety, as well as the negative impact on brick-and-mortar businesses struggling to compete with the sharp increase in online shopping. These cities are rightfully entitled to compensation in an equitable share of sales and use tax. We do not believe that online sales tax distribution between fulfillment center cities and other cities should be an all or nothing endeavor, and not necessarily a fifty-fifty split, either. But we need to find an equitable split that balances the impacts to each jurisdiction involved in the distribution of products purchased online.

Over the years, Cal Cities has had numerous discussions about the issues surrounding sales tax in the modern era, and how state law and policy should be revisited to address these issues. It is a heavy lift, as all of our cities are impacted a bit differently, making consensus difficult. We believe that by once again starting the conversation and moving toward the development of laws and policies that can result in seeing all cities benefit from the growth taxes generated through online sales, our state will be stronger.

It is for these reasons, that we should all aspire to develop an equitable sales tax distribution for online sales.

LETTERS OF CONCURRENCE
Resolution No. 1

July 19, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The Town of Apple Valley strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at Cal Cities 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the one percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas, all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool. Now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents.

We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the Town of Apple Valley concurs that the resolution should go before the General Assembly. If you have any questions regarding the Town's position in this matter, please do not hesitate to contact the Town Manager at 760-240-7000 x 7051.

Sincerely,

A handwritten signature in cursive script, appearing to read "Curt Emick".

Curt Emick
Mayor

July 21, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Letter of Support for the City of Rancho Cucamonga's Resolution for Fair and Equitable Distribution of the Bradley Burns 1% Local Sales Tax

Dear President Walker:

The City of El Cerrito supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the Cal Cities 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Previously, all sales tax revenue generated by this retailer's sales went into a countywide pool and was distributed amongst the jurisdictions in the pool; now the revenue from in-state sales goes entirely to the city where the fulfillment center is located and the packages are shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution, and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities such as El Cerrito who have no chance of ever obtaining a fulfillment center as we are a built out, four square mile, small city. Additionally, cities not situated along major travel corridors and no/low property tax cities that rely on sales tax revenue are especially impacted, as well as cities struggling to build much needed affordable housing that may require rezoning commercial parcels in order to meet their RHNA allocations.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies serve to divide local agencies, exacerbate already difficult municipal finances, and in the end results in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better, and we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of El Cerrito concurs that the resolution should go before the General Assembly.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul Fadelli".

Paul Fadelli, Mayor
City of El Cerrito

cc: El Cerrito City Council
City of Rancho Cucamonga

City Council
Terry Walker, Mayor
Keith Eich, Mayor Pro Tem
Jonathan C. Curtis
Michael T. Davitt
Richard B. Gunter III



July 14, 2021

Ms. Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of La Cañada Flintridge strongly supports the City of Rancho Cucamonga's effort to introduce a resolution for consideration by the General Assembly at CalcITIES' 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1% Bradley Burns local tax revenue (sales tax) from in-state online retailers be allocated to the jurisdiction from which the package was shipped, as opposed to going into a countywide pool, as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as an out-of-state online retailer. Whereas all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the jurisdiction where the fulfillment center is located and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state transactions even though their packages are delivered to locations within those cities' borders and paid for by residents in those locations. Cities that abut jurisdictions with fulfillment centers experience fulfillment centers' impacts just as much, such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers, that was once spread amongst all cities in countywide pools, is now concentrated in select cities fortunate enough to host a fulfillment center. This benefits only those few hosting jurisdictions and is particularly unfair to cities who have no chance of ever hosting a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely heavily on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

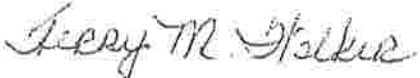
The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably eager to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances and, in the end, result in a net loss of local government sales tax proceeds that simply serve to make private

Ms. Cheryl Viegas Walker, President
July 14, 2021
Page 2

sector businesses even more profitable at the expense of cities' residents. We should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of La Cañada Flintridge concurs that the proposed resolution should go before the General Assembly.

Sincerely,



Terry Walker
Mayor



CITY OF LA VERNE CITY HALL

3660 "D" Street, La Verne, California 91750-3599
www.cityoflaverne.org

July 19, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of La Verne strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution, and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities which have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are



General Administration 909/596-8726 • Water Customer Service 909/596-8744 • Community Services 909/596-8700
Public Works 909/596-8741 • Finance 909/596-8716 • Community Development 909/596-8706 • Building 909/596-8713
Police Department 909/596-1913 • Fire Department 909/596-5991 • General Fax 909/596-8737

July 19, 2021
Re: Online Sales Tax Equity Support
Page 2

especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exacerbate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end, result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of La Verne concurs that the resolution should go before the General Assembly.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Russi", with a stylized flourish at the end.

Bob Russi
City Manager
City of La Verne

Steve (Prof)
Via Signer

Arlo W
Council Member



Jeff Wood
Mayor

Nick L. Stuckey
Council Member

Paul Rogers
Council Member

July 15, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Lakewood strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

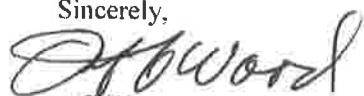
Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas, all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities that have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Lakewood concurs that the resolution should go before the General Assembly.

Sincerely,


Jeff Wood
Mayor

Lakewood



CITY OF MOORPARK

799 Moorpark Avenue, Moorpark, California 93021

Main City Phone Number (805) 517-6200 | Fax (805) 532-2205 | moorpark@moorparkca.gov

July 14, 2021

TRANSMITTED ELECTRONICALLY

Cheryl Viegas-Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Moorpark strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies of the California Department of Tax and Fees (CDTFA) require that the one percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates both as an in-state online retailer and as an out-of-state online retailer. Whereas all sales tax revenues generated by this retailer's sales previously went into countywide pools and were distributed amongst the jurisdictions in the pool, sales tax revenues from in-state sales now go entirely to the city where the fulfillment center is located and the package is shipped from. Cities that do not have a fulfillment center now receive no sales tax revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution, and deteriorating road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenues from large online retailers that were once spread amongst all cities in countywide pools are now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted, as well as

cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone limited commercial properties for residential land uses.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and ultimately result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses more profitable at the expense of everyone's residents. We can do better than this, and we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Moorpark concurs that the resolution should go before the General Assembly at the 2021 Annual Conference in Sacramento.

Sincerely,

A handwritten signature in cursive script that reads "Janice S. Parvin".

Janice S. Parvin
Mayor

cc: City Council
City Manager

The People are the City

Mayor

CRAIG S. GREEN

Mayor Pro Tem

CHAD P. WANKE

Councilmembers:

RHONDA SHADER

WARD L. SMITH

JEREMY B. YAMAGUCHI



City Clerk:

ROBERT S. MCKINNEL

City Treasurer

KEVIN A. LARSON

City Administrator

DAMIEN R. ARRULA

401 East Chapman Avenue – Placentia, California 92870

July 14, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Placentia strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent (1%) Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas, all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

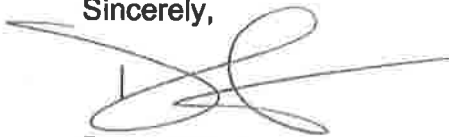
The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The

Letter of Support: City of Rancho Cucamonga
July 14, 2021
Page 2 of 2

current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Placentia concurs that the resolution should go before the General Assembly. Should you have any questions regarding this letter, please contact me at (714) 993-8117 or via email at administration@placentia.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Arrula', with a long horizontal flourish extending to the right.

Damien R. Arrula
City Administrator

SACRAMENTO
Office of the City Manager

Leyne Milstein
Assistant City Manager

City Hall
915 I Street, Fifth Floor
Sacramento, CA 95814-2604
916-808-5704

July 19, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Sacramento strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the one percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment

SACRAMENTO
Office of the City Manager

Leyne Milstein
Assistant City Manager

City Hall
915 I Street, Fifth Floor
Sacramento, CA 95814-2604
916-808-5704

center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their Regional Housing Needs Allocation (RHNA) that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end, result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Sacramento concurs that the resolution should go before the General Assembly.

Sincerely,


Leyne Milstein (JUL 19, 2021, 14:45 (PDT))

Leyne Milstein
Assistant City Manager

League of California Cities Staff Analysis on Resolution No. 1

Staff: Nicholas Romo, Legislative Affairs, Lobbyist

Committee: Revenue and Taxation

Summary:

This Resolution calls on the League of California Cities (Cal Cities) to request the Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

Background:

The City of Rancho Cucamonga is sponsoring this resolution to *“address the issues in how sales and use taxes are distributed in the 21st century.”*

The City notes that *“sales tax is a major revenue source for most California cities. Commonly known as the local 1% Bradley-Burns tax, since the 1950’s, cities have traditionally received 1 cent on every dollar of a sale made at the store, restaurant, car dealer, or other location within a jurisdiction’s boundaries. Over the years, however, this simple tax structure has evolved into a much more complex set of laws and allocation rules. Many of these rules relate to whether or not a given transaction is subject to sales tax, or to use tax – both have the same 1% value, but each applies in separate circumstances.*

Recently, one of the world’s largest online retailers changed the legal ownership of its fulfillment centers. Instead of having its fulfillment centers owned and operated by a third-party vendor, they are now directly owned by the company. This subtle change has major impacts to how the 1% local tax is allocated.

This change has created a situation where most cities in California – more than 90%, in fact – are experiencing a sales tax revenue loss that began in the fourth quarter of calendar year 2021. Many cities may not be aware of this impact, as the fluctuations in sales tax following the pandemic shutdowns have masked the issue. But this change will have long-term impacts on revenues for all California cities as all these revenues benefiting all cities have shifted to just a handful of cities and counties that are home to this retailer’s fulfillment centers.”

The City’s resolution calls for action on an unspecified solution that *“rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction,”* which aims to acknowledge the actions taken by cities to alleviate poverty, catalyze economic development, and improve financial stability within their communities through existing tax sharing and zoning powers.

Ultimately, sponsoring cities believe *“that by once again starting the conversation and moving toward the development of laws and policies that can result in seeing all cities benefit from the growth taxes generated through online sales, our state will be stronger.”*

Sales and Use Tax in California

The Bradley-Burns Uniform Sales Tax Act allows all local agencies to apply its own sales and use tax on the same base of tangible personal property (taxable goods). This tax rate currently is fixed at 1.25% of the sales price of taxable goods sold at retail locations in a local jurisdiction, or purchased outside the jurisdiction for use within the jurisdiction. Cities and counties use this 1% of the tax to support general operations, while the remaining 0.25% is used for county transportation purposes.

