

Lemon Grove City
Council Meeting

PLEASE SILENCE ALL CELL PHONES AND DEVICES



Call to Order



Pledge of Allegiance



Changes to the Agenda



Presentation:
Introduction of
New Fire Chief Steven Swaney



Presentation:
Recognition of Girl Scout Troop
5255 for their "100 Years of Girl
Scout Achievement" exhibit.



Presentation:

Presentation - CSAC - EIA Eagle Award for Sage/City Partnership



Presentation:

Recognition of Service:

Miranda Evans,
Management Analyst



Public Comment





1. Consent Calendar



Public Hearing

2. Consider Administrative Appeal No. AA1-800-0006 Regarding the Planning Commission's Decision to Approve Conditional Use Permit No. CUP-180-0004, a Request to Establish a 2,068 SF Childcare Center with an Outdoor Play Area at 3468 Citrus Street in the General Commercial-Heavy Commercial Zone.

Background

- ▶ July 23, 2018 - Conditional Use Permit (CUP-180-0004) Submitted
- ▶ Oct. 22, 2018 - Planning Commission Tentatively Approved CUP-180-0004
- ▶ Oct. 31, 2018 - Administrative Appeal (AA1-800-0006) Filed

Vicinity Map



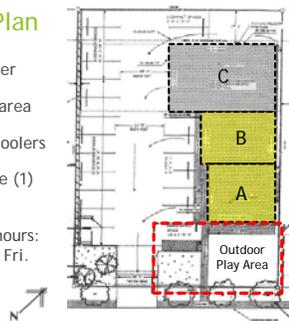
Proposed Land Use



- ▶ Day Care Center (CUP)
- ▶ "Day care center" - as a day care, regardless of size or capacity that is located in a commercial zone or commercial structure.

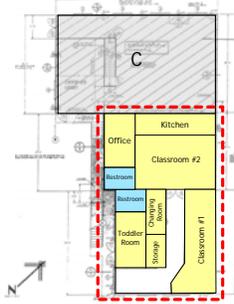
Proposed Site Plan

- ▶ 2,068 SF day care center
- ▶ 1,326 SF outdoor play area
- ▶ 32 toddlers and preschoolers
- ▶ Three (3) teachers, one (1) administrator
- ▶ Proposed operational hours: 7AM to 5:30PM, Mon. - Fri.



Proposed Floor Plan

- ▶ Two (2) classrooms (350 SF and 305 SF)
- ▶ One (1) 210 SF toddler room
- ▶ One (1) office
- ▶ One (1) kitchen
- ▶ Two (2) existing bathrooms



Required Off-Street Parking

Use	Size	Parking Ratio	Required Parking
▶ Institutional (K-12)	2 classrooms	2 spaces / classroom	4 spaces
Office	3,425 sq. ft.	1 space / 500 sq. ft.	6.85 = 6 spaces
Warehouse	1,713 sq. ft.	1 space / 500 sq. ft.	3.42 = 3 spaces
Total Required:			13 spaces
Provided:			19 spaces

Site Photographs



Overall Existing Conditions



Outdoor Play Area

Recommendation

- ▶ Conduct the Public Hearing; and
- ▶ Adopt a Resolution denying the appeal request, upholding the Planning Commission’s decision to approve Conditional Use Permit No. CUP-180-0004.

Public Hearing

3. Public Hearing to Consider an Amendment to the Transnet Local Street Improvement Program of Projects for FY 2019-23.



Background

- ▶ Nov 2004 - voters approve SD Transportation Improvement Program Ordinance and Expenditure Plan (TransNet Extension Ordinance)
- ▶ SANDAG tasked with overseeing local jurisdiction TransNet activity
- ▶ March 20, 2018 - City Council approved the TransNet Local Street Improvement Program of Projects for Fiscal Years 2019 - 2023
- ▶ The first year of the program relates to our current fiscal year (FY18-19) and is referred to as the 2018-2019 Regional Transportation Improvement Plan (RTIP)

Reason for Amendment

- ▶ Section 2(c)(1) of the Transnet Extension Ordinance limits spending on preventative maintenance projects to 30% or less of total annual Transnet revenue
- ▶ Staff found the 2018 RTIP originally adopted programmed 36% of revenue for preventative maintenance projects
- ▶ This amendment will reallocate funding from preventative maintenance projects to congestion relief projects to be in compliance with the ordinance
- ▶ Risk losing TransNet funding if remain out of compliance
- ▶ Approving the amendment will have no impact on the total amount of available TransNet revenue for FY18-19 of \$713,000

Reason for Amendment

- ▶ The City collects TransNet Extension Ordinance Regional Transportation Congestion Improvement Plan (RTCIP) fees
- ▶ Required to program these funds through SANDAG
- ▶ Previously programmed \$563,216 of RTCIP fees for Lemon Grove Realignment
- ▶ Have collected additional \$59,374 of fees since then
- ▶ These funds, \$622,590 in sum, were spent in FY18-19 on Realignment
- ▶ This amendment would also re-open the Lemon Grove Realignment project in the SANDAG TransNet tracking system and program \$622,590 of RTCIP funds

Proposed Amendment

Amendment No. 1		Original 2018 RTIP	Amended 2018 RTIP
Congestion Relief (CR):			
LG16	Storm Drain Rehabilitation - CR	14,000	14,000
LG18	Traffic Improvements - CR	65,000	65,000
LG20	Street Improvements - CR	365,000	411,300
Preventative Maintenance (PM):			
LG14	Traffic Improvements - PM	119,000	119,000
LG15	Storm Drain Rehabilitation - PM	26,000	19,700
LG17	Street Improvements - PM	124,000	84,000
TOTAL		\$713,000	\$713,000

Staff Recommends:

- ▶ Conduct Public Hearing
- ▶ Adopt resolution approving an amendment to the TransNet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023
- ▶ Direct the City Manager to amend the City Budget for Fiscal Year 2018-2019, if approved by the SANDAG Board, to reflect TransNet budget adjustments reflected in the amendment

Reports to Council

Palm Street Red Curb

Presented by: Mike James, Assistant City Manager / Public Works Director



Background

- ▶ In 2018, increased number of complaints were received from residents and Sheriff's Department staff.
- ▶ Concerns included site distance, excessive vehicles speed, and increased number of vehicle collisions.
- ▶ Four intersections were the focus of the concerns all intersecting with Palm Street (Myra Street, Washington Street, Dennis Lane and Palm Lane).

Locations on Palm Street



Site Distance Analysis

- ▶ Referenced the California Department of Transportation Highway Design Manual.
- ▶ Two types of sight distance.
 - ▶ Corner sight distance.
 - ▶ Stopping sight distance.
- ▶ City staff recommended adding red curb on Palm Street.

Follow Up Actions

- ▶ Work was performed in the field.
- ▶ Additional concerns were raised.
- ▶ Rick Engineering Company was asked to reevaluate the red curb lengths.
- ▶ All four lengths painted in the field were determined to be too long.

Original Length v. Recommended Length

Intersection @ Palm Street	Recommended		Min. Linear Foot Decrease
	Original Red Curb Length	Red Curb Length	
Myra Street	88 feet	64 feet	- 24 feet
Washington Street	92 feet	66 feet	- 26 feet
Dennis Lane	95 feet	52 feet	- 43 feet
Palm Lane	108 feet	88 feet	- 20 feet

Myra Street at Palm Street



Myra Street at Palm Street



Washington Street at Palm Street



Washington Street at Palm Street



Dennis Lane at Palm Street



Dennis Lane at Palm Street



Palm Lane at Palm Street



Palm Lane at Palm Street



Field Conclusions

- ▶ Reduce 113 feet of red curb is recommended.
- ▶ Equates to a maximum of 7 parking spaces added.

Field Conclusions (cont.)

- ▶ Help off set the street parking
 - ▶ Gray the red curb on south side of Palm Street (near the LCHS)
 - ▶ Additional 200 feet of parking (approximately 13 parking spaces)



Staff Recommends:

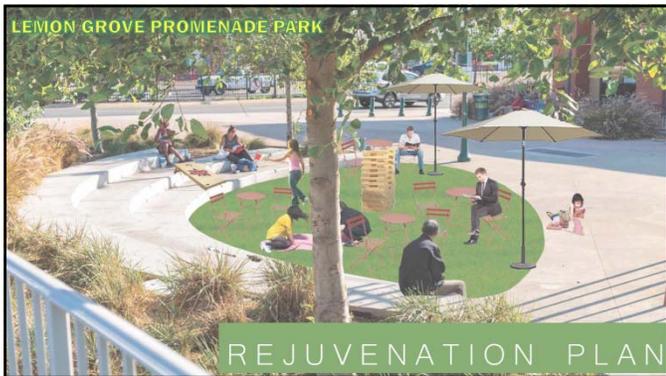
- ▶ City Council receive the report, and
- ▶ Provide feedback and/or direction to staff for follow up actions that include:
 - ▶ Reduce 113 feet of red curb paint (north side of Palm)
 - ▶ Reduce 200 feet of red curb paint (south side of Palm)

Reports to Council

Promenade Park Rejuvenation Plan

Presented by:
Mike James, Assistant City Manager / Public Works Director





Setting Up Signs in the Park

After getting approved at City Council, we began hanging signs. The result was a combination of serious concerns and recommendations mixed with some silliness.

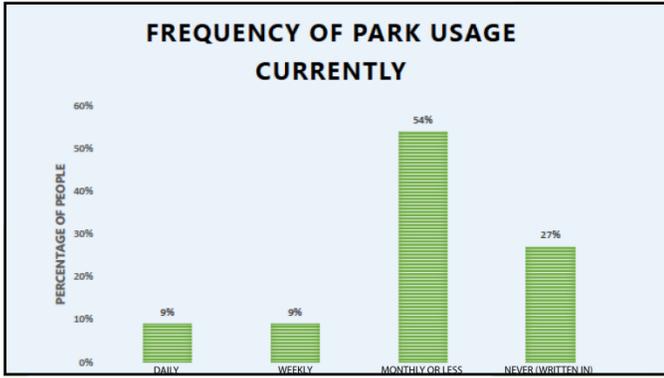
WHAT DO YOU WANT HERE?

LEMON GROVE PROMENADE PARK

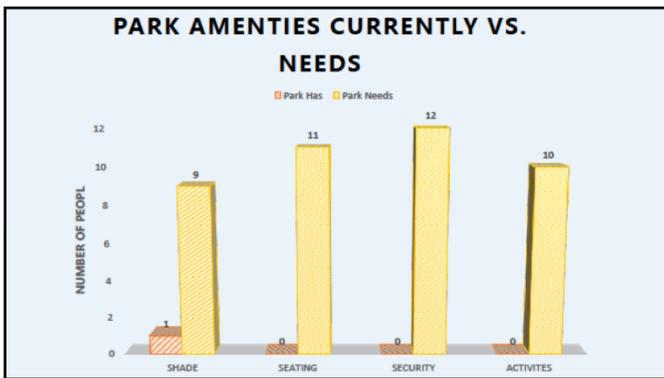




FOOD	POLICE	KIDS
FOOD VENDOR BAKERY CHICKEN RESTAURANT SUPERMARKET FOOD STORE LEMONADE STAND	PARK RANGER CDPS POLICE NO DRUGS SECURITY FAMILY FRIENDLY LAW ENFORCEMENT	PLAYGROUND SWING SET TRAMPOLINES PARK FOR KIDS PLACE FOR KIDS KIDS PLAYGROUND TRAINWIDE FOR KIDS
FITNESS	ART	WATER
GYM BASKETBALL FEATURES TO CLIMB BASKET BALL COURT	STREET ART ART SHOW STUDIO COMMUNITY ART SHOW	POND WATER FOUNTAIN HOT TUBS COMMUNITY POOL
EVENTS	SHOWS	
FREE EVENTS COMMUNITY EVENTS COMMUNITY OUTREACH	LIVE MUSIC PUNK SHOW BAZAAR SHOW	







understanding THE PARK as a SYMPTOM of downtown

The current reality of our downtown is aging buildings, vacant storefronts, and a general lack of foot traffic to support local businesses. The park, more than a failed design, is mainly a symptom of an untrafficked downtown.

BREAK BARRIERS & CREATE CONNECTIONS

make the Promenade Park the missing link to downtown

CREATE REASONS TO BE HERE

DRAW PEOPLE TOWARD CENTER

CONNECT TO DOWNTOWN

Case Studies: Kiyde Warren Park, Dallas, TX

KEY POINTS:

1. Created walkable connections from downtown to uptown.
2. Public/Private collaboration - privately managed
3. Active space/multiple programmed spaces
5. Increased foot traffic and property values

1,400 sq ft renovation
45 private (improved) vacancies
357 net growth Class A & B
7,000 new area employees
1,400 sq ft office retail at 100,000
1,500 retailing units total

Case Studies: City Heights Canyon Restoration

FR (2)2

KEY POINTS:

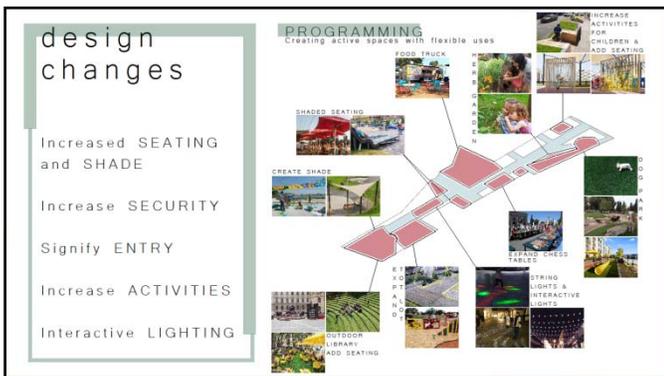
1. Joined neighborhoods, created walkable/bikable connections
2. Community driven, community maintained.
3. Public/Private collaboration
4. Underused, undesirable area improved upon to serve the community
5. One of the most diverse neighborhoods in San Diego- the park serves the entire community

THE TAKE-AWAY

- Establishing an entry point
- Beautification by restablising the natural environment
- Improving amenities (adding rails/bridges/creating trails)







FR [2]2 FIX TEXT

Francesca Redetzke, 11/4/2018



LEMON GROVE
PROMENADE
PARK

Item	#	cost	total	tax
Signs	2	\$72.00	\$144.00	\$154.44
Signs/Rope 100'	1	\$11.98	\$11.98	\$12.85
Signs/Zip Ties	1	\$11.08	\$11.08	\$11.88
TOTAL			\$167.06	
TOTAL WITH TAX			\$179.17	

SIGNS



Existing Climbing Crates/ Jugs

Tires

Seating

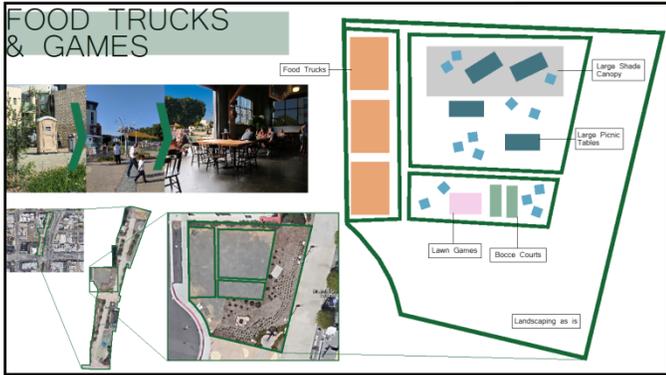
Tent

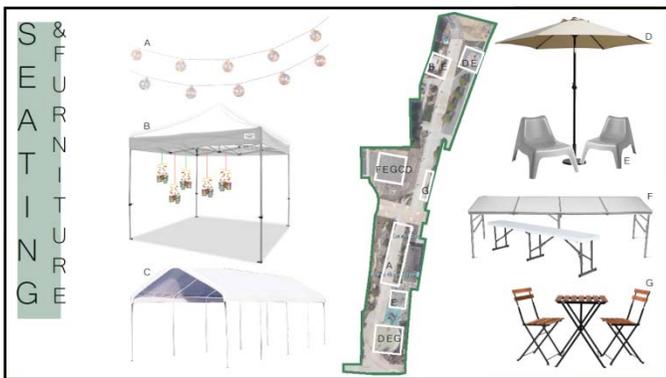
Existing Tractor

Existing Slide

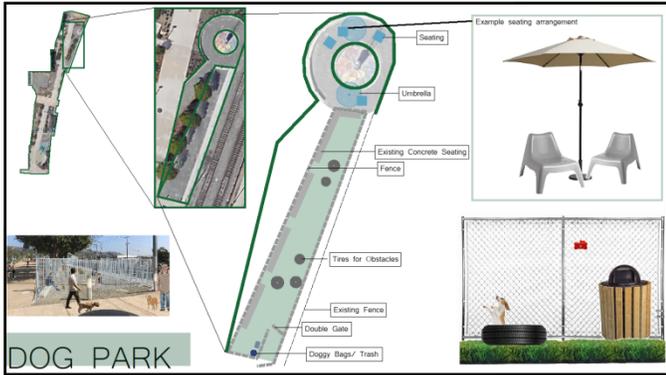
PLAY AREA



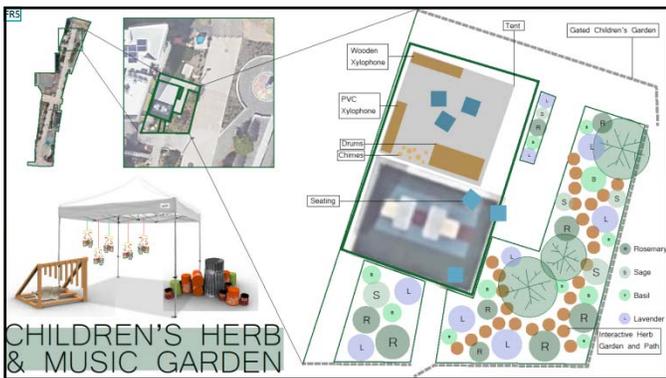












FR5 fence change

Francesca Redetzke, 10/7/2018

Recommendation:

That the City Council receive a report and provide feedback regarding the NewSchool of Architecture's Urban Design Club's Rejuvenation Plan at the Promenade Park.

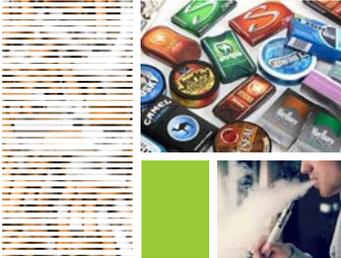


Reports to Council

Proposed Tobacco Retailer Licensing Program

Presented by:
Miranda Evans, Management Analyst





Background

- March 6, 2018 City Council Meeting
- May 22, 2018: Focus Group Meeting
- June 2018: CA DOJ grant award
- July 2018: Tobacco Control Coalition Presentation
- August 8, 2018: City Council Meeting
- October 3, 2018: Retailer Workshop
- October 8, 2018: Community Meeting
- October 10, 2018: Community Meeting





Community Outreach

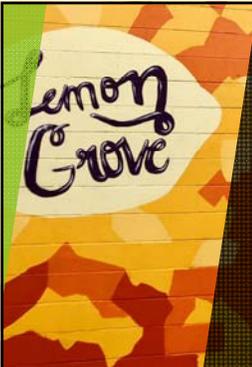
- October 3, 2018: Retailer Workshop
- October 8, 2018: Community Meeting
- October 10, 2018: Community Meeting
- Online Survey

City staff and GSA management present at the Community meeting held on October 8 while Fox 5 records.

Media Coverage





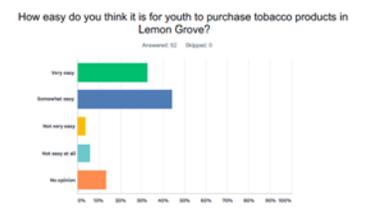
Community Survey

52 online responses

76.9% of survey respondents expressed it is very easy and somewhat easy for youth to purchase tobacco products in Lemon Grove.

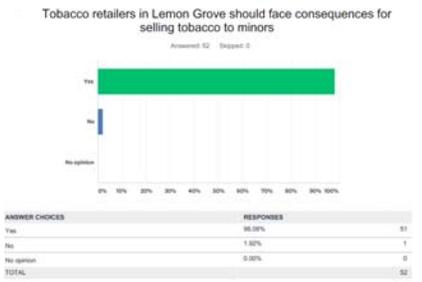
How easy do you think it is for youth to purchase tobacco products in Lemon Grove?

Answered: 52 Skipped: 0

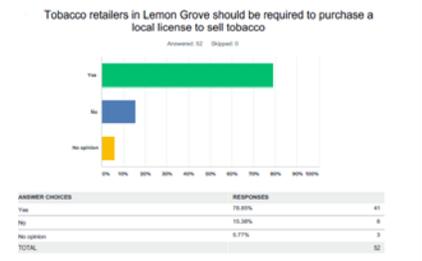


ANSWER CHOICES	RESPONSES	
Very easy	40.00%	17
Somewhat easy	48.23%	25
Not very easy	3.85%	2
Not easy at all	5.77%	3
No opinion	13.46%	7
TOTAL		52

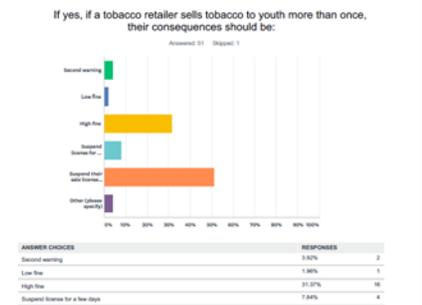
98.1% of survey respondents agreed that tobacco retailers should face consequences for selling tobacco to persons under 21 years of age.



78.9% of survey respondents agreed that tobacco retailers should be required to purchase a local license to sell tobacco



Views on Violations



Products this applies to...

California state law has expanded the definition of tobacco products.

Business and Professions Code Section 22950.5 (d)





The Fiscal Picture

- State License
\$265, annual renewal mandatory
- Local Fees
- Median license fee: \$189.50
- Average license fee: \$271.30
- Proposed Fee
\$250
- Discount(s) to incentivize compliance



Local Agency Regulations

Jurisdiction	Year Approved	Municipal Code Section	Annual License Cost	Enforcement Agency	Number of Retailers	Retailers per 1,000 Population
City of El Cajon	June 2004	ECMC 8.33	\$675	Code Enforcement Officers (2) and CASA	114	1.1
City of Vista	May 2005	VMC 3.56	\$250	San Diego County Sheriff's Department	72	.7
City of San Diego	November 2007	SDMC 3.3.45	\$132*	San Diego Police Department	1,144	.9
City of Solana Beach	July 2009	SBMC 6.17	\$110	City Code Compliance Officer	7	.5
City of San Marcos	July 2016	SMMC 5.55	\$189.50	San Diego Sheriff's Department	55	.6
City of Lemon Grove (Proposed)	December 2018 (tentative)	LGMC 8.70	\$250	San Diego County Sheriff's Department and CASA	31	1.2

* Includes \$56 application fee in addition to the \$132 license fee

License Discounts

Discounts on the annual license fee are proposed. If adopted, discounts will be available beginning in the second year of the program based off compliance in the first year.



Discounts may be available for the following behaviors:

- No tobacco violations in the previous year
- No tobacco advertising on the store windows or doors
- Driver's license readers at the point of sale
- Employee tobacco retailing education program

Penalties for Violation

- Three-strike policy (revised from five as presented in August)
- Penalties may include:
 - Warning and educational notices
 - Training requirements
 - License suspension
 - License revocation
 - Fines as deemed appropriate and reasonable by the City

Penalties for Violations

01

1st violation within 3 years results in a warning, educational notice and a fine, depending on severity of situation.

02

2nd violation within 3 years results in a requirement for education training within 60-days and an additional fine, depending on severity of the violation.

03

3rd violation within 3 years results in suspension or revocation of the license.

Implementation

- Education continues into 2019
- Notifications to all 31 retailers
- TRL webpage on City's website updated
- Licenses and fees due by December 31, 2019 for 2020

Recommendation

Staff recommends that the City Council consider and adopt the draft Tobacco Retailer License Ordinance No. 449.

City Council Oral
Comments and Reports



City Manager and
Department Director
Reports



Closed Session

LIABILITY CLAIM
Government Code Section 54956.95
Claimant: Hatsuko Hoss
Agency Claimed Against: City of Lemon
Grove







City of Lemon Grove
City Council Regular Meeting Agenda
Tuesday, November 20, 2018, 6:00 p.m.

Lemon Grove Community Center
3146 School Lane, Lemon Grove, CA

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

Presentations:

- A. Introduction of New Fire Chief Steven Swaney
- B. Recognition of Girl Scout Troop 5255 for their “100 Years of Girl Scout Achievement” exhibit.
- C. Presentation – CSAC – EIA Eagle Award for Sage/City Partnership
- D. Recognition of Service – Miranda Evans, Management Analyst

Public Comment

(Note: In accordance with State Law, the general public may bring forward an item not scheduled on the agenda; however, the City Council may not take any action at this meeting. If appropriate, the item will be referred to staff or placed on a future agenda.)

1. 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.)

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

Reference: Jim Lough, City Attorney

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

B. City of Lemon Grove Payment Demands

Reference: Molly Brennan, Finance Director

Recommendation: Ratify Demands

C. Approval of Meeting Minutes

Regular Meetings

October 16, 2018

November 6, 2018

Reference: Shelley Chapel, City Clerk

Recommendation: Approve Minutes

D. Rejection of Claim

Reference: Mike James, Assistant City Manager / Public Works Director

Recommendation: Reject Claim.

E. Update the City of Lemon Grove "Working with Public Records Request" Policy

Reference: Shelley Chapel, City Clerk

Recommendation: Recind Resolution No. 2608, and Adopt Resolution Approving the updated City of Lemon Grove "Working with Public Records Request" Policy.

F. Contract Award – Indirect Cost Allocation Plan

Reference: Molly Brennan, Finance Manager

Recommendation: Adopt Resolution awarding contract to Matrix Consulting Group.

G. Resolution Authorizing the Appointment of Deputy City Attorney Kristen Steinke as City Attorney under the Current City Attorney Contract Effective January 1, 2019.

Reference: Lydia Romero, City Manager

Recommendation: Adopt Resolution Authorizing the Appointment of Deputy City Attorney Kristen Steinke as City Attorney, Effective January 1, 2019.

Public Hearings:

2. Public Hearing to Consider Administrative Appeal No. AA1-800-0006 Regarding the Planning Commission's Decision to Approve Conditional Use Permit No. CUP-180-0004, a Request to Establish a 2,068 SF Childcare Center with an Outdoor Play Area at 3468 Citrus Street in the General Commercial–Heavy Commercial Zone.

The City Council will conduct the Public Hearing and consider a resolution denying Administrative Appeal No. AA1-800-0006, upholding the Planning Commission's Decision to Approve Conditional Use Permit No. CUP-180-0004, a Request to Establish a Childcare Center at 3468 Citrus Street in the General Commercial–Heavy Commercial Zone.

Reference: Arturo Ortuño, Assistant Planner

Recommendation: Conduct the Public Hearing; and Adopt a Resolution Denying Administrative Appeal No. AA1-800-0006, Upholding the Planning Commission's Decision to Approve Conditional Use Permit No. CUP-180-0004, a Request to Establish a Childcare Center at 3468 Citrus Street in the General Commercial–Heavy Commercial Zone.

3. Public Hearing to Consider an Amendment to the Transnet Local Street Improvement Program of Projects for FY 2019-23.

The City Council will conduct the Public Hearing and consider a resolution approving an amendment to the Transnet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023.

Reference: Molly Brennan, Finance Manager & Mike James, Assistant City Manager / Public Works Director

Recommendation: Adopt Resolution Approving an Amendment to the Transnet Local Street Improvement Program of Projects for Fiscal Years 2019 Through 2023.

Reports to Council:

4. Palm Street Red Curb

Reference: Mike James, Assistant City Manager / Public Works Director

Recommendation: The City Council will receive the report and provide feedback to staff.

5. Promenade Park Rejuvenation Plan

Reference: Mike James, Assistant City Manager / Public Works Director

Recommendation: That the City Council receive a report and provide feedback regarding the NewSchool of Architecture's Urban Design Club's Rejuvenation Plan at the Promenade Park.

6. Ordinance No. 449 Adding Chapter 8.70 to the Lemon Grove Municipal Code Establishing the Tobacco Retailer License

Reference: Miranda Evans, Management Analyst

Recommendation: The City Council will consider the proposed Tobacco Retailer License provisions, and Adopt Ordinance No. 449.

City Council Oral Comments and 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 and Department Director Reports: (Non-Action Items)

Closed Session:

1. LIABILITY CLAIM

Government Code Section 54956.95

Claimant: Hatsuko Hoss

Agency Claimed Against: City of Lemon Grove

Adjournment

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 schapel@lemongrove.ca.gov. A full agenda packet is available for public review at City Hall.

AFFIDAVIT OF NOTIFICATION AND POSTING

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

I, Shelley Chapel, MMC, 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 5:30 p.m. on November 15, 2018, 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.

Isi: Shelley Chapel

Shelley Chapel, MMC, City Clerk

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.A

Dept. City Attorney

Item Title: Waive Full Text Reading of All Ordinances on the Agenda.

Staff Contact: James P. Lough, City Attorney

Recommendation:

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

Fiscal Impact:

None.

Environmental Review:

Not subject to review

Negative Declaration

Categorical Exemption, Section

Mitigated Negative Declaration

Public Information:

None

Newsletter article

Notice to property owners within 300 ft.

Notice published in local newspaper

Neighborhood meeting

Attachments:

None.

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.B
Dept. Finance

Item Title: City of Lemon Grove Payment Demands

Staff Contact: Molly Brennan, Finance Manager

Recommendation:

Ratify Demands

Fiscal Impact:

None.

Environmental Review:

Not subject to review

Negative Declaration

Categorical Exemption, Section

Mitigated Negative Declaration

Public Information:

None

Newsletter article

Notice to property owners within 300 ft.

Notice published in local newspaper

Neighborhood meeting

Attachments:

None.