In California, all cities and counties impose Bradley-Burns sales taxes. California imposes the sales tax on every retailer engaged in business in this state that sells taxable goods. The law requires businesses to collect the appropriate tax from the purchaser and remit the amount to the California Department of Tax and Fee Administration (CDTFA). Sales tax applies whenever a retail sale is made, which is basically any sale other than one for resale in the regular course of business. Unless the person pays the sales tax to the retailer, they are liable for the use tax, which is imposed on any person consuming taxable goods in the state. The use tax rate is the same rate as the sales tax rate.

Generally, CDTFA distributes Bradley-Burns tax revenue based on where a sale took place, known as a *situs-based system*. A retailer’s physical place of business—such as a retail store or restaurant—is generally the place of sale. “Sourcing” is the term used by tax practitioners to describe the rules used to determine the place of sale, and therefore, which tax rates are applied to a given purchase and which jurisdictions are entitled to the local and district taxes generated from a particular transaction.

California is primarily an origin-based sourcing state – meaning tax revenues go to the jurisdiction in which a transaction physically occurs if that can be determined. However, California also uses a form of destination sourcing for the local use tax and for district taxes (also known as “transactions and use taxes” or “add-on sale and use taxes”). That is, for cities with local add-on taxes, they receive their add-on rate amount from remote and online transactions.

Generally, allocations are based on the following rules:

- The sale is sourced to the place of business of the seller - whether the product is received by the purchaser at the seller’s business location or not.
- If the retailer maintains inventory in California and has no other in state location, the source is the jurisdiction where the warehouse is situated. *This resolution is concerned with the growing amount of online retail activity being sourced to cities with warehouse/fulfillment center locations.*
- If the business’ sales office is located in California but the merchandise is shipped from out of state, the tax from transactions under \$500,000 is allocated

via the county pools. The tax from transactions over \$500,000 is allocated to the jurisdiction where the merchandise is delivered.

- When a sale cannot be identified with a permanent place of business in the state, the sale is sourced to the allocation pool of the county where the merchandise was delivered and then distributed among all jurisdictions in that county in proportion to ratio of sales. *For many large online retailers, this has been the traditional path.*

Online Sales and Countywide Pools

While the growth of e-commerce has been occurring for more than two decades, led by some of the largest and most popular retailers in the world, the dramatic increase in online shopping during the COVID-19 pandemic has provided significant revenue to California cities as well as a clearer picture on which governments enjoy even greater benefits.

In the backdrop of booming internet sales has been the steady decline of brick-and-mortar retail and shopping malls. For cities with heavy reliance on in-person retail shopping, the value of the current allocation system has been diminished as their residents prefer to shop online or are incentivized to do so by retailers (during the COVID-19 pandemic, consumers have had no other option but to shop online for certain goods). All the while, the demands and costs of city services continue to grow for cities across the state.

As noted above, the allocation of sales tax revenue to local governments depends on the location of the transaction (or where the location is ultimately determined). For in-person retail, the sales tax goes to the city in which the product and store are located - a customer purchasing at a register. For online sales, the Bradley Burns sales tax generally goes to a location other than the one where the customer lives – either to the city or county where an in-state warehouse or fulfillment center is located, the location of in-state sales office (ex. headquarters) or shared as use tax proceeds amongst all local governments within a county based on their proportionate share of taxable sales.

Under current CDTFA regulations, a substantial portion of local use tax collections are allocated through a countywide pool to the local jurisdictions in the county where the property is put to its first functional use. The state and county pools constitute over 15% of local sales and use tax revenues. Under the pool system, the tax is reported by the taxpayer to the countywide pool of use and then distributed to each jurisdiction in that county on a pro-rata share of taxable sales. If the county of use cannot be identified, the revenues are distributed to the state pool for pro-rata distribution on a statewide basis.

Concentration of Online Sales Tax Revenue and Modernization

Sales tax modernization has been a policy goal of federal, state, and local government leaders for decades to meet the rapidly changing landscape of commercial activity and ensure that all communities can sustainably provide critical services.

For as long as remote and internet shopping has existed, policy makers have been concerned about their potential to disrupt sales and use tax allocation procedures that underpin the funding of local government services. The system was designed in the early twentieth century to ensure that customers were paying sales taxes to support local government services within the community where the transactions occurred whether they resided there or not. This structure provides benefit to and recoupment for the public resources necessary to ensure the health and safety of the community broadly.

City leaders have for as long been concerned about the loosening of the nexus between what their residents purchase and the revenues they receive. Growing online shopping, under existing sourcing rules, has led to a growing concentration of sales tax revenue being distributed to a smaller number of cities and counties. As more medium and large online retailers take title to fulfillment centers or determine specific sales locations in California as a result of tax sharing agreements in specific cities, online sales tax revenue will be ever more concentrated in a few cities at the control of these companies. Furthermore, local governments are already experiencing the declining power of the sales tax to support services as more money is being spent on non-taxable goods and services.

For more on sales and use tax sourcing please see Attachment A.

State Auditor Recommendations

In 2017, the California State Auditor issued a report titled, "The Bradley-Burns Tax and Local Transportation Funds, noting that:

"Retailers generally allocate Bradley Burns tax revenue based on the place of sale, which they identify according to their business structure. However, retailers that make sales over the Internet may allocate sales to various locations, including their warehouses, distribution center, or sales offices. This approach tends to concentrate Bradley Burns tax revenue into the warehouses' or sales offices' respective jurisdictions. Consequently, counties with a relatively large amount of industrial space may receive disproportionately larger amounts of Bradley Burns tax, and therefore Local Transportation Fund, revenue.

The State could make its distribution of Bradley Burns tax revenue derived from online sales more equitable if it based allocations of the tax on the destinations to which goods are shipped rather than on place of sale."

The Auditor's report makes the following recommendation:

"To ensure that Bradley-Burns tax revenue is more evenly distributed, the Legislature should amend the Bradley-Burns tax law to allocate revenues from Internet sales based on the destination of sold goods rather than their place of sale."

In acknowledgement of the growing attention from outside groups on this issue, Cal Cities has been engaged in its own study and convening of city officials to ensure pursued solutions account for the circumstances of all cities and local control is best protected. These efforts are explored in subsequent sections.

Cal Cities Revenue and Taxation Committee and City Manager Working Group

In 2015 and 2016, Cal Cities' Revenue and Taxation Policy Committee held extensive discussions on potential modernization of tax policy affecting cities, with a special emphasis on the sales tax. The issues had been identified by Cal Cities leadership as a strategic priority given concerns in the membership about the eroding sales tax base and the desire for Cal Cities to take a leadership role in addressing the associated issues. The policy committee ultimately adopted a series of policies that were approved by the Cal Cities board of directors. Among its changes were a recommended change to existing sales tax sourcing (determining where a sale occurs) rules, so that the point of sale (situs) is where the customer receives the product. The policy also clarifies that specific proposals in this area should be carefully reviewed so that the impacts of any changes are fully understood. See "Existing Cal Cities Policy" section below.

Cal Cities City Manager Sales Tax Working Group Recommendations

In the Fall of 2017, the Cal Cities City Managers Department convened a working group (Group) of city managers representing a diverse array of cities to review and consider options for addressing issues affecting the local sales tax.

The working group of city managers helped Cal Cities identify internal common ground on rapidly evolving e-commerce trends and their effects on the allocation of local sales and use tax revenue. After meeting extensively throughout 2018, the Group made several recommendations that were endorsed unanimously by Cal Cities' Revenue and Taxation Committee at its January, 2019 meeting and by the board of directors at its subsequent meeting.

The Group recommended the following actions in response to the evolving issues associated with e-commerce and sales and use tax:

Further Limiting Rebate Agreements: The consensus of the Group was that:

- Sales tax rebate agreements involving online retailers should be prohibited *going forward*. They are inappropriate because they have the effect of encouraging revenue to be shifted away from numerous communities and concentrated to the benefit of one.
- Any type of agreement that seeks to lure a retailer from one community to another within a market area should also be prohibited *going forward*. Existing law already prohibits such agreements for auto dealers and big box stores.

Shift Use Tax from Online Sales, including from the South Dakota v. Wayfair Decision Out of County Pools: The Group's recommendation is based first on the principle of "situs" and that revenue should be allocated to the jurisdiction where the use occurs. Each city and county in California imposed a Bradley Burns sales and use tax rate

under state law in the 1950s. The use tax on a transaction is the rate imposed where the purchaser resides (the destination). These use tax dollars, including new revenue from the South Dakota v. Wayfair decision, should be allocated to the destination jurisdiction whose Bradley Burns tax applies and not throughout the entire county.

- Shift of these revenues, from purchases from out of state retailers including transactions captured by the South Dakota v. Wayfair decision, out of county pools to full destination allocation on and after January 1, 2020.
- Allow more direct reporting of use taxes related to construction projects to jurisdiction where the construction activity is located by reducing existing regulatory threshold from \$5 million to \$100,000.

Request/Require CDTFA Analysis on Impacts of Sales Tax Destination Shifts: After discussion of numerous phase-in options for destination sourcing and allocation for sales taxes, the Group ultimately decided that a more complete analysis was needed to sufficiently determine impacts. Since the two companies most cities rely on for sales tax analysis, HdL and MuniServices, were constrained to modeling with transaction and use tax (district tax) data, concerns centered on the problem of making decisions without adequate information. Since the CDTFA administers the allocation of local sales and use taxes, it is in the best position to produce an analysis that examines:

- The impacts on individual agencies of a change in sourcing rules. This would likely be accomplished by developing a model to examine 100% destination sourcing with a report to the Legislature in early 2020.
- The model should also attempt to distinguish between business-to-consumer transactions versus business-to-business transactions.
- The model should analyze the current number and financial effects of city and county sales tax rebate agreements with online retailers and how destination sourcing might affect revenues under these agreements.

Conditions for considering a Constitutional Amendment that moves toward destination allocation: Absent better data on the impacts on individual agencies associated with a shift to destination allocation of sales taxes from CDTFA, the Group declined to prescribe if/how a transition to destination would be accomplished; the sentiment was that the issue was better revisited once better data was available. In anticipation that the data would reveal significant negative impacts on some agencies, the Group desired that any such shift should be accompanied by legislation broadening of the base of sales taxes, including as supported by existing Cal Cities policy including:

- Broadening the tax base on goods, which includes reviewing existing exemptions on certain goods and expanding to digital forms of goods that are otherwise taxed; and
- Expanding the sales tax base to services, such as those commonly taxed in other states.

This Resolution builds upon previous work that accounts for the impacts that distribution networks have on host cities and further calls on the organization to advocate for changes to sales tax distribution rules.

The Resolution places further demands on data collected by CDTFA to establish a “fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases.” Such data is proposed to be collected by [SB 792 \(Glazer, 2021\)](#). More discussion on this topic can be found in the “Staff Comments” section.

Staff Comments:

Proposed Resolution Affixes Equity Based, Data Driven Approach to Existing Cal Cities Policy on Sales Tax Sourcing

The actions resulting from this resolution, if approved, would align with existing policy and efforts to-date to modernize sales tax rules. While not formalized in existing Cal Cities policy or recommendations, city managers and tax practitioners generally have favored proposals that establish a sharing of online sales tax revenues rather than a full destination shift. City leaders and practitioners across the state have acknowledged during Cal Cities Revenue and Taxation and City Manager’s working group meetings that the hosting of fulfillment centers and ancillary infrastructure pose major burdens on local communities including detrimental health and safety impacts. This acknowledgement has moved mainstream proposals such as this one away from full revenue shifts towards an equity-based, data driven approach that favors revenue sharing. This Resolution would concretely affix this approach as Cal Cities policy.

More Data is Needed to Achieve Equity Based Approach

A major challenge is the lack of adequate data to model the results of shifting in-state online sale tax revenues. Local government tax consultants and state departments have limited data to model the effects of changes to sales tax distribution because their information is derived only from cities that have a local transactions and use tax (TUT). Tax experts are able to model proposed tax shifts using TUTs since they are allocated on a destination basis (where a purchaser receives the product; usually a home or business). However, more than half of all cities, including some larger cities, do not have a local TUT therefore modeling is constrained and incomplete.

Efforts to collect relevant sales tax information on the destination of products purchased online are ongoing. The most recent effort is encapsulated in [SB 792 \(Glazer, 2021\)](#), which would require retailers with online sales exceeding \$50 million a year to report to CDTFA the gross receipts from online sales that resulted in a product being shipped or delivered in each city. The availability of this data would allow for a much more complete understanding of online consumer behavior and the impacts of future proposed changes to distribution. SB 792 (Glazer) is supported by Cal Cities following approval by the Revenue and Taxation Committee and board of directors.

Impact of Goods Movement Must Be Considered

As noted above, city leaders and practitioners across the state acknowledge that the hosting of fulfillment centers and goods movement infrastructure pose major burdens on local communities including detrimental health, safety, and infrastructure impacts. Not least of which is the issue of air pollution from diesel exhaust. According to California Environmental Protection Agency (Cal EPA):

“Children and those with existing respiratory disease, particularly asthma, appear to be especially susceptible to the harmful effects of exposure to airborne PM from diesel exhaust, resulting in increased asthma symptoms and attacks along with decreases in lung function (McCreanor et al., 2007; Wargo, 2002). People that live or work near heavily-traveled roadways, ports, railyards, bus yards, or trucking distribution centers may experience a high level of exposure (US EPA, 2002; Krivoshto et al., 2008). People that spend a significant amount of time near heavily-traveled roadways may also experience a high level of exposure. Studies of both men and women demonstrate cardiovascular effects of diesel PM exposure, including coronary vasoconstriction and premature death from cardiovascular disease (Krivoshto et al., 2008). A recent study of diesel exhaust inhalation by healthy non-smoking adults found an increase in blood pressure and other potential triggers of heart attack and stroke (Krishnan et al., 2013) Exposure to diesel PM, especially following periods of severe air pollution, can lead to increased hospital visits and admissions due to worsening asthma and emphysema-related symptoms (Krivoshto et al., 2008). Diesel exposure may also lead to reduced lung function in children living in close proximity to roadways (Brunekreef et al., 1997).”

The founded health impacts of the ubiquitous presence of medium and heavy-duty diesel trucks used to transport goods to and from fulfillment centers and warehouses require host cities to meet increased needs of their residents including the building and maintenance of buffer zones, parks, and open space. While pollution impacts may decline with the introduction of zero-emission vehicles, wide scale adoption by large distribution fleets is still in its infancy. Furthermore, the impacts of heavy road use necessitate increased spending on local streets and roads upgrades and maintenance. In addition, many cities have utilized the siting of warehouses, fulfillment centers, and other heavy industrial uses for goods movements as key components of local revenue generation and economic development strategies. These communities have also foregone other land uses in favor of siting sales offices and fulfillment networks.

All said, however, it is important to acknowledge that disadvantaged communities (DACs) whether measured along poverty, health, environmental or education indices exist in cities across the state. For one example, see: [California Office of Environmental Health Hazard Assessment \(OEHHA\) CalEnviroScreen](#). City officials may consider how cities without fulfillment and warehouse center revenues are to fund efforts to combat social and economic issues, particularly in areas with low property tax and tourism-based revenues.

The Resolution aims to acknowledge these impacts broadly (this analysis does not provide an exhaustive review of related impacts) and requests Cal Cities to account for them in a revised distribution formula of the Bradley Burns 1% local sales tax from in-state online purchases. The Resolution does not prescribe the proportions.

Clarifying Amendments

Upon review of the Resolution, Cal Cities staff recommends technical amendments to provide greater clarity. *To review the proposed changes, please see Attachment B.*

Fiscal Impact:

Significant but unknown. The Resolution on its own does not shift sales tax revenues. In anticipation and mitigation of impacts, the Resolution requests Cal Cities to utilize online sales tax data to identify a fair and equitable distribution formula that accounts for the broad impacts fulfillment centers involved in online retail have on the cities that host them. The Resolution does not prescribe the revenue distribution split nor does it prescribe the impacts, positive and negative, of distribution networks.

Existing Cal Cities Policy:

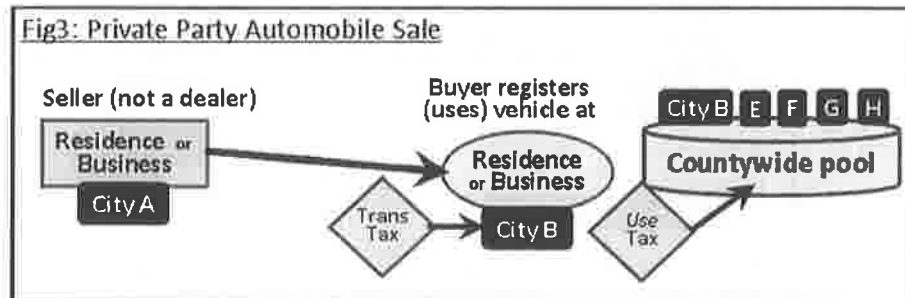
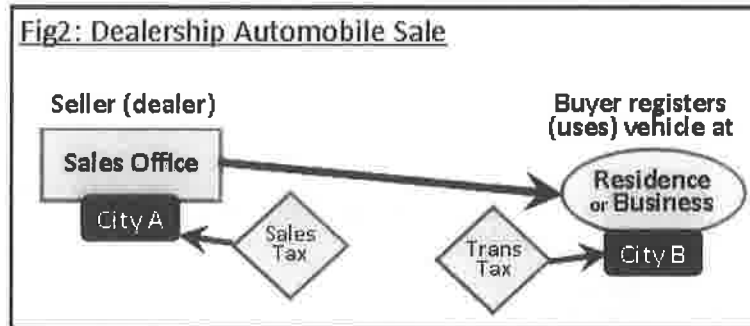
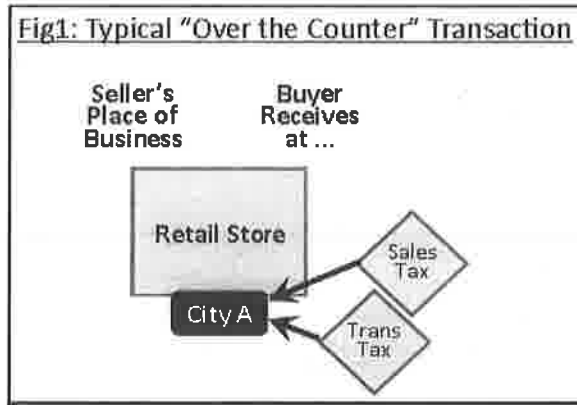
- Tax proceeds collected from internet sales should be allocated to the location where the product is received by the purchaser.
- Support as Cal Cities policy that point of sale (situs) is where the customer receives the product. Specific proposals in this area should be carefully reviewed so that the impacts of any changes are fully understood.
- Revenue from new regional or state taxes or from increased sales tax rates should be distributed in a way that reduces competition for situs-based revenue. (Revenue from the existing sales tax rate and base, including future growth from increased sales or the opening of new retail centers, should continue to be returned to the point of sale.)
- The existing situs-based sales tax under the Bradley Burns 1% baseline should be preserved and protected.
- Restrictions should be implemented and enforced to prohibit the enactment of agreements designed to circumvent the principle of situs-based sales and redirect or divert sales tax revenues from other communities, when the physical location of the affected businesses does not change. Sales tax rebate agreements involving online retailers are inappropriate because they have the effect of encouraging revenue to be shifted away from numerous communities and concentrated to the benefit of one. Any type of agreement that seeks to lure a retailer from one community to another within a market area should also be prohibited going forward.
- Support Cal Cities working with the state California Department of Tax and Fee Administration (CDTFA) to update the county pool allocation process to ensure that more revenues are allocated to the jurisdiction where the purchase or first use of a product occurs (usually where the product is delivered). Use Tax collections from online sales, including from the South Dakota v Wayfair Decision, should be shifted out of county pools and allocated to the destination jurisdiction whose Bradley Burns tax applies and not throughout the entire county.