City of Lemon Grove Demands Summary

Approved as Submitted:

Molly Brennan, Finance Manager

For Council Meeting: 11/20/18

ACH/AP Checks 10/31/18-11/13/18 278,682.40

Payroll - 11/6/18 124,368.76

Total Demands 403,051.16

CHECK NO	INVOICE NO	VENDOR NAME	CHECK DATE	Description	INVOICE AMOUNT	CHECK AMOUNT
ACH	Nov 2018	PERS HEALTH - NOV'18	11/1/2018	Pers Health Insurance - Nov 18	51,901.03	51,901.03
ACH	Refill 11/1/18	Pitney Bowes Global Financial Services LLC	11/1/2018	Postage Usage 11/1/18	250.00	250.00
ACH	8814614	LEAF	11/1/2018	Ricoh C3502 Copier System-PW Yard - Oct'18	160.51	160.51
ACH	Oct18	Power Pay Biz/Evo	11/1/2018	Online Credit Card Processing - Oct'18	73.26	73.26
ACH	Oct18	Wells Fargo Bank	11/1/2018	Bankcard Fee Adjustment	12.00	12.00
ACH	Oct18	Authorize.Net	11/2/2018	Merchant Fees - Oct'18	20.70	20.70
ACH	4154920380 3568860625	SDG&E	11/07/2018	Electric Usage:St Light 10/1/18-10/31/18 Electric Usage:St Light 10/1/18-10/31/18	1,648.91 1,128.16	2,777.07
ACH	Oct18	Wage Works	11/08/2018	FSA Reimbursement - Oct'18	1,003.53	1,003.53
ACH	Oct23 18	Employment Development Division	11/08/2018	State Taxes 10/23/18	6,828.21	6,828.21
ACH	Oct11-Oct23 18	Calpers Supplemental Income 457 Plan	11/08/2018	457 Plan 10/11/18-10/23/18	5,523.53	5,523.53
ACH	18-Sep	Home Depot Credit Services	11/09/2018	Home Depot Purchases - Sep'18	34.06	34.06
10416	7045	911 Restoration of San Diego	10/31/2018	Water Damage/Mold Remediation - Demo & Repair - Sheriff Stn	15,245.83	15,245.83
10417	Fire-12087231	AT&T	10/31/2018	Fire Backup Phone Line- 9/22/18-10/21/18	40.00	40.00
10418	16394L-IN	Aztec Landscaping Inc	10/31/2018	Median Enhancement- LGA/Broadway & Repair Manifold- Comm Ctr	336.00	704.67
10419	900249-9	BJ's Rentals	10/31/2018	Propane	11.77	11.77
10420	BSA Fees: Jul-Sep	California Building Standards Commission	10/31/2018	BSA Fees: Jul-Sep'18	266.40	266.40
10421	1069-755939	California Electric Supply	10/31/2018	Replace Decorative Streetlight Hit - Broadway	6,545.81	6,545.81
10422	19345597	Canon Financial Services Inc	10/31/2018	Canon Copier Contract Charge 11/1/18	642.60	642.60
10423	4011408208	Cintas Corporation #694	10/31/2018	Janitorial - Fire - 10/25/18	333.10	333.10
10424	FRS0000127 FRS0000127 FRS0000127	City of El Cajon	10/31/2018	Overtime Reimbursement - Groller 10/8/18 Overtime Reimbursement - Stewart 10/15/18 Overtime Reimbursement - Stewart 10/16/18	1,227.23 486.79 1,168.30	2,882.32
10425	INV00051	City of Imperial Beach	10/31/2018	SD Bay WQIP Cost Share Agreement- FY18/19	9,791.00	9,791.00
10426	Oct18	Colonial Life	10/31/2018	Colonial Optional Insurance -Oct 18	446.80	446.80
10427	2873Skyline- 10/20 10/19/2018	Cox Communications	10/31/2018	Phone/PW Yard/2873 Skyline- 10/19/18-11/18/18 City Manager/Copy Room Fax Line- 10/18/18-11/17/18	212.63 5.42	218.05
10428	210496 210497	Dell Awards	10/31/2018	Nameplates for City Council Meetings- Planning Commissioners Nameplate for City Council Meetings & Wall Holder - Fire - Swaney	59.26 22.63	81.89
10429	Jul-Sep18	Department of Conservation	10/31/2018	Qtrly SMIP Fees - Jul-Sep'18	714.00	714.00
10430	10/8-11/18	Esgil Corporation	10/31/2018	75% Building Fees- 10/8/18-10/11/18	3,583.79	3,583.79
10431	59703 59768	EW Truck & Equipment Company, Inc.	10/31/2018	LGPW#29- '06 Dump Truck - Repair Brakes/Air Governor LGPW#29 - '06 Dump Truck - Repair Brakes/Valve	1,235.43 561.02	1,796.45
10432	100000009797510	Globalstar USA, Inc.	10/31/2018	Satellite Service 9/16/18-10/15/18	166.56	166.56
10433	8/21/18-10/20/18	Helix Water District	10/31/2018	Water Servies- 8/21/18-10/20/18	27,581.85	27,581.85
10434	70581	House of Automation	10/31/2018	Service Call- PW Yard Security Gate Repair	297.74	297.74
10435	CivicCtr-Oct18	Knott's Pest Control, Inc.	10/31/2018	Monthly Bait Stations- Civic Ctr - Oct18	60.00	105.00

	Sheriff- Oct18			Monthly Bait Stations- Sheriff - Oct18		45.00	
10436	1695	Law Offices of James F. Holtz, APC	10/31/2018	Legal Svcs: GHC0017548- Svcs thru 10/9/18		11,174.65	11,174.65
10437	IR-09018	LCPtracker	10/31/2018	LCPtracker Labor Compliance Software Purchase		7,200.00	7,200.00
10438	276	Metro Wastewater JPA	10/31/2018	CLG Share of Metro JPA 2018-19 Annual Budget		14,050.09	14,050.09
10439	805421	Miracle Recreation Equipment Co.	10/31/2018	Mast Ladder Top & Bottom- LG Park		955.16	955.16
10440	3010284636	Parkhouse Tire Inc	10/31/2018	Backhoe 420E- Fleet Service/Flat Repair		200.44	200.44
10441	31563462	RCP Block & Brick, Inc.	10/31/2018	Rapid Set Cement Grout - New Stop Sign Install/Ildica		62.39	62.39
10442	64098	Rick Engineering Company	10/31/2018	Prof Svc: City Engineer 9/1/18-9/28/18		38,392.83	38,392.83
10443	AR172175	San Diego Association of Governments	10/31/2018	ARJIS FY 2019 JPA Fees - 7/1/18-6/30/19		16,332.00	16,332.00
10444	10/22/2018 10/22/2018 10/22/2018	SDG&E	10/31/2018	3225 Olive- 9/18/18-10/18/18 3500 1/2 Main- 9/18/18-10/18/18 3601 1/2 LGA- Gas & Electric 9/18/18-10/18/18		150.22 248.79 29.68	428.69
10445	Nov-18	Standard Insurance Company	10/31/2018	Long Term Disability Insurance - Nov18		1,233.21	1,233.21
10446	9816413021	Verizon Wireless	10/31/2018	Mobile Broadband Access- 9/13/18-10/12/18		76.02	76.02
10447	97326	Vinyard Doors, Inc.	10/31/2018	Sectional Door Repair- Door 6 - Fire Station		614.00	614.00
10448	71990896 71999102	Vulcan Materials Company	10/31/2018	Asphalt Asphalt		101.55 302.67	404.22
10449	Westermeyer Fam	Westermeyer Family Trust	10/31/2018	Refund/Westermeyer Family Trust/Sewer Fees Collected in Error		2,293.12	2,293.12
10450	9/23/18-10/22/18	AT&T	11/07/2018	Backup City Hall Internet- 9/23/18-10/22/18		80.00	80.00
10451	11/6/2018	California State Disbursement Unit	11/07/2018	Wage Withholding Pay Period Ending 11/6/18		161.53	161.53
10452	81914641	Corelogic Solutions, LLC.	11/07/2018	Image Requests - Aug'18		16.50	16.50
10453	Peg- 10/30/18-11/29/18	Cox Communications	11/07/2018	Peg Circuit Svc- 10/30/18-11/29/18		2,896.29	2,896.29
10454	4375 4376 4377 4378 4381	D- Max Engineering Inc	11/07/2018	Grove Lofts Stormwater Inspections 5/1/18-5/31/18 Ildica Stormwater Inspections 5/1/18-5/31/18 FY17-18 Street Rehab Proj Stormwater Inspections 5/1/18-5/31/18 Center Hilltop Condos Stormwater Inspections 5/1/18-5/31/18 LGA Realignment Stormwater Inspections 5/1/18-5/31/18		385.00 440.00 330.00 252.95 417.95	1,825.90
10455	1030182305	Domestic Linen- California Inc	11/07/2018	Shop Towels & Safety Mats 10/30/18		82.10	82.10
10456	19118771	EAN Services, LLC	11/07/2018	Car Rental- Roosevelt Fire- 9/24/18-10/2/18 Hales		814.94	84.94
10457	10/15/18-10/18/18	Esgil Corporation	11/07/2018	75% Building Fees- 10/15/18-10/18/18		3,279.23	3,279.23
10458	420551	EW Truck & Equipment Company, Inc.	11/07/2018	PW/Supplies		10.00	10.00
10459	122670	Fire Etc	11/07/2018	Innerzone 2 Goggles- Face/Eye Protection - Pepin		285.54	285.54
10460	1506 1507	Janazz, LLC SD	11/07/2018	IT Services- City Hall- Oct'18 Hard Drive/PW Yard- Oct'18		2,500.00 172.40	2,672.40
10461	Oct 18	Law Offices of Chance Hawkins	11/07/2018	Legal Svcs - Oct '18		901.00	901.00
10462	4539632	Mallory Safety and Supply, LLC	11/07/2018	Drivers Gloves/Nitrile Gloves/Glasses		1,563.51	1,563.51
10463	40004652	Maneri Sign Co., Inc.	11/07/2018	Street ID Signs/Citywide & 2 Hour Parking Signs/Downtown LG		1,312.85	1,312.85
10464	605033009	Nichols Consulting Engineers, CHTD	11/07/2018	Prof Svc: Pavement Mgmt Prog 2018 Update thru 9/30/18		3,830.55	3,830.55
10465	3010284195	Parkhouse Tire Inc	11/07/2018	E10 - 2 Tires & Installation		1,764.36	1,764.36
10466	PickAxe180-01 PickAxe180-02	Pick Axe Holdings, LLC	11/07/2018	Refund/Pick Axe Holdings, LLC/Withdrawal ZCM-180-0001 Refund/Pick Axe Holdings, LLC/Withdrawal ZCM-180-0002		1,090.00 1,090.00	2,180.00
10467	INV025592	RapidScale Inc.	11/07/2018	Virtual Hosting 10/31/18		3,370.78	3,370.78
10468	64094	Rick Engineering Company	11/07/2018	Prof Svc: 20A UG Dist Project 9/1/18-9/28/18		460.00	460.00
10469	8125923081	Shred-It USA	11/07/2018	Shredding Services 10/23/18		69.46	69.46
10470	38027C-1018	Trepte Construction Company	11/07/2018	Prof Svcs: Oct'18		630.00	630.00
10471	1020180389	Underground Service Alert of Southern Califor	11/07/2018	66 New Ticket Charges - Oct'18		118.90	118.90
10472	STMT 10/22/2018 STMT 10/22/2018	US Bank Corporate Payment Systems	11/07/2018	Kitchen Faucet - Fire Stn Registration/Workshop/ITE SD Traffic- 9/28/18 James		203.65 15.00	17,268.28

			Membership/MMASC/James	85.00	
			Registration/MMASC Seminar- 9/27/18 James	20.00	
			Registration/PARMA Conf- 2/10/19-2/13/19 James	350.00	
			Regis&Lodging/MMASC Conf- 10/16/18-10/18/18 James	1,046.23	
			Lodging/MMASC Conf-10/17/18-10/18/18 Boyce	410.82	
			Repair/Sheriff Stn Bathroom	31.02	
			PW/Industrial Floor Scrubber 20 Inch	1,859.08	
			Notary Training/Macias	629.10	
			Supplies/Employee Appreciation Event 10/11/18	259.28	
			Giftcards/Employee Appreciation Event 10/11/18	250.00	
			75 Foot Hi Visibility Hose & Nozzle - Fire Stn	87.22	
			SCBA Mask Name Stickers	118.37	
			Station Supplies - Fire	146.88	
			Supplies - Fire	48.67	
			Airfare & Regis/Clerk New Law Seminar/Chapel 12/12/18-12/14/18	523.98	
			Supplies - City Clerk	12.36	
			Membership/So Cal Fire Prev - Rodriquez	65.00	
			E210 Transmission	11,106.62	
10473	981655749	Verizon Wireless	11/07/2018 Fire Prev Phone Line/Tablets- 9/21/18-10/20/18	361.93	361.93
					278,682.40

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.C

Dept. City Manager's Office

Item Title: Approval of City Council Meeting Minutes

Staff Contact: Shelley Chapel, MMC, City Clerk

Recommendation:

Approval of City Council Meeting Minutes for Regular Meeting held Tuesday, October 16, 2018, and Tuesday, November 6, 2018.

Fiscal Impact:

None.

Environmental Review:

Not subject to review

Categorical Exemption, Section

Negative Declaration

Mitigated Negative Declaration

Public Information:

None

Newsletter article

Notice to property owners within 300 ft.

Notice published in local newspaper

Neighborhood meeting

Attachments:

None.

**MINUTES OF A MEETING OF
THE LEMON GROVE CITY COUNCIL
TUESDAY, OCTOBER 16, 2018**

*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:

Mayor Vasquez called the Regular Meeting to order at 6:00 p.m.

Present: Mayor Racquel Vasquez, Mayor Pro Tem Jerry Jones, Councilmember Jennifer Mendoza (*left at 7:31*), Councilmember David Arambula, and Councilmember Matt Mendoza.

Absent: None.

Staff Members Present:

Lydia Romero, City Manager, James Lough, City Attorney, Mike James, Assistant City Manager/Public Works Director, Mike Chasin, Interim Fire Chief, Lieutenant Scott Amos, San Diego County Sheriff's Office - Lemon Grove Substation, , Shelley Chapel, City Clerk, Molly Brennan, Finance Manager, Roberto Hildago, Human Resource Manager, Daryn Drum, Fire Division Chief and Mike Viglione, Assistant Planner.

Pledge of Allegiance:

Pledge of Allegiance to the Flag was led by Councilmember J. Mendoza.

Public Comments:

Appeared to comment was: John L. Wood

Consent Calendar:

- 1.A. Waive Full Text Reading of All Ordinances on the Agenda.
- 1.B. Ratification of Payment of Demands
- 1.C. City Council Meeting Minutes for the Regular Meeting of October 2, 2018.
- 1.D. Acceptance of Approved Planning Commission Meeting Minutes for the Regular Meeting of June 25, 2018.

Action: Motion by Mayor Pro Tem Jones, seconded by Councilmember Arambula to approve Consent Calendar Items 1.A-1.D. Item 1.E. was pulled by the public and was heard at the end of the agenda.

The motion passed by the following vote:

Ayes: Vasquez, Jones, Arambula, M. Mendoza, J. Mendoza

Absent: None.

Public Hearing:

2. First Reading and Introduction of Ordinance No. 2018-449, to Consider Zoning Amendment ZA1—800-0002 Separation Findings for Discretionary Permits.

City Manager Romero introduced Assistant Planner Mike Viglione who also introduced Claudia Tedford, CityPlace Planning Consultant who together presented the staff report and PowerPoint Presentation.

Mayor Vasquez opened the Public Hearing at 6:29 p.m.

During the discussion Councilmembers expressed concern about language in the Code regarding “pending” applications for Conditional Use Permits and 1000’ foot rule.

Councilmembers were concerned with mailings to property owners and tenants to ensure everyone is noticed of projects.

City Manager Romero, Development Services Staff, Consultant and City Attorney Lough provided the Council with response to questions.

No Public Comment.

Action: The public hearing was closed at 6:30 p.m. on a motion by Mayor Pro Tem Jones and second by Councilmember M. Mendoza. The motion passed by the following vote:

Ayes: Vasquez, J. Mendoza, Arambula, Jones, M. Mendoza

Noes: None

Action: Motion by Mayor Pro Tem Jones and second by Councilmember M. Mendoza. The motion passed to refer this item back to the Planning Commission with comments from the City Council, with direction that the Planning Commission must complete their review of this item within 60 days and return this item to the City Council. Included in the agenda item for Planning Commission will be the review of the issuance of Conditional Use Permits (CUP) for protected uses and determination on how they should be handled by the following vote:

Ayes: Vasquez, J. Mendoza, Arambula, Jones, M. Mendoza

Noes: None

3. Lemon Grove Avenue Realignment Project

The City Council will approve the project budget and time extension for the Lemon Grove Avenue Realignment Project.

City Manager Lydia Romero introduced Assistant City Manager/Public Works Director Mike James who presented the staff report. Mr. James also introduced Scott Adamson, Project Manager with IEC and City Engineer Edgar Camerino. Mr. James clarified amended agenda report was provided to Council with clerical changes to Fiscal Impact of the report only, the Resolution was correct.

Molly Brennan, Finance Manager provided an update on the status of the General Fund to pay for the additional costs associated with the shortfall.

Councilmembers were concerned with the delays of SDG&E work still needed regarding undergrounding the overhead lines, and removal of electric poles. Included in the discussion was the concern regarding the shortfall in financing of the project.

Appeared to comment was: John L. Wood

Action: It was moved by J. Mendoza and seconded by Councilmember Arambula to adopt Resolution No. 2018-3614 entitled, "A Resolution of the City Council of the City of Lemon Grove, California Approving the Project Budget for the Lemon Grove Avenue Realignment Project."

The motion passed by the following vote:

Ayes: Vasquez, J. Mendoza, Arambula, Jones, M. Mendoza

Noes: None

Item pulled by a member of the public

1.E. Resolution Approving a Sixth Amendment to the Option Agreement between the City of Lemon Grove and the San Diego Land Trust for 8084 Lemon Grove Way.

Appeared to speak was: John L. Wood

City Manager Lydia Romero, and Assistant Planner Mike Viglione provided an overview of the request for approval of the Sixth Amendment.

Action: It was moved by J. Mendoza and seconded by Mayor Pro Tem Jones to adopt Resolution No. 2018-3613 entitled, "A Resolution of the City Council of the City of Lemon Grove, California, approving the Sixth Amendment to an Option Agreement with the San Diego Community Land Trust for the Parcel Identified as 8084 Lemon Grove Way (APN 475-450-19-00)."

The motion passed by the following vote:

Ayes: Vasquez, J. Mendoza, Arambula, Jones, M. Mendoza

Noes: None

City Council Oral Comments & Reports on Meetings Attended At City Expense: (G.C. 53232.3(d))

Councilmember J. Mendoza attended the following meetings and events:

Lemon Grove Historical Annual Tea with Lemon Grove School District
Dr. Weber's Salute to Hispanic and Filipino Leaders
SANDAG Transportation Meeting
SANDAG Board Meeting
Annual Open House and Pancake Breakfast at the Lemon Grove Fire Department
Lecture at Library by Lemon Grove Author

J. Mendoza left the meeting at 7:31 p.m.

Councilmember Arambula attended the following meetings and events:

SANDAG Transportation Meeting
San Diego Night's County event
Heartland Fire Training Authority Commission Meeting
MTS Board Meeting

Mayor Pro Tem Jones attended the following meetings and events:
Attended the opening of the Lemon Grove Realignment Project.

Mayor Vasquez attended the following meetings and events:
Lemon Grove School Board Meeting presented Certificate of Recognition for 125th Anniversary
East County Mayors Meeting

Mayor Vasquez reminded the public of the upcoming Special Meeting regarding Budget.

City Manager and Department Director Reports: (Non-Action Items)

Interim Fire Chief Chasen reported the success of the Open House and Pancake Breakfast and reported a fire incident at 7100 block of San Miguel home fire.

Lieutenant Amos reported the success of Coffee with the Community at Anna's Restaurant.

City Clerk Chapel reminder Monday, October 22 is the last day to register to vote for the November 6 General Election.

Closed Session:

1. Conference with Legal Counsel – Anticipated Litigation
Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of G. C. Section 54956.9 (two cases)
2. Conference with Legal Counsel – Existing Litigation (G.C. § 54956.9 (1d))
Christopher Williams vs. David Arambula, City of Lemon Grove, et. al.
San Diego Superior Court - Case number 37-2018-00023369-CU-PO-CTL

City Attorney James Lough announced the City Council will be adjourning to closed session at 7:39 p.m. for the purposes above.

City Attorney Lough reported no reportable action on items discussed in Closed Session.

Adjournment:

There being no further business to come before the Council, the meeting was adjourned at 8:18 p.m. to a meeting to be held Tuesday, October 23, 2018, in the Lemon Grove Community Center located at 3146 School Lane, for a Special Budget Meeting.

Shelley Chapel, MMC
City Clerk

**MINUTES OF A MEETING OF
THE LEMON GROVE CITY COUNCIL
TUESDAY, NOVEMBER 6, 2018**

*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:

Mayor Vasquez called the Regular Meeting to order at 6:04 p.m.

Present: Mayor Racquel Vasquez, Councilmember Jennifer Mendoza, Councilmember David Arambula, and Councilmember Matt Mendoza.

Absent: Mayor Pro Tem Jerry Jones

Staff Members Present:

Lydia Romero, City Manager, James Lough, City Attorney, Mike James, Assistant City Manager/Public Works Director, Daryn Drum, Fire Division Chief, Lieutenant Scott Amos, San Diego County Sheriff's Office - Lemon Grove Substation, , Shelley Chapel, City Clerk, Roberto Hidalgo, Human Resources Manager, and Molly Brennan, Finance Manager, and Miranda Evans, Management Analyst.

Pledge of Allegiance:

Pledge of Allegiance to the Flag was led by Councilmember M. Mendoza.

Presentations:

- Mayor Vasquez introduced Girl Scout Troop 6786 and Troop Leader Courtney Cuellar and presented a Proclamation of Recognition for the Pillars Project.
- Mayor Vasquez introduced Miranda Evans Management Analyst with the City Manager's Office who gave an overview of the redesign of the City Website.

Public Comments:

Appeared to comment were: John L. Wood and Brenda Hammond.

Consent Calendar:

- A. Waive Full Text Reading of All Ordinances on the Agenda.
- B. Ratification of Payment of Demands
- C. City Council Meeting Minutes for the Special Meeting of October 23, 2018
- D. Acceptance of the Planning Commission Meeting Minutes for the Regular Meeting of September 24, 2018.
- E. Adoption of Resolution No. 2018-3615 approving a Professional Services Agreement with Rick Engineering Company to update the Citywide Drainage Master Plan.
- F. Adoption of Resolution No. 2018-3616 approving an Amendment to the Professional Services Agreement with Horton, Oberreht, Kirkpatrick, and Martha.
- G. Adoption of Resolution No. 2018-3617 to Declare a Shelter Crisis

Action: Motion by Councilmember J. Mendoza, seconded by Councilmember M. Mendoza to approve Consent Calendar Items 1.A, and 1.B, approved 4-0, with Mayor Pro Tem Jones absent and item 1.F approved 3-1, with Councilmember Arambula abstaining, and Councilmember Jones absent.

The motion passed by the following vote:

Ayes: Vasquez, J. Mendoza, M. Mendoza

Absent: Jones

Abstained: Arambula (Item 1.F)

Consent Items pulled by a member of the public for comment:

- C. City Council Meeting Minutes for the Special Meeting of October 23, 2018
- D. Acceptance of the Planning Commission Meeting Minutes for the Regular Meeting of September 24, 2018.
- E. Adoption of Resolution No. 2018-3615 approving a Professional Services Agreement with Rick Engineering Company to update the Citywide Drainage Master Plan.
- G. Adoption of Resolution No. 2018-3617 to Declare a Shelter Crisis

Appeared to comment were: John L. Wood and Chris Williams.

Staff responded to comments as requested by Mayor Vasquez.

Action: Motion by Councilmember J. Mendoza, seconded by Councilmember M. Mendoza to approve Consent Calendar Items C, D, E and G.

The motion passed by the following vote:

Ayes: Vasquez, Arambula, J. Mendoza, M. Mendoza

Absent: Jones

City Council Oral Comments & Reports on Meetings Attended At City Expense: (G.C. 53232.3(d))

Councilmember J. Mendoza attended the following meetings and events:

- Mexican American Business Association Lunch
- SANDAG Energy Working Group Meeting
- SANDAG Board Meeting on behalf of the Mayor
- Media Event to showcase the new Park Signs
- Salute to the Navy Luncheon the National City Chamber of Commerce on behalf of the Mayor
- San Miguel Pre-School Fall Festival
- Kids Care Fest
- Announced the Annual Chili Cook-Off hosted by the Lemon Grove Soroptimist Club and Lemon Grove Lions Club

Councilmember M. Mendoza attended the following meetings and events:

- Vista Prayer Breakfast

Mayor Vasquez attended the following meetings and events:

- Budget Workshop for the City of Lemon Grove

City Manager and Department Director Reports: (Non-Action Items)

City Attorney Lough announced the passing of John Whitt San Diego City Attorney for 32 years and observed a brief moment of silence in memory.

Closed Session:

1. LIABILITY CLAIM
Government Code Section 54956.95
Claimant: Gloria Smith
Agency Claimed Against: City of Lemon Grove

2. PUBLIC EMPLOYEE EMPLOYMENT

Government Code Section 54957

Position to be filled: City Attorney

City Attorney James Lough announced the City Council will be adjourning to closed session at 6:59 p.m. for the purposes above.

City Attorney Lough reported no reportable action on items discussed in Closed Session.

Adjournment:

There being no further business to come before the Council, the meeting was adjourned at 7:43 p.m. to a meeting to be held Tuesday, November 20, 2018, in the Lemon Grove Community Center located at 3146 School Lane, for a Regular Meeting.

Shelley Chapel, MMC
City Clerk

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.D
Mtg. Date November 20, 2018
Dept. Public Works

Item Title: Rejection of Claim

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Recommendation:

[That the City Council rejects a claim submitted by Gloria Smith.]

Item Summary:

[On October 15, 2018, the City of Lemon Grove received a timely submitted claim from Gloria Smith. After investigating the claim, staff recommends that the City Council rejects the claim.]

Fiscal Impact:

[None.]

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

None.

LEMON GROVE CITY COUNCIL AGENDA ITEM SUMMARY

Item No. 1.E

Meeting Date: November 20, 2018

Submitted to: Honorable Mayor and Members of the City Council

Department: **City Manager's** Office

Staff Contact: Shelley Chapel, City Clerk

Schapel@lemongrove.ca.gov

Item Title: Update the City of Lemon Grove "Working with Public Records Request" Policy

Recommended Action: Rescind Resolution No. 2608, and Adopt Resolution Approving the updated City of Lemon Grove "Working with Public Records Request" Policy.

Summary:

March 21, 2006, the City Council adopted a Public Records Request Policy that works in conjunction with the State of California Public Records Act (The Act). The Act enacted in 1968 is a key part of the philosophy that government in the State must be open and accessible to all.

The people have the right of access to information concerning the conduct of the people's business, and, therefore the meetings of the public bodies and the writings of public officials and agencies shall be open to public scrutiny. Cal. Const. Article 1, Section 3 (b).

In enacting this chapter, the Legislature, mindful of the right of individuals privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. Cal Government Code Section 6250.

The Act, provides that public records shall be open for inspection during regular office hours of the agency and that agency has the responsibility to provide copies of **"identifiable public records."** **When a copy of a record is requested, the agency shall determine within ten (10) days whether to comply with the request, and shall promptly inform the requestor of its decision and the reasons therefor.**

If records are not readily available the agency has an initial ten (10)-day period to make a determination which may be extended for up to fourteen (14) days. If immediate

disclosure is not possible, the agency must provide the records within a reasonable period of time, along with an estimate of that date that the records will be available. The City is not required to actually produce the disclosable records within the 10-24 days, they are **produced within the reasonable amount of time, and “reasonable” is often tied to the complexity of the effort to gather the records, withholding and/or redacting etc.** If a request is denied, it must be denied in writing.

Special circumstances may provide discretionary exemptions which may utilize a basis for withholding records from disclosure. These exemptions must be provided to the requestor at the time denial is presented or reasons the records or information were withheld.

Discussion:

The City of Lemon Grove has a strong commitment to efficient and accurate responses to public records requests. The average response time to a public records request is 6-10 days. The annual average of public records requests received within the City is 250.

The update of this policy is to reflect any changes in the law, fees and/or procedural changes. It is the policy of the City to recover the cost of producing records to the extent allowed by law in response to Public Records Requests.

The City of Lemon Grove is dedicated to providing more documents on the City website to create greater transparency through which the public can access documents on their own time. This is an ongoing effort and considered a priority for the City Clerk when time allows.

Environmental Review:

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

Fiscal Impact: None.

Public Notification: None.

Attachments:

Attachment A – Resolution rescinding Resolution No. 2608, and adopting the updated City of Lemon Grove "Working with Public Records Request" Policy.

Attachment B – Redline Policy adopted March 21, 2006

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE,
**CALIFORNIA, ADOPTING THE “WORKING WITH PUBLIC RECORDS
REQUEST” POLICY AND RESCINDING RESOLUTION NO. 2608**

WHEREAS, March 21, 2006, the City Council of the City of Lemon Grove approved the “Working with Public Records Request” policy.

WHEREAS, California Public Records Act (the Act) was enacted in 1968, to: (1) safeguard the accountability of government to the public; (2) promote maximum disclosure of the conduct of governmental operations; and (3) explicitly acknowledge the principle that secrecy is antithetical to a democratic system of “government of the people, by the people, and for the people.”

WHEREAS, the Act expressly provides that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.”

WHEREAS, responding to Public Records Requests promptly and with quality are the key goals of the “Working with Public Records Request” Policy; and,

WHEREAS, the purpose of the “Working with Public Records Request” Policy is to outline the legal requirements for a request, identify the time requirements for the request, provide guidelines for processing public records requests, assist in determining when a record is exempt from public disclosure, the process the City will use to provide the service and describe what costs may be incurred by the requestor; and,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California, hereby approves the “Working with Public Records Request” Policy and rescinds Resolution No. 2608.

PASSED AND ADOPTED on _____, 2018, the City Council of the City of Lemon Grove, California, adopted Resolution No. _____, passed by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Raquel Vasquez, Mayor

Attest:

Shelley Chapel, MMC, City Clerk

Approved as to Form:

James Lough, City Attorney



REDLINE VERSION

City of Lemon Grove

Working with Public Records Request Policy

- California Government Code, Section 6250 - *In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.*
- California Government Code, Section 6251 - *This chapter shall be known and may be cited as the California Public Records Act.*
- California Government Code, Section 6253 (a) - *Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.*

The Purpose:

The purpose of the Policy is to assure that a Public Records Request is responded to promptly and with quality customer service. ~~In responding to public requests for records, the City not only relies on the California Public Records Act, but also a strong commitment to efficient and accurate service.~~

It is the policy of the City to comply with the California Public Records Act and the Government Code, by providing a balance of public interests in transparency, privacy, and effective government. ~~and will provide the following assistance to members of the public so they may make an effective request by:~~

- ~~Helping the members of the public to identify records and information that are responsive to the request,~~
- ~~Describing the information technology and physical location in which the records exist.~~
- ~~Providing suggestions for overcoming any practical basis for denying access to the records or information sought.~~

Determination of Disclosure:

If the determination is exemption a response explaining that exemption will be provided to the requestor.

Public records that are exempt from disclosure need not be available for review or reproduced.