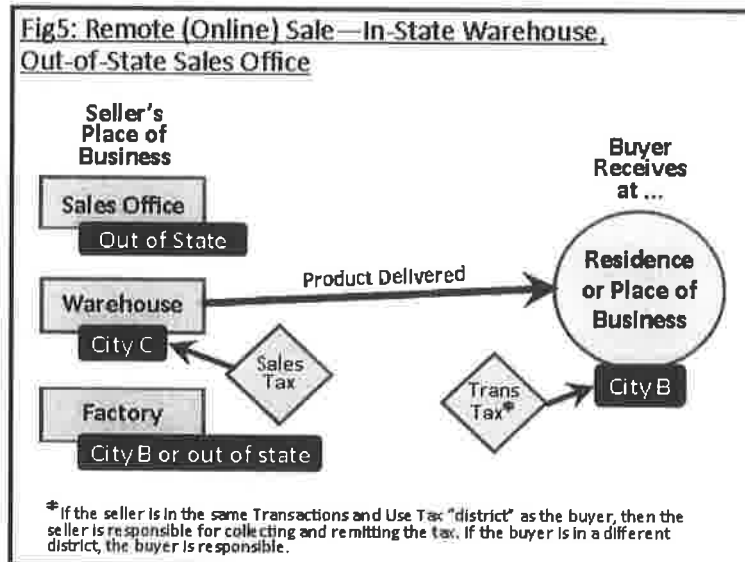
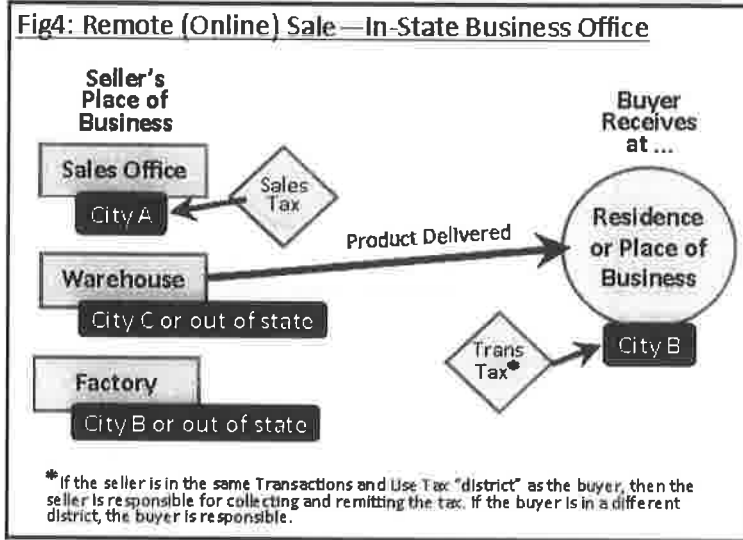
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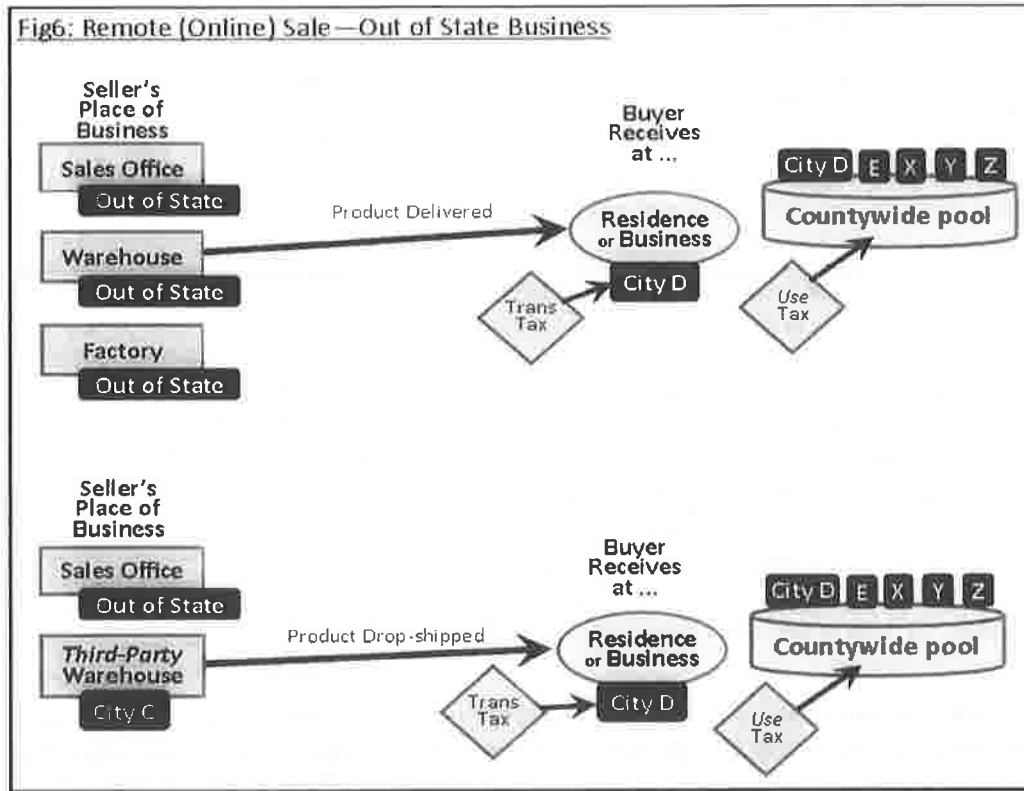
The following letters of concurrence were received:

Town of Apple Valley
City of El Cerrito
City of La Canada Flintridge
City of La Verne
City of Lakewood

City of Moorpark
City of Placentia
City of Sacramento







GUIDELINES FOR ALLOCATION OF LOCAL TAX - ONLINE AND IN-STORE			
Place of Sale	Location of Goods at the Time of Sale	How Customer Receives Goods	Allocation of Tax
Online - Order is placed or downloaded outside California	California Fulfillment Center	Shipped to California Customer	Local tax is allocated to the jurisdiction in which the fulfillment center is located
Online - Order is placed or downloaded in California	California Fulfillment Center	Shipped to California Customer	Per CDTFA Regulation 1802, local tax is allocated to the jurisdiction where the order is placed
Online	Out of State Fulfillment Center	Shipped to California Customer	Local tax is allocated to the countywide pool based on point of delivery
Online	Out of State Fulfillment Center	Picked Up In-Store (Click & Collect)	Local tax is allocated to the countywide pool based on point of delivery
Online	California Fulfillment Center Owned and Operated by Third Party Vendor	Drop-Shipped to California Customer	Local tax is allocated to the countywide pool based on point of delivery
Online	In-Store (Goods withdrawn from store inventory)	Shipped to California Customer	Local Tax is allocated to the jurisdiction where the store is located
Online	In-Store (Goods withdrawn from store inventory)	Picked Up In-Store (Click & Collect)	Local Tax is allocated to the jurisdiction where the store is located
In-Store	In-Store (Goods withdrawn from store inventory)	Over the Counter	Local Tax is allocated to the jurisdiction where the store is located

Courtesy of HdL Companies

Tax Incentive Programs, Sales Tax Sharing Agreements

In recent years, especially since Proposition 13 in 1978, local discretionary (general purpose revenues) have become more scarce. At the same time, options and procedures for increasing revenues have become more limited. One outcome of this in many areas has been a greater competition for sales and use tax revenues. This has brought a rise in arrangements to encourage certain land use development with rebates and incentives which exploit California's odd origin sales tax sourcing rules.

The typical arrangement is a sales tax sharing agreement in which a city provides tax rebates to a company that agrees to expand their operations in the jurisdiction of the city. Under such an arrangement, the company generally agrees to make a specified amount of capital investment and create a specific number of jobs over a period of years in exchange for specified tax breaks, often property tax abatement or some sort of tax credit. In some cases, this has simply taken the form of a sales office, while customers and warehouses and the related economic activity are disbursed elsewhere in the state. In some cases the development takes the form of warehouses, in which the sales inventory, owned by the company, is housed.⁶

Current sales tax incentive agreements in California rebate amounts ranging from 50% to 85% of sales tax revenues back to the corporations.

Today, experts familiar with the industry believe that between 20% to 30% of local Bradley-Burns sales taxes paid by California consumers is diverted from local general funds back to corporations; over \$1 billion per year.

The Source of Origin Based Sourcing Problems

Where other than over-the-counter sales are concerned origin sourcing often causes a concentration of large amounts of tax revenue in one location, despite the fact that the economic activity and service impacts are also occurring in other locations.

The large amounts of revenue concentrated in a few locations by California's "warehouse rule" origin sourcing causes a concentration of revenue far in excess of the service costs associated with the development.

In order to lure jobs and tax revenues to their communities, some cities have entered into rebate agreements with corporations. This has grown to such a problem, that 20% to 30% of total local taxes paid statewide are being rebated back to corporations rather than funding public services.

Moving to Destination Sourcing: The Concept⁷

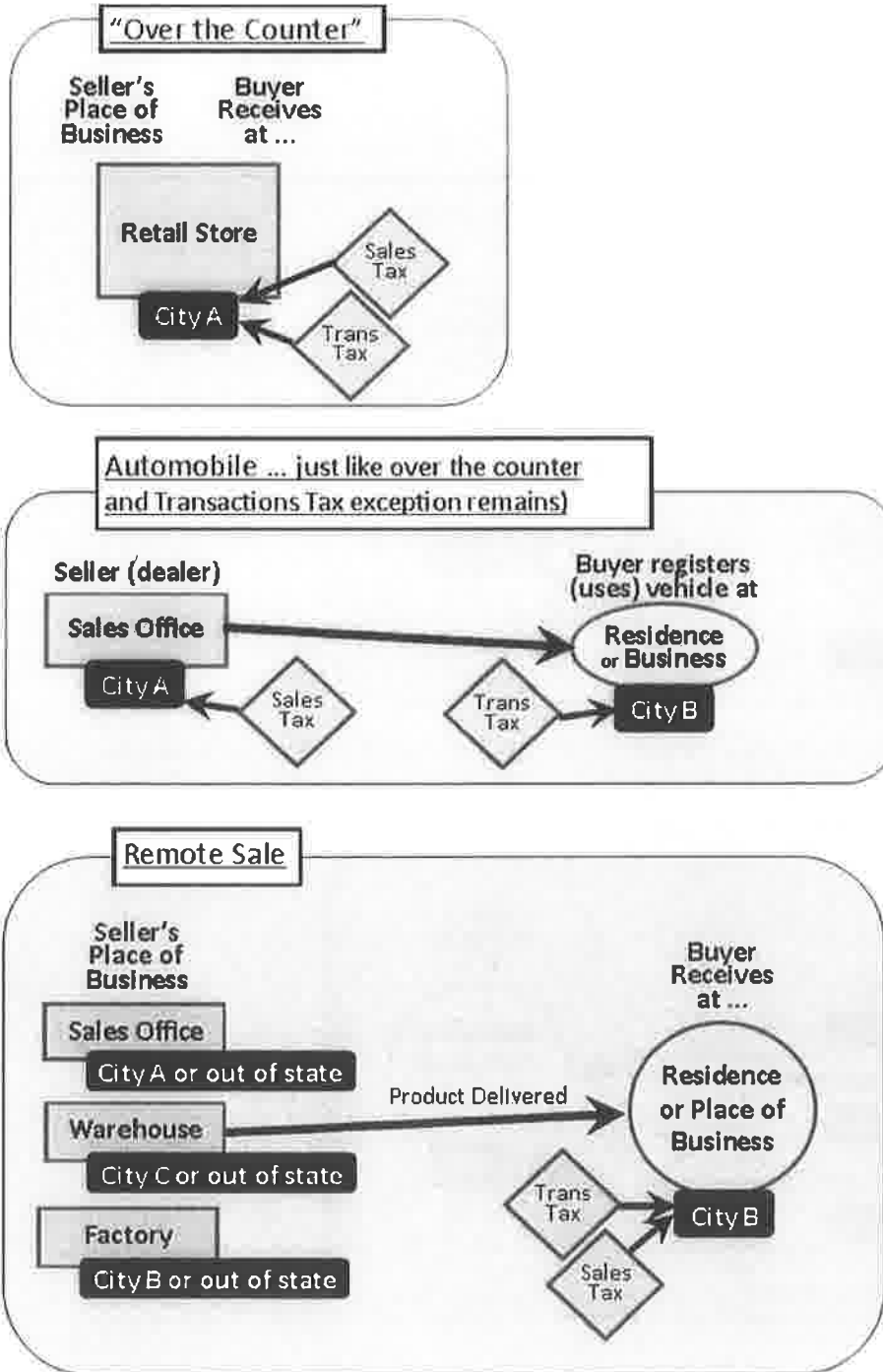
A change from origin sourcing rules to destination sourcing rules for the local tax component of California's sales tax would improve overall revenue collections and distribute these revenues more equitably among all of the areas involved in these transactions.