~~The following are excerpts from California Government Code 6254 regarding exempt records.~~

Public records that are exempt from disclosure will not be produced which includes but is not limited to:

- ❖ Preliminary drafts, notes or interdepartmental or intra-agency memoranda which are not retained in the ordinary course of business. Provided that the public interest in withholding such record clearly outweighs the public interest in disclosure.
- ❖ Records pertaining to litigation to which the City is named.
- ❖ Files that contain personnel or medical records
- ❖ Records related to applications filed with any state agency responsible for the regulation or supervision of securities or financial institutions.
- ❖ Geological or geophysical data relating to utilities.
- ❖ Certain police records – these records are requested directly from the San Diego County **Sheriff's Office**.
- ❖ Test questions, scoring keys and other examination data used in employee hiring.
- ❖ The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.
- ❖ Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.
- ❖ Library circulation records.
- ❖ Attorney-Client memos or emails are confidential, even if the City is the client.
- ❖ Trade Secrets or Proprietary information, plans, or specifications submitted to the City by licensed design professionals, such as architects, engineers etc.
- ❖ Other unique exemptions contained in The Act are listed in Government Code 6254 and further defined through applicable case law.

The following are not public records and are exempt from disclosure:

- ❖ City initiatives, referendum and recall petitions
- ❖ Computer software developed by a City department, such as a computer mapping systems, computer programs, and computer graphics systems.
- ❖ Archaeological Sites and Official Building Plans
- ❖ Campaign Nomination Papers
- ❖ Electronic copies provided that may compromise the security or integrity of the original record or any proprietary software in which it is maintained.

Refer to ~~this~~ Government Code Section 6254 and applicable case law for the complete list of exemptions.

The City is not required to create a record when a request is made. For example a requestor may ask for a list of the address of all City Businesses. If a list does not exist staff is not required to **create a list**. However, if there are records in the City's possession that contain the requested information (such as a map that marks each location), the record must be provided.

A request for record is not a question or series of questions posed to local agency officials or employees. The requestor must make an attempt to identify specific documents that would provide a response to questions. The Act creates no duty to answer written or oral questions submitted by members of the public. A staff member may direct a member of the public to the City website if the response or responding document is easily available.

Time Requirements for Response to a Request:

The Public Records Act allows for the time it may take to determine whether a **responding record is available and if said** record should be disclosed. ~~Department Directors or their designee must determine whether a record should be disclosed and respond to the requestor within ten calendar days after the request has been received.~~ **The requestor will receive written notice from staff notifying them of the status of the request.** In addition, the notice shall state the estimated date and time when the records will be made available.

Request for Extension of Time

In unusual circumstances, the ten (10) day time limit may be extended by written notice by the City Clerk or his or her designee to the person making the request, explaining the reasons for the extension and the date of the determination of disclosure.

No notice shall specify a date that would result in an extension for more than **fourteen** (14) days. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

- 1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
- (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

If the request is voluminous, or overly vague the agency has the option to ask the requestor to narrow the request. The Agency may also ask the requestor to consent to a later responsive deadline, **and/or consent to providing responsive records on a "rolling basis"** (as the records are located/redacted/prepared) rather than one complete package. The agency is not required to **perform a "needle in the haystack" search to locate** records nor is it required to undergo a search **that will produce a "huge volume" of material** in response to a request. The burden on the agency must be substantial enough to withhold the requested records on the basis that the public interest in nondisclosure clearly outweighs the public interest in disclosure.

Procedure:

City staff will provide the requestor with a receipt of request in writing. The receipt will acknowledge receipt of the email and of the ten (10) day notice.

Requests will be accepted during the days and hours that the City Hall is regularly open for business. If the email was received by email or otherwise after business hours or on a weekend or holiday, the next business day may be considered the first date of receipt. If the tenth (10) day falls on a weekend or holiday, the next business day is considered the deadline for responding to the request.

Records Duplication Costs:

It is the policy of the City to recover the cost of reproducing records to the extent allowed by State law. The City is allowed to recover only the direct and actual cost of duplication. ~~The “Fees for Public Records Act Duplication” provides the guideline in cost recovery.~~

Fees shall be in accordance with the current fee schedule adopted with the current City Budget.

The only exception is for Fair Political Practices Commission (FPPC) forms/filings which include Forms 510, 460, 470, 700, 802 etc. and are required to be provided as soon as possible, and in no event later than the second business day following receipt of the request. The regulated charge is \$.10 per page. In addition, an agency may charge a \$5.00 retrieval fee for copies of Campaign Statements (Forms 460/470) that are five (5) years or older. (Government Code 81000 et seq)

As a courtesy per the Act, the City may provide 20 free pages in the following cases:

~~The City may provide up to twenty free copies in the following cases:~~

- Any governmental agency or any public officer in his or her official capacity.
- Any person engaged in the performance of work **at the City’s request where such copies of records are required to perform work.**
- Bona fide students or teachers engaged in research projects
- **Most of the City’s promotional materials.**

Duplication of Non-Paper Records:

The format in which a record will be produced is the format stored: e.g. paper, electronic, etc. Under The Act the City is not required to create a record, therefore, if a document is stored and available in paper format it will not be scanned and emailed to the requestor.

The exception would be if the information is public and within a proprietary software a document could be printed and the requestor would pay a copy fee.

~~If the City receives a request, which constitutes an identifiable public record and not exempt from disclosure that is in an electronic format shall make that information available in an electronic format. The City is not required to reconstruct a record in an electronic format if the City no longer has the record available in an electronic format.~~

~~If the request is for records in other than electronic format, and the information also is in electronic format, the City may inform the requester that the information is available in electronic format. The City is not allowed to make record/information available only in an electronic format.~~

Requestor Reviewing the Records:

When reviewing records in volume the requestor will be placed in a conference room to review with a staff member. The requestor will be the only person allowed in to review the documents at a time.

The use of Cell Phones, Cameras, Laptop Computers, Ipad or other similar devices are prohibited when requestor is inspecting architectural or engineer plans with copyright protection.

Processing the Public Record Request:

For further assistance in ~~precession~~ **processing** the request, follow the steps using the “**Public Records Checklist.**”

FEES FOR PUBLIC RECORDS ACT DUPLICATION

PHOTOCOPIES (Govt. Code Section 6253(b)):

8 1/2 x 11 Paper

Number of Pages _____ X \$0.10/per page \$ _____

Color Copies _____ x \$1.00/per page \$ _____

OVERSIZE COPIES:

8 1/2 x 14 Paper

Number of Pages _____ X \$0.25/per page \$ _____

11 x 17 Paper

Number of Pages _____ X \$0.50/per page \$ _____

AUDIO TAPES:

Number of Tapes _____ X \$3.00 each \$ _____

ELECTRONIC RECORDS :

Number of CDs _____ X \$3.00 each \$ _____

CAMPAIGN STATEMENTS (Govt. Code Section 81009):

Number of Pages _____ X .10 cents each \$ _____

TOTAL: \$ _____

PUBLIC RECORDS ACT CHECKLIST

- Date stamp the request **on the date received**.
- Determine the initial due date. Count ten (10) calendar days beginning with the day received as day one.
 Exception: Form 700 – Statement of Economic Interests/ **FPPC Forms- Campaign Filings provide immediately or** commencing as soon as practicable, but in any event not later than the second business day following the day on which it was received.
- Forward Request to the City Clerk to log.**
- City Clerk will identify** what is being requested.
 - Requesting access or copies?
 - Too broad? Too numerous? Too vague? **Call Email citizen requestor** to narrow request.
 - Are the records exempt to the Public Records Act?
 - ~~Do I need to~~ **Is a request for** a fourteen (14) day extension of the ten (10) day deadline **needed?**
 - Contact the City Attorney for additional information.
- Determine ~~what~~ department(s) ~~holds the of~~ record(s).
- ~~If more than one department is involved, immediately forward the original Public Records Act Request to the City Clerk's Office to coordinate document retrieval and/or duplication.~~
- Retrieve the records held by your **department office**.
- Determine the number of records.
- Determine cost of records, if requesting copies. (See **current Fee Schedule**) ~~Fees for Public Records Act Reproduction~~
- Send out ~~standard Public Records Act form letter~~ **Standard Receipt of Request email** within first day or two of receiving request.
- Within ten days of receipt of request **a response should be sent responding to requestor that the City is in possession of records responding to the request or that there are no records responding. If an extension is required that can be discussed at this time. In addition if exemptions are being made they will be mentioned in this response if known at the time. unless the City Clerk's Office is coordinating the retrieval.**



When response is received from requestor, do one of the following:

- If ~~citizen~~ requestor is requesting ~~to~~ only to review documents, schedule a time for the ~~citizen~~ requestor to come in to review; (If Voluminous amount of records to review; schedule a conference room and staff member to remain in the room during review.)
- Arrange for copying. ~~Call citizen~~ Email requestor when documents are copied and available for pickup, or mail if requested and paid for.
- If request if voluminous a deposit may be requested prior to making copies.
- Save all responding documents, correspondence, and emails to the PRA Folder under the requestor's name. Retention of these records will be according to the City Records Retention Policy.

**LEMON GROVE SANITATION DISTRICT BOARD
AGENDA ITEM SUMMARY**

Item No. 1.F
Mtg. Date November 20, 2018
Dept. Finance

Item Title: Contract Award – Indirect Cost Allocation Plan

Staff Contact: Molly Brennan, Finance Manager

Recommendation:

Adopt a resolution (**Attachment B**) awarding a contract for an Indirect Cost Allocation Plan.

Item Summary:

On September 18, 2018 the Sanitation Board authorized release of a Request for Proposal (RFP) to identify a qualified consulting firm that could complete an indirect cost allocation plan for the Lemon Grove Sanitation District.

On October 22, 2018, three proposals were received from qualified firms. Staff recommends awarding a contract for an indirect cost allocation plan to Matrix Consulting Group (Contract No. 2018-__).

Fiscal Impact:

A cost allocation plan will cost \$14,000, which staff was directed to include in the mid-year FY 18/19 budget revision from the Sanitation District, fund 15.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution, Indirect Cost Allocation Contract

Attachment A

LEMON GROVE SANITATION DISTRICT BOARD STAFF REPORT

Item No. 1.F

Mtg. Date November 20, 2018

Item Title: **Contract Award – Indirect Cost Allocation Plan**

Staff Contact: Molly Brennan, Finance Manager

Background:

In October 2017, a consulting firm conducted a study of the Sanitation District staffing cost distributions, resulting in a report on an updated distribution for staffing costs between the funds. However, the study did not include any indirect and overhead costs and specifically notes, "This analysis is not a fully calculated cost allocation plan." The intent of the contract is to fill the gap in the prior study by calculating the overhead and indirect cost allocation, which in combination with the prior study will create a fully calculated cost allocation plan.

During the FY 2018-2019 budget process, the gap in the prior cost allocation study was identified and staff was directed to prepare an RFP for a new study and to include the cost in the Mid-Year Budget Amendment. A professional cost allocation plan will provide Lemon Grove with a clear and defensible procedure for sharing indirect overhead expenses between the Sanitation District and the City's other funds.

Discussion:

Staff advertised the RFP for indirect cost allocation services after Board authorized release on September 18, 2018 and three proposals were received on or prior to the bid opening date of October 22, 2018.

In the RFP, the project scope was identified as:

- 1) Work with City staff to define the purpose, uses, and goals for an Overhead Indirect Cost Allocation Plan, ensuring that the development of the plan will be both accurate and appropriate for the Sanitation District's current needs.
- 2) Meet with various department staff to conduct interviews as needed to gain an understanding of the City's practices and operations.
- 3) Develop an overhead and indirect cost allocation plan that:
 - a. Establishes a defensible cost allocation methodology for specific administrative overhead costs that will properly distribute the costs between the City and Sanitation District
 - b. Allows for additions, revisions, or removal of costs, so the cost allocation plan can be easily adapted to a range of activities both simple and complex
 - c. Provides the ability to continuously update the plan from year to year to accommodate organizational and cost changes
- 4) Assist the Finance Department in presenting the draft cost allocation plan to selected City staff and the Sanitation District Board. It is expected that the comments and concerns will

Attachment A

be collected during the draft presentation phase for inclusion in a final cost allocation plan and model.

- 5) Prepare a final cost allocation plan and provide six (6) bound copies and one (1) unbound; as well as a digital copy of the final plan, including related schedules and cost documentation in excel format so it can be updated by City staff.

All three firms who submitted proposals are qualified finance consultants with expertise and experience in drafting cost allocation plan documents for cities in California. The names of each bidder and the amount of their bids from lowest to highest are:

Name	Project Cost
MGT Consulting Group	\$11,850
Matrix Consulting Group	\$14,000
Maximus Consulting Services, Inc.	\$16,400

Although MGT Consulting Group was the lowest bidder, their proposal did not conform to the entire scope listed in the RFP. The scope specifically asks for a plan that would provide Staff the ability to update the plan from year to year to accommodate organizational and cost changes and to provide final documentation in excel to facilitate those future updates. MGT Consulting Group and Maximus Consulting Services both use proprietary software to calculate cost allocation plans. Access to the software for future updates would be an additional unnamed on-going cost. Final documentation included static PDF or excel reports.

While Matrix Consulting Group is a bit more expensive in the short-term, they were the only firm willing to be completely transparent with the District and Staff about their analytical models and to provide staff the tools necessary to update the plan in the future at no additional cost. Their \$14,000 project price includes providing Staff with their technical models and a four hour training on how to use and update the models.

Due to MGT Consulting Group proposal's lack of essential project scope items, Staff found Matrix Consulting Group to be the lowest responsive and responsible bidder.

Conclusion:

Staff recommends that the Sanitation District Board adopts a resolution (Attachment B) awarding the Indirect Cost Allocation Plan Contract to Matrix Consulting Group (Contract No. 2018-??).

Attachment B

RESOLUTION NO. 2018 - _____

RESOLUTION OF THE LEMON GROVE SANITATION BOARD AWARDING A CONTRACT FOR THE INDIRECT COST ALLOCATION PLAN (CONTRACT NO. 2018-)

WHEREAS, the Lemon Grove Sanitation District Board identified the necessity of an indirect cost allocation plan to accurately share indirect expenses between the Sanitation District and the City's other funds; and

WHEREAS, bids were solicited and three (3) sealed bids were received for the Indirect Cost Allocation Plan (Contract No. 2018-); and

WHEREAS, bids were opened on October 22, 2018 and the lowest responsive and responsible bidder was Matrix Consulting Group; and

WHEREAS, the term of the contract is through April 30, 2019 or project completion, whichever is earlier; and

WHEREAS, the City Council finds it in the public interest that a contract for said services be awarded.

NOW, THEREFORE, BE IT RESOLVED that the Lemon Grove Sanitation District, California hereby:

1. Awards a contract to Matrix Consulting Group in the amount of \$14,000.00, and
2. Authorizes the District Director or designee to execute said contract (**Exhibit 1**).

/////

/////

Attachment B

**AGREEMENT
BY AND BETWEEN
THE LEMON GROVE SANITATION DISTRICT
AND
MATRIX CONSULTING GROUP**

THIS AGREEMENT is entered into this 20th day of November, 2018, by and between the LEMON GROVE SANITATION DISTRICT, a municipal corporation (the "DISTRICT"), and MATRIX CONSULTING GROUP, a financial services provider (the "CONTRACTOR").

R E C I T A L S

WHEREAS, the DISTRICT desires to employ a CONTRACTOR to provide **An Indirect Cost Allocation Plan.**

WHEREAS, the DISTRICT has determined that the CONTRACTOR is a financial services provider and is qualified by experience and ability to perform the services desired by the DISTRICT, and the CONTRACTOR is willing to perform such services.

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

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

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

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

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

The DISTRICT may unilaterally, or upon request from the CONTRACTOR, from time to time reduce or increase the Scope of Services to be performed by the CONTRACTOR under this Agreement. Upon doing so, the DISTRICT and the CONTRACTOR 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, not to exceed a factor of 50% from the base amount.

3. **PROJECT COORDINATION AND SUPERVISION.**

The Finance Manager hereby is designated as the Project Manager for the DISTRICT and will monitor the progress and execution of this Agreement. The CONTRACTOR shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for the CONTRACTOR.

4. **COMPENSATION AND PAYMENT.** The compensation for the CONTRACTOR shall be based on monthly billings covering actual work performed. Billings shall include labor classifications, respective rates, hours worked and also materials, if any. The total cost for all work described in Exhibit "A" shall not exceed Fourteen Thousand Dollars (\$14,000) (the Base amount) without prior written authorization from the City Manager. 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 the DISTRICT.

The CONTRACTOR 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 DISTRICT and for furnishing of copies to the DISTRICT, if requested.

5. **LENGTH OF AGREEMENT.** This agreement is valid until April 30, 2019 or completion of the project scope, whichever is earlier. The CONTRACTOR estimates the project will take twelve (12) weeks from start date until final completion.

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

Contemporaneously with the transfer of documents, the CONTRACTOR hereby assigns to the DISTRICT and CONTRACTOR 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 DISTRICT's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONTRACTOR shall, upon request of the DISTRICT, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

The CONTRACTOR agrees that the DISTRICT may use, reuse, alter, reproduce, modify, assign, transfer, or in any other way, medium or method utilize the CONTRACTOR's

written work product for the DISTRICT's purposes, and the CONTRACTOR 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 DISTRICT of documents, drawings or specifications prepared by the CONTRACTOR shall relieve the CONTRACTOR from liability under Section 14 but only with respect to the effect of the modification or reuse by the DISTRICT, or for any liability to the DISTRICT should the documents be used by the DISTRICT for some project other than what was expressly agreed upon within the Scope of this project, unless otherwise mutually agreed.

7. **INDEPENDENT CONTRACTOR.** 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 CONTRACTOR nor the CONTRACTOR'S employees are employees of the DISTRICT and are not entitled to any of the rights, benefits, or privileges of the DISTRICT'S employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

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

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

9. **COMPLIANCE WITH APPLICABLE LAW.** The CONTRACTOR, 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 LEMON GROVE SANITATION DISTRICT and the CITY OF LEMON GROVE, whether now in force or subsequently enacted. The CONTRACTOR, and each of its subcontractors, 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 CONTRACTOR represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. The CONTRACTOR represents and covenants that the CONTRACTOR 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 CONTRACTOR to practice its profession.

11. **STANDARD OF CARE.**

A. The CONTRACTOR, 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 CONTRACTOR'S trade or profession currently practicing under similar conditions and in similar locations. The CONTRACTOR shall take all special precautions necessary to protect the CONTRACTOR'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 CONTRACTOR warrants to the DISTRICT 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 CONTRACTOR's professional performance or the furnishing of materials or services relating thereto.

C. The CONTRACTOR is responsible for identifying any unique products, treatments, processes or materials whose availability is critical to the success of the project the CONTRACTOR has been retained to perform, within the time requirements of the DISTRICT, or, when no time is specified, then within a commercially reasonable time. Accordingly, unless the CONTRACTOR has notified the DISTRICT otherwise, the CONTRACTOR warrants that all products, materials, processes or treatments identified in the project documents prepared for the DISTRICT are reasonably commercially available. Any failure by the CONTRACTOR to use due diligence under this sub-paragraph will render the CONTRACTOR liable to the DISTRICT for any increased costs that result from the DISTRICT'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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the DISTRICT setting forth the provisions of this non-discrimination clause.

13. **CONFIDENTIAL INFORMATION.** The DISTRICT may from time to time communicate to the CONTRACTOR certain confidential information to enable the CONTRACTOR to effectively perform the services to be provided herein. The CONTRACTOR shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the DISTRICT. The CONTRACTOR 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 CONTRACTOR, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the CONTRACTOR without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to the CONTRACTOR 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.

The CONTRACTOR 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 DISTRICT. In its performance hereunder, the CONTRACTOR 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.

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

14. **INDEMNIFICATION AND HOLD HARMLESS.** The CONTRACTOR agrees to defend, indemnify, and hold harmless the LEMON GROVE SANITATION DISTRICT, its officers and employees, against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out of the CONTRACTOR's negligent performance of this Agreement.

15. **WORKERS' COMPENSATION.** The CONTRACTOR 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 DISTRICT 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 DISTRICT 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 CONTRACTOR under this Agreement.

16. **INSURANCE.** The CONTRACTOR, at its sole cost and expense, shall purchase and maintain, and shall require its subcontractors, 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.

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 CONTRACTOR's employees.

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

F. Said policies, except for the professional liability and worker's compensation policies, shall name the DISTRICT 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 CONTRACTOR 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 DISTRICT.

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 DISTRICT. If the CONTRACTOR does not keep all of such insurance policies in full force and effect at all times during the terms of this Agreement, the DISTRICT 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 costs and expenses of suit, including 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 DISTRICT shall, in addition, be limited to the amount of attorney's fees incurred by the DISTRICT 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 mediation in San Diego, California, in accordance with the Commercial Mediation Rules of the American Arbitration Association (the "AAA") before resorting to arbitration. The costs of mediation shall be borne equally by the parties. Any controversy or claim arising out of, or relating to, this Agreement, or breach thereof, which is not resolved by mediation shall be settled by arbitration in San Diego, California, in accordance with the Commercial Arbitration Rules of the AAA then existing. Any award rendered shall be final and conclusive upon the parties, and a judgment thereon may be entered in any court having jurisdiction over the subject matter of the controversy. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each party shall pay for and bear the costs of its own experts, evidence and attorneys' fees, except that the arbitrator may assess such expenses or any part thereof against a specified party as part of the arbitration award.

19. **TERMINATION.** A. This Agreement may be terminated with or without cause by the DISTRICT. Termination without cause shall be effective only upon 60-day's written notice to the CONTRACTOR. During said 60-day period the CONTRACTOR shall perform all services in accordance with this Agreement.

B. This Agreement may also be terminated immediately by the DISTRICT for cause in the event of a material breach of this Agreement, misrepresentation by the CONTRACTOR in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the DISTRICT.

C. Termination with or without cause shall be effected by delivery of written Notice of Termination to the CONTRACTOR 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 CONTRACTOR, whether paper or electronic, shall immediately become the property of and be delivered to the DISTRICT, and the CONTRACTOR 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 DISTRICT by the CONTRACTOR's breach, if any. Thereafter, ownership of said written material shall vest in the DISTRICT all rights set forth in Section 6.

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

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 DISTRICT: MOLLY BRENNAN, FINANCE MANAGER
 CITY OF LEMON GROVE
 3232 Main Street
 Lemon Grove, CA 91945-1701

To the CONTRACTOR: MATRIX CONSULTING GROUP
 201 San Antonio Circle, Suite 148
 Mountain View, CA 94040

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 CONTRACTOR 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 or the LEMON GROVE SANITATION DISTRICT. The CONTRACTOR also agrees not to specify any product, treatment, process or material for the project in which the CONTRACTOR has a material financial interest, either direct or indirect, without first notifying the DISTRICT of that fact. The CONTRACTOR shall at all times comply with the terms of the Political Reform Act and the National City Conflict of Interest Code. The CONTRACTOR shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the DISTRICT in which the CONTRACTOR has a financial interest as defined in Government Code Section 87103. The CONTRACTOR 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 DISTRICT.

If checked, the CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR shall obtain from the City Clerk.

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

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.

**LEMON GROVE
SANITATION DISTRICT**

MATRIX CONSULTING GROUP

(Corporation – signatures of two corporate officers)

(Partnership – one signature)

(Sole proprietorship – one signature)

By: _____
Lydia Romero
City Manager

By: _____
(Name)

(Title)

APPROVED AS TO FORM:

By: _____
James Lough
City Attorney

By: _____
(Name)

(Title)

EXHIBIT A

Proposal for Overhead and Indirect Cost Allocation Plan

LEMON GROVE SANITATION DISTRICT,
CALIFORNIA

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October 31, 2018

Molly Brennan
Finance Manager
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

Dear Ms. Brennan:

The Matrix Consulting Group is pleased to have this opportunity to submit a revised proposal to conduct an Overhead and Indirect Cost Allocation Plan. This proposal will not only demonstrate our exceptional skills and experience required to meet the City's and District's needs for this study, but also establish the additional value of choosing a firm like the Matrix Consulting Group.

Our firm understands the urgency and importance of ensuring accurate allocation of direct and indirect costs, and is committed to helping our clients create and establish documented and defensible policies and procedures that meet current and future needs. The Matrix Consulting Group stands apart from other firms for the following reasons:

- **Experience in financial service studies:** Our firm and consulting team have extensive experience conducting cost of service studies for California municipalities, with current and recent clients including Santee, Bay Area Air Quality Management District, Central Contra Costa Sanitary District, City of South El Monte, and the City of Perris.
- **On-site presence and accessibility:** The Matrix Consulting Group will help the City reach its goals because we understand its needs, and are committed to serving our clients. This will be facilitated by the location of our Irvine office.
- **Qualified Project Team:** Our proposed project Manager, and project team have received training and certification in relation to best management practices for revenue management and cost allocation services.

The Matrix Consulting Group is prepared to enter into a mutually developed agreement and final scope of work with the Lemon Grove Sanitation District. For questions about this proposal or for contract negotiation please contact me, the firm's President, at rbrady@matrixcg.net, or at the letterhead contact points.

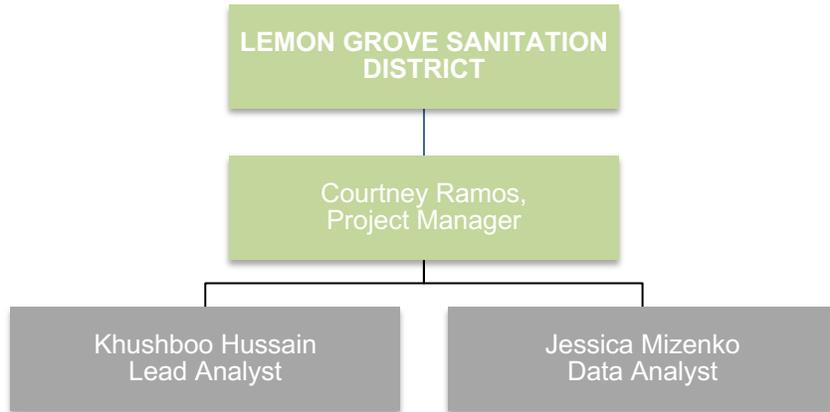
Matrix Consulting Group

Richard Brady, President

201 San Antonio Circle, Suite 148 ■ Mountain View, CA 94040 ■ 650.858.0507 ■ 650.917.2310 fax
SF Bay Area (Headquarters), Boston, Charlotte, Dallas, Irvine, Portland, St. Louis

1 Project Personnel

The proposed project team will be based out of our California offices and are all full-time permanent employees of Matrix Consulting Group. The following organizational chart provides the reporting structure for the proposed project team.



The specific roles of each proposed project team member are outlined below:

- **Courtney Ramos:** Financial Services Vice President for the Matrix Consulting Group and will serve as the **Project Manager**. As the project manager, Ms. Ramos will be the primary contact for the project and will provide her expertise by leading interviews, discussing draft reviews, and presenting results.
- **Khushboo Hussain:** A Manager with the Matrix Consulting Group and will serve as the **Lead Project Analyst**. Ms. Hussain will participate in interviews and coordinate necessary data collection for the financial analysis, as well as develop customized excel models.
- **Jessica Mizenko:** A Consultant with the Matrix Consulting Group, will serve as a **Data Analyst**. Ms. Mizenko will assist with collection and compilation of necessary data, model development, and provide analytical support.

The table on the following page provides abbreviated biographical summaries for the staff who would manage, lead and conduct the project.

Courtney Ramos

Vice President,
Project Manager

Since joining the firm in 2004, Ms. Ramos has managed and assisted with numerous cost allocation plan, user fee, management, operations, and staffing analyses for our California and national clients.

Most recently, Ms. Ramos managed cost of service studies for the following jurisdictions: Downey, Long Beach, Pasadena, San Bernardino County, South El Monte, Suisun, and Winters (CA) as well as the Contra Costa County Sanitary District; Ft. Lauderdale, Kissimmee, and Cape Coral (FL); Asheville, (NC) Austin and Dallas (TX).

In addition to her analytical work on client projects, Ms. Ramos developed the Technical Models used by the Matrix Consulting Group. All of the references included have Ms. Ramos as the Proposed Project Manager.

Ms. Ramos has extensive experience with presentations to stakeholders, Council and Board members, leading interviews, and managing client expectations to ensure that projects are completed in a timely manner. She works closely with clients to ensure that the final product is implementable and provides support even after project termination.

Ms. Ramos is a Government Finance Officers Association (GFOA) Member and has received certification in trainings related to Cost of Service (User Fee Studies) and Cost Allocation Plan (OMB 2 CFR Part 200 Training)

Khushboo Hussain

Manager,
Lead Project
Analyst

Ms. Hussain has been a part of the Matrix Consulting Group for more than five years. While the primary focus of Ms. Hussain's tenure has been on Financial Services studies including Cost Allocation Plans and User Fee Studies, she is also highly knowledgeable with Management Consulting, specializing in Development Services processes and policies. She leads our new Southern California office.

Most recently, Ms. Hussain has lead or assisted with financial management studies for the following jurisdictions: South El Monte, Livermore, Downey, Vacaville, Fairfield, Long Beach, Elk Grove, Pasadena, San Bernardino County, Suisun, and Winters (CA) as well as the Contra Costa County Sanitary District; Ft. Lauderdale and Kissimmee (FL); Asheville, (NC) Austin and Dallas (TX).

Ms. Hussain has experience leading meetings, reviewing data needs, and understanding the processes, guidelines, and statutory requirements behind fees for service. She will be involved in interviews and identification of potential revenue sources.

Ms. Hussain has received certification in courses from GFOA related to User Fees and Charges – Best Management Practices and Budgeting Best Management Practices.

Jessica Mizenko A Consultant who supports senior staff with cost allocation and user fee studies in Hercules (CA), Pacific Grove (CA), Montebello (CA), Orange (CA), Redwood City (CA), and San Bernardino County (CA).

Consultant,
Data Analyst

Prior to joining the Matrix Consulting Group, Ms. Mizenko worked in Data Analytics for various Silicon Valley firms, which makes her uniquely qualified for reviewing, condensing, and synthesizing data, such as revenue and cost information on a line-by-line basis. Her expertise will be used in this project for reviewing data, conducting comparative surveys, and basic financial analysis.

Each member of our proposed project team has successfully managed or participated in similar studies to the District's requested scope of work.

2 Discussion of Similar Projects

The Matrix Consulting Group specializes in providing analytical services to local governments to assist them in providing responsive, efficient, and effective services to the public. Our service focus is financial, management, staffing and operations analysis of local government. Our firm’s history and composition are summarized below:

- We were founded in 2002, and incorporated in California.
- Our headquarters are based in Mountain View, California, with a satellite office in Southern California. We also have offices in Oregon, Illinois, North Carolina, Texas, and Massachusetts. We have just incorporated in Canada and have opened an office there.
- Our founders have worked together in this and other consulting organizations as one team for 10 to over 30 years.

Financial services are a core service area for the firm, which we have provided since we were founded. All of our financial services projects are managed and staffed out of our California offices in Mountain View and Irvine.

The market and service focus of the Matrix Consulting Group has always been financial, management, staffing and operations analysis of local government. Our experience includes hundreds of jurisdictions across the U.S. Our clients can provide testimony to our experience in helping public organizations operate effectively, efficiently, and more cost effectively. The following outlines the core services provided by our firm:

Law Enforcement	Community Development
Fire and EMS	Administrative
Emergency Communications	Public Works and Utilities
Corrections and Justice	Fleet Management
Financial Services	Parks, Recreation, and Libraries

No other firm has a better understanding of how public organizations operate, or how to help them thrive.

2 Firm’s Financial Services Experience

Our firm has extensive experience developing Full Cost and OMB compliant Cost Allocation Plans, as well as Indirect Cost Rate Proposals for various municipal organizations across the United States. Whether we are working with large cities, small towns, special districts, or individual departments, our goal is to document and define the services being provided, and accurately allocate costs to all beneficiaries. The following points highlight our experience with developing cost allocation processes and metrics:

- **Administrative Functions:** Our firm has extensive experience in evaluating processes and functions associated with Finance, Human Resources, and Purchasing. From basic tasks and responsibilities to process improvement and oversight controls, our project teams are able to:
 - Identify core service functions, such as payroll, employee benefits, budget preparation, agenda and commission support.
 - Review current data metrics, and work with staff to ensure resulting allocations are appropriate, fair, and equitable.
 - Recognize services that are not in direct support of departments, including business licenses and elections, and ensure they are accurately identified, but not further allocated.

Our project teams understand the core services associated with administrative functions, as well as the time associated with process completion, and are adept at helping staff determine daily, weekly, monthly, or annual time spent on a task. These assumptions form the core basis of a cost allocation plan, and should be defensible not only through documentation, but also by staff.

- **Governmental Functions:** The Matrix Consulting Group has worked with, and been a part of management studies. Additionally, we have extensive experience working with, and presenting to various boards, councils, and subcommittees. Our understanding of the various types of services provided allow our project teams to assess what services are best for allocation, including:
 - Categorizing services and support that benefit an organization, such as contract negotiation, and approval of internal policies.
 - Identifying services that benefit economically, such as lobbying, and economic development, which should not be allocated.

Our team understands how these costs can and should be treated in both a Full Cost Plan and OMB compliant plan, including making staff aware of common practices, as well as aggressive allocation options.

- **Internal Services:** The Matrix Consulting Group has significant experience evaluating services and functions associated with Facilities Maintenance, Fleet Services, and Information Technology. While these services can be part of the general fund or internal services, their allocation is important when trying to understand the indirect costs associated with any Fund, Department, or Program. Our project teams work with these departments to:

- Review existing allocation processes and metrics to ensure compliance with state and federal regulations.
- Determine if newer metrics, or metric alterations could provide more accurate allocations.

Our project team is committed to ensuring that all cost centers being allocated by our clients are in compliance with state and local laws, use fair and equitable allocation metrics, and are documented and defensible.

3 Similar Project Experience

The following table provides a list of previous clients for whom our firm has provided similar scopes of services as requested by the District, including Client name, project description, dates of service, and project status.

Client	Project Type	Project Date	Project Status
Bay Area Air Quality Management District, CA	Full Cost Allocation Plan	FY 13	Complete
	User Fee Study	FY 17	Complete
Central Contra Costa Sanitary District, CA	Development of Overhead Rates	FY 15	Complete
Champaign, IL	Cost Allocation Plan Comprehensive Fee Study	FY 17	Implementation Pending
Cupertino, CA	Cost Allocation Plan Comprehensive Fee Study	FY 15	Complete
Dallas, TX	Full Cost Allocation Plan	FY 16	Complete
	OMB Cost Allocation Plan	FY 17	Complete
	Indirect Cost Rate Proposal	FY 18	Initiation
	Special Event Fees		
Downey, CA	Cost Allocation Plan Citywide Comprehensive Fee Study	FY 17	Complete
Elk Grove, CA	Cost Allocation Plan	FY 16	Complete
		FY 17	Complete
Fairfield, CA	Full Cost Allocation Plan	FY 15	Complete
	OMB Cost Allocation Plan	FY 17	Complete
Fort Lauderdale, FL	Cost Allocation Plan	FY 14	Complete
	IT Cost Allocation Plan	FY 15	Complete
	FXE PILOT Review	FY 16	Complete

Client	Project Type	Project Date	Project Status
Hercules, CA	Full Cost Allocation Plan OMB Cost Allocation Plan	FY 17	Complete
Livermore, CA	Full Cost Allocation Plan OMB Cost Allocation Plan Fully Burdened Hourly Rates Development Services Fee Study	FY 15 FY 19	Complete Initiation
Long Beach, CA	Full Cost Allocation Plan OMB Cost Allocation Plan Departmental Cost Allocation Plans GEMT Cost Reports	FY 12 FY 13 FY 14 FY 15 FY 16 FY 17	Complete Complete Complete Complete Complete Complete
Manhattan Beach, CA	Cost Allocation Plan Comprehensive Fee Study	FY 14 FY 19	Complete Initiation
Maui County, HI	OMB Cost Allocation Plan	FY 13 FY 16	Complete Complete
Miami Beach, FL	Internal Services Cost Allocation Plan	FY 16	Complete
Pacific Grove, CA	Cost Allocation Plan Citywide Comprehensive Fee Study	FY 18	Complete
Port of Long Beach, CA	Overhead Cost Allocation Plan	FY 17	Complete
Redwood City, CA	Cost Allocation Plan Citywide Comprehensive Fee Study	FY 18	Complete
Richland, WA	OMB Cost Allocation Plan	FY 16	Complete
Santa Cruz County Resource Conservation District, CA	OMB Cost Allocation Plan	FY 15 FY 16 FY 17	Complete Complete Complete
South El Monte, CA	Cost Allocation Plan User Fee Study	FY 17	Complete
South Gate, CA	Cost Allocation Plan Comprehensive Fee Study	FY 16	Implementation Pending

Client	Project Type	Project Date	Project Status
Vacaville, CA	Cost Allocation Plan	FY 15	Complete
	Development Services Fee Study	FY 17	Complete
Winters, CA	Cost Allocation Plan Comprehensive Fee Study	FY 16	Complete

The Matrix Consulting Group, as well as our proposed project team has had significant experience working with a wide variety of jurisdictions across the United States. This experience has not only provided insight on how organizations can operate differently while providing similar services, but has also provided valuable awareness of how best to present results to ensure understanding among a variety of stakeholders and interested parties.

3 References

The following table provides relevant project references for five recent clients, for whom similar services were provided, managed and conducted by our proposed Project Manager and project team.

Client	Contact	Description
Downey, CA	Anil Gandhi Finance Director 562-904-7265 agandhy@downeyca.org	Full Cost Allocation Plan Citywide User Fee Study Development Impact Fee Analysis
Manhattan Beach, CA	Steve Charelian Interim Finance Director (310) 802-5555	Full Cost Allocation Plan OMB Compliant Cost Plan Citywide User Fee Study
Port of Long Beach, California	Abigail Hizon Port Financial Analyst (562) 283-7593 Abigail.hizon@polb.com	Indirect Cost Allocation Plan and Fully Burdened Hourly Rates
Garland Power and Light, Texas	Darrell Cline Chief Financial Officer (972) 205-2655 dcline@gpltexas.org	Evaluation of Internal Service Fund Allocation Methodologies

The following points provide further project descriptions for these references:

- Downey:** The Matrix Consulting Group worked with the City of Downey to conduct a Full Cost Allocation Plan, develop an OMB Compliant Cost Allocation Plan, as well as conduct a Comprehensive User Fee Study and a Development Impact Fee Study. As it related to the Development Impact Fee Study, the project team reviewed the City’s existing documentation to determine the nexus for current impact fees. Based upon review of documentation, the project team recommended alternatives to Development Impact Fees to better capture the support associated with those services. The City adopted the fee schedule and results of the study in June 2018.
- Manhattan Beach:** The Matrix Consulting Group updated the City’s Cost Allocation Plan and User Fee study in accordance with best management practices. The project team worked with City staff to refine allocation methodologies and update cost information to ensure that the Cost Allocation Plan provided fair and equitable results to all receiving departments and funds. As part of the User Fee Study, fee structures were streamlined to reflect current services, and indirect costs were incorporated to provide the City with an accurate picture of

the full cost of providing fee related services. The first iteration of these studies was completed in FY 15, with the second iteration of these studies to begin in January of 2019.

- **Port of Long Beach:** The Matrix Consulting Group looked at identifying and allocating indirect costs associated with internal port services, and developing fully burdened hourly rates for each division. The project team worked with Port staff to determine which internal divisions provide support to other divisions, as well as external agencies which benefit from the services provided. A model was developed for the Port to allow for organizational, budgetary, and staffing changes. This model identified indirect costs, and calculated indirect rates for billing purposes.
- **Garland Power & Light:** The Matrix Consulting Group worked with City and Power and Light staff to review allocation metrics and results of the City's cost allocation plan. The review included ensuring that Power and Light was receiving a fair and equitable share of indirect overhead support from the City. The goal of the study was to assess the accuracy of indirect costs being assessed to the Power and Light Fund, to ensure those costs could be passed on to rate payers. The first iteration of this study was completed in 2017, with the second iteration of this study being conducted currently.

We would be pleased to provide reference information for any other study listed as our experience.

4 Scope of Work and Project Strategy

The Lemon Grove Sanitation District is looking to develop an Overhead and Indirect Cost Allocation Plan. This plan will allow the District to accurately account for the full cost of providing services, and identify appropriate indirect costs associated with City departments who provide administrative support.

The following sections provide an overview of our general project approach, quality control, specific task plan, and proposed project schedule.

1 Project Approach

The Matrix Consulting Group works with a wide variety of clients ranging from small towns to major metropolitan cities in over 41 states across the U.S. We have recently incorporated in Canada to take our successful approach to consulting internationally. Every project is unique, and is managed according to the following essential project approaches:

- **Reputation for effective project management:** Our clients value the personal attention, enthusiasm, responsiveness, timely delivery, and expertise provided on their projects. This attention to project management is demonstrated in our work approach, as shown in the detailed work plans provided for each project.
- **Cross-trained project team:** Our project team's background in both financial and management analysis provides them with a unique understanding of the work processes and service level assumptions behind cost and fees for service.
- **Communication with the City / District:** At the onset of the project, a detailed schedule will be developed outlining key deadlines and deliverables, and regular progress reports will be provided to the City / District's Project Manager. We are known for being available to clients and for providing prompt responses to questions or issues.
- **Client staff support:** The Matrix Consulting Group is mindful of the City / District's current workload and our approach is to work with our clients' staff to minimize project impacts through strong project management, clear expectations of our roles versus staff roles, and careful as well as realistic scheduling.
- **Workshop data gathering approach:** The facilitation of data gathering workshops allows the project team to obtain more accurate time and service level data. It also provides staff with the knowledge needed to explain how results were derived and the assumptions behind the analysis.

- **Excel-based analytical models:** Our technical cost plan and user fee models are based in Microsoft Excel, which provides our clients with the ability to adapt and update them from year to year as their organization changes.

These approaches have led to high rates of implementation for all of our project results.

2 Project Management and Quality Control

We believe very strongly in the science of our craft, especially as it relates to cost allocation and cost of service studies. As such, our firm utilizes quality control techniques which include:

- **Project Management:** Ensuring our projects meet the needs and timelines of our clients are accomplished through the following:
 - The project manager and lead analyst develop general and project specific data collection plans and interview guides for all of our staff in each departmental function.
 - All project work activities are defined in advance and tied to each project team member, deliverables, the schedule and the budget.
 - We have frequent client review meetings to discuss the quality and direction of the project through interim deliverables and draft documents.
 - Clear deadlines are identified for both Client staff and project team members and even if there are delays from the Client, the project team does their best to make up any time to ensure the project is continued in a timely manner.
- **Quantitative Results:** Financial analyses are used to develop budgets and projections, and often are subject to public oversight and review. For this reason, our firm ensures data determined quality control through the following:
 - Expenditure and staffing data entered into cost models are tied to published budget or audit reports, unless specifically outlined otherwise.
 - Revenue projections developed using permit / workload information must be within 10% of actual revenue received.
 - Staff allocations must correlate to duty assignments, and not exceed time availability.

The project manager designs and personally reviews all interim and final products before they are delivered to the client. These project management approaches have resulted in all of our projects being delivered at a high level of quality, on time and on budget.

3 Proposed Work Plan

This section of our proposal provides an overview of our proposed work plan. The following tasks include a narrative, associated activities, and project staff time requirements for preparing an Overhead and Indirect Cost Allocation Plan.

Task 1 | Data Collection

Prior to our initial on-site meeting, the Matrix Consulting Group will provide the City / District with a list of initial data requirements for the study. This will allow our project team to review this information thoroughly in preparation for initial discussions with staff. The initial data collection list will include basic requirements such as:

- Line-item expenditure detail of the most recent fiscal year of audited actuals and budgeted expenditures.
- Staffing levels broken out by fund, department, division, program, and activities, and their funding sources, i.e. are positions split-funded between general fund and enterprise funds.
- Previous internal or external Cost Allocation plans.
- Current organizational chart for the City and District.

Collecting this information, prior to our initial meetings with City / District staff, will help the project team intimately familiarize itself with the City’s current processes for Cost Allocation, and identify any items of interest or concern in the expenditures, staffing, or revenue information.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • List of basic data requirements for the Study 	<ul style="list-style-type: none"> • Basic data requirements for the study
<p>Estimated Hours: 1-2 hours for City Auditor-Controller to collect and distribute information</p>	

Task 2 | Study Objectives and Project Schedule

Once the data has been collected, the project team will then meet with designated City / District staff to discuss any issues identified by the project team, as well as to clarify any

existing concerns held by the City or District in regards to the current cost allocation methodology. Discussions will include:

- Review of the City and District’s specific needs and critical issues surrounding development and implementation of the cost allocation plan(s).
- Opportunities for improvement and restructuring of previous plans, and/or review and discussion of existing cost allocation methodologies.
- Discussion of the level of detail required for the plan, including structure (Fund only or Fund, Department, Division, and Program).

At the culmination of the meeting, the project team and the designated City / District staff will leave with a greater understanding of the overall approach and methodology that will be taken by the project team to conduct the Cost Allocation study.

After, the meeting, the project team will put together a detailed schedule showing week by week, the deliverables for both the City / District and the project team.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • On-site initial meeting with Executive staff to review goals, objectives, and project management plans • Week-by-week detailed project schedule including outlining deliverables 	<ul style="list-style-type: none"> • Attendance at kick-off presentation and initial Executive staff meeting • Designate City project management representative

Estimated Hours: 2 hours for the Finance Department, and approximately 30 minutes for each attendee of the kick-off presentation and Executive staff meeting.

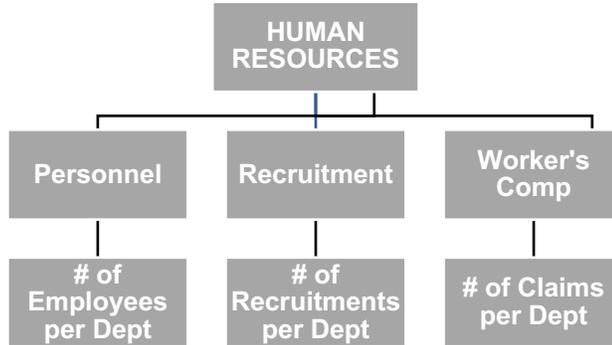
Task 3 | Interview Staff and Gather Data

The project team will work with City / District staff to structure a custom cost allocation plan. Our project team would perform the following tasks:

- Review and discuss the accounting (fund and organizational levels) and staffing structure of the City / District, as well as current budgeted expenditures.
- Identify and meet central services departments to develop allocation bases and ensure that the plan reflects the following aspects:
 - All current services provided by the Department are identified and documented within the Cost Allocation Plan.

- Allocation bases discussed to be utilized are reflective of the current level of effort and most relatable to the service being performed.

The following is a sample flowchart visually representing the outcome of these discussions, the first level is the central services department(s), the second level is the identified service category, and the third level is the basis by which costs will be allocated:



- Discuss alternative allocation methodologies, including possible outcomes and potential impacts of each method upon the City / District.

The points above provide examples of the types of detailed and in-depth discussions that the project team will have with Departments involved in the cost allocation process. Additionally, as the City / District intends to update the plan internally through the use of the technical model, if certain allocation statistics are not available currently, the project team will recommend the initiation of collection of those metrics for future Cost Allocation Plans.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • Staff interviews • Data collection for the structure, functions, costs and allocation bases needed to complete the first draft of the plan 	<ul style="list-style-type: none"> • Attendance at interviews • Provide consultant with data as requested • Review and discussion of consultant's initial interpretation of the data

Estimated Hours: Approximately 2 to 3 hours for each administrative function in the study.

Task 4 | Structure and Prepare Draft Custom Cost Allocation Model

Based upon units of service identified in Task 3, allowable administrative or other indirect costs are allocated to each benefiting fund, department, division, program, or unit. At this point the project team would begin customizing the Cost Plan model in order to meet the City / District's specified needs, including:

- Ensuring methodologies and assumptions comply with Federal and State regulations and general accounting principles.
- Customizing cost allocation summary schedules and narratives in a format that will best allow the City to apply them internally.

The draft Cost Allocation Plan will provide clear documentation regarding the basis for allocations, and the methodologies applied to achieve the plan’s final result. The Draft Cost Allocation Plan will be discussed and reviewed with each participating department as well as Executive staff. This review will include provision of a draft narrative explaining each of the central services and their allocation methodology.

As part of the review of the Draft Cost Allocation Plan, the project team will also compare the results from the proposed cost allocation methodology to the current cost allocation methodology. This comparison will be provided in an excel format to help reflect the impact of the changes to the allocation methodology, especially as it relates to recovery of costs for the general fund from non-general fund sources. This type of documentation will make it easier for City and District staff to understand the true impacts of changes in methodologies.

Lastly, the project team would discuss alternative methodologies or recommendations for future updates to the Cost Allocation Plan to refine the Cost Allocation Plan, as necessary.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • Delivery and discussion of the Draft Cost Allocation Plan and comparative schedules • Draft narrative report explaining the analysis • Comparison of current/proposed methodology 	<ul style="list-style-type: none"> • Review the Plan and provide requests for changes or points of discussion to the consultant

Estimated Hours: Approximately 2 hours for each administrative function in the study.

Task 5 | Final Cost Allocation Plan

Based upon the Draft Cost Allocation Plan developed in Task 4, the project team will conduct 1-2 rounds of revision with Departments to ensure that the Cost Allocation Plan is accurate, defensible, reflective of services, and compliant with all State and Federal regulations.

Once Departments and Management have reviewed and approved the Final Draft of the Cost Allocation Plan, the project team will finalize the Cost Allocation Plan.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • 1 – 2 rounds of revisions to finalize the CAP • One (1) unbound, Five (5) bound copies and 1 electronic copy of the Final Plan • Discussion and advice on implementation 	<ul style="list-style-type: none"> • Review and approve final Full Cost Allocation plan

Estimated Hours: Approximately 1 hour for each administrative function in the study.

Task 6 | Present Cost Allocation Plan

Once the Cost Plan has been finalized and delivered to City / District staff, the project team will work with the City / District to present the results of the Cost Allocation Plan to City Council, District Board, and any relevant financial subcommittees. The presentation will include discussion regarding the purpose of the Cost Allocation Plan, uses of the plan, as well as future updates to the Cost Allocation Plan.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • Presentation of Cost Allocation Plan results at up to two (2) City Council and Subcommittee meetings. 	<ul style="list-style-type: none"> • Attendance at City Council, District Board, and Subcommittee meetings

Estimated Hours: Approximately 1 – 2 hour Department staff

Analytical Model and Training

The City / District wishes to have the ability to update the final versions of the Cost Allocation Plans, including the ability to add, revise or remove costs or service types so the studies can be easily adapted to a range of activities.

Our technical models, produced in Microsoft Excel, provide the ability for the City / District to adapt and continuously update the studies from year to year as the organization changes. While the model is structured in Excel, the technical model is *proprietary* and for internal use by City / District staff only. By having our model based in Excel, the requirements for software training, cost of new software products, updates, licensing or other support, would be minimized.

After the final drafts of the cost allocation plans are approved, at the discretion of City and District staff, the project team will meet with and train designated employees on use of the Excel models. Staff will be provided with initial training that includes: a step-by-step PowerPoint presentation; a User’s Manual which explains key concepts and defines basic terms; and a customized updated checklist of data that needs to be entered.

While staff training typically takes about four hours, the Matrix Consulting Group is committed to supporting City and District staff well after project completion, including answering questions and providing model support, at no additional costs.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • Technical models • Supporting documentation • Four (4) hours of on-site training 	<ul style="list-style-type: none"> • Attend training session with Matrix Consulting Group
Estimated Hours: Training attendance – 4 hours	

4 Proposed Schedule

These types of studies typically take approximately 10-12 weeks (3 months) to complete. The table on the following page outlines the proposed project schedule on a task by task, week-by-week, and deliverable basis.

Task	Deliverable Week / Date	Deliverable / Task
Data Collection	Weeks 1-2	Initial Data Collection List requesting Budget information, Staffing Information, Previous studies
Study Objectives & Schedule	Weeks 1-2	Attendance at kickoff meeting, Proposed Project Schedule
Interview Staff & Gather Data	Weeks 2-6	Attendance at Meetings, Review Allocation Metrics
Draft Cost Allocation Plan	Weeks 4-10	Review Draft Cost Allocation Plan Results
Final Cost Allocation Plan	Weeks 6-10	Final Cost Allocation Plan
Presentation	Weeks 10-12	Presentation of Final Results to City Council

All timelines noted in the table above can be adjusted based upon City and District staff commitments and needs.

With a projected start date of November 19, 2018, the proposed timeline would indicate completion by February / March of 2019. Presentations to the City Council or the District Board for final study results can occur any time after the completion of the Final reports, and do not have to follow the proposed schedule.

5 Insurance

The Matrix Consulting Group carries insurance which meets the requirements of the City of Lemon Grove as well as the Sanitation District. The following page provides a sample insurance certificate detailing our current coverages.

**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

10/3/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER 855-491-0974 USI Insurance Services National, Inc. 8331 Norman Center Dr, Ste 500 Bloomington, MN, 55437	CONTACT NAME: Samuel Vazquez PHONE (A/C, No, Ext): 602-666-4833 E-MAIL ADDRESS: Samuel.Vazquez@usi.com	FAX (A/C, No): 610-537-2283													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Sentinel Insurance Co. Ltd</td> <td>11000</td> </tr> <tr> <td>INSURER B: Sentinel Insurance Company Ltd.</td> <td>11000</td> </tr> <tr> <td>INSURER C: Twin City Fire Insurance Company</td> <td>29459</td> </tr> <tr> <td>INSURER D: Philadelphia Insurance Company</td> <td>23850</td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Sentinel Insurance Co. Ltd	11000	INSURER B: Sentinel Insurance Company Ltd.	11000	INSURER C: Twin City Fire Insurance Company	29459	INSURER D: Philadelphia Insurance Company	23850	INSURER E:		INSURER F:
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INSURER E:															
INSURER F:															
INSURED Matrix Consulting Group, Ltd 201 San Antonio Cir Suite 148 Mountain View, CA 94040-1254															

COVERAGES**CERTIFICATE NUMBER:** 13530673**REVISION NUMBER:** See below

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			59SBARO0849	8/8/2018	8/8/2019	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			59SBARO0849	8/8/2018	8/8/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			59SBARO0849	8/8/2018	8/8/2019	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	59SBARO0849	8/8/2018	8/8/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Prof Liability			59PG0297372	08/08/2018	08/08/2019	\$1,000,000/\$3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is named as additional insured as it relates to general & auto liability & waiver of subrogation is granted as it relates to general and auto liability and workers comp in accordance with the terms and conditions of the policies. Umbrella follows form as it relates to additional insureds. The above coverage is primary and noncontributory where required by written contract.

CERTIFICATE HOLDER

Novato Fire Protection District
 95 Rowland Way
 Novato, CA 94945

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

6 Cost Proposal

The following chart provides a breakdown of project staff hours and costs for each task area to conduct an Overhead and Indirect Cost Allocation Plan:

	PM	Lead	Analyst	Total Cost
Data Collection	0	2	0	\$300
Study Objectives & Project Schedule	2	2	2	\$900
Interview Staff and Gather Data	2	10	10	\$2,900
Draft Full Cost Analysis	4	8	14	\$3,400
Final Full Cost Report	2	4	6	\$1,600
Presentation of CAP Results	4	4	0	\$1,400
Total Hours	14	30	32	
Hourly Rate	\$200	\$150	\$100	
Total Professional Fees	\$2,800	\$4,500	\$3,200	\$10,500
Model & Training				\$2,500
Travel				\$1,000
Total Project Cost				\$14,000

The Matrix Consulting Group proposes to perform the above tasks and services for a fixed-price fee of **\$14,000**. Our typical practice is to bill for hours worked on a monthly basis.

**LEMON GROVE [CITY COUNCIL]
AGENDA ITEM SUMMARY**

Item No. 1.G
Mtg. Date November 20, 2018
Dept. [City Manager]

Item Title: **RESOLUTION AUTHORIZING THE APPOINTMENT OF DEPUTY CITY ATTORNEY KRISTEN STEINKE AS CITY ATTORNEY UNDER THE CURRENT CITY ATTORNEY CONTRACT EFFECTIVE JANUARY 1, 2019**

Staff Contact: [Lydia Romero, City Manager]

Recommendation:

[Adopt Resolution Authorizing the Appointment of Deputy City Attorney Kristen Steinke as City Attorney, Effective January 1, 2019.]

Item Summary:

[This Resolution authorizes Deputy City Attorney Kristen Steinke to be appointed as the Lemon Grove City Attorney as of January 1, 2019, under the current agreement with Lounsbery, Ferguson, Altona & Peak. City Attorney James P. Lough has informed the City Council that he will retire as of December 31, 2018.]

Fiscal Impact:

None.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report.
- B. Resolution Authorizing the Appointment of Kristen Steinke as City Attorney, effective January 1, 2018.

Attachment A

LEMON GROVE [CITY COUNCIL] STAFF REPORT

Item No. 1.G

Mtg. Date November 20, 2018

Item Title: RESOLUTION AUTHORIZING THE APPOINTMENT OF DEPUTY CITY ATTORNEY KRISTEN STEINKE AS CITY ATTORNEY UNDER THE CURRENT CITY ATTORNEY CONTRACT EFFECTIVE JANUARY 1, 2019

Staff Contacts: [Lydia Romero, City Manager]

Background:

James P. Lough has served as City Attorney for the City of Lemon Grove, under the City's Contract with Lounsbery, Ferguson, Altona & Peak ("City Attorney Firm"), since February 2010. Mr. Lough has served as City Attorney since January 1, 2004. The City's contract is with the City Attorney Firm and not any individual attorney.

Mr. Lough has submitted his retirement notice to the City, effective December 31, 2018. Currently, the City has two Deputy City Attorneys from the City Attorney Firm. Deputy City Attorney Kristen Steinke serves as Mr. Lough's backup for advisory matters and covers Planning Commission and City Council meetings. She has been handling many significant matters for the City over the past two years.

Analysis:

The City's contract with the City Attorney Firm has no fixed term. Regardless of who is the appointed City Attorney, the Council can terminate the Agreement at any time. Currently, the City Attorney Firm is either handling the City's litigation or overseeing the firms that are handling litigation matters.

Litigation is delegated to attorneys who specialize in the issues of each case. Among the cases handled by the City Attorney Firm is the Affordable Housing Case, which the City Attorney Firm is also representing seven other cities. Each of those cities pays 1/8th of the hourly rate charged. The City Attorney Firm also handles real estate matters for the City. Criminal prosecutions of the Lemon Grove Municipal Code are handled by the firm with Deputy City Attorney Matthew Starr handling or supervising these cases. Real Estate legal matters are handled by the City Attorney Firm with Michael Wapner playing the primary role. One of the City Attorney's main duties is to coordinate all legal work.

Deputy City Attorney Kristen Steinke currently is handling most of the advisory items as well as City some civil litigation. She has been attending City Council and Planning Commission meetings over the past year. She is familiar with the current legal matters of the City. Mr. Lough has agreed to be a resource to Ms. Steinke and the City Manager after his retirement on an "as needed" without cost to the City.

Environmental Impact:

This Ordinance is not a project as defined under the California Environmental Quality Act. There are no physical changes made to the environment by this Agenda item.

Costs

None.]

Conclusion:

Staff recommends that the City Council approve the attached Resolution (Attachment "B").

ATTACHMENT B

[A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA, APPOINTING KRISTEN STEINKE AS CITY ATTORNEY

WHEREAS, the City Council has accepted the retirement notice of City Attorney James P. Lough, effective December 31, 2018; and

WHEREAS, the City Council desires to appoint Ms. Kristen Steinke as City Attorney, effective January 1, 2019, to ensure continuity of legal services to the City.

NOW THEREFORE, the City Council of the City of Lemon Grove does resolve as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. Ms. Kristen Steinke is hereby appointed as City Attorney, effective on January 1, 2019.

Section 3. The City Council authorizes City Manager Lydia Romero to take all steps necessary to implement this transition under the current contract for City Attorney services with the law firm of Lounsbery, Ferguson, Altona & Peak.

PASSED AND ADOPTED by the City Council of the City of Lemon Grove, State of California, on November 20, 2018 by the following vote:

AYES:

NOES:

ABSENT:

Racquel Vasquez, Mayor

Attest: _____

Shelley Chapel, City Clerk |

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 2
Mtg. Date November 20, 2018
Dept. Development Services Department

Item Title: **Public Hearing to Consider Administrative Appeal No. AA1-800-0006 Regarding the Planning Commission’s Decision to Approve Conditional Use Permit No. CUP-180-0004, a Request to Establish a 2,068 SF Childcare Center with an Outdoor Play Area at 3468 Citrus Street in the General Commercial–Heavy Commercial Zone.**

Staff Contact: Arturo Ortuño, Assistant Planner

Recommendation:

- 1) Conduct the public hearing; and
- 2) Adopt a Resolution (**Attachment B**) denying Administrative Appeal No. AA1-800-0006, upholding the Planning Commission’s decision to approve Conditional Use Permit No. CUP-180-0004, a request to establish a childcare center at 3468 Citrus Street in the General Commercial–Heavy Commercial zone.

Item Summary:

On October 22, 2018, the Planning Commission tentatively approved Conditional Use Permit No. CUP-180-0004. The project is a request to establish a 2,068 sq. ft. childcare center serving up to 32 toddlers and preschoolers with a 1,326 sq. ft. outdoor play area at 3468 Citrus Street in the General Commercial–Heavy Commercial zone on a 0.32-acre parcel. The Conditional Use Permit was intended to become effective on November 1, 2018, (10 days after the date of tentative approval) unless a valid request for a public hearing through the appeal process was filed by the applicant or another interested person(s). On October 31, 2018, two appellants, Gwen Mitchell and Jeanette Baranov, each subsequently filed an appeal and request for public hearing on November 20, 2018.

Fiscal Impact:

No fiscal impact.