A change from origin based sourcing to destination based sourcing would have no effect on state tax collections. However, it would alter the allocations of local sales and use tax revenues among local agencies. Most retail transactions including dining, motor fuel purchases, and in-store purchases would not be affected. But in cases where the property is received by the purchaser in a different jurisdiction than where the sales agreement was negotiated, there would be a different allocation than under the current rules.

⁶ See Jennifer Carr, "Origin Sourcing and Tax Incentive Programs: An Unholy Alliance" Sales Tax Notes; May 27, 2013.

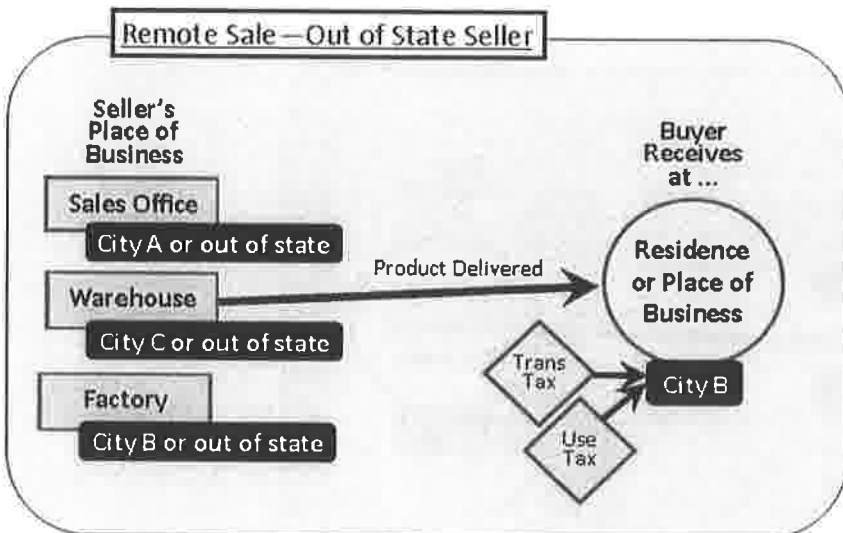
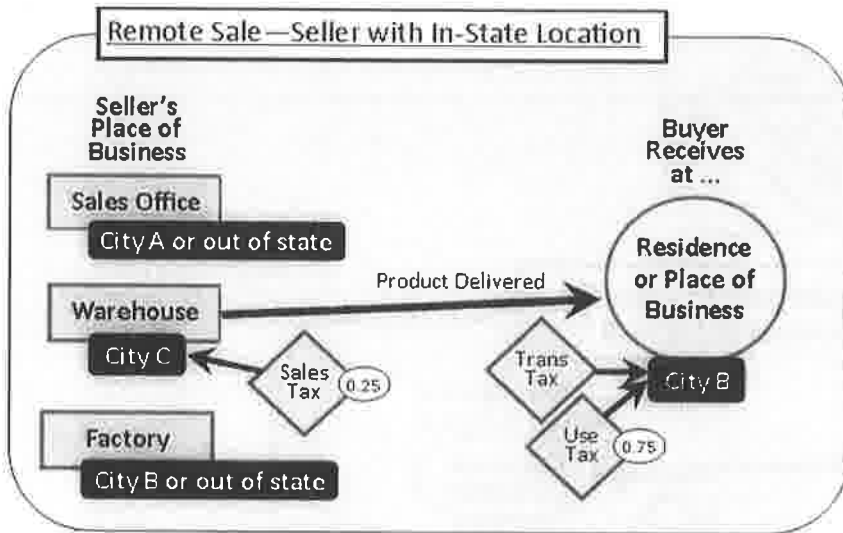
⁷ The same issues that are of concern regarding the local sales tax do not apply to California's Transactions and Use Taxes ("Add-on sales taxes") as these transactions, when not over the counter, are generally allocated to the location of use or, as in the case of vehicles, product registration. There is no need to alter the sourcing rules for transactions and use taxes.

Destination Sourcing Scenario 1: Full-On



Destination Sourcing Scenario 2: Split Source

- Same as now for “over the counter” and automobile.
- Leave 0.25% on current seller if instate (origin)
- Could be phased in.



mjgc

RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES ("CAL CITIES")
CALLING ON THE STATE LEGISLATURE TO PASS LEGISLATION THAT PROVIDES
FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE BRADLEY BURNS 1% LOCAL
SALES TAX FROM IN-STATE ONLINE PURCHASES, BASED ON DATA WHERE
PRODUCTS ARE SHIPPED TO, AND THAT RIGHTFULLY TAKES INTO
CONSIDERATION THE IMPACTS THAT FULFILLMENT CENTERS HAVE ON HOST
CITIES BUT ALSO PROVIDES A FAIR SHARE TO CALIFORNIA CITIES THAT DO NOT
AND/OR CANNOT HAVE A FULFILLMENT CENTER WITHIN THEIR JURISDICTION

WHEREAS, the 2018 U.S. Supreme Court decision in *Wayfair v. South Dakota* clarified that states could charge and collect tax on purchases even if the seller does not have a physical presence in the state; and

WHEREAS, California cities and counties collect 1% in Bradley Burns sales and use tax from the purchase of tangible personal property and rely on this revenue to provide critical public services such as police and fire protection; and

WHEREAS, in terms of "siting" the place of sale and determining which jurisdiction receives the 1% Bradley Burns local taxes for online sales, the California Department of Tax and Fee Administration (CDTFA) determines "out-of-state" online retailers as those with no presence in California that ship property from outside the state and are therefore subject to use tax, not sales tax, which is collected in a countywide pool of the jurisdiction where the property is shipped from; and

WHEREAS, for online retailers that have a presence in California and have a stock of goods in the state from which it fulfills orders, CDTFA considers the place of sale ("situs") as the location from which the goods were shipped such as a fulfillment center; and

WHEREAS, in early 2021, one of the state's largest online retailers shifted its ownership structure so that it is now considered both an in-state and out-of-state retailer, resulting in the sales tax this retailer generates from in-state sales now being ~~entirely~~ allocated to ~~the specific city~~ cities where the warehouse fulfillment centers ~~is~~ are located as opposed to going into ~~a~~ countywide pools that ~~is~~ are shared with all jurisdictions in ~~those counties~~ that County, as was done previously; and

WHEREAS, this all-or-nothing ~~change for the~~ allocation of in-state sales tax has created winners and losers amongst cities as the online sales tax revenue ~~from the retailer~~ that was once spread amongst all cities in countywide pools is now concentrated in select cities that host ~~a~~ fulfillment centers; and

WHEREAS, this has created a tremendous inequity amongst cities, in particular for cities that are built out, do not have space for siting ~~a 1 million square foot~~ fulfillment centers, are not located along a major travel corridor, or otherwise not ideally suited to host a fulfillment center; and

WHEREAS, this inequity affects cities statewide, but in particular those with specific circumstances such as no/low property tax cities that are extremely reliant on sales tax revenue as well as cities struggling to meet their Regional Housing Needs Allocation (RHNA) obligations that are being compelled by the State to rezone precious commercial parcels to residential; and

WHEREAS, the inequity produced by allocating in-state online sales tax revenue exclusively to cities with fulfillment centers is exasperated even more by, in addition to already reducing the amount of revenue going into the countywide pools, the cities with fulfillment centers are also receiving a larger share of the dwindling countywide pool as it is allocated based on cities' proportional share of sales tax collected; and

WHEREAS, while it is important to acknowledge that those cities that have fulfillment centers experience impacts from these activities and deserve equitable supplementary compensation, it should also be recognized that the neighboring cities whose residents are ordering products from ~~those that~~ centers now receive no Bradley Burns revenue ~~from the center's sales activity~~ despite also experiencing the impacts created by the m center, such as increased traffic and air pollution; and

WHEREAS, the COVID-19 pandemic greatly accelerated the public's shift towards online purchases, a trend that is unlikely to be reversed to pre-pandemic levels; and

NOW, THEREFORE, BE IT RESOLVED that Cal Cities calls on the State Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

WHEREAS, the State has made it a priority to deal with homeless individuals and the impacts illegal encampments have upon those communities and has a budgetary surplus that can help fund the CPUC in better dealing with this situation in both a humane manner as well a betterment to rail safety.

RESOLVED, at the League of California Cities, General Assembly, assembled at the League Annual Conference on September 24, 2021, in Sacramento, that the League calls for the Governor and the Legislature to work with the League and other stakeholders to provide adequate regulatory authority and necessary funding to assist cities with these railroad right-of-way areas so as to adequately deal with illegal dumping, graffiti and homeless encampments that proliferate along the rail lines and result in public safety issues. The League will work with its member cities to educate federal and state officials to the quality of life and health impacts this challenge has upon local communities, especially those of color and/or environmental and economic hardships.

2. A RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO PROVIDE NECESSARY FUNDING FOR CUPC TO FULFILL ITS OBLIGATION TO INSPECT RAILROAD LINES TO ENSURE THAT OPERATORS ARE REMOVING ILLEGAL DUMPING, GRAFFITI AND HOMELESS ENCAMPMENTS THAT DEGRADE THE QUALITY OF LIFE AND RESULTS IN INCREASED PUBLIC SAFETY CONCERNS FOR COMMUNITIES AND NEIGHBORHOODS THAT ABUTT THE RAILROAD RIGHT-OF-WAY.