Environmental Review:

- | | |
|---|---|
| <input type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input checked="" type="checkbox"/> Categorically Exempt, Section 15301 | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|---|---|--|
| <input type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input checked="" type="checkbox"/> Notice to property owners within 500 ft. |
| <input checked="" type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution of Denial
- C. Vicinity Map
- D. Childcare Tentative Schedule
- E. Childcare Tentative Breakfast/Lunch Menu
- F. Notice of Decision for CUP 180-0004, dated October 24, 2018
- G. Administrative Appeal Form—Appellant Gwen Mitchell (Bishop Mortuary, 3444 Citrus St.)
- H. Administrative Appeal Form—Appellant Jeanette Baranov (3479 & 3495 Citrus St.)
- I. Letter of Support for Appeal, dated October 31, 2018
- J. Site Photographs from Appellant, dated October 31, 2018
- K. Exhibit A—Project Plans

Attachment A

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 2

Mtg. Date November 20, 2018

Item Title: Public Hearing to Consider Administrative Appeal No. AA1-800-0006 Regarding the Decision to Approve Conditional Use Permit No. CUP-180-0004, a Request to Establish a 2,068 SF Childcare Center with an Outdoor Play Area at 3468 Citrus Street in the General Commercial–Heavy Commercial Zone.

Staff Contact: Arturo Ortuño, Assistant Planner

Application Summary:

APPLICANT:	Blanca Brown
APPELLANTS:	Gwen Mitchell and Jeanette Baranov
PROPERTY LOCATION:	3468 Citrus Street, APN: 479-042-32-00. The site is located on the west side of Citrus, between Broadway and North Ave.
PROJECT AREA:	0.32 acres (13,813 square feet)
EXISTING ZONE:	General Commercial (GC)–Heavy Commercial (HC)
GENERAL PLAN LAND USE DESIGNATION:	Retail Commercial within the Special Treatment Area III (Regional Commercial)
SURROUNDING PROPERTIES:	North: GC–HC South: GC–HC East: GC–HC West: GC–HC
ENVIRONMENTAL IMPACT:	The project is Categorically Exempt from the California Environmental Quality Act Section 15301 (Existing Facilities), Class 1. Mitigation measures are not required and no environmental impact is anticipated.

Attachment A

Background

The property at 3468 Citrus Street is a 27,007 sq. ft. (0.62 gross acre) rectangular parcel with an existing two-story 7,739 sq. ft. commercial building, originally developed with 3,781 sq. ft. of warehouse space on the first floor (Suites A through C) and 3,425 sq. ft. of office space on the second floor (Suites D through K). On August 1, 2008, City staff approved a holistic care center (Lemon Grove Holistic Care Center) at the subject property that occupied Suite A. The care center provided services such as hypnotherapy, massage therapy, and acupuncture. The business license for the care center expired on December 31, 2015. The General Commercial zone allows “personal services” that provide a variety of services associated with personal grooming or adornment, health maintenance, or well-being as a permitted use. On December 30, 2010, City staff approved a realty company (Hawkins Realty) to occupy Suite B. The business license for the realty company expired December 31, 2017. Suite C, which located at the rear of the property, adjacent to Suites A and B, is currently vacant.

On July 23, 2018, the applicant, Blanca Brown, submitted an application for a Conditional Use Permit (CUP-180-0004), to establish a 2,068 sq. ft. childcare center serving up to 32 toddlers and preschoolers with a 1,326 sq. ft. outdoor play area located at 3468 Citrus Street in the General Commercial–Heavy Commercial zone in Suites A and B. A childcare center is allowed with an approval of a conditional use permit in the General Commercial zone. The City of Lemon Grove found the application to be complete on September 17, 2018.

The Planning Commission tentatively approved CUP-180-0004 on October 22, 2018. The CUP would have become effective on November 1, 2018 (10 days after the date of tentative approval) if a valid request for a public hearing through the appeal process had not been filed.

In accordance with Lemon Grove Municipal Code (LGMC) Section 17.28.020(I), “Any applicant or other interested person who is dissatisfied with the denial, approval, conditional approval, or other application decision made in the administration of this title may appeal the decision. Decisions made by the development services director are appealed to the Planning Commission. Decisions made by the Planning Commission are appealed to the City Council. Decisions made by the City Council are final. Appeal applications, accompanied by the filing fee, shall be filed within ten days following the date a decision is made, on forms provided by the development services department.”

On October 31, 2018, two appellants each subsequently filed an appeal (Administrative Appeal AA1-800-006) of the Planning Commission’s decision. The appeals were filed within the time frame established by LGMC Section 17.28.020(I). Gwen Mitchell’s appeal (Bishop Mortuary, 3444 Citrus St., next door to the subject property) is provided in **Attachment G**. Jeanette Baranov’s appeal (3479 and 3495 Citrus St., across the street from the subject property), is provided in **Attachment H**.

Discussion

Land Use Analysis

The subject property is located in the General Commercial (GC)–Heavy Commercial (HC) zone that is also within the Special Treatment Area (STA) III overlay. In accordance with the General

Attachment A

Plan, STA III is planned for continued redevelopment with large retail stores. Uses within this STA shall serve both local residents and attract shoppers from adjacent communities. Until new land use regulations are developed to implement the regional commercial policies of the general plan, the use, and change of use, of existing developed properties shall be governed by the regulations of the current underlying zoning. In accordance with the Municipal Code, where conflicts occur between regulations, the more restrictive of any regulations shall apply. The General Commercial zone allows “Day Care Centers” that provide part-time care, for less than 24-hours per day, located in a commercial zone, with an approval of a Conditional Use Permit. The Municipal Code defines a “Day Care Center” as a day care, regardless of size or capacity that is located in a commercial zone or commercial structure.

The proposed land use will convert Suites A and B, a 2,068 sq. ft. space with two (2) existing restrooms located on the first floor, into a childcare center. The childcare center would include:

- Two (2) classrooms (350 sq. ft. and 305 sq. ft.); and
- One (1) 210 sq. ft. toddler room; and
- One (1) office and one (1) kitchen; and
- A 1,326 sq. ft. outdoor play area that includes a sandbox, bike path made up of decomposed granite, raised garden beds, and wood bench seating.

The applicant indicates the mission of the Lemon Grove Childcare Center is to provide a high quality setting to toddlers and preschoolers, where children receive education and care, and provided the following information. The Lemon Grove Childcare Center will use an active learning approach that allows opportunities for practicing social interaction and relationship building skills. The learning environment will aim to encourage children’s curiosity and initiative by adults who actively frame their learning in a group setting. All areas of curriculum will support the California Early Learning and Development System. The California Preschool Foundations and Pearson Opening World of Learning (OWL) will be the framework of the curriculum. OWL prepares children for kindergarten through playful purposeful and individualized instructions. OWL also develops language and early literacy skills in the context of research-based content including math, science and social skills. The Director has the responsibility of hiring all teachers and staff with their respective assignments. Teachers shall complete all qualification requirements according to the Childcare Center General Licensing Requirements under Title 22 of the State of California Health and Human Services Agency Department of Social Services, to include, but not limited to, a background clearance, up to date immunizations and proper credentialing by the California Commission on Teacher Credentialing. Enrollment of toddlers and preschoolers shall be in accordance with the guidelines established by the Department of Social Services, Community Care Licensing Division. Enrollment priority shall be on a first come first served basis and second priority given to siblings of the same household. Required documents shall include birth certificate to verify age, current physical, and current immunization record.

The proposed childcare center intends to serve up to 32 toddlers and preschoolers ranging from 18 months to five years of age. Staff will consist of three teachers and one administrator at any given time. Proposed hours of operation will be from 7:00 am to 5:30 am, Monday through Friday (**Attachment D**). Meals will be either prepared off-site by Neighborhood House Association (NHA) or prepared at the on-site kitchen. The menu will be posted in the classrooms for families to view (**Attachment E**). No outside food will be permitted into the center unless authorized by the administration. Outdoor playtime will occur twice a day with a total time of one hour and fifteen

Attachment A

minutes. A proposed fence will secure the 1,326 sq. ft. outdoor play area. City staff shall determine appropriate height and material for the proposed fence.

The appellant’s letter of support for the appeal (**Attachment I**) refers to concerns regarding insufficient on-street parking due to oversized vehicles from nearby businesses parking along Citrus Street and/or occupying on-street spaces for loading purposes. Other concerns include the potential exposure young toddlers and preschoolers may experience from the associated activities from an adjacent mortuary business, and potential exposure to homeless issues and visible drug use activities in the surrounding area.

Conditions of the proposed childcare center will require that child drop-off and pick-up be located within the existing parking area of the subject property. Street parking for child drop-off and pick-up is prohibited. In addition, the childcare center will operate to allow for flexible drop-off and pick-up times to accommodate client’s work schedule. This flexibility will prevent a significant increase of average daily trips to the nearby surrounding at any one time. Lastly, according to the Municipal Code, there is no separation requirements for the proposed land use to any other use, including a mortuary business. Concerns regarding social issues such as homelessness and drug use activities are not included in the code.

Off-Street Parking

The required off-street parking requirements and the parking provided by the project are as follows:

Use	Size	Parking Ratio	Required Parking
Institutional (K-12)	2 classrooms	2 spaces / classroom	4 spaces
Office	3,425 sq. ft.	1 space / 500 sq. ft.	6.85 = 6 spaces
Warehouse	1,713 sq. ft.	1 space / 500 sq. ft.	3.42 = 3 spaces
Total Required:			13
Provided:			19

The proposed project will be using the existing parking layout with the exception of removing one (1) off-street parking space to relocate the existing trash enclosure, for a total of 19 off-street parking spaces, including one (1) ADA accessible parking space. The parking spaces provided exceed the minimum required parking for an existing 7,739 square feet building. Since the building is less than 10,000 square feet, there is no loading space requirement.

Landscape

The required landscape area and the landscape area proposed by the project are as follows:

Landscape Requirements	Required	Provided
Min. 10% Landscape Area	1,381 sq. ft.	± 1,600 sq. ft.

Attachment A

Min. 25% Vegetated Plant Materials	400 sq. ft.	± 1,000 sq. ft.
------------------------------------	-------------	-----------------

Conditions for the proposed project will require that all landscaping be well maintained and adequately watered at all times.

Screening

An existing trash container is currently screened by a solid masonry wall located at the eastern portion of the lot, adjacent to the driveway entrance. Location of the proposed play area resulted in the relocation of the trash enclosure. Relocation of the trash enclosure will result in removing one (1) off-street parking space. Design of the trash enclosure shall be in accordance with Municipal Code Section 17.24.050(M).

Street Improvements

The project is located on the west side of Citrus Street, between Broadway and North Avenue. There is an existing curb, gutter and sidewalk, and all utilities fronting the property are placed underground. Proposed street improvements include four (4) twenty-four inch box street trees, installed at a rate of one tree per thirty linear feet of street frontage along the subject property.

Public Information:

The Notice of Public Hearing for this item was published in the November 8, 2018 edition of the East County Californian and mailed to all property owners within 500 feet of the subject property. The City of Lemon Grove received no comments in response to the Notice of Public Hearing and Environmental Analysis at the time this staff report was prepared. At the time of the public hearing, Staff will provide the City Council with any comments received after the date this Staff report is prepared.

Conclusion:

Staff recommends that the City Council conduct the public hearing and adopt a Resolution **(Attachment B)** denying Administrative Appeal No. AA1-800-0006, upholding the Planning Commission's tentative approval of Conditional Use Permit No. CUP-180-0004, a request to establish a childcare center at 3468 Citrus Street in the General Commercial–Heavy Commercial zone, based on the findings of fact as provided in the Resolution **(Attachment B)**. This public hearing will be considered a *de novo* hearing and decisions shall be based only upon on the evidence presented in this staff report and at the public hearing and shall not be based upon any prior factual findings or legal conclusions.

Attachment B

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE DENYING ADMINISTRATIVE APPEAL AA1-800-0006, UPHOLDING THE PLANNING COMMISSION'S DECISION TO APPROVE CONDITIONAL USE PERMIT NO. CUP-180-0004, A REQUEST TO ESTABLISH A CHILDCARE CENTER WITH AN OUTDOOR PLAY AREA AT 3468 CITRUS STREET, LEMON GROVE, CALIFORNIA.

WHEREAS, the applicant, Blanca Brown, filed an application for a Conditional Use Permit (CUP-180-0004) on July 23, 2018, a request to establish a 2,068 square foot childcare center (Lemon Grove Childcare Center) with a 1,326 square foot outdoor play area located at 3468 Citrus Street, Lemon Grove, California; and

WHEREAS, the proposed land use is allowed as a "Day Care Center" that provides part-time care, for less than twenty-four hours per day, located in a commercial zone, with an approval of a Conditional Use Permit; and

WHEREAS, the proposed childcare center intends to serve up to 32 toddlers and preschoolers ranging from 18 months to five years of age. Childcare staff will consist of three teachers and one administrator at any given time. Proposed hours of operation will be from 7:00 am to 5:30 am, Monday through Friday. Meals will be either prepared off-site by Neighborhood House Association (NHA) or prepared at the on-site kitchen. All areas of curriculum will support the California Early Learning and Development System. The California Preschool Foundations and Pearson Opening World of Learning (OWL) will be the framework of the curriculum; and

WHEREAS, the Planning Commission held a duly noticed public hearing and tentatively approved Conditional Use Permit No. CUP-180-0004 on October 22, 2018. The Conditional Use Permit was intended to become effective on November 1, 2018 (10 days after the date of the tentative approval) unless a valid request for a public hearing through the appeal process was filed by the applicant or another interested person(s); and

WHEREAS, on October 31, 2018 two appellants, Gwen Mitchell and Jeanette Baranov, each subsequently filed an appeal and request for public hearing (Administrative Appeal AA1-800-0006), for City Council consideration on November 20, 2018; and

WHEREAS, the Notice of Public Hearing for this item was published in the November 8, 2018 edition of the East County Californian and mailed to all property owners within 500 feet of the subject property; and

WHEREAS, on November 20, 2018, the City Council held a duly noticed public hearing to consider Administrative Appeal AA1-800-0006, an appeal of the Planning Commission's decision to approve Conditional Use Permit No. CUP-180-0004; and

WHEREAS, the City has found the proposed Conditional Use Permit to be categorically exempt from the environmental review requirements of the California Environmental Quality Act Guidelines (Section 15301, Existing Facilities); and

WHEREAS, the City Council determined that the following findings of fact as required by Lemon Grove Municipal Code (LGMC) Section 17.28.050(C) can be made as follows:

1. The use is compatible with the neighborhood or the community; and
 - a. **The proposed land use is located in the General Commercial–Heavy Commercial zone, which allows "Day Care Centers" with an approval of a Conditional Use**

Attachment B

Permit. The LGMC defines “Day Care Centers” as a day care, regardless of size or capacity that is located in a commercial zone or commercial structure.

2. The use is not detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity; and
 - a. **The proposed use is categorically exempt from environmental impacts and no impacts are anticipated. The proposed childcare center will be required to meet all applicable provisions of the LGMC and conditions of approval.**
3. The use complies with performance standards according to Section 17.24.080; and
 - a. **The proposed use complies or will be made to comply with applicable performance standards according to Section 17.24.080 of the LGMC (specifically noise, glare, traffic circulation and parking, waste, and fire hazards).**
4. The use is consistent with applicable provisions of the particular zoning district and with policies and standards of the general plan.
 - a. **The proposed use complies with the applicable provisions of the LGMC requirements and is consistent with the Retail Commercial land use designation of the General Plan. The proposed childcare center would promote a healthy, family-oriented community through appropriate land use and development decisions; and**

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

SECTION 1. Denies Administrative Approval AA1-800-0006, filed by appellants Gwen Mitchell and Jeanette Baranov, based on the above-findings; and

SECTION 2. Upholds the Planning Commission’s decision to approve Conditional Use Permit No. CUP-180-0004 and the site and architectural plans dated received August 14, 2018 (incorporated herein by reference as Exhibit A), except noted herein. The approval authorizes the establishment of a childcare center with an outdoor play area at 3468 Citrus Street in the General Commercial–Heavy Commercial zone. Except as amended, the approval of this project shall be subject to the following conditions:

- A. Within five days of approval, the applicant shall comply with the following:
 1. Submit the appropriate payment for the CEQA filing fee and County Clerk Processing Fee (Categorical Exemption).
 2. Pay all outstanding fees for City permits related to this project.
- B. A building permit shall be required and obtained for proposed tenant improvements including electrical, plumbing and mechanical improvements. Structures and access shall meet current building and fire code regulations.
 1. Provide a fully dimensioned site plan, floor plan and elevations drawn to scale.
 2. An automatic fire alarm system shall be provided in all buildings used as or containing a Group E Day Care.
 3. Duct and air transfer openings in smoke partitions shall be provided with a smoke damper in Group E Day Care.
 4. Group E Day Care facilities may not be located above the first story in a building that is not constructed of Type I-A, I-B, II-A, II-B and III-A construction.

Attachment B

5. Every enclosed gas-fired water heater or furnace in the child-care area needs to be protected to prevent children from making contact to those appliances. This doesn't apply to kitchen stoves or ovens.
 6. Day care facilities, rooms or spaces where care is provided for more than 10 children that are 2 years or age or less shall have access to not less than two exits or exit access doorways.
 7. Corridors serving more than 10 occupants in Group E day care shall be 1-Hour fire rated walls without sprinkler system.
 8. Corridor width shall not be less than 44 inches.
 9. Separate Occupancies: each space shall comply with the building code based on the occupancy classification of that portion of the building.
 10. Interior decorative material and furnishings shall meet the requirements in the 2016 CA Fire Code, Chapter 8.
 11. Heartland Fire & Rescue at time of plan or permit submission will charge certain fees for plan review and inspections. Fees will be determined at time of plan review and/or inspections.
 12. The construction drawings or changes to the project may require additional conditions not noted in this resolution in which case, applicable codes would apply.
- C. Prior to issuance of a building permit for the use authorized by this Conditional Use Permit, the applicant shall comply with the following:
1. Comply with Conditions A through B of this Resolution.
 2. All physical elements of the proposed project shown on the approved plans dated August 14, 2018, except as noted herein, shall be located, constructed and maintained substantially where they are shown in accordance with applicable Lemon Grove City Codes to the satisfaction of the Development Services Director.
 3. The applicant shall provide occupant load and exiting for each classroom.
 4. Existing bathrooms shall comply with California Building Code (CBC), Chapter 11B.
 5. The applicant shall provide on the plans all special requirements for a E occupancy daycare facility. Safe dispersal area, frontage or clearance at entry (see CBC Section 452).
 6. The applicant shall provide occupancy and appropriate fire separation per CBC Table 508.4 for all adjacent tenant spaces.
 7. The applicant shall provide a letter indicating any hazardous materials to be used or stored on site for the childcare center. This does not include normal business cleaning materials however; they must be in a limited quantity.
 8. The applicant shall clarify whether or not the building is equipped with a fire alarm system and note existing and proposed systems. A licensed contractor (C-10) is required to install or make adjustments to a fire alarm system.
 9. All improvements shall comply with Title 15 including 2016 Building and Fire Codes and ADA accessibility requirements.

Attachment B

- D. Prior to requesting a final inspection and occupancy of the structure, the applicant shall comply with the following:
1. Comply with Conditions A through C of this Resolution.
 2. All physical elements of the proposed project shown on the approved plans dated August 14, 2018, except as noted herein, shall be located, constructed and maintained substantially where they are shown in accordance with applicable Lemon Grove City Codes to the satisfaction of the Development Services Director.
 3. The most recent adopted California Fire Codes and Standards.
 4. A fire inspection is required prior to a certificate of occupancy or business license being issued. The applicant shall ensure the childcare center is set up and ready for operation prior to the fire inspection.
 5. Current standards for parking areas and striping. Damaged paving shall be repaired and maintained in a good condition consistent with LGMC Section 17.24.010. Designated parking spaces are prohibited on-site.
 6. Execute an Encroachment, Maintenance, and Removal Agreement for the street trees and irrigation along the Citrus Street frontage. The City will draft the document. Provide the City with an 8 ½" x 11" exhibit showing and labeling the locations of the trees and irrigation system.
 7. The applicant shall comply with all of the requirements of the appropriate State and County licensing agencies and shall provide the Development Services Department with evidence of said compliance.
 8. Installation. Gates serving multi-family, assembly, educational, hazardous, institutional, or storage structures must be automatic and meet UL 325 and ASTM F 2200 standards. Knox brand key-operated electric key switch keyed to Heartland Fire & Rescue specification are required. The Knox switch shall override all gate functions and open the gate. Other access control systems such as Opticom, siren, etc. shall be permitted with the approval of Heartland Fire & Rescue.
 9. All flammable vegetation shall be removed from each building site with slopes less than 15% at a minimum distance of 30-feet from all structures or to the property line, whichever is less.
 10. Facility shall provide at least one portable fire extinguisher with a 2-A: 10-B: C rating for every 75-feet of travel. Fire extinguisher shall be mounted up to 5-feet from the finished floor and it must be in an accessible area.
 11. An approved Fire Safety and Evacuation Plan is required.
 12. Fire lane designation shall be required for all fire access roadways as determined by Heartland Fire & Rescue. Posted signs which state "FIRE LANE, NO PARKING" shall be installed every 50 feet. Curbs shall be painted red and stenciled with white letters indicating the same on the face and top of any curb as directed by Heartland Fire & Rescue. All fire lanes shall be marked and identified prior to Certificate of Occupancy.
 13. Permanent address shall be posted to meet the minimum requirements: minimum 8 inches in height with one-half inch stroke, visible from the street and have a contrasting background. Additional numbers may be required for visibility.

Attachment B

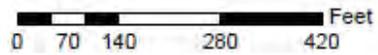
14. Exit signs shall be installed and maintained per the 2016 CA Fire Code, Chapter 10.
- E. Upon establishment of use in reliance with this Conditional Use Permit, the applicant shall comply with the following:
1. Comply with Conditions A through D of this Resolution.
 2. All physical elements of the proposed project shown on the approved plans dated August 16, 2018, except as noted herein, shall be located, constructed and maintained substantially where they are shown in accordance with applicable Lemon Grove City Codes to the satisfaction of the Development Services Director and City Engineer.
 3. The hours of operation shall be restricted from 7:00 A.M. to 5:30 P.M., five (5) days a week only (Monday through Friday).
 4. The use of the outdoor play area shall be limited to the hours of 7:00 A.M. to 5:00 P.M.
 5. Off-street parking for child drop-off and pick-up shall be located in the existing parking area of the subject property.
 6. Street parking for child drop-off and pick-up is prohibited.
 7. The permittee shall obtain from the Development Services Director certification that specified conditions of the permit have been met.
 8. The building façade shall be well maintained at all times.
 9. Landscape shall be maintained in good condition at all times.
 10. This project approval does not include signage, and sign permits shall be obtained prior to installation. All signs shall conform to the Municipal Code Section 18.12.
 11. The project shall conform to all performance standards of Municipal Code Section 17.24.080.
 12. Proper drainage shall be maintained throughout this property so as to prevent ponding and/or storage of surface water.
 13. Exit doors, including manually operated horizontal sliding doors, shall be able to be opened from the inside without use of a key or any special knowledge or effort.
 14. The unlatching of any door or leaf shall not require more than one operation.
- F. The terms and conditions of the Conditional Use Permit shall be binding upon the permittee and all persons, firms, and corporations having an interest in the property subject to this Conditional Use Permit and the heirs, executors, administrators, successors, and assigns of each of them, including municipal corporations, public agencies, and districts.
- G. The decision regarding this Conditional Use Permit became effective on November 20, 2018.
- H. This Conditional Use Permit expires November 20, 2019 (or such longer period as may be approved by the Planning Commission of the City of Lemon Grove prior to said expiration date) unless all requirements of this Conditional Use Permit have been met prior to said expiration date.

AA1-800-0006



Legend

-  3468 Citrus Street
-  LG Parcels
-  Roads



LEMON GROVE CHILDCARE CENTER
3468 Citrus Street Lemon Grove, CA 91945

Daily Schedule for Preschoolers

7:00-8:00am	Table Manipulatives
8:00-8:30am	Breakfast
8:30-8:45am	<i>Wash Hands</i> and bathroom-Clean tables.
8:45-9:00am	Meet for circle time- Rug area
9:00-9:30am	Center Time & Individualized support (Teacher Directed)
9:00-10:00am	Indoor Exploration (Child Directed)
10:00-10:15am	Bathroom and <i>Wash Hands</i>
10:15-11:00	Outdoor Play
11:00-11:15	<i>Wash Hands</i>
11:15-11:30	Circle Time- Revisit Lesson of the day
11:30-12:00	Lunch
12:00-12:15pm	Bathroom and <i>Wash Hands</i> -Clean Tables
12:15-2:00pm	Naptime/ Quiet Time
2:00-2:15pm	Wake up, Bathroom and <i>Wash Hands</i>
2:15-2:30pm	Circle Time- Introduce Math Lesson
2:30-2:45pm	Math Activity
2:45-3:00pm	Snack
3:00-3:30pm	Bathroom and <i>Wash Hands</i>
3:30-4:00pm	Outdoor Play
4:00-4:30pm	Indoor Table Manipulatives
4:30-5:00pm	Music and Movement
5:00-5:30pm	Creative Art

**Lemon Grove
Childcare
Center
Menu**



Menu 2018



Monday	Tuesday	Wednesday	Thursday	Friday
<p>Toasted Oats Banana, 1% Milk</p> <p>Stewad Beef with Cheese Grits, Salad, Orange, 1% Milk</p> <p>Strawberry Smoothie & Apple</p>	<p>English Muffin, Cream Cheese, Orange, 1% Milk</p> <p>Beef Tacos, Pico de Gallo, Wheat Tortilla, Pear, 1% Milk</p> <p>Black Bean Dip w/ tortilla Chips & Water</p>	<p>Rice Chex, Apple, 1% Milk</p> <p>Tomato Bake w/ Chicken, Broccoli & Raisin Salad, Pear, 1& Milk</p> <p>Orange and 1% Milk</p>	<p>Honey Granola, Pear, & 1 % Milk</p> <p>Red Bean Soup, Brown Rice, Kale, Orange, & 1% Milk</p> <p>Arroz con Leche & Banana</p>	<p>Kashi Heart to Heart, Orange, & 1% Milk</p> <p>Bean Taco, Corn Tortilla, w/ pico de gallo, salad, 1% Milk</p> <p>Cottage Cheese w/ wheat cracker & Water</p>
Monday	Tuesday	Wednesday	Thursday	Friday
<p>Rice Chex, Pear, 1% Milk</p> <p>Turkey on Wheat Bread, Cream of Potato Soup, Orange, 1% Milk</p> <p>Pico de Gallo with Tortilla Chips & Water</p>	<p>Bran Muffin, Apple, 1% Milk</p> <p>Rotini alla Bolognese, Caesar Salad, Orange, 1% Milk</p> <p>Edamame Hummus with Carrot Sticks & Water</p>	<p>English Muffin, Cream cheese, Cantaloupe 1% Milk</p> <p>Lentil Soup, Wheat Roll, Salad, Apple, 1% Milk</p> <p>Aztec Grain Salad & 1% Milk</p>	<p>Toasted Oats, Banana, 1% Milk</p> <p>Pesto Pasta w/ chicken, Cauliflower, watermelon, 1% Milk</p> <p>Orange & Water</p>	<p>Kashi Heart to Heart, Apple, 1% Milk</p> <p>Tuna Sandwich on wheat bread, roasted tomato soup, Spring Salad & 1% Milk</p> <p>Graham cracker, orange, 1% Milk</p>
Monday	Tuesday	Wednesday	Thursday	Friday
<p>Corn Chex, Pear, 1% Milk</p> <p>Chicken Sandwich on Mini Kaiser , Caesar Salad, Orange, 1% Milk</p> <p>Pico de Gallo with Tortilla Chips & Water</p>	<p>Toasted Oats, Apple, 1% Milk</p> <p>Couscous with Apples, Braised Vegetables, Honeydew, 1% Milk</p> <p>Carrot Sticks with Sesame Dip & Water</p>	<p>English Muffin, Cream cheese, Orange, Water</p> <p>Beef Picadillo, Brown Rice, Carrots, Orange, & 1% Milk</p> <p>Hummus with Zucchini stick</p>	<p>Wheat Bagel, cream cheese, Pear, 1% Milk</p> <p>Roasted Turkey, Mashed Potato, Wheat Roll, Salad, 1% Milk</p> <p>Apple, 1% Milk</p>	<p>Strawberries, Watermelon Slices, 1% Milk</p> <p>Black Bean Chili, Salad, 1% Milk</p> <p>Granola, Yogurt Parfait & Water</p>
Monday	Tuesday	Wednesday	Thursday	Friday
<p>Corn Chex, Apple, 1% Milk</p> <p>Meat Sauce, Penne Pasta, Caesar Salad, Orange, 1% Milk</p> <p>Blueberry Smoothie, Graham Crackers</p>	<p>Bran Muffin, Apple, 1% Milk</p> <p>Jark Chicken, Rice, peas, Orange, 1% Milk</p> <p>Cucumber Slices & Water</p>	<p>Granola & Banana, 1% Milk</p> <p>Beef Burger, Sliced salad, orange & 1% milk</p> <p>Cottage Cheese & strawberries</p>	<p>English Muffin, cream cheese, 1% Milk</p> <p>Turkey, Herbed Squash, Banana, 1% Milk</p> <p>Graham Crackers, Water</p>	<p>Heart to Heart Kashi, banana, 1% milk</p> <p>Tuna Salad sandwich, strawbernes, Salad, 1% milk</p> <p>Applesauce, 1% milk</p>



CITY OF LEMON GROVE

SMARTER. SIMPLER. IN. TOGETHER.

Community Development Department

October 24, 2018

Blanca Brown
3468 Citrus Street
Lemon Grove, CA

John Vo



Re: Conditional Use Permit No. CUP-180-0004 at 3468 Citrus Street, APN: 479-042-32-00

Dear Blanca Brown,

On October 22, 2018, the Lemon Grove Planning Commission approved Resolution No. 18-04 (enclosed).

Please review the Resolution of Approval carefully and contact the project planner if you have any questions regarding the conditions of approval. You are required to submit a copy of the attached resolutions when applying for building permits, a business license and improvements necessary to complete the conditions of approval.

An invoice for the project has been enclosed and is due at your earliest convenience and prior to application for additional permits or licenses.

Please contact me at 619.825.3805, or aortuno@lemongrove.ca.gov if you have any questions.

Sincerely,

Arturo Ortuño
Assistant Planner

Enclosures:
Planning Commission Resolution No. 18-04
Final Invoice 10-24-18





**APPEAL APPLICATION &
REQUEST FOR PUBLIC HEARING**

Community Development Department / Planning Division
3232 Main Street, Lemon Grove, CA 91945
Phone: 619-825-3805 Fax: 619-825-3818
www.ci.lemon-grove.ca.us

APPLICANT: *BISHOP MORTUARY* PHONE: [REDACTED]
ADDRESS: *3444 Citrus St* FAX: [REDACTED]
EMAIL: [REDACTED] / com

CASE/PROJECT NUMBER: *CUP-180-004*

DECISION / CONDITIONS OF APPROVAL BEING APPEALED (INCLUDE CONDITION ITEM NUMBERS):

CUP - 180-004
High Homeless Population

SPECIFIC REASON(S) FOR APPEAL OR REQUEST FOR PUBLIC HEARING:

*Citrus Street is not suitable for a Daycare
Yard is too small for play area
Tenants at 3468 Citrus have to back at Driveway
because it is too small
Next to Mortuary
Very heavy Commercial AREA Zone
Attach additional sheets if necessary. Pictures Attached*

[Signature]
Applicants Signature

10/30/2018
Date

TO BE COMPLETED BY PLANNING STAFF

FILE #(s):
DATE:
FEES: RECEIPT #

CITY OF LEMON GROVE

COMMENTS and/or CONDITIONS:

OCT 31 2018

DEVELOPMENT SERVICES



APPEAL APPLICATION & REQUEST FOR PUBLIC HEARING

Community Development Department / Planning Division
3232 Main Street, Lemon Grove, CA 91945
Phone: 619-825-3805 Fax: 619-825-3818
www.ci.lemon-grove.ca.us

APPLICANT: Janette Basarovi PHONE: [Redacted]
ADDRESS: [Redacted] FAX: [Redacted]
EMAIL: [Redacted]

CASE/PROJECT NUMBER: CUP-180-2004

DECISION /CONDITIONS OF APPROVAL BEING APPEALED (INCLUDE CONDITION ITEM NUMBERS):
Conditional Use Permit No CUP-180-2004

SPECIFIC REASON(S) FOR APPEAL OR REQUEST FOR PUBLIC HEARING:

Attacked Comments
High homeless populations, Drug use

Attach additional sheets if necessary

Janette Basarovi
Applicants Signature

10/30/18
Date

TO BE COMPLETED BY PLANNING STAFF

FILE #(s)

DATE:

FEES:

RECEIPT #

CITY OF LEMON GROVE

COMMENTS and/or CONDITIONS:

OCT 31 2018

DEVELOPMENT SERVICES

Attachment I

- CUP-180-0009

I own property across the street from the propose child care center. 3479 Citrus St & 3495 Citrus St, Lemon Grove. Citrus street is a very busy street during the week.

There are trucks in the street from all the contractors who have their businesses on Citrus Street. A towing company who always has trucks on the street waiting to get in or out of his driveway with their crashed cars or towing crashed cars out of his yard.

Motor cycles run up and down Citrus Street to either see how fast they can go or how noisily they can be.

There is no parking on Citrus Street during the week, as all the workers at the companies have to have a place to park their cars. Then next door you have a mortuary who perform services for the deceased. The caskets are brought out the front door along with all their grieving families.

I would not want my young children to see all that sadness and they will see it from their play yard.

I oppose a daycare center at this location.

Thank you,

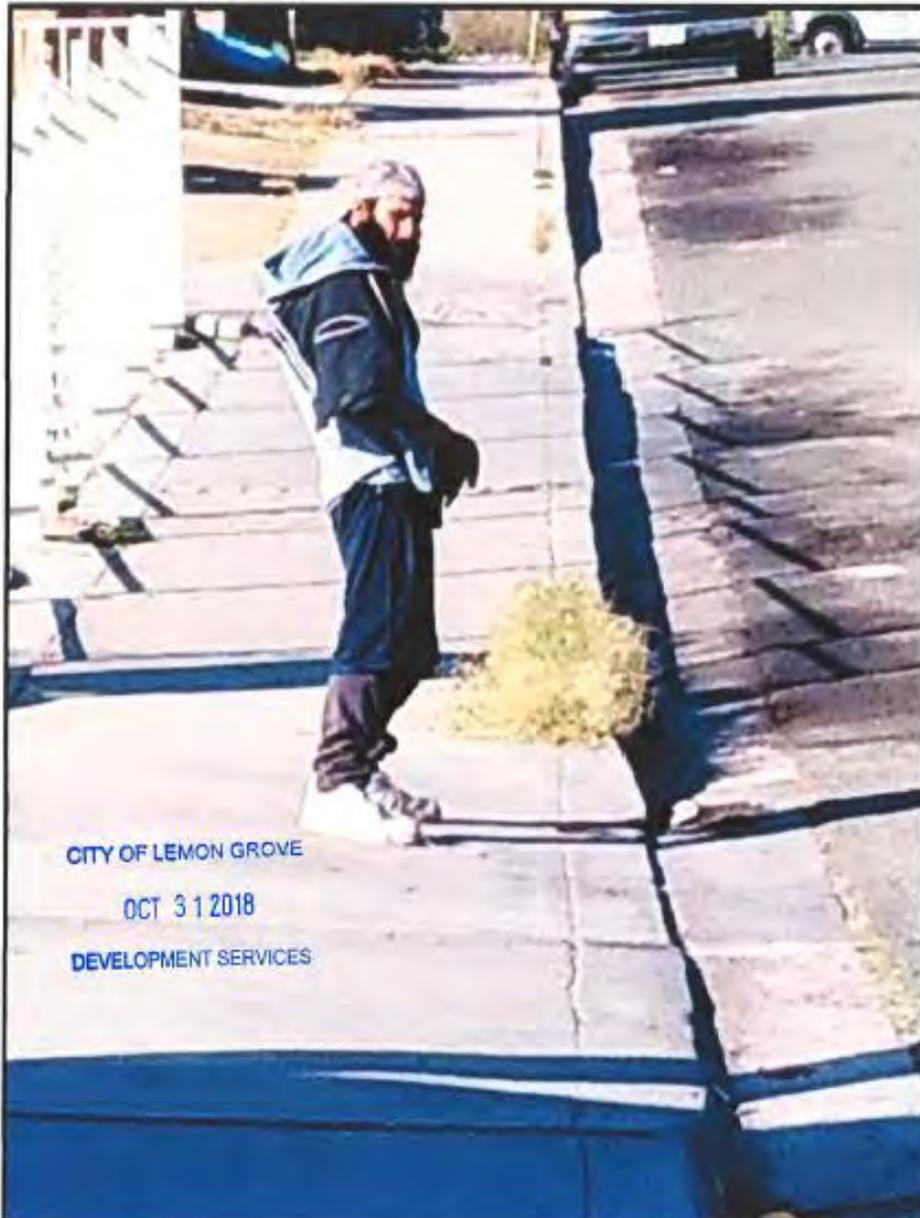
Jeanette Baranov, owner of above address

CITY OF LEMON GROVE

OCT 31 2018

DEVELOPMENT SERVICES

Attachment J



Date: 10/30/2018

Have Additional Pictures 3468 Citrus St
Per Your Request 26

Attachment J



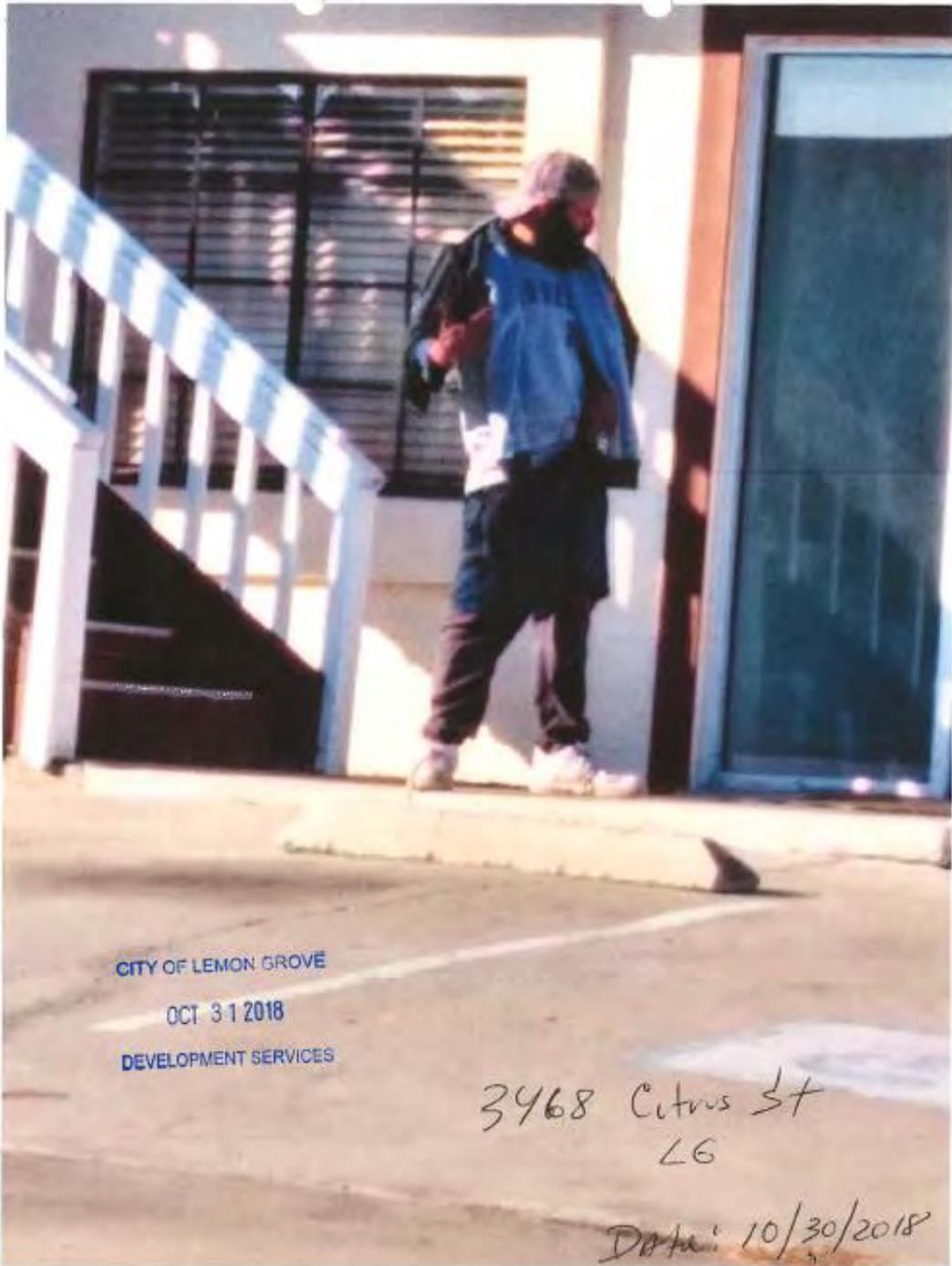
3468 Cotinas St

CITY OF LEMON GROVE

OCT 31 2018

DEVELOPMENT SERVICES

Attachment J



Attachment J



CITY OF LEMON GROVE
OCT 31 2018
DEVELOPMENT SERVICES

3468 Citrus
Peeking over yard



Citrus Street

Attachment K

EXHIBIT A – PROJECT PLANS

Not Attached

Enclosed in City Council packet or available at City Hall for Review

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. Item 3
Mtg. Date November 20, 2018
Dept. Public Works

Item Title: **Public Hearing to Consider an Amendment to the Transnet Local Street Improvement Program of Projects for FY 2019-23**

Staff Contact: Molly Brennan, Finance Manager & Mike James, Assistant City Manager / Public Works Director

Recommendation:

Conduct a public hearing and adopt a resolution (**Attachment B**) approving an amendment to the Transnet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023.

Item Summary:

On November 4, 2004, the voters of San Diego County approved the San Diego Transportation Improvement Program Ordinance and Expenditure Plan (TransNet Extension Ordinance). The TransNet Extension Ordinance provides that SANDAG shall approve on a biennial basis a multi-year program of projects submitted by local jurisdictions, identifying those transportation projects eligible to use transportation sales tax (TransNet) funds.

On March 20, 2018, the City Council approved the TransNet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023. Since then, staff reviewed the 2018 RTIP TransNet expenditure plan and found it to be out of compliance with Section 2(C)(1) of the Transnet Extension Ordinance, which limits spending on preventative maintenance to 30% or less of total Transnet revenue. The staff report (**Attachment A**) details the amounts and projects that will be amended to reallocate funding between congestion relief and preventative maintenance projects. If the City Council adopts the resolution (**Attachment B**), the changes will be forwarded to the SANDAG Board of Directors for approval as a part of Amendment No. 1 (18-1) of the SANDAG TransNet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023.

Fiscal Impact:

None at this time. If the resolution is approved by the City Council and SANDAG Board of Directors, the amounts will be updated by the Finance Department in the FY 2018-19 budget.

Environmental Review:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|---|---|---|
| <input type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input checked="" type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- | | |
|-----------------|---------------|
| A. Staff Report | B. Resolution |
|-----------------|---------------|

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. Item 3

Mtg. Date November 20, 2018

Item Title: **Public Hearing to Consider an Amendment to the Transnet Local Street Improvement Program of Projects for FY 2019-21**

Staff Contact: Molly Brennan, Finance Manager & Mike James, Assistant City Manager / Public Works Director

Background:

On November 4, 2004, the voters of San Diego County approved the San Diego Transportation Improvement Program Ordinance and Expenditure Plan (TransNet Extension Ordinance). The TransNet Extension Ordinance provides that SANDAG shall approve, on a biennial basis, a multi-year program of projects submitted by local jurisdictions that identifies those transportation projects eligible to use transportation sales tax (TransNet) funds.

As a quick summary, the Public Works Department and Engineering Division utilize TransNet funds to support the Capital Improvement Program (CIP) and on-going maintenance projects throughout the City. TransNet funds are programmed to congestion relief or maintenance related projects that impact city streets, city storm drain or traffic projects.

Per TransNet Ordinance (Section 6) each entity that receives and programs TransNet funds must hold a public hearing for amendments to the TransNet Program of Project 2018 RTIP adoption. The resolution (**Attachment B**) is a standard SANDAG template that is required to be adopted to meet the public hearing process to submit the final resolution to SANDAG before November 30, 2018. The amendment will be presented to the SANDAG Transportation Committee on January 18, 2019. The City's program is shown in **Attachment B – Exhibit 1**. The details of the projects are further explained in the remaining portion of this report.

Discussion:

On March 20, 2018, the City Council approved the TransNet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023. Since that time, staff has reviewed the 2018 RTIP TransNet expenditure plan and found it to be out of compliance with Section 2(C)(1) of the TransNet Extension Ordinance, which limits spending on preventative maintenance projects to 30% or less of total annual TransNet revenue.

The original approved 2018 RTIP allocated 64% of the FY2018-19 funding for congestion relief projects and 36% of funding for preventative maintenance projects. To be in compliance with Section 2(C)(1) of the TransNet Extension Ordinance, the City needs to spend a minimum of 70% of annual TransNet funding on congestion relief projects and a maximum of 30% on preventative maintenance projects. If the City remains out of compliance, there is a risk of losing all future TransNet funding until the program comes back into compliance. If adopted, the proposed amendment will not impact the available TransNet funds, but will reallocate a portion of funds from preventative maintenance projects to congestion relief projects.

In addition, staff found that the TransNet Extension Ordinance Regional Transportation Congestion Improvement Plan (RTCIP) fees programmed to be spent on the Lemon Grove Realignment project in March 2018, now requires an amendment to re-open project LG13 (LG Realignment) in order for the City to expend the funds in FY2018-19. The adopted 2018 RTIP did

Attachment A

not include LG 13, so the project has been closed and cannot track further activity without being re-opened through this amendment. Previously, the City had programmed \$563,216 of collected RTCIP fees to be spent on the Lemon Grove Realignment. Since that point in time, the City has collected an additional \$59,374 in RTCIP fees and staff recommends increasing the RTCIP programmed to LG13 to include the additional revenue collected, for a total of \$622,590. This amount was already included in the adopted FY2018-19 budget (Fund 27) and in the Lemon Grove Realignment project report to Council in October 2018. In order for the City to expend the RTCIP funds on the Lemon Grove Realignment project in FY2018-19, the amendment asks SANDAG to re-open the LG13 project for this purpose.

The RTCIP fee is a transportation mitigation fee collected by local jurisdictions to fund improvements to the regional arterial system. The fee is collected prior to issuance of building permits for new residential housing units. Although both RTIP and RTCIP are related to TransNet and overseen by SANDAG, the \$622,590 represents revenue the City already has on hand, unlike the TransNet RTIP funding which is provided on a reimbursement basis.

Staff created the table below to show what was originally programmed in the 2018 RTIP and what the new programmed amounts will equal if the amendment is approved by both the City Council and the SANDAG District Board. As a budgetary procedural step, if both governing bodies approve the amendment, staff requests that the City Council authorize the City Manager or her designee to make the budget adjustments to the FY 2018-19 budget document.

	Congestion Relief (CR):	Original 2018 RTIP	Amended 2018 RTIP
LG16	Storm Drain Rehabilitation - CR	14,000	14,000
LG18	Traffic Improvements - CR	65,000	65,000
LG20	Street Improvements - CR	365,000	411,300
	Preventative Maintenance (PM):		
LG14	Traffic Improvements - PM	119,000	119,000
LG15	Storm Drain Rehabilitation - PM	26,000	19,700
LG17	Street Improvements - PM	124,000	84,000
		\$713,000	\$713,000

If the City Council adopts the resolution (**Attachment B**), the plan as outlined in **Attachment B – Exhibit 1** will be forwarded to the SANDAG Board of Directors for approval as a part of Amendment No. 1 to the TransNet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023.]

Conclusion:

Staff recommends that the City Council:

1. Conducts a public hearing;
2. Adopts the resolution (**Attachment B**) approving an amendment to the TransNet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023, and
3. Directs the City Manager or her designee to amend the City Budget for Fiscal Year 2018-2019, if approved by the SANDAG Board of Directors, to reflect TransNet budget adjustments reflected in Amendment No. 1.

Attachment B

RESOLUTION NO. 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA APPROVING AN AMENDMENT TO THE TRANSNET LOCAL STREET IMPROVEMENT PROGRAM OF PROJECTS FOR FISCAL YEARS 2019 THROUGH 2023

WHEREAS, on November 4, 2004, the voters of San Diego County approved the San Diego Transportation Improvement Program Ordinance and Expenditure Plan (*TransNet* Extension Ordinance); and

WHEREAS, the *TransNet* Extension Ordinance provides that SANDAG, acting as the Regional Transportation Commission, shall approve on a biennial basis a multi-year program of projects submitted by local jurisdictions identifying those transportation projects eligible to use transportation sales tax (*TransNet*) funds; and

WHEREAS, the City of Lemon Grove was provided with an estimate of annual *TransNet* local street improvement revenues for fiscal years 2019 through 2023; and

WHEREAS, the City of Lemon Grove approved its 2018 *TransNet* Local Street Improvement Program of Project (POP) on March 20, 2018 and the City of Lemon Grove desires to make adjustments to its Program of Projects; and

WHEREAS, the City of Lemon Grove has held a noticed public hearing with an agenda item that clearly identified the proposed amendment (*Exhibit 1*) prior to approval of the projects by its authorized legislative body in accordance with Section 5(A) of the *TransNet* Extension Ordinance and Rule 7 of SANDAG Board Policy No. 31.

NOW THEREFORE, BE IT RESOLVED that the City of Lemon Grove requests that SANDAG make the following changes to its 2018 POP (the "Amendment"); and

BE IT FURTHER RESOLVED that pursuant to Section 2(C)(1) of the *TransNet* Extension Ordinance, the City of Lemon Grove certifies that no more than 30 percent of its annual revenues shall be spent on local street and road maintenance-related projects as a result of the Amendment.

BE IT FURTHER RESOLVED that pursuant to Section 4(E)(3) of the *TransNet* Extension Ordinance, the City of Lemon Grove certifies that all new or changed projects, or major reconstruction projects included in the Amendment and funded by *TransNet* revenues shall accommodate travel by pedestrians and bicyclists, and that any exception to this requirement permitted under the Ordinance and proposed was clearly noticed as part of the City of Lemon Grove's public meeting process for the Amendment.

BE IT FURTHER RESOLVED that the City of Lemon Grove does hereby certify that all applicable provision of the *TransNet* Extension Ordinance and SANDAG Board Policy No. 31 have been met.

Attachment B

BE IT FURTHER RESOLVED that the City of Lemon Grove continues to agree to indemnify, hold harmless, and defend SANDAG, the San Diego County Regional Transportation Commission, and all officers and employees thereof against all causes of action or claims related to City of Lemon Grove's TransNet funded projects.

PASSED AND ADOPTED by the City of Lemon Grove on the 20th day of November, 2018.]

/////
/////

Attachment B – Exhibit 1

Table 1
2018 Regional Transportation Improvement Program
Amendment No. 1
San Diego Region (in \$000s)

Lemon Grove, City of										
MPO ID: LG15 RTIP #:18-01										
Project Title:	Storm Drain Rehabilitation (Preventive Maintenance)							TransNet - LSI: Maint		
Project Description:	Citywide - improvements or repairs to multiple storm drain facilities such as spot repairs to existing pipes, berms or other diversion devices; attention will be given to the continuous maintenance of Chollas Creek in accordance with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit which involve debris removal, vegetation control, and/or habitat restoration; city staff/consultant to inventory storm drain system and input into GIS; condition assessment, repair options and strategy report to follow									
Change Reason:	Reduce funding Capacity Status:NCI Exempt Category:Other - Plantings, landscaping, etc									
Est Total Cost:	\$895									
	TOTAL	PRIOR	18/19	19/20	20/21	21/22	22/23	PE	RW	CON
TransNet - LSI	\$358	\$220	\$20	\$26	\$26	\$26	\$41			\$359
TransNet - LSI Carry Over	\$286	\$257	\$28					\$27		\$259
Local Funds	\$250		\$250							\$250
TOTAL	\$895	\$477	\$298	\$26	\$26	\$26	\$41	\$27		\$868
PROJECT LAST AMENDED 18-00										
	TOTAL	PRIOR	18/19	19/20	20/21	21/22	22/23	PE	RW	CON
TransNet - LSI	\$365	\$220	\$26	\$26	\$26	\$26	\$41			\$365
TransNet - LSI Carry Over	\$286	\$257	\$28					\$27		\$259
Local Funds	\$250		\$250							\$250
TOTAL	\$901	\$477	\$304	\$26	\$26	\$26	\$41	\$27		\$874

MPO ID: LG17 RTIP #:18-01										
Project Title:	Street Improvements (Preventive Maintenance)							TransNet - LSI: Maint		
Project Description:	Citywide - maintain city streets and fund costs to survey all streets as part of the pavement management system									
Change Reason:	Reduce funding Capacity Status:NCI Exempt Category:Safety - Pavement resurfacing and/or rehabilitation									
Est Total Cost:	\$1,291									
	TOTAL	PRIOR	18/19	19/20	20/21	21/22	22/23	PE	RW	CON
TransNet - LSI	\$1,094	\$412	\$84	\$148	\$150	\$150	\$150	\$15		\$1,079
TransNet - LSI Carry Over	\$197	\$101	\$95							\$197
TOTAL	\$1,291	\$513	\$179	\$148	\$150	\$150	\$150	\$15		\$1,276
PROJECT LAST AMENDED 18-00										
	TOTAL	PRIOR	18/19	19/20	20/21	21/22	22/23	PE	RW	CON
TransNet - LSI	\$1,134	\$412	\$124	\$148	\$150	\$150	\$150	\$15		\$1,119
TransNet - LSI Carry Over	\$197	\$101	\$95							\$197
TOTAL	\$1,331	\$513	\$219	\$148	\$150	\$150	\$150	\$15		\$1,316

** Pending final SANDAG approval

Attachment B – Exhibit 1

2018 Regional Transportation Improvement Program Amendment No. 1 San Diego Region (in \$000s)

Lemon Grove, City of

MPO ID: LG20		RTIP # 18-01									
Project Title:	Street Improvements (Congestion Relief - Non CI)									TransNet - LSI: CR	
Project Description:	Citywide - this project involves roadway rehabilitation (grinding and overlay, new structural pavement, or new overlay 1-inch thick or greater) of several streets within the city. Streets were prioritized for work based on levels of deterioration identified in the Pavement Management System; Sidewalk Rehabilitation: this annual project adds sidewalks, widens sidewalks, removes and/or replaces various sidewalk locations and installs Americans with Disabilities Act (ADA) compliant curb ramps throughout the city; Street Improvements: this as needed project would widen or install curb/gutter, sidewalk, curb ramps										
Change Reason:	Increase funding										
	Capacity Status: NCI Exempt Category: Safety - Pavement resurfacing and/or rehabilitation										
Est Total Cost:	\$6,635										
	TOTAL	PRIOR	18/19	19/20	20/21	21/22	22/23	PE	RW	CON	
TransNet - LSI	\$2,259	\$387	\$411	\$365	\$365	\$365	\$365			\$2,259	
TransNet - LSI (Cash)	\$147	\$147								\$147	
TransNet - LSI Carry Over	\$2,282	\$1,324	\$957					\$61		\$2,221	
Local Funds	\$1,947	\$153	\$194	\$250	\$400	\$450	\$500			\$1,947	
TOTAL	\$6,635	\$2,011	\$1,562	\$615	\$765	\$815	\$865	\$61		\$6,574	
PROJECT LAST AMENDED 18-00											
	TOTAL	PRIOR	18/19	19/20	20/21	21/22	22/23	PE	RW	CON	
TransNet - LSI	\$2,212	\$387	\$365	\$365	\$365	\$365	\$365			\$2,212	
TransNet - LSI (Cash)	\$147	\$147								\$147	
TransNet - LSI Carry Over	\$2,282	\$1,324	\$957					\$61		\$2,221	
Local Funds	\$1,947	\$153	\$194	\$250	\$400	\$450	\$500			\$1,947	
TOTAL	\$6,588	\$2,011	\$1,516	\$615	\$765	\$815	\$865	\$61		\$6,527	

** Pending final SANDAG approval

Attachment B – Exhibit 1

**2018 Regional Transportation Improvement Program
Amendment No. 1
San Diego Region (in \$000s)**

RTIP Fund Types

<i>Local Funding</i>	
Local Funds AC	Local Funds - Advanced Construction; mechanism to advance local funds to be reimbursed at a later fiscal year with federal/state funds
TransNet-LSI	Prop. A Extension Local Transportation Sales Tax - Local System Improvements
TransNet-LSI Carry Over	TransNet - LSI funds previously programmed but not requested/paid in year of allocation
TransNet-LSI (Cash)	TransNet - LSI funds which agencies have received payment, but have not spent

⁴⁴ Pending final SANDAG approval

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. Item 4
Mtg. Date November 20, 2018
Dept. Public Works

Item Title: **Palm Street Red Curb**

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Recommendation:

Receive report and provide feedback to staff.

Item Summary:

In 2018, residents and the Sheriff's Department staff expressed concerns regarding the vehicle sight distance for vehicles traveling south on city streets intersecting with Palm Street at multiple intersections. These sight distance concerns prompted the Engineering Division to assess the sight distance and safety at the multiple locations.

The staff report (**Attachment A**) provides additional details regarding the initial concern, how the study was performed, and staff's final recommendation that was implemented. At the conclusion of staff's presentation, staff requests that the City Council provide feedback and provide direction about staff's recommended follow up action.

Fiscal Impact:

None.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input checked="" type="checkbox"/> Notice to property owners |
| <input type="checkbox"/> Notice published in local newspaper | | <input type="checkbox"/> Neighborhood meeting |

Attachments:

- A. Staff Report
- B. Overhead Image and Site Photographs
- C. City and Rick Engineering Company Comparison

Attachment A

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. Item 4

Mtg. Date November 20, 2018

Item Title: **Palm Street Red Curb**

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Background:

In 2018, residents and Sheriff's Department staff expressed concerns regarding the vehicle sight distance for vehicles traveling south on city streets intersecting with Palm Street at multiple intersections. Specifically, there were four intersections with Palm Street that were identified and they were Myra Street, Washington Street, Dennis Lane, and Palm Lane (**Attachment B**).

These sight distance concerns, excessive speed complaints and recent traffic collisions on Palm Street prompted the Engineering Division to assess the sight distance and safety concerns at the four locations. The Engineering Division conducted field visits to the intersections in question, which was followed by an analysis utilizing design standards from the California Department of Transportation Highway Design Manual (Design Manual).

The Design Manual utilizes two types of sight distances for intersections: corner sight distance and stopping sight distance. Both are defined below:

- Corner sight distance is a distance that provides motorists 7.5 seconds of line of sight for the driver on the crossroad to complete the necessary maneuver while the approaching vehicle travels at the assumed design speed of the roadway. Based on Chapter 400, Topic 405, Table 405.1A, the corner sight distance for a 40 mile per hour roadway is 440 feet.
- Stopping sight distance is a distance that the average operator of a motor vehicle needs to be able to see an object and stop before colliding with said object. Based on Table 201.1 of Chapter 200 of the California Highway Design Manual, the design stopping sight distance is 300 feet.

In this analysis, the City used the Design Manual's stopping sight distance criteria to ensure that the operator of the motor vehicle at the stop signs at Myra Street, Washington Street, Dennis Lane, and Palm Lane can maneuver and still leave the eastbound and westbound motorist on Palm Street enough time to make a decision. To explain why stopping sight distance was used, staff referred to Topic 405. In this specific example, obtaining the approximate corner sight distance would require removing portions of private property (e.g. trees, walls) and would burden the City with excessive costs for construction and right-of-way acquisition. If excessive costs are associated with obtaining corner sight distance, then the corner sight distance shall be equal to the stopping sight distance. The final recommendation by the Contract City Engineer to complete this analysis was to use the stopping sight distance in order to calculate the minimum length of red curb at each intersection.

The results of the analysis was shared via field visits from the Engineering Division staff. The actual work to paint the red curb along Palm Street was performed by the City's contractor, who also paved the westbound lanes of Palm Street from Golden Avenue to Skyline Drive.

Attachment A

Discussion:

Following the curb painting, the City Council heard concerns voiced from residents who were impacted by the red curb painting on Palm Street. Most recently, this occurred on October 2, 2018 when residents shared their concerns and comments that their safety was negatively impacted by:

- Not being able to park in front of their residence,
- Limited space to walk and park,
- There is a new safety issue with parking on the south side of Palm Street and walking across the street,
- There is no sidewalk on Palm Street,
- Packages are now being stolen from the front of homes, and
- Comments that the Design Manual was not the only method in which red curb distances could be measured and in some instances, the actual distance did not have to be followed.

In light of these new concerns brought from the local residents, city staff requested Rick Engineering Company to perform a second analysis to either confirm or amend the previous recommendations. In that analysis, Rick Engineering Company's Traffic Division performed an independent analysis and concluded that all four of the recommended red curb lengths were too long. The table below identifies city staff's recommendation and Rick Engineering Company's recommendation.

Intersection	Original Red Curb Length	Recommended Red Curb Length	Minimum Linear Foot Decrease
Myra @ Palm	88 feet	64 feet	-24 feet
Washington @ Palm	92 feet	66 feet	-26 feet
Dennis @ Palm	95 feet	52 feet	-43 feet
Palm Ln @ Palm	108 feet	88 feet	-20 feet

Based on the second analysis performed by Rick Engineering Company, the new lengths are less than the previous and staff is now recommending that the length of the original red curb be reduced to meet minimum lengths for site distance safety. The primary reasons for the adjustment in lengths to red curb include:

- Location of a vehicle at the stop bar/limit line,
- Correct line of sight of the vehicle,
- Driveway locations in the no parking zone, and
- Parked vehicles limiting the line of site of moving vehicles.