Source: City of South Gate

Concurrence of five or more cities/city officials:

Cities: City of Bell Gardens; City of Bell; City of Commerce; City of Cudahy; City of El Segundo; City of Glendora; City of Huntington Park; City of La Mirada; City of Long Beach; City of Lynwood; City of Montebello; City of Paramount; City of Pico Rivera

Referred to: Housing, Community and Economic Development; and Transportation, Communications and Public Works

WHEREAS, ensuring the quality of life for communities falls upon every local government including that blight and other health impacting activities are addressed in a timely manner by private property owners within its jurisdictional boundaries for their citizens, businesses and institutions; and

WHEREAS, Railroad Operators own nearly 6,000 miles of rail right-of-way throughout the State of California which is regulated by the Federal Railroad Administration and/or the California Public Utilities Commission for operational safety and maintenance; and

WHEREAS, the California Public Utilities Commission (CPUC) is the enforcing agency for railroad safety in the State of California and has 41 inspectors assigned throughout the entire State to inspect and enforce regulatory compliance over thousands of miles of rail line; and

WHEREAS, areas with rail line right-of-way within cities and unincorporated areas are generally located in economically disadvantaged zones and/or disadvantaged communities of color where the impact of blight further lowers property values and increases the likelihood of unsound sanitary conditions and environmental impacts upon them; and

WHEREAS, many communities are seeing an increase in illegal dumping, graffiti upon infrastructure and homeless encampments due to the lax and inadequate oversight by regulatory agencies; and

WHEREAS, local governments have no oversight or regulatory authority to require operators to better maintain and clean their properties as it would with any other private property owner within its jurisdictional boundaries. Thus such local communities often resort to spending their local tax dollars on cleanup activities or are forced to accept the delayed and untimely response by operators to cleaning up specific sites, and;

WHEREAS, that railroad operators should be able to provide local communities with a fixed schedule in which their property will be inspected and cleaned up on a reasonable and regular schedule or provide for a mechanism where they partner with and reimburse local governments for an agreed upon work program where the local government is enabled to remove items like illegal dumping, graffiti and encampments; and

Background Information to Resolution

Source: City of South Gate

Background:

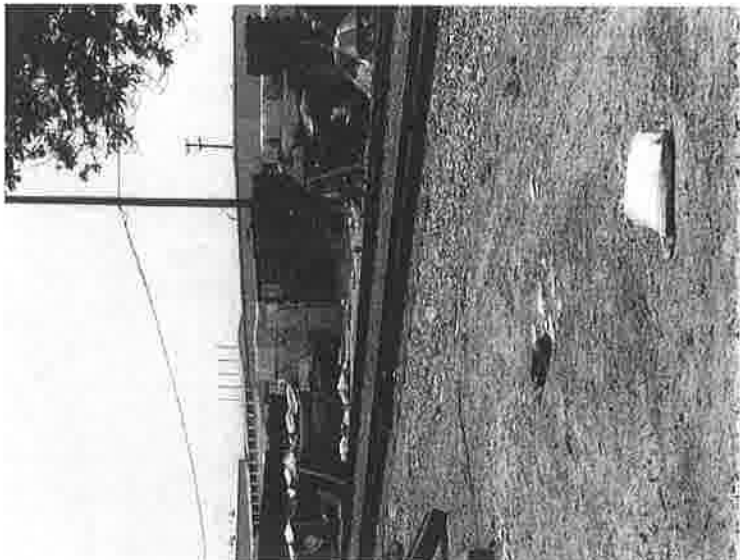
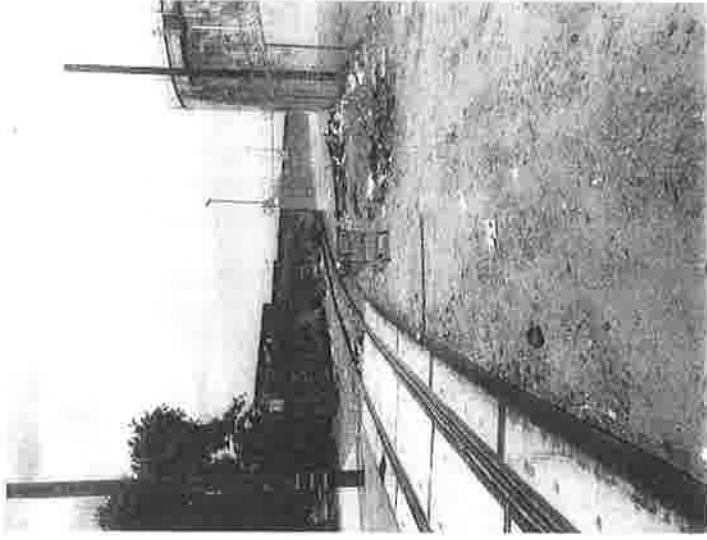
The State of California has over 6,000 miles of rail lines, with significant amount running through communities that are either economically disadvantaged and/or disadvantaged communities of color. While the Federal Railroad Administration (FRA) has primary oversight of rail operations, they delegate that obligation to the State of California for lines within our State. The administration of that oversight falls under the California Public Utilities Commission (CPUC). The CPUC has only 41 inspectors covering those 6,000 miles of railroad lines in the State of California. Their primary task is ensuring equipment, bridges and rail lines are operationally safe.

The right-of-way areas along the rail lines are becoming increasingly used for illegal dumping, graffiti and homeless encampments. Rail operators have admitted that they have insufficient funds set aside to clean up or sufficiently police these right-of-way areas, despite reporting a net income of over \$13 billion in 2020. CPUC budget does not provide the resources to oversee whether rail operators are properly managing the right-of-way itself.

The City of South Gate has three rail lines traversing through its city limits covering about 4 miles. These lines are open and inviting to individuals to conduct illegal dumping, graffiti buildings and structures along with inviting dozens of homeless encampments. As private property, Cities like ourselves cannot just go upon them to remove bulky items, trash, clean graffiti or remove encampments. We must call and arrange for either our staff to access the site or have the rail operator schedule a cleanup. This can take weeks to accomplish, in the meantime residents or businesses that are within a few hundred feet of the line must endure the blight and smell. Trash is often blown from the right-of-way into residential homes or into the streets. Encampments can be seen from the front doors of homes and businesses.

South Gate is a proud city of hard working-class residents, yet with a median household income of just \$50,246 or 65% of AMI for Los Angeles County, it does not have the financial resources to direct towards property maintenance of any commercial private property. The quality of life of communities like ours should not be degraded by the inactions or lack of funding by others. Cities such as South Gate receive no direct revenue from the rail operators, yet we deal with environmental impacts on a daily basis, whether by emissions, illegal dumping, graffiti or homeless encampments.

The State of California has record revenues to provide CPUC with funding nor only for safety oversight but ensuring right-of-way maintenance by operators is being managed properly. Rail Operators should be required to set aside sufficient annual funds to provide a regular cleanup of their right-of-way through the cities of California.



LETTERS OF CONCURRENCE
Resolution No. 2



City of
BELL GARDENS

7100 Garfield Avenue • Bell Gardens, CA 90201 • 562-806-7700 • www.bellgardens.org

CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 21, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The City of Bell Gardens supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Marco Barcena at 562-7761 if you have any questions.

Sincerely,

Marco Barcena
Mayor

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org



City of
BELL GARDENS

7100 Garfield Avenue • Bell Gardens, CA 90201 • 562-806-7700 • www.bellgardens.org

CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 20, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

As a Councilwoman with the City of Bell Gardens, I support the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Lisseth Flores at (562) 806-7763 if you have any questions.

Sincerely,

Lisseth Flores

Lisseth Flores
Councilwoman

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org



CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 15, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The city of Bell supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Paul Philips, City Manager at 323-588-6211, if you have any questions.

Sincerely,

Alicia Romero
Mayor

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division,



CITY OF COMMERCE

July 20, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Railroad Oversight Annual Conference Resolution

President Walker:

The City of Commerce supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League of California Cities' ("League") 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially disadvantaged communities of color that are home to the State's freight rail lines. While I am supportive of the economic base the railroad industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Edgar Cisneros, City Manager, via email at ecisneros@ci.commerce.ca.us or at 323-722-4805, should you have any questions.

Sincerely,



Mayor Leonard Mendoza

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org



CITY OF CUDAHY CALIFORNIA

Incorporated November 10, 1960

5220 Santa Ana Street
Cudahy, California 90201
(323)773-5143

July 21, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

Dear President Walker:

The City of Cudahy supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State; their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impacts of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. If you have any questions, please do not hesitate to call my office at 323-773-5143.

Sincerely,

A handwritten signature in black ink, appearing to read "Jose Gonzalez".

Jose Gonzalez
Mayor

CC: Chris Jeffers, City Manager, City of South Gate



City of El Segundo

Office of the Mayor

July 16, 2021

Elected Officials:

Draw Boyles,
Mayor
Chris Pimentel
Mayor Pro Tem
Carol Pirszlak,
Council Member
Scot Nicol,
Council Member
Lance Ghroux,
Council Member
Tracy Weaver,
City Clerk
Matthew Robinson,
City Treasurer

Appointed Officials:

Scott Mitnik,
City Manager
Mark D. Mensley,
City Attorney

Department Directors:

Barbara Vosa
Deputy City Manager
Joseph Lillo,
Finance
Chris Donovan,
Fire Chief
Charles Mallory,
Information Technology
Services
Melissa McCollum,
Community Services
Rebecca Redyk,
Human Resources
Denis Cook,
Interim Development Services
Jamie Bermudez,
Interim Police Chief
Elias Sassoon,
Public Works

www.elsegundo.org
www.elsegundobusiness.com
www.elsegundo100.org

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The City of El Segundo supports the Los Angeles County Division's City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erodes the quality of life for our communities, increases blight, increases unhealthy sanitation issues, and negatively impacts our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact El Segundo Public Works Director Elias Sassoon at 310-524-2356, if you have any questions.

Sincerely,

Drew Boyles
Mayor of El Segundo

CC: City Council, City of El Segundo
Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org
Jeff Kleman, League Regional Public Affairs Manager (via email)

350 Main Street, El Segundo, California 90245-3813
Phone (310) 524-2302 Fax (310) 322-7137



CITY OF GLENDORA CITY HALL

(626) 914-8200

116 East Foothill Blvd., Glendora, California 91741

www.ci.glendora.ca.us

July 14, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**SUBJECT: SUPPORT FOR THE CITY OF SOUTH GATE'S ANNUAL
CONFERENCE RESOLUTION**

Dear President Walker:

The City of Glendora is pleased to support the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League of California Cities' 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue that many communities, small and large, are experiencing along active transportation corridors, particularly rail lines. Given the importance and growth of the ports and logistics sector, and the economic support they provide, we need to do more to ensure that conflicts are appropriately addressed and mitigated to ensure they do not become attractive nuisances. Our cities are experiencing increasing amounts of illegal dumping (trash and debris) and the establishment of encampments by individuals experiencing homelessness along roadways, highways and rail lines. Such situations create unsafe conditions – safety, health and sanitation – that impact quality of life even as we collectively work to address this challenge in a coordinated and responsible manner.

As members of the League of California Cities, Glendora values the policy development process provided to the General Assembly and strongly support consideration of this issue. Your attention to this matter is greatly appreciated. Should you have any questions, please feel free to contact Adam Raymond, City Manager, at araymond@cityofglendora.org or (626) 914-8201.