In **Attachment C**, the images shown compare city staff's recommendation and Rick Engineering's recommendation. On average, the decrease in red curb at all four intersection is 28 feet per intersection. With a total decrease of 113 feet, there will be approximate 7 parking spaces (at an average of 15 feet per parking space) added to the north side of Palm Street.

Attachment A

Field Recommendations:

Based on the quantitative analysis performed by Rick Engineering Company, staff recommends that the new lengths are changed in the field as soon as possible. Should the City Council decide to not change the reduction in red curb linear feet, there is likely little to no increase to the City's liability for requiring an additional site distance to prevent vehicle collisions from occurring at the four intersection. However, this may set a precedent of not following the Design Manual's minimum safe distance calculation for site distance with future requests that the City's Traffic Advisory Committee may hear.

In light of the public comment received in October, staff also took note of a smaller segment on the south side of Palm Street near the intersection of Golden Avenue that may be changed from red curb to gray curb (open for parking). This specific location was painted red at the same time as the red curb on the north side of the street because it contained red faded paint. Upon further review, staff recommends that this red curb paint be removed. With its removal, there is an additional 200 linear feet (or 13 parking spaces) that will be available to Palm Street residents to park their vehicles.

Conclusion:

That the City Council receive the report and provide direction to city staff.

Overhead Image and Intersection Photographs



Attachment B

Myra Street at Palm Street



Washington Street at Palm Street

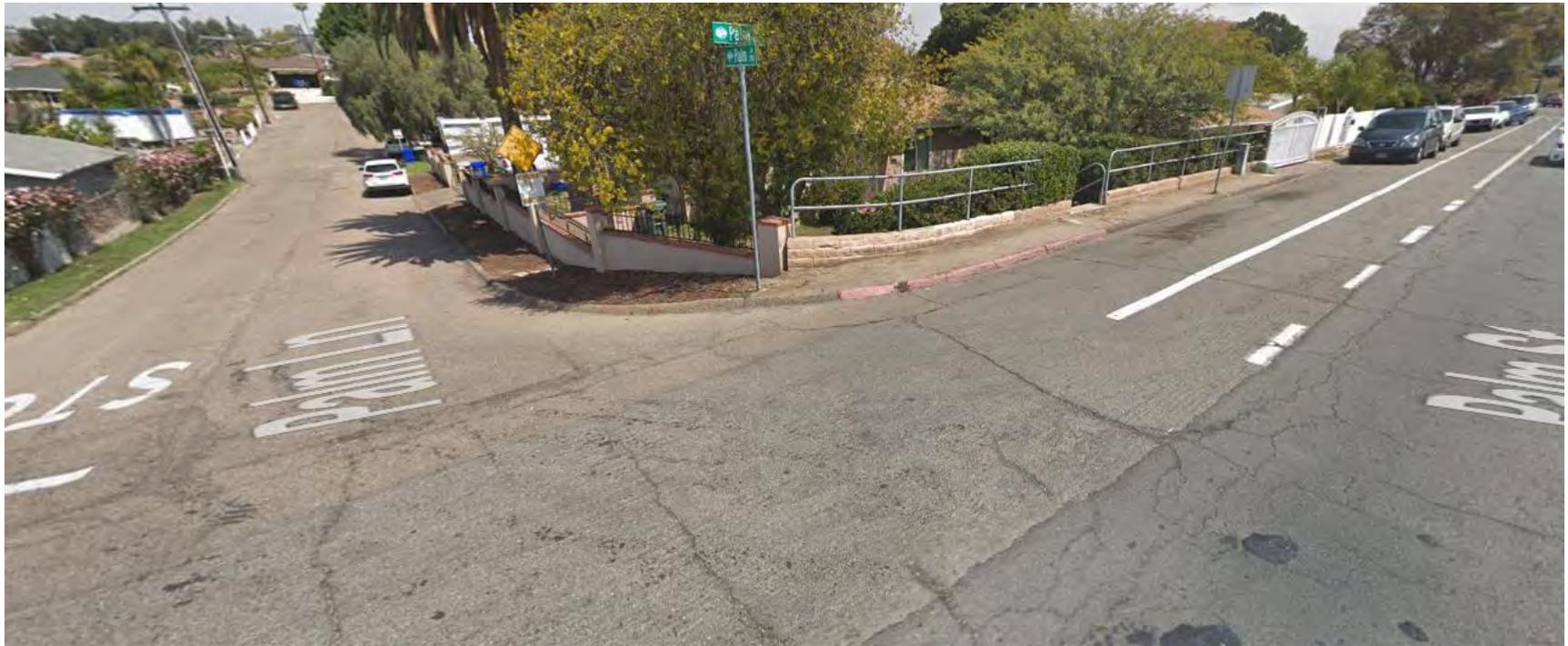


Attachment B

Dennis Lane at Palm Street



Palm Lane at Palm Street



Myra Street at Palm Street



Attachment C

Washington Street at Palm Street



Attachment C

Dennis Lane at Palm Street



Attachment C

Palm Lane at Palm Street



**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. Item 5
Mtg. Date November 20, 2018
Dept. Public Works

Item Title: [**Promenade Park Rejuvenation Plan**]

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Recommendation:

[That the City Council receive a report and provide feedback regarding the NewSchool of Architecture's Urban Design Club's rejuvenation plan at the Promenade Park.]

Item Summary:

[On June 19, 2018 the City Council received a presentation (**Attachment A**) prepared by students from the NewSchool of Architecture detailed a plan to activate and energize Promenade Park with ideas stemming from tactical urbanism. The proposal outlined a plan in which the students would solicit feedback from the park patrons, conduct outreach with local businesses, reach out to the residents from neighboring residential units, and conclude with a detailed 90-day plan that outlines all of this information in conjunction with methods to enhance the park that can be accomplished in a set time period with a specific measurable outcome.

Since the City Council approved the outreach plan, city staff has worked with the students to coordinate the feedback process from park patrons and provide additional responses to questions that the students had as they progressed through the process. The final proposal (**Attachment B**) includes a site plan with identified local partners, list and quantified materials/supplies needed to construct improvements, list tasks or services for the City to perform during the trial period, and concludes with a request that the City Council provides feedback as to whether the plan should be implemented and which solutions should be integrated.]

Fiscal Impact:

[No fiscal impact.]

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorically Exempt | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Urban Design Club Request for Permission to Place Signs
- B. Final Proposal

Attachment A

Title: Promenade Park Rejuvenation Plan

Team: NewSchool of Architecture and Design- Urban Design Club
Francesca Redetzke, Madison Rolf, Jason Nededog, Colin McGregor, Erik Vang, and Tyler Jones

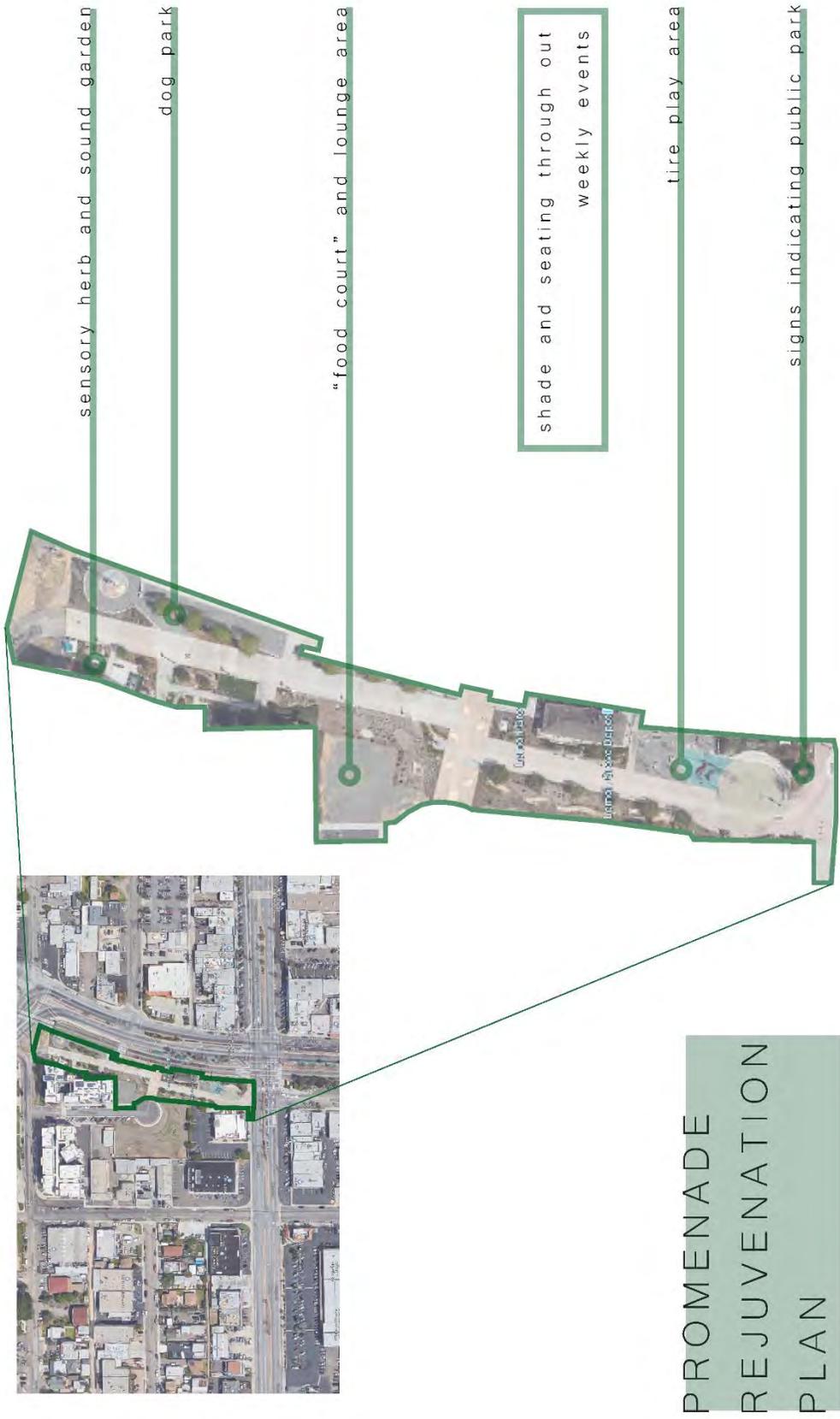
Focus: Tactical Urbanism. Defined as an umbrella term used to describe a collection of low-cost, temporary changes to the built environment, usually in cities, intended to improve local neighborhoods and city gathering places.

Based on research performed in Lemon Grove through canvassing, hosting community meetings, surveying and posting signs for park users to write on, precedent research, continual communication, and evaluation from advisors between July 2, 2018 and the date of this report was created, a proposal was created to implement several physical and non-physical amenities to the Promenade. Contingent on approval from the City Council and fundraising, the proposed changes, listed below, are anticipated to occur in the 90-day period:

- a. Increase seating and shade in the form of umbrellas, collapsible shade structures, lounge chairs, tables and benches.
- b. Nighttime activation through lighting and events.
- c. Increase recognition through visible signage, social media activity, and partnerships with local businesses.
- d. Create activities for children such as a tire play area and a sensory herb and sound garden.
- e. Create a dog Park with support from local residents and businesses.
- f. Create a lounge and food truck area in place of the vacant lot in the middle of the Promenade Park.
- g. Create an event schedule, taking place mainly on Saturday mornings, in partnership with Studio Nectary, Art Science Complex, Lemon Grove Community Garden, PAWS San Diego, and the Lemon Grove Clergy Association.

By activating the Promenade Park it is anticipated that an increase in foot traffic in Lemon Grove's downtown will occur and it will positively impact the businesses adjacent to the Park. The project team believes with a few changes to activities and events, the Promenade Park will become attractive to residents and visitors. Initial feedback revealed that the Promenade Park was underutilized because most Lemon Grove residents are unaware that the Promenade Park is an available public space for use. And those who did know about the park there was little to no activities to do in the space. By providing seating and activity spaces, the Promenade Park may become an amenity for both the residents and the businesses of Lemon Grove.

Attachment B



PROMENADE REJUVENATION PLAN

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 6
Mtg. Date November 20, 2018
Dept. City Manager's Office

Item Title: Ordinance No. 449 Adding Chapter 8.70 to the Lemon Grove Municipal Code Establishing the Tobacco Retailer License

Staff Contact: Miranda Evans, Management Analyst

Recommendation:

Staff recommends that the City Council:

- 1) Consider the proposed Tobacco Retailer License provisions; and
- 2) Adopt Ordinance No. 449

Item Summary:

During the City Council's goal setting workshop held on May 9, 2017, the Council stated that establishing a tobacco retailer licensing program was one of its top priorities to continue to protect the public health, safety and welfare and improve the quality of life for Lemon Grove residents. City staff researched programs implemented in other local jurisdictions in preparing the attached Tobacco Retailer License (TRL) ordinance. Staff's report (**Attachment A**) includes background information on state and local TRL programs; data on tobacco use by youth; an overview of regulations from other San Diego County jurisdictions; community feedback; and information on the proposed TRL program provisions, implementation plan and program cost. **Attachment B** includes the proposed TRL Ordinance.]

Fiscal Impact:

The proposed TRL program will include a fee structure that will offset the cost of license administration by the City and annual compliance checks by the San Diego County Sheriff's Department. The City was recently awarded \$46,071.00 in grant funding from the California Department of Justice (DOJ) towards program administration and enforcement costs for 2018 – 2020.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Exempt | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Tribal Government Consultation Request |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Notice to property owners within 500 ft. | |

Attachments:

- | | |
|-------------------------------|------------------------------|
| A. Staff Report | C. Letters of Support |
| B. Proposed Ordinance No. 449 | D. Community Survey Response |

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 6

Mtg. Date | November 20, 2018

Item Title: [**Proposed Tobacco Retailer License Ordinance**]

Staff Contact: [Miranda Evans, Management Analyst]

Background:

During the City Council's May 9, 2017 goal setting workshop, the Council stated that establishing a tobacco retailer licensing program was one of its top priorities to continue to protect the public health, safety and welfare and improve the quality of life for Lemon Grove residents. City staff researched programs implemented in other local jurisdictions in preparing the TRL Ordinance.

State Tobacco Retail Licensing Program

All tobacco retailers that sell cigarette and tobacco products, including electronic cigarettes (e-cigarettes), are required to obtain and annually renew a tobacco retail license from the state of California and pay an annual licensing fee of \$265 for each retail location where cigarette and tobacco products are sold. Prior to January 1, 2017, the state's licensing requirements only applied to retailers selling traditional cigarette and tobacco products and only required a one-time \$100 fee per location. The state's tobacco retail licensing program is primarily intended to target and fund the enforcement of cigarette tax evasion and black market sales. The state's program does not fund local enforcement activities relating to illegal tobacco sales to persons under 21 years of age.

To further regulate illegal tobacco sales to persons under 21 years of age, over 120 California cities and counties have adopted local TRL programs in addition to the state's licensing requirement. A local license is issued by a city or county to a business selling tobacco products and is aimed at ensuring that licensees are aware of certain eligibility requirements and performance standards.

Proposed Local TRL Program and Community Outreach

At the March 6, 2018 City Council meeting, staff presented an overview of the City's proposed TRL program and associated municipal code provisions.

On May 22, 2018, a focus group meeting was held to solicit feedback from the community. Nine adults and four children attended the meeting. Feedback from the adult participants was provided on the effects of tobacco advertising and its influence on the youth, the need for a local licensing program to enforce violations at the local level, consequences of violating the proposed TRL ordinance, the prevalence of tobacco and tobacco products in the community and tobacco addiction. The group consensus was that a local licensing program is necessary in Lemon Grove and that there should be a zero-tolerance policy for sales to youth. Specifically, the participants requested a "tough law". The youth who attended the workshop ranged between the ages of 13-17 years old and all reside in Lemon Grove. None of the youth participants who attended the focus group reported that they had ever used tobacco products. The youth attendees shared an awareness of tobacco advertisements in print and on the radio. All youth attendees think tobacco

Attachment A

retailers should be required to obtain a local license and that violators of the law should receive fines and have their licenses revoked if the violations continue.

At the August 8, 2018 City Council meeting, staff presented an update on the proposed TRL program. The DOJ grant award was announced, as were the plans for public outreach. The City Council requested that staff revise the penalties for violations to be based on a three-strike structure over a three-year period, rather than the five-strike structure over a five-year period initially proposed.

Following the August 8, 2018 meeting, staff implemented the public outreach plan. A workshop for tobacco retailers was held on October 3, 2018 at 6 p.m. Each of the 31 tobacco retailers in Lemon Grove were invited to attend the workshop with a certified letter from the City Manager sent 14 days in advance of the workshop to allow for adequate time for scheduling. All 31 return receipts were received at City Hall. Despite this notification process, only one retailer attended the workshop. At the workshop, the City provided an overview of the proposed TRL Program, background information, an explanation of the proposed violations and enforcement plan and an overview of the project timeline. The sole retailer in attendance shared positive feedback on the proposed ordinance and received retailer information and resources.

On October 8, 2018 at 10 a.m., the first community workshop was held. Three individuals attended the workshop along with City staff and Community Action Service & Advocacy (CASA) staff. Positive feedback was shared by all attendees. None of these attendees live in Lemon Grove, but were public policy students at San Diego State University. KUSI advertised the workshop that morning.

On October 10, 2018 at 6 p.m., another community workshop was held. Six individuals attended, one of which represented the National Association of Convenience Stores. The workshop attendees received an overview of the proposed ordinance, asked clarifying questions, and the group consensus was supportive of the proposed TRL program.

In addition to the workshops, an online survey (**Attachment D**) was shared with interested stakeholders who were unable to attend and participate in the in-person workshops. The survey was distributed via the City's e-notification system through the website's list serve and also on Facebook. A total of 56 survey responses (52 online, 4 printed) were collected during a three-week survey response window. The overwhelming majority of survey respondents are in favor of swift and severe punishments to retailers who sell tobacco and tobacco products to persons under 21 years of age.

All of the workshops were advertised on the City's social media platforms, on the home page of the website and the City calendar. Additionally, multiple media outlets and local news stations (CBS 8, Fox 5, KUSI) covered the workshops and the proposed ordinance and aired segments on the morning and evening news broadcasts.

Discussion:

In the United States, over 480,000 people die from tobacco-related diseases every year¹, making tobacco use the nation's leading cause of preventable death. Cigarettes and other tobacco product sales are very lucrative and are usually the third top grossing items sold in convenience stores. According to data from the National Association of Convenience Stores, the average convenience store nationwide generated over \$558,000 in sales from cigarettes alone, accounting for 28.62% of all in-store sales in 2017. While cigarette sales continue to decrease, the use of

¹ United States Department of Health and Human Services Surgeon General 2015 Report.

Attachment A

other tobacco products (especially e-cigarettes) is steadily increasing among youth due to product innovation and the shift from combustible tobacco products to other forms of tobacco.

Tobacco Troubles

E-cigarette use among U.S. youth and young adults is now a major public health concern. E-cigarette use has increased considerably in recent years, growing an astounding 900% among high school students from 2011 to 2015. These products are now the most commonly used form of tobacco among youth in the United States, surpassing conventional tobacco products, such as cigarettes, cigars, chewing tobacco, and hookahs.² It is notable that hookah lounges are prohibited in the City.

Local data from the California Healthy Kids Survey of seventh graders in the Lemon Grove School District³ revealed that 5% of seventh graders tried electronic smoking devices. Although there are no high schools in Lemon Grove, available data indicates that among East County cities eleventh grade students, 4% smoked cigarettes in the past 30 days and 11% used e-cigarettes in the past 30 days. Additionally, 60% of the eleventh grade students believe cigarettes are “fairly easy/very easy to obtain.” According to the Centers for Disease Control and Prevention, nearly 9 out of 10 smokers started smoking and began their tobacco addiction by age 18.

As mentioned above, Lemon Grove currently has 31 tobacco retailers⁴ from a variety of retail uses including, but not limited to, convenience stores and gas stations, grocery stores, smoke shops and liquor stores. The City has a high concentration of tobacco retail establishments within the Broadway commercial corridor, but a low concentration in the remaining areas of the City. While the California statewide average for sales to youth is 10.3%, Lemon Grove’s sales rates have historically been significantly higher.

According to Youth Tobacco Purchase Surveys conducted by CASA, survey findings revealed that in 2014, 39% of tobacco retailers in Lemon Grove sold tobacco products illegally to youth, including e-cigarettes. In 2015, 41% made illegal sales using the same survey protocol. These results were despite retailer education visits to each store conducted one to two weeks prior to each of these surveys.

As of June 9, 2016, individuals must now be at least 21 years old to purchase any tobacco products, including e-cigarettes. The only exception to this law is for active duty military personnel who may purchase tobacco products if they are 18 years old and have military identification. In 2017, following adoption of the new legislation, a young adult tobacco purchase survey was conducted in Lemon Grove. Prior to that survey, retailer education materials were hand-delivered to all stores in the City. Even so, 31% of stores still sold tobacco products, both cigarettes and e-cigarettes, to youth surveyors under 21 years of age in violation of state law.

As of the writing of this report, the United States Food and Drug Administration (FDA) is expected to propose a ban on menthol cigarettes. The FDA Commissioner Dr. Scott Gottlieb has announced the agency will move forward with a ban on menthol cigarettes in conjunction with limiting the sales of most flavored e-cigarettes, including candy and fruit flavors, in convenience stores and gas stations. According to the Tobacco Control Act, these regulations are anticipated to take effect one year after the policy is finalized, but it may be earlier if it is deemed necessary to protecting public health.

² *E-Cigarette Use Among Youth and Young Adults*. 2016. Vivek H. Murthy, M.D., M.B.A. U.S. Surgeon General.

³ 2014-2015 California Healthy Kids Survey data

⁴ 31 tobacco retailers equates to 1.2 retailers per 1,000 population which is the highest ratio among the five San Diego County cities with a TRL ordinance.

Attachment A

San Diego County Jurisdiction Regulations

In San Diego County, the following five cities currently have TRL ordinances in place: El Cajon (2004), San Diego (2007), San Marcos (2016), Solana Beach (2009) and Vista (2005). Of the five cities, El Cajon, San Marcos and Vista are considered by tobacco control organizations to be the most effective due to their regular compliance checks. Compliance checks must review the following: existing tobacco laws regulating underage sales, compliance with identification and signage requirements in accordance with the Stop Tobacco Access to Kids Enforcement (STAKE) Act and prohibiting sales of drug paraphernalia. An overview of the program details for each San Diego County jurisdiction with an adopted ordinance are outlined in the following matrix.

Overview of San Diego County Tobacco Retailer Licensing Programs

Jurisdiction	Year Approved	Municipal Code Section	Annual License Cost	Enforcement Agency	Number of Retailers	Retailers per 1,000 Population
City of El Cajon	June 2004	ECMC 8.33	\$675	Code Enforcement Officers (2) and CASA	114	1.1
City of San Diego	November 2007	SDMC 3.3.45	\$132*	San Diego Police Department	1,144	.9
City of San Marcos	July 2016	SMMC 8.65	\$189.50	San Diego Sheriff's Department	55	.6
City of Solana Beach	July 2009	SBMC 6.17	\$110	City Code Compliance Officer	7	.5
City of Vista	May 2005	VMC 3.56	\$250	San Diego County Sheriff's Department	72	.7

* includes \$56 application fee in addition to the \$132 license fee

Proposed TRL Program Provisions

More than 20 years of research throughout California reveals that effective TRL programs require the payment of annual fees adequate to offset program costs and support annual compliance checks. In addition, some ordinances include additional retailer incentives for those with exemplary performance during annual compliance checks. Violations for documented illegal sales to minors result in fines and penalties such as mandated periods of license suspension, up to and including the revocation of a license to sell tobacco products.

Attachment A

The proposed regulations include effective, research-based TRL provisions with the addition of incentives for responsible retailers. Such incentives offer retailers who comply with licensing requirements and pass compliance checks a discount on their annual TRL license fee. For example, fee reductions may result from compliance with the following items: no tobacco violations on the previous year's compliance check, no tobacco advertising on store windows or doors, electronic age verification at the point of sale, compliance with state-required age of sale signage at each point of sale, and employee tobacco retailing education programs. Under this proposed model, penalties for violations may include fines in lieu of license suspensions that are much more costly to the business, but with revocations for multi-year repeat offenders. Should a license be suspended or revoked, the proposed ordinance includes an appeal process to allow for an impartial review.

This incentive approach is modeled after the City of Vista's ordinance that has been in place for over a decade, and was later adopted by San Marcos in 2016. The approach was created to lower youth smoking rates, reduce youth access to tobacco, educate the community on the issues of illegal tobacco sales to youth and help create a safer and healthier environment. Prior to the adoption of Vista's ordinance, the youth sales rate was 39%. That figure decreased significantly to 1.9% following the adoption and enforcement of Vista's TRL ordinance⁵.

Proposed TRL Ordinance

The attached TRL Ordinance (**Attachment B**) establishes the TRL program in Lemon Grove based in large part on successful programs in the Cities of Vista and San Marcos.

The proposed regulations require all sellers of tobacco products, smoking materials and tobacco paraphernalia to obtain a City TRL license annually using a process that is similar to the regular business license and renewal process. It requires businesses to obtain a TRL by December 31, 2019 for the 2020 calendar year. Licenses would thereafter need to be renewed each year. The core of the program is the annual compliance check conducted by the San Diego County Sheriff's Department with retailer education and assistance from CASA.

Penalties for violations:

After receiving feedback from the City Council and the community requesting swift and severe punishments for retailers that violate the ordinance, staff has amended the penalties for violations. At the August 8, 2018 City Council meeting, a violation structure of five penalties in five years resulting in revocation of a license was proposed. The City Council requested that the penalties be revised to reflect a "three strikes" policy within a three-year period which is coincidentally in accordance with the community's desire.

Staff will take certain factors into consideration to ensure that the penalty is suitable for the violation, including, but not limited, the severity of the violation, the number of violations committed by the tobacco retailer, the amount of time that has passed since the last violation was committed, and whether the tobacco retailer is cooperating with the City and the Sheriff's Department in implementing corrective measures, among other factors.

Under the proposed ordinance, a first violation within a three-year period would result in a warning issued to the licensee, including providing an educational notice about the nature of the violation. A fine would also be imposed based on the severity of the violation. A second violation within a three-year period would result in a requirement to provide education training to employees within 60 days of the notice and an additional fine imposed based on the severity of the violation. A third violation within a three-year period would result in either suspension or revocation of the license.

⁵ September 2013 data from the Center for Tobacco Policy & Organizing

Attachment A

Should a license be suspended or revoked, the proposed ordinance sets forth an appeal process that allows for a review of the City's determination by an impartial hearing officer. Additionally, any violation(s) found during a compliance check of the business would automatically result in the rescinding of any discounts, and the full TRL fee would be charged.

Drug paraphernalia sales prohibited as a license condition:

Businesses that sell drug paraphernalia sometimes sell tobacco products, and those retailers often claim that the paraphernalia is for the use of tobacco to get around state law that prohibits such sales. The proposed ordinance requires that the retailer comply with all state laws relating to drug paraphernalia as a condition of the license. As a result, if a compliance check reveals that a retailer is selling items constituting drug paraphernalia (as defined by state law), the retailer is violating the local license, which can then be suspended or revoked. Drug control organizations believe this addition to a tobacco retailer license can be a very effective tool to fight substance abuse in communities.

Fiscal impact and licensing fees:

As with the other five San Diego County jurisdictions that have implemented TRL programs, the proposed TRL program would be created with a license fee designed to completely cover the cost of the program administration by the City and enforcement costs incurred by the San Diego County Sheriff's Department. The initial fee proposed is \$250/year which will begin to be collected with business licenses issued in December 2019 for the 2020 calendar year.

The goal in setting this license fee is to provide a discount that incentivizes compliance, but still allows the City to cover all of the direct costs paid to the Sheriff's Department for inspections. It is essential that the fee structure stay within the confines of Proposition 26 which mandates that the City cannot recover more revenue than the cost of implementing the program.

License fee and discounts for compliance:

Under California law, the cost of the license may not exceed the cost to issue the license, carry out annual inspections, or any other associated costs. The City estimates that the cost of inspections, processing the license, and other administrative costs will be approximately \$250 per license. As a result, the fee for 2019 will also be approximately \$250. This fee will be reviewed in 2020 to make sure that it continues to match the salaries and administrative processing costs, as well as the time spent per license. Upon introduction of the Ordinance, staff will include an accompanying resolution which states that the fee will be adjusted up or down in accordance with state law.

Starting the second year of the license, eligible retailers will receive a reduction in their annual fee if no violations are found during their compliance check. Additionally, fee reductions will be available if the retailer has a magnetic strip reader to verify age, conducts regular staff training and/or has no tobacco advertising on store windows or doors. No discounts will be available the first year, but will be available the following year after the retailer has been through at least one successful compliance check.

The proposed amount for each discount beginning in year two of the program will be approximately \$20 (about 8% percent of the 2019 proposed license cost). The goal is to provide a discount that incentivizes compliance. Due to the nature of the grant funding, the license fee and discount for good-actors will need to be revisited after the award cycle ends in June 2020. This proposed fee structure allows for more time spent on set-up and enforcement in 2019 and 2020. Staff recommends that after the grant completion, the CASA case study be reviewed and fee amounts revisited to re-assess if the program is sustainable without grant funding, with

Attachment A

providing discounts and incentives, and at the low cost offered to retailers. Staff will also look for additional, future grant funding opportunities.

Proposition 56 grant funding award:

In November 2016, California voters approved Proposition 56 which increased the excise tax for tobacco products sold in the state. Thirty million dollars of the projected annual revenue is to be distributed annually to local law enforcement agencies through a grant program to support enforcement of certain state and local tobacco laws. In January 2018, staff became aware of this opportunity and identified it as an implementation measure for the proposed TRL program. In accordance with the State Budget Act and Proposition 56, the grant program guidelines require that only local law enforcement agencies within the State of California are eligible to receive funds. As such, only local agencies with enforcement authority for tobacco-related state laws may apply. However, City staff prepared and submitted a joint-award application with the Sheriff's Department and successfully received grant funding.

The City was awarded a total of \$46,071.00 to fund the administration and enforcement of the TRL Program. This funding is provided through June 2020 and is a crucial component of the start-up costs of the program. The core components of the program in its infancy stage are 1) start-up of the program including public outreach, program implementation including form creation, interagency-coordination with the Sheriff's Department and CASA and 2) enforcement costs from yearly compliance checks performed by law enforcement.

As part of the grant award, CASA will develop and produce an implementation case study for small jurisdictions. The case study will provide background of the jurisdiction and a problem statement utilizing the data derived from multiple youth/young adult purchase surveys. It will also discuss strategies for small jurisdictions to identify constituents, allies and opponents as well as tactics to educate the community and build organizational support. The Case Study will also address various policy considerations for other small jurisdictions interested in pursuing a TRL ordinance and will include pre-and post-ordinance data documenting the reductions in illegal sales to people under age 21 years old, if applicable.