Sincerely,

Karen K. Davis
Mayor

C: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

PRIDE OF THE FOOTHILLS



July 21, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Re: Resolution No. 2021-18 Supporting City of South Gate Annual Conference Resolution

President Walker:

The City of Huntington Park (City) supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento. Enclosed is Resolution No. 2021-18 adopted by the City Council of the City of Huntington Park.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impacts of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively affect our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact our City Manager, Ricardo Reyes, at 323-582-6161, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Graciela Ortiz".

Graciela Ortiz
Mayor, City of Huntington Park

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

Enclosure(s)



CITY OF LA MIRADA
DEDICATED TO SERVICE

13700 La Mirada Boulevard
La Mirada, California 90638
P.O. Box 828
La Mirada, California 90637-0828
Phone: (562) 943-0131 Fax: (562) 943-1464
www.cityoflamirada.org

July 19, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

**SUBJECT: LETTER OF SUPPORT FOR CITY OF SOUTH GATE'S PROPOSED
RESOLUTION AT CALCITIES ANNUAL CONFERENCE**

President Walker:

The City of La Mirada supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue within communities that are home to the State's freight rail lines. While the City of La Mirada is supportive of the economic base the railroad industry serves to the State, the rail lines have become places where illegal dumping and a growing homeless population are significant problems. The negative impact of these illegal activities decreases the quality of life for the La Mirada community, increases blight and unhealthy sanitation issues, and negatively impacts the City's ability to meet State water quality standards under the MS4 permits.

As members of the League, the City of La Mirada values the policy development process provided to the General Assembly. We appreciate your consideration on this issue. Please feel free to contact Assistant City Manager Anne Haraksin at (562) 943-0131 if you have any questions.

Sincerely,

CITY OF LA MIRADA

Ed Eng
Mayor

cc: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

Ed Eng, EdD
Mayor

Anthony A. Otero, DPPD
Mayor Pro Tem

Steve De Ruse, D. Min.
Councilmember

John Lewis, Esq.
Councilmember

Andrew Sarega
Councilmember

Jeff Boynton
City Manager

July 22, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Support for City of South Gate Resolution—Cleanup Activities on Rail Operator Properties

Dear President Walker,

On behalf of the City of Long Beach, I write to support the City of South Gate’s proposed resolution for the League of California Cities’ (League) 2021 Annual Conference. This resolution seeks to direct the League to adopt a policy urging State and federal governments to increase oversight of rail operators’ land maintenance. The City is a proponent of increased maintenance along railways and believes a League advocacy strategy would help expedite regional responses.

The COVID-19 pandemic has exacerbated the public health and safety concerns on rail rights-of-way, as trash, debris, and encampments have increased exponentially. These challenges erode the quality of life for our communities, increase blight, and contribute to public health and sanitation issues. To address these concerns, the City has engaged directly with regional partners to prioritize ongoing maintenance and cleanups, and has invested \$4 million in the Clean Long Beach Initiative as part of the City’s Long Beach Recovery Act to advance economic recovery and public health in response to the COVID-19 pandemic.

The City of South Gate’s proposed resolution would further advance these efforts for interjurisdictional coordination. The increased oversight proposed by the resolution will help support better coordination and additional resources to address illegal dumping and encampments along private rail operator property. This is a critical measure to advance public health and uplift our most vulnerable communities. For these reasons, the City supports the proposed League resolution.

Sincerely,



THOMAS B. MODICA
City Manager

cc: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org



OFFICE OF THE
MAYOR
MARISELA SANTANA

City of
LYNWOOD

Incorporated 1921

11730 Bulis Road, Lynwood, CA 90262
(310) 603-0220 x 200



CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 20, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The City of Lynwood supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Ernie Hernandez at (310) 603-0220 ext. 200, if you have any questions.

Sincerely,



Marisela Santana, Mayor

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org



July 19, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Resolution in Support of City of South Gate Annual Conference Resolution

President Walker:

The City of Montebello (City) supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento. Attached is the Resolution to be considered for adoption by the City Council of the City of Montebello at our July 28, 2021, City Council meeting.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erodes the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact our City Manager, René Bobadilla, at 323-887-1200, if you have any questions.

Sincerely,

Kimberly Cobos-Cawthorne
Mayor, City of Montebello

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org



BRENDA OLMOS
Mayor

VILMA CUELLAR STALLINGS
Vice Mayor

ISABEL AGUAYO
Councilmember

LAURIE GUILLEN
Councilmember

PEGGY LEMONS
Councilmember

July 19, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: SUPPORT FOR ANNUAL LEAGUE OF CITIES CONFERENCE GENERAL ASSEMBLY RESOLUTION



President Walker:

The City of Paramount supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento. The proposed resolution is attached

South Gate's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic boon the freight industry serves to the State, their rail line rights of way have often become places where illegal dumping is a constant problem and where our growing homeless populations reside. The impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As a member of the California League of Cities, the City of Paramount values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact City Manager John Moreno at (562) 220-2222 if you have any questions.

Dedicated to providing fiscally responsible services that maintain a vibrant community.

16400 Colorado Avenue • Paramount, CA 90723-5012 • Ph: 562-220-2900 • paramountcity.com
 facebook.com/CityofParamount |  instagram.com/paramount_posts |  youtube.com/CityofParamount



Steve Carmona
City Manager

City of Pico Rivera
OFFICE OF THE CITY MANAGER
6615 Passons Boulevard · Pico Rivera, California 90660
(562) 801-4371
Web: www.pico-rivera.org e-mail: scasiro@pico-rivera.org

City Council
Raul Elias
Mayor
Dr. Monica Sánchez
Mayor Pro Tem
Gustavo V. Camacho
Councilmember
Andrew C. Lara
Councilmember
Erik Lutz
Councilmember

CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 14, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The City of Pico Rivera supports the City of South Gate’s effort to submit a resolution for consideration by the General Assembly at the League’s 2021 Annual Conference in Sacramento.

The City’s resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantaged communities of color that are home to the State’s freight rail lines. While supportive of the economic base the industry serves to the State; their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erodes the quality of life for our communities, increases blight, increases unhealthy sanitation issues, and negatively impacts our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Steve Carmona at (562) 801-4405 if you have any questions.

Sincerely,

City Manager
City of Pico Rivera

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

League of California Cities Staff Analysis on Resolution No. 2

Staff: Damon Conklin, Legislative Affairs, Lobbyist
Jason Rhine, Assistant Director, Legislative Affairs
Caroline Cirrincione, Policy Analyst

Committees: Transportation, Communications, and Public Works
Housing, Community, and Economic Development

Summary:

The City of South Gate submits this resolution, which states the League of California Cities should urge the Governor and the Legislature to provide adequate regulatory authority and necessary funding to assist cities with railroad right-of-way areas to address illegal dumping, graffiti, and homeless encampments that proliferate along the rail lines and result in public safety issues.

Background:

California Public Utilities Commission (CPUC) Railroad Oversight

The CPUC's statewide railroad safety responsibilities are carried out through its Rail Safety Division (RSD). The Railroad Operations and Safety Branch (ROSB), a unit of RSD, enforces state and federal railroad safety laws and regulations governing freight and passenger rail in California.

The ROSB protects California communities and railroad employees from unsafe practices on freight and passenger railroads by enforcing rail safety laws, rules, and regulations. The ROSB also performs inspections to identify and mitigate risks and potential safety hazards before they create dangerous conditions. ROSB rail safety inspectors investigate rail accidents and safety-related complaints and recommend safety improvements to the CPUC, railroads, and the federal government as appropriate.

Within the ROSB, the CPUC employs 41 inspectors who are federally certified in the five Federal Railroad Administration (FRA) railroad disciplines, including hazardous materials, motive power and equipment, operations, signal and train control, and track. These inspectors perform regular inspections, focused inspections, accident investigations, security inspections, and complaint investigations. In addition, the inspectors address safety risks that, while not violations of regulatory requirements, pose potential risks to public or railroad employee safety.

CPUC's Ability to Address Homelessness on Railroads

Homeless individuals and encampments have occupied many locations in California near railroad tracks. This poses an increased safety risk to these homeless individuals of being struck by trains. Also, homeless encampments often create unsafe work environments for railroad and agency personnel.

While CPUC cannot compel homeless individuals to vacate railroad rights-of-way or create shelter for homeless individuals, it has the regulatory authority to enforce measures that can reduce some safety issues created by homeless encampments. The disposal of waste materials or other disturbances of walkways by homeless individuals can create tripping hazards in the vicinity of railroad rights-of-way. This would cause violations of Commission GO 118-A, which sets standards for walkway surfaces alongside railroad tracks. Similarly, tents, wooden structures, and miscellaneous debris in homeless encampments can create violations of

Commission GO 26-D, which sets clearance standards between railroad tracks, and structures and obstructions adjacent to tracks.

Homelessness in California

According to the 2020 Annual Homeless Assessment Report (AHAR) to Congress, there has been an increase in unsheltered individuals since 2019. More than half (51 percent or 113,660 people) of all unsheltered homeless people in the United States are found in California, about four times as high as their share of the overall United States population.

Many metro areas in California lack an adequate supply of affordable housing. This housing shortage has contributed to an increase in homelessness that has spread to railroad rights-of-way. Homeless encampments along railroad right-of-way increase the incidents of illegal dumping and unauthorized access and trespassing activities. Other impacts include train service reliability with debris strikes, near-misses, and trespasser injuries/fatalities. As of April 2021, there have been 136 deaths and 117 injuries reported by the Federal Railroad Administration over the past year. These casualties are directly associated with individuals who trespassed on the railroad.

Cities across the state are expending resources reacting to service disruptions located on the railroad's private property. It can be argued that an increase in investments and services to manage and maintain the railroad's right-of-way will reduce incidents, thus enhancing public safety, environmental quality, and impacts on the local community.

State Budget Allocations – Homelessness

The approved State Budget includes a homelessness package of \$12 billion. This consists of a commitment of \$1 billion per year for direct and flexible funding to cities and counties to address homelessness. While some details related to funding allocations and reporting requirements remain unclear, Governor Newsom signed AB 140 in July, which details key budget allocations, such as:

- \$2 billion in aid to counties, large cities, and Continuums of Care through the Homeless Housing, Assistance and Prevention grant program (HHAP);
- \$50 million for Encampment Resolution Grants, which will help local governments resolve critical encampments and transitioning individuals into permanent housing; and
- \$2.7 million in onetime funding for Caltrans Encampment Coordinators to mitigate safety risks at encampments on state property and to coordinate with local partners to connect these individuals to services and housing.

The Legislature additionally provided \$2.2 billion specifically for Homekey with \$1 billion available immediately. This funding will help local governments transition individuals from Project Roomkey sites into permanent housing to minimize the number of occupants who exit into unsheltered homelessness.

With regards to this resolution, the State Budget also included \$1.1 billion to clean trash and graffiti from highways, roads, and other public spaces by partnering with local governments to pick up trash and beautify downtowns, freeways, and neighborhoods across California. The program is expected to generate up to 11,000 jobs over three years.

Cities Railroad Authority

A city must receive authorization from the railroad operator before addressing the impacts made by homeless encampments because of the location on the private property. Additionally, the city

must coordinate with the railroad company to get a flagman to oversee the safety of the work crews, social workers, and police while on the railroad tracks.

A city may elect to declare the encampment as a public nuisance area, which would allow the city to clean up the areas at the railroad company's expense for failing to maintain the tracks and right-of-way. Some cities are looking to increase pressure on railroad operators for not addressing the various homeless encampments, which are presenting public safety and health concerns.

Courts have looked to compel railroad companies to increase their efforts to address homeless encampments on their railroads or grant a local authority's application for an Inspection and Abatement Warrant, which would allow city staff to legally enter private property and abate a public nuisance or dangerous conditions.

In limited circumstances, some cities have negotiated Memoranda of Understandings (MOU) with railroad companies to provide graffiti abatement, trash, and debris removal located in the right-of-way, and clean-ups of homeless encampments. These MOUs also include local law enforcement agencies to enforce illegally parked vehicles and trespassing in the railroad's right-of-way. MOUs also detailed shared responsibility and costs of providing security and trash clean-up. In cases where trespassing or encampments are observed, the local public works agency and law enforcement agency are notified and take the appropriate measures to remove the trespassers or provide clean-up with the railroad covering expenses outlined in the MOU.

Absent an MOU detailing shared maintenance, enforcement, and expenses, cities do not have the authority to unilaterally abate graffiti or clean-up trash on a railroad's right-of-way.

Fiscal Impact:

If the League of California Cities were to secure funding from the state for railroad clean-up activities, cities could potentially save money in addressing these issues themselves or through an MOU, as detailed above. This funding could also save railroad operators money in addressing concerns raised by municipalities about illegal dumping, graffiti, and homeless encampments along railroads.

Conversely, if the League of California Cities is unable to secure this funding through the Legislature or the Governor, cities may need to consider alternative methods, as detailed above, which may include significant costs.

Existing League Policy:

Public Safety:

Graffiti

The League supports increased authority and resources devoted to cities for abatement of graffiti and other acts of public vandalism.

Transportation, Communications, and Public Works

Transportation

The League supports efforts to improve the California Public Utilities Commission's ability to respond to and investigate significant transportation accidents in a public and timely manner to improve rail shipment, railroad, aviation, marine, highway, and pipeline safety

Housing, Community, and Economic Development

Housing for Homeless

Homelessness is a statewide problem that disproportionately impacts specific communities. The state should make funding and other resources, including enriched services, and outreach and case managers, available to help assure that local governments have the capacity to address the needs of the homeless in their communities, including resources for regional collaborations.

Homeless housing is an issue that eludes a statewide, one-size-fits-all solution, and collaboration between local jurisdictions should be encouraged.

Staff Comments:

Clarifying Amendments

Upon review of the Resolution, Cal Cities staff recommends technical amendments to provide greater clarity. To review the proposed changes, please see Attachment A.

The committee may also wish to consider clarifying language around regulatory authority and funding to assist cities with these efforts. The resolution asks that new investments from the state be sent to the CPUC to increase their role in managing and maintaining railroad rights-of-ways and potentially to cities to expand their new responsibility.

The committee may wish to specify MOUs as an existing mechanism for cities to collaborate and agree with railroad operators and the CPUC on shared responsibilities and costs.

Support:

The following letters of concurrence were received:

- City of Bell Gardens
- City of Bell
- City of Commerce
- City of Cudahy
- City of El Segundo
- City of Glendora
- City of La Mirada
- City of Paramount
- City of Pico Rivera
- City of Huntington Park
- City of Long Beach
- City of Lynwood
- City of Montebello

ATTACHMENT A

2. A RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO PROVIDE ~~NECESSARY~~ NECESSARY FUNDING FOR ~~CPUC~~ THE CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC) TO FUFILL ITS OBLIGATION TO INSPECT RAILROAD LINES TO ENSURE THAT OPERATORS ARE REMOVING ILLEGAL DUMPING, GRAFFITI AND HOMELESS ENCAMPMENTS THAT DEGRADE THE ~~QAULITY~~ QUALITY OF LIFE AND RESULTS IN INCREASED PUBLIC ~~SAFETLY~~ SAFETY CONCERNS FOR COMMUNITIES AND NEIGHBORHOODS THAT ABUT THE RAILROAD RIGHT-OF-WAY.

Source: City of South Gate

Concurrence of five or more cities/city officials

Cities: City of Bell Gardens; City of Bell; City of Commerce; City of Cudahy; City of El Segundo; City of Glendora; City of Huntington Park; City of La Mirada; City of Long Beach; City of Lynwood; City of Montebello; City of Paramount; City of Pico Rivera

Referred to: Housing, Community and Economic Development; and Transportation, Communications and Public Works

WHEREAS, ensuring the quality of life for communities falls upon every local government including that blight and other health impacting activities are addressed in a timely manner by private property owners within its jurisdictional boundaries for their citizens, businesses and institutions; and

WHEREAS, Railroad Operators own nearly 6,000 miles of rail right-of-way throughout the State of California which is regulated by the Federal Railroad Administration and/or the ~~California Public Utilities Commission~~ CPUC for operational safety and maintenance; and

WHEREAS, the ~~California Public Utilities Commission~~ (CPUC) is the enforcing agency for railroad safety in the State of California and has 41 inspectors assigned throughout the entire State to inspect and enforce regulatory compliance over thousands of miles of rail line; and

WHEREAS, areas with rail line right-of-way within cities and unincorporated areas are generally located in economically disadvantaged zones and/or disadvantaged communities of color where the impact of blight further lowers property values and increases the likelihood of unsound sanitary conditions and environmental impacts upon them; and

WHEREAS, many communities are seeing an increase in illegal dumping, graffiti upon infrastructure and homeless encampments due to the lax and inadequate oversight by regulatory agencies; and

WHEREAS, local governments have no oversight or regulatory authority to require operators to better maintain and clean their properties as it would with any other private property owner within its jurisdictional boundaries. Thus such local communities often resort to spending their local tax dollars on cleanup activities or are forced to accept the delayed and untimely response by operators to cleaning up specific sites, and;

WHEREAS, that railroad operators should be able to provide local communities with a fixed schedule in which their property will be inspected and cleaned up on a reasonable and regular schedule or provide for a mechanism where they partner with and reimburse local governments for an agreed upon work program where the local government is enabled to remove items like illegal dumping, graffiti and encampments; and

WHEREAS, the State has made it a priority to deal with homeless individuals and the impacts illegal encampments have upon those communities and has a budgetary surplus that can help fund the CPUC in better dealing with this situation in both a humane manner as well as a betterment to rail safety.

RESOLVED, at the League of California Cities, General Assembly, assembled at the League Cal Cities Annual Conference on September 24, 2021, in Sacramento, that the Cal Cities League calls for the Governor and the Legislature to work with the Cal Cities League and other stakeholders to provide adequate regulatory authority and necessary funding to assist cities with these railroad right-of-way areas so as to adequately deal with illegal dumping, graffiti and homeless encampments that proliferate along the rail lines and result in public safety issues. The Cal Cities League will work with its member cities to educate federal and state officials to the quality of life and health impacts this challenge has upon local communities, especially those of color and/or environmental and economic hardships.



CITY OF RANCHO CUCAMONGA

10500 Civic Center Drive | Rancho Cucamonga, CA 91730 | 909.477.2700 | www.CityofRC.us

RECEIVED

AUG 18 2021

CITY MANAGER DEPARTMENT

August 9, 2021

Lydia Romero, City Manager
City of Lemon Grove
3232 Main St
Lemon Grove, CA 91945-1705

RE: Support Online Sales Tax Resolution at Cal Cities Annual Conference

Dear Lydia Romero,

We need your help today to pass an urgent resolution regarding local sales tax at the upcoming Cal Cities Annual Conference in Sacramento in September.

One look down any Main Street and you can see that online shopping has forever changed how residents and businesses in each of our cities purchase goods. It is time we work together to advocate for California sales tax reform that allocates the 1% local sales tax in a fair and equitable way. Although sales tax reform has been brought up many times in the past, this issue just went from “nice to have” to an urgent need that requires our collective action.

Recently, one of the world’s largest online retailers changed the legal ownership of its fulfillment centers. Instead of having its fulfillment centers owned and operated by a third-party vendor, they are now directly owned by the company. This subtle change has major impacts to how the 1% local tax is allocated. Previously much of the sales tax would have been allocated to the countywide pool based on point of delivery. Now, much of the tax is allocated to the jurisdiction in which the fulfillment center is located.

There are a handful of cities in our entire state who will experience a multi-million dollar windfall with this change. We understand and agree that cities who house fulfillment centers should see a significant share of sales tax revenue; they bear an infrastructure and environmental burden other cities don’t. But we are not talking about nickels and dimes; in fact there are hundreds of millions of dollars at stake here. With so many Californians shopping on-line, all cities should continue to receive a sales tax benefit from their residents’ online purchases regardless of who owns the fulfillment centers.

We ask you to work with us to elevate this issue and conversation by supporting our effort at the upcoming Cal Cities Annual Conference. The City of Rancho Cucamonga has submitted to Cal Cities the following Resolution for consideration:

Cal Cities calls on the state legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

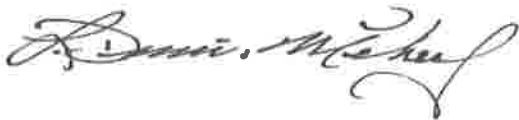
It's often said of cities, "If you're not at the table, you're on the menu." We believe that to be the case here. Cities must come together - both the cities who don't have fulfillment centers owned by the online retailer, and the fortunate few who do - to help create a solution to this issue rather than leave it in the hands of State politicians, who will decide to act when they realize that multi-millions of dollars are going to just a handful of cities leaving many of their constituents without.

Join our coalition today. Email us at City.Council@CityofRC.us to let us know you agree and want to help. We will provide issue updates and supply you with an issue fact sheet, and talking points for your Council members and Mayors who will attend the Cal Cities Conference.

Most importantly, we ask for your city delegate to vote YES on the resolution at the General Assembly on Friday, September 24th.

In a world that's changing before our eyes, where it seems that every year city budgets shrink and service delivery costs rise, we ask all cities to come together to advocate for a sales tax allocation that is fair and equitable to benefit all our communities.

Sincerely,

A handwritten signature in cursive script that reads "L. Dennis Michael".

L. Dennis Michael
Mayor