Implementation:

If approved, once the ordinance goes into effect 30 days after the second reading, staff will begin the process to educate Lemon Grove's retailers of the impending changes forthcoming in 2019. All retailers will receive notifications mailed to them and the City's tobacco retailer webpage will continue to be updated. License fees will begin to be collected as licenses are issued in December 2019 for calendar year 2020.]

Conclusion:

[Staff recommends that the City Council consider and adopt the draft Tobacco Retailer License Ordinance No. 449.]

Attachment B

ORDINANCE NO. 449

AN ORDINANCE OF THE CITY OF LEMON GROVE CITY COUNCIL ADDING CHAPTER 8.70 (TOBACCO RETAIL LICENSE) TO THE LEMON GROVE MUNICIPAL CODE ESTABLISHING A TOBACCO RETAIL LICENSE AND PROHIBITING THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 21 YEARS OF AGE

WHEREAS, California Penal Code Section 308 prohibits the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors; and

WHEREAS, California Business & Professions Code Section 22956 requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 21 years of age; and

WHEREAS, California Business & Professions Code Section 22952 and California Penal Code Section 308 require that tobacco retailers post a conspicuous notice at each point of sale stating that selling tobacco products to minors is illegal; and

WHEREAS, California Business & Profession Code Section 22962 prohibits the sale or display of cigarettes though a self-service display and prohibits public access to cigarettes without the assistance of a clerk; and

WHEREAS, California Penal Code Section 308.1 prohibits the sale of "bidis" (hand-rolled filterless cigarettes) except at those businesses that prohibit the presence of minors; and

WHEREAS, California Penal Code Section 308.3 prohibits the manufacture, distribution, or sale of cigarettes in packages of less than 20 and prohibits the manufacture, distribution, or sale of "roll- your-own" tobacco in packages containing less than 0.60 ounces of tobacco; and

WHEREAS, California Business & Professions Code Section 22971.3 authorizes local authorities to adopt tobacco retailer licensing laws to provide for the suspension and revocation of the local tobacco retailer license for any violation of a state tobacco control law; and

WHEREAS, a 2015 Center for Disease Control and Prevention report states that middle and high school students' use of electronic cigarettes tripled from 2013 to 2014; and

WHEREAS, the same report states that 9 out of 10 cigarette smokers had their first cigarette before the age of 18; and

WHEREAS, according to 2017 data from Youth Tobacco Purchase Surveys conducted by Community Action Service & Advocacy (CASA), 31 percent of Lemon Grove's tobacco retailers sold tobacco products illegally to youth surveyors under 21 years of age; and

WHEREAS, the City of Lemon Grove has a substantial interest in promoting compliance with federal, state and local laws intended to regulate tobacco sales to youth and use by youth; and

WHEREAS, studies have shown that local tobacco retail licensing programs coupled with a strong enforcement program substantially reduces youth access to tobacco; and

Attachment B

WHEREAS, state law prohibits sales of “drug paraphernalia” however many retailers sell items that are commonly known to be “drug paraphernalia” including water pipes and personal vaporizers used to smoke illicit drugs, claiming the items are for tobacco or e-liquid use; and

WHEREAS, Lemon Grove intends to require compliance with state drug paraphernalia laws as a condition of obtaining and maintaining the local tobacco retail license; and

WHEREAS, in 2016, the Governor approved Senate Bill 7 to change the age for which individuals can purchase tobacco products to 21 years old; and

WHEREAS, the City desires to add Chapter 8.70 to the Lemon Grove Municipal Code to create a Tobacco Retail License.

NOW, THEREFORE, the addition of Chapter 8.70 (Tobacco Retail License) establishing tobacco retailer license regulations, is hereby added to the City of Lemon Grove Municipal Code to read as shown in the attached Exhibit A.

EXHIBIT A

TEXT OF PROPOSED REGULATIONS

NOTE:

- Text proposed to be added is displayed in underlined type.
- Text proposed to be deleted is displayed in strikeout type.

The City of Lemon Grove Municipal Code to add Chapter *** to read as follows:

CHAPTER 8.70 TOBACCO RETAIL LICENSE

SECTIONS:

8.70.010	Purpose
8.70.020	Definitions
8.70.030	Requirement for Tobacco Retail License
8.70.040	Applications Procedure
8.70.050	Issuance and Renewal of License
8.70.060	Display of License
8.70.070	License Fee
8.70.080	Licenses Nontransferable
8.70.090	License Violation - Compliance Monitoring
8.70.100	Suspension or Revocation of License
8.70.110	Denial, Suspension and Revocation - Appeals
8.70.120	Hearings - Generally
8.70.130	Conduct of Hearing
8.70.140	Form and Contents of Decision of Hearing Officer - Appeal to City Manager – Finality of Decision
8.70.150	Enforcement
8.70.160	Severability

Attachment B

8.70.010 Purpose

The purpose of this Chapter is to encourage responsible tobacco retailing and discourage violations of tobacco related laws that prohibit the sale or distribution of tobacco products, including all smoking materials as defined in section 8.65.020, to minors. This Chapter is not intended to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalty provided therefore.

8.70.020 Definitions

When used in this chapter, the following definitions shall have the meanings given by this section, whether or not these words or phrases are capitalized:

“Drug Paraphernalia” shall have the meaning set forth in Health & Safety Code section 11014.5, as that section may be amended from time to time.

“Electronic Smoking Device” means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances by delivering a vaporized or heated solution. Electronic Smoking Device includes any such device, whether manufactured, distributed marketed or sold as an electronic cigarette, an e-cigarette, an electronic cigar, electronic cigarillo, an electronic pipe, an electronic hookah, vaporizer, vape pen, heated tobacco product, or any product name or descriptor, including any component, part or accessory of such a device, whether or not sold separately. Electronic Smoking Device does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use.

“Electronic Smoking Device Paraphernalia” means cartridges, cartomizers, e-liquid, smoke juices, tips, atomizers, Electronic Smoking Device batteries, Electronic Smoking Device chargers and any other item specifically designed for the preparations, charging or use of Electronic Smoking Devices.

“Hearing Officer” means the impartial hearing officer designated to serve in this capacity.

“Itinerant Tobacco Retailing” means engaging in tobacco retailing at other than a fixed location.

“License” means a Tobacco Retail License issued by the City pursuant to this Chapter.

“Licensee” means a Person to whom a License has been issued.

“Person” means any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

“Proprietor” means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent or greater interest in the stock, assets or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person has, or can have, sole or shared control over the day- to-day operations of a business.

Attachment B

“Smoking Materials” means Tobacco Products, Electronic Smoking Device, Electronic Smoking Device Paraphernalia, and any other product containing tobacco or nicotine that releases gases, particles or vapors into the air as a result of combustion, heating, electrical ignition or vaporization, when the apparent or usual purpose is human inhalation of the byproducts.

“Tobacco Product” means: (1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and (2) any Electronic Smoking Device. (3) Notwithstanding any provision of subsections (1) and (2) to the contrary, “Tobacco Product” includes any component, part, or accessory of a tobacco product, whether or not sold separately. “Tobacco Product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

“Tobacco Paraphernalia” includes cigarette papers or wrappers, blunt wraps, pipes, holders of Smoking Materials of all types, cigarette rolling machines, and any other item or instrument designed for the smoking, consumption, use or ingestion of Tobacco Products.

“Tobacco Retailer” means any Person who sells, offers for sale, exchanges, or offers to exchange for any form of consideration, tobacco, Tobacco Products, or Tobacco Paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange.

“Tobacco Retailing” shall mean selling, offering for sale, exchanging, or offering to exchange for any form of consideration, tobacco, Tobacco Products, or Tobacco Paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange.

8.70.030 Requirement for Tobacco Retail License

A. It shall be unlawful for any Person to act as a Tobacco Retailer in the City without first obtaining and maintaining a valid Tobacco Retail License pursuant to this Municipal Code Chapter for each location at which Tobacco Retailing is to occur. No Tobacco Retail License will be issued to an authorized Tobacco Retailing at any location other than a fixed location. No License will be issued for Itinerant Tobacco Retailing or Tobacco Retailing from vehicles.

B. Nothing in this Chapter shall be construed to grant any Person obtaining a Tobacco Retail License any status or right other than the right to act as a Tobacco Retailer at the location in the City identified on the face of the License, subject to compliance with all other applicable laws, regulations, and ordinances. Nothing in this Chapter shall be construed to render inapplicable, supersede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on indoor smoking made applicable to business establishments by Labor Code Section 6404.5.

C. No Person who is younger than the minimum age established by California law for the purchase or possession of Tobacco Products shall engage in Tobacco Retailing.

8.70.040 Applications Procedure

A. An application for a Tobacco Retail License shall be submitted to the City in the name of each Proprietor proposing to conduct a Tobacco Retailing business and shall be signed by each

Attachment B

Proprietor or an authorized agent thereof. A Proprietor proposing to conduct Tobacco Retailing at more than one location shall submit a separate application for each location.

B. All applications shall be submitted on a form supplied by the City and shall contain the following information:

1. The name, address, and telephone number of each Proprietor.
2. The business name, address and telephone number of the fixed location for which a Tobacco Retail License is sought.
3. The name and mailing address authorized by each applicant to receive all License-related communications and notices (the "authorized address"). Failure to supply an authorized address shall be understood to consent to the provision of notice at the business address specified in paragraph 2, above.
4. Whether or not any applicant has previously been issued a License pursuant to this Chapter, or other permit, license or entitlement issued by the City to operate the business, that is or was at any time suspended or revoked, or whether the applicant has previously had a tobacco retail license issued by another jurisdiction denied, suspended or revoked, and, if so, the dates of such denial, suspension or revocation.
5. Such other information as the City Manager deems necessary for the administration or enforcement of this Chapter.
6. Any and all additional information required by the City to be included in a Tobacco Retail License application.

8.70.050 Issuance and Renewal of License

A. Upon the receipt of an application for a Tobacco Retail License and the payment of a Tobacco Retail License fee, the City shall issue a License unless:

1. The application is incomplete or inaccurate.
2. The application seeks authorization for Tobacco Retailing at an address that appears on a License that is suspended, has been revoked, or is subject to suspension or revocation proceedings for violation of any of the provisions of this Chapter. Notwithstanding the foregoing, this subparagraph shall not constitute a basis for denial of a License if either or both of the following apply:
 - a) The applicant provides the City with documentation demonstrating that the applicant has acquired or is acquiring the premises or business in an arm's length transaction. For the purposes of this subparagraph, an "arm's length transaction" is defined as sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of this chapter that occurred at the location, is presumed not to be an "arm's length transaction."

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b) It has been more than three years since the most recent License for that location was revoked.

3. The application seeks authorization for Tobacco Retailing by a Proprietor for which or whom a suspension is in effect or by a Proprietor which or who has had a License revoked, pursuant to this chapter.

4. The application seeks an authorization for Tobacco Retailing that is unlawful pursuant to this Chapter, or that is unlawful pursuant to any other local, state or federal law.

5. The City has information that the applicant or his or her agents or employees have violated any local, state, or federal tobacco control law at the location for which the License or renewal of the License is sought within the preceding 30-day period.

6. The City has information that the applicant or his or her agent or employee has violated any local, state or federal tobacco control law, including this Chapter, within the preceding (12) months.

7. The issuance of a Tobacco Retail License would be in conflict with any other City ordinance.

B. Beginning from the effective date of this Chapter, all Tobacco Retailers have until December 31, 2018 to obtain a License. An application to renew such License shall be made no later than 30 days prior, but no earlier than 60 days prior to the expiration of the License. The City has no obligation to issue notification of impending expiration of any License. The applicant shall follow all of the procedures and provide all of the information required by Section 8.65.040 above. The City shall process the application according to the provisions of this section. A License may be renewed annually by submitting a Tobacco Retail License application to the City along with payment of the annual Tobacco Retail Licensing fee; provided, however, a Tobacco Retail License that is suspended, has been revoked, or is subject to suspension or revocation proceedings shall not be renewed pending the final outcome of such suspension or revocation.

C. If the information required in the License application pursuant to any subsection of Chapter 8.65 changes, a new Tobacco Retail License is required before the business may continue to act as a Tobacco Retailer. For example, if a Proprietor to whom a License has been issued changes business location, that Proprietor must apply for a new License prior to acting as a Tobacco Retailer at the new location. If the business is sold, the new owner must apply for a License for that location before acting as a Tobacco Retailer.

D. A Tobacco Retail License that is not timely renewed pursuant to this Chapter shall be automatically suspended by operation of law. If not renewed, a license shall be automatically revoked six (6) months after the renewal date. Additionally, civil, criminal and/or administrative citations may be issued during this interim period for failure to maintain the appropriate License. To reinstate the paid status of a License that has been suspended due to the failure to timely renew the License or pay the renewal fee, the Tobacco Retailer must:

1. Submit the License renewal application and fee plus a reinstatement fee of ten percent of the License renewal fee; and

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2. Submit a signed affidavit affirming that he or she has not sold any Tobacco Product or Tobacco Paraphernalia during the period the License was suspended for failure to pay the License renewal fee.

8.70.060 Display of License

Each License shall be prominently displayed in a publicly visible location at the Licensed premises. Failure to properly display the License will result in the issuance of a citation.

8.70.070 License Fees

The fee for issuance or renewal of a Tobacco Retail License shall be established by resolution of the City Council and shall be in addition to the City's business license fee and any other license or permit fee imposed by this Code upon the applicant. The Tobacco Retail License fee shall be paid to the City at the time the License application is submitted. The fee shall be calculated so as to recover the cost of administration and enforcement of this Chapter, including, for example, issuing a License, administering the License program, Tobacco Retailer education, Tobacco Retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this Chapter. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.

8.70.080 Licenses Nontransferable & Convey a Limited, Conditional Privilege

A Tobacco Retail License is nontransferable and subject to the provisions of this Municipal Code Section. Nothing in this Chapter shall be construed to grant any Person obtaining and maintaining a Tobacco Retailer License any status or right other than the limited conditional privilege to act as a Tobacco Retailer at the location within the City's jurisdictional boundaries identified on the face of the License, subject to compliance with the terms and conditions of this Chapter.

8.70.090 License Violations – Compliance Monitoring

A. It shall be a violation of a Tobacco Retail License for a Tobacco Retail Licensee or his or her agents or employees to violate any local, state or federal tobacco-related law.

B. It shall be a violation of this Chapter for any Tobacco Retail Licensee or any of the Licensee's agents or employees to violate any local, state, or federal law regulating controlled substances or Drug Paraphernalia including, but not limited to, California Health and Safety Code section 11364.7, as that section may be amended from time to time.

C. In addition to the provisions of this Municipal Code, compliance with this Chapter shall be monitored by the San Diego County Sheriff's Department. Any peace officer or Municipal Code compliance official also may enforce this Chapter. The San Diego County Sheriff's Department shall check compliance of each Tobacco Retailer at least one time per twelve (12) month period and shall conduct additional compliance checks as warranted. The compliance checks shall be conducted to determine, at a minimum, if the Tobacco Retailer is complying with tobacco laws regulating underage sales. The San Diego County Sheriff's Department shall use youth decoys and comply with protocols for the compliance checks developed in consultation with the San Diego County Department of Health and Human Services and the San Diego District Attorney. When appropriate, the compliance checks shall determine compliance with other tobacco-related laws.

Attachment B

D. The City shall not enforce any tobacco related minimum age law against a Person who otherwise might be in violation of such law because of a Person's age (hereinafter "youth decoy") if the potential violation occurs when:

1. The youth decoy is participating in a compliance check supervised by a peace officer;
or

2. The youth decoy is participating in a compliance check funded in part by the San Diego County Department of Health and Human Services or funded in part, either directly or indirectly through sub-contracting, by the California Department of Health Services; or

3. The youth decoy has a letter of permission for such compliance check activity from the District Attorney's Office.

8.70.100 Suspension or Revocation of License

A. In addition to any other penalty authorized by law, and including the provisions of this Municipal Code, a Tobacco Retail License may be suspended or revoked if the City finds, after notice to the Tobacco Retail Licensee and opportunity to be heard, that the Tobacco Retail Licensee or his or her agents or employees has or have violated any of the provisions of this Chapter; provided, however, violations by a Licensee at one location may not be accumulated against other locations of that same Tobacco Retail Licensee, nor may violations accumulated against a prior Tobacco Retail Licensee at a Licensed location be accumulated against a new Tobacco Retail Licensee at the same Licensed location.

1. Upon a finding by the City of a first License violation within any three-year period, the City shall:

a) Issue a written warning to the Licensee, including providing an educational notice about the nature of the violation; and

b) Assess a fine against the Licensee for violation of this Chapter

2. Upon a finding by the City of a second License violation within any three-year period, the City shall:

a) Require the Licensee to provide documentation to the City that all employees engaged in the Retail Sale of tobacco have received training in a City approved program within sixty (60) days after the warning, or such other time as shall be set by the City; and

b) Assess an additional fine against the Licensee for violation of this Chapter

3. Upon the finding by the City of a third License violation within any three-year period, the City may suspend or revoke the License.

B. A Tobacco Retail License shall be revoked if the City finds, after notice and opportunity to be heard, that any one of the conditions listed below exist. The revocation shall be without prejudice to the filing of a new application for a Tobacco Retail License.

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1. One or more of the bases for denial of a Tobacco Retail License under Section 8.65.050 existed at the time the Tobacco Retail License application was made or at any time before the Tobacco Retail License was issued.

2. The application is incomplete for failure to provide the information required by Section 8.65.040.

3. Any information contained in the application, including supplemental information, if any, is found to be false in any material respect.

4. The application seeks authorization for Tobacco Retailing that is unlawful pursuant to this Code, or that is unlawful pursuant to any other local, state or federal law.

C. In the event the City suspends or revokes a Tobacco Retail License, written notice of the suspension or revocation shall be served upon the Tobacco Retail Licensee within five (5) days of the suspension or revocation in a manner prescribed in Section 8.65.040. The notice shall contain:

1. A brief statement of the specific grounds for such suspension or revocation;

2. A statement that the Tobacco Retail Licensee may appeal the suspension or revocation by submitting an appeal, in writing, in accordance with the provisions of Section 8.65.110, to the City, within ten (10) calendar days of the date of the service of the notice; and

3. A statement that the failure to appeal the notice of suspension or revocation will constitute a waiver of all rights to an administrative appeal hearing, and the suspension or revocation will be final.

8.70.110 Denial, Suspension and Revocation - Appeals

A. Any Tobacco Retail License applicant or Licensee aggrieved by the decision of the City in denying, suspending, or revoking a Tobacco Retail License, may appeal the decision, by submitting a written appeal to the City Clerk within ten (10) calendar days from the date of service of the notice of denial, suspension, or revocation. The written appeal shall contain:

1. A brief statement of the specific action protested, together with any material facts claimed to support the contentions of the appellant;

2. A brief statement of the relief sought, and the reasons why it is claimed the protested action should be reversed or otherwise set aside;

3. The signatures of all parties named as appellants and their official mailing addresses; and

4. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

B. The appeal hearing shall be conducted by a Hearing Officer.

C. Upon receipt of any appeal filed pursuant to this section, the City Clerk shall transmit said appeal to the Hearing Officer who shall calendar it for a hearing. The Hearing Officer shall

Attachment B

give the parties at least fifteen (15) calendar days written notice of the time and place of the hearing either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal. Upon good cause, the Hearing Officer may grant one extension for the date of the hearing not to exceed fifteen (15) days from the original date set for the hearing.

D. Only those matters or issues specifically raised by the appellant in the notice of appeal shall be considered in the hearing of the appeal.

E. Failure of any Person to file a timely appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the notice and order, or any portion thereof.

F. Following the hearing on the appeal by the Hearing Officer, the decision of the Hearing Officer may be appealed to the City Manager or his or her designee. A decision of the City Manager or his or her designee shall be the final decision of the City.

G. During a period of License suspension, the Tobacco Retail Licensee must remove from public view all Tobacco Products and Tobacco Paraphernalia at the address that appears on the suspended or revoked Tobacco Retail License.

8.70.120 Hearings – Generally

A. At the time set for hearing, the Hearing Officer shall proceed to hear the testimony of material witnesses, the appellant, and other competent Persons, including members of the public, respecting those matters or issues specifically listed by the appellant in the notice of appeal.

B. The proceedings at the hearing shall be electronically recorded. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense.

C. The Hearing Officer may, upon the request of the appellant or upon the request of the City, grant continuances from time to time for good cause shown, or upon his or her own motion.

8.70.130 Conduct of Hearing

A. Hearings need not be conducted in accordance to the technical rules relating to evidence and witnesses. Government Code section 11513, subsections (a), (b) and (c), or as such section may be amended from time to time, shall apply to hearings under this Chapter.

B. Oral evidence shall be taken only upon oath or affirmation.

C. Irrelevant and unduly repetitious evidence shall be excluded.

D. Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing.
2. To introduce documentary and physical evidence.

Attachment B

3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing.
4. To impeach any witness regardless of which party first called the witness to testify.
5. To rebut evidence presented against the party.
6. To represent himself, herself, or itself, or to be represented by anyone of his, her, or its choice who is lawfully permitted do so.

E. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact that may be judicially noticed by the courts of this state or that may appear in any of the official records of the City of any of its departments.

8.70.140 Form and Contents of Decision of Hearing Officer - Appeal to City Manager - Finality of Decision

A. If it is shown, by a preponderance of the evidence, that one or more bases exist to deny, suspend, or revoke the Tobacco Retail License, the Hearing Officer shall affirm the City's decision to deny, suspend, or revoke the Tobacco Retail License. The decision of the Hearing Officer shall be in writing and shall contain findings of fact and a determination of the issues presented.

B. The decision of the Hearing Officer shall inform the appellant that the decision may be appealed to the City Manager by filing a written appeal with the Hearing Officer within ten (10) days of receipt of the decision of the Hearing Officer. The written appeal shall be forwarded to the City Manager upon receipt.

C. Within fifteen (15) days of receipt of the written appeal, the City Manager shall review the record of the hearing and issue a written decision to grant or deny the appeal. A decision of the City Manager shall be final. The City Manager shall provide appellant with a copy of his or her decision and that the time for judicial review is governed by California Code of Civil Procedure section 1094.6, or as such section may be amended from time to time. Copies of the decision shall be delivered to the parties personally or sent by certified mail to the address shown on the appeal. The decision shall be final when signed by City Manager and served as provided in this section.

8.70.150 Enforcement

A. In addition to any other remedy, any Person violating any provision of this Chapter shall be guilty of a misdemeanor for each day a violation continues.

B. Any violation of this Chapter may be remedied by a civil action brought by the City Attorney. The City may recover attorneys' fees and costs of suit, including witness fees, in any civil action brought by the City Attorney to remedy any violation of this Chapter.

C. Violations of this Chapter are hereby declared to be public nuisances subject to abatement by the City.

D. In addition to criminal sanctions and other remedies set forth in this Chapter, civil and administrative penalties may be imposed pursuant to Chapter 1.24 of this Municipal Code against

Attachment B

any Person violating any provision of this Chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 1.24 of this Municipal Code.

8.70.160 Severability

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

Attachment C

LETTERS OF SUPPORT RECEIVED



March 6, 2018

Lorenzo Higley, MSW
CASA Consultant
275 E. Douglas, Suite 115
El Cajon, CA 92020

Dear Lorenzo,

On behalf of the Lemon Grove Clergy Association which is made up of pastors of many denominations, we want to write to show our support of the new Tobacco Retailer Licensing Program ordinance.

After reading over the material and looking at the research, we believe it will help protect lemon grove youth from a life of tobacco addiction which has many negative consequences. As church pastors we often walk through these devastating effects of smoking with our church members. It especially breaks our hearts when they are youth. This is why we believe that we as a community need to do our best to keep tobacco related products (including electronic smoking devices) out of the hands of our children.

We have seen Tobacco Retailer Licensing work in other communities like El Cajon, Vista and San Marcos and we believe it would be a wise decision to implement a similar program like this in Lemon Grove since the last study done (2017) showed that 1/3 of our Lemon Grove stores sold cigarettes to minors. We need this tool to help ensure that retailers comply with existing laws that prohibit tobacco sales to minors.

Thank you for giving serious consideration to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark & Anne Stapleton".

Mark & Anne Stapleton, as representatives of the Lemon Grove Clergy Association

Attachment C



March 6, 2018

Raquel Vasquez
Mayor, City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

Dear Mayor Vasquez & Members of the City Council:

Cigarette smoking kills an estimated 480,000 people in America each year – more than alcohol, illegal drug use, homicide, suicide, car crashes, and AIDS combined! (CDC 2014). In California, 9 out of 10 smokers started smoking before age 21.

Tobacco products include cigarettes, electronic cigarettes, vape pens, hookah pens, and little cigars/cigarillos. While the rate of tobacco use among youth in East County has declined slightly over the years, it is still unconscionable that retailers continue to sell tobacco to minors (<age 21). And 18-19 year olds are twice as likely as 16-17 year olds to be current smokers.

CASA and our youth volunteers conducted multiple surveys of all retailers in Lemon Grove over the past three years. The results indicate that 31-41% of local tobacco retailers illegally sold a tobacco product to a minor. Nearly three-quarters of the retailers didn't even ask the age of the young volunteer. And this was after we visited each retailer and provided training material about California tobacco laws and their responsibility to prevent illegal tobacco sales to minors. The bottom line is that tobacco sales represent a large portion of revenue for small retailers and the risk of being held accountable is non-existent.

To reduce illegal sale of tobacco products to minors, many cities and counties in California have adopted strong local tobacco retailer licensing ordinances. Here in San Diego County, the cities of El Cajon, San Marcos, Solana Beach, and Vista have all adopted tobacco retailer ordinances that include licensing fees and enforcement. These are two key elements of an effective ordinance: 1) fees set high enough to sufficiently fund program administration and enforcement; and 2) a rigorous annual enforcement program with progressive consequences to deter illegal sales. Research shows that these elements result in drastically reduced sales to minors.

The US Surgeon General reports that among teens who start smoking before age 18: 1 out of 3 will quit, 2 out of 3 will have a lifetime of addiction to nicotine, and one-half of those will die of tobacco-related disease. We support your leadership in seeking to protect young people from a lifetime of addiction and poor health.

Thank you for considering a local ordinance to hold tobacco retailers accountable for illegal sales to minors.

Respectfully,



Dana J. Stevens
Executive Director

Attachment D

COMMUNITY SURVEY RESULTS

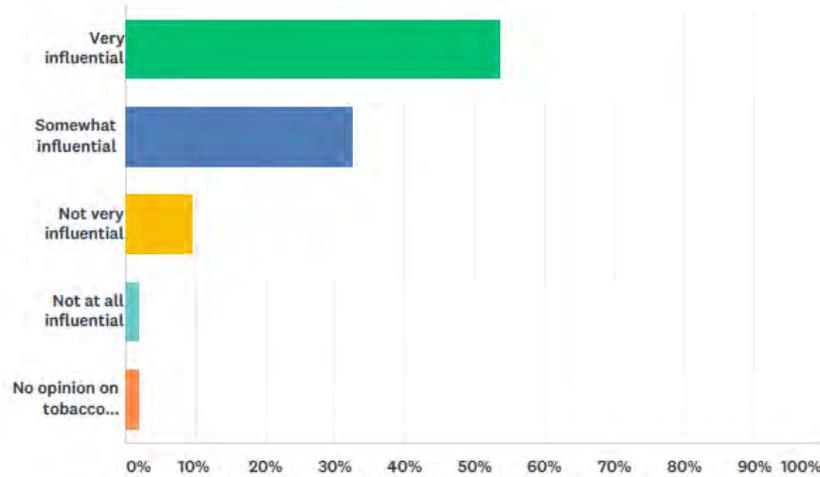
FALL 2018

Lemon Grove TRL Survey

SurveyMonkey

Q1 How much influence do you think tobacco advertising has on young people?

Answered: 52 Skipped: 0

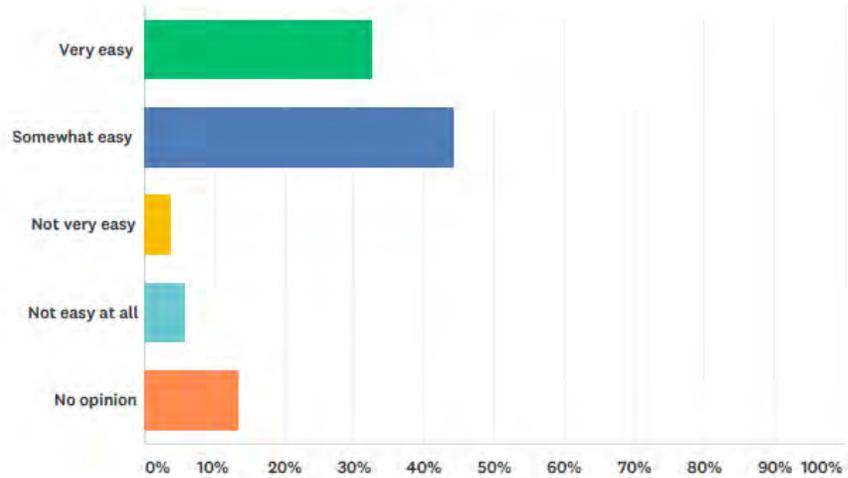


ANSWER CHOICES	RESPONSES	
Very influential	53.85%	28
Somewhat influential	32.69%	17
Not very influential	9.62%	5
Not at all influential	1.92%	1
No opinion on tobacco advertising influence on youth	1.92%	1
TOTAL		52

Attachment D

Q2 How easy do you think it is for youth to purchase tobacco products in Lemon Grove?

Answered: 52 Skipped: 0



ANSWER CHOICES	RESPONSES	
Very easy	32.69%	17
Somewhat easy	44.23%	23
Not very easy	3.85%	2
Not easy at all	5.77%	3
No opinion	13.46%	7
TOTAL		52

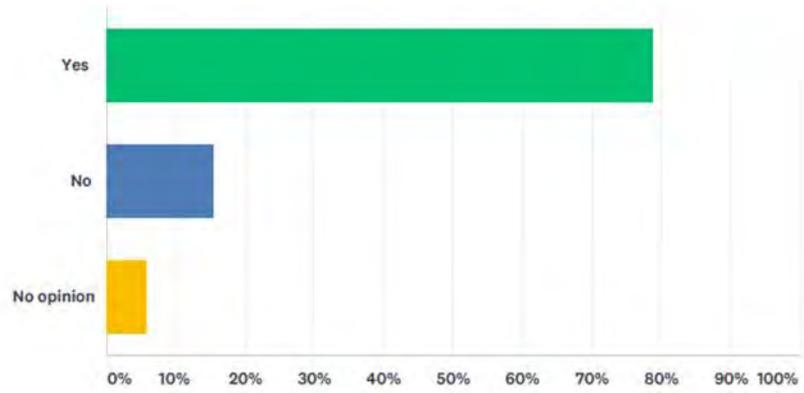
Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q3 Tobacco retailers in Lemon Grove should be required to purchase a local license to sell tobacco

Answered: 52 Skipped: 0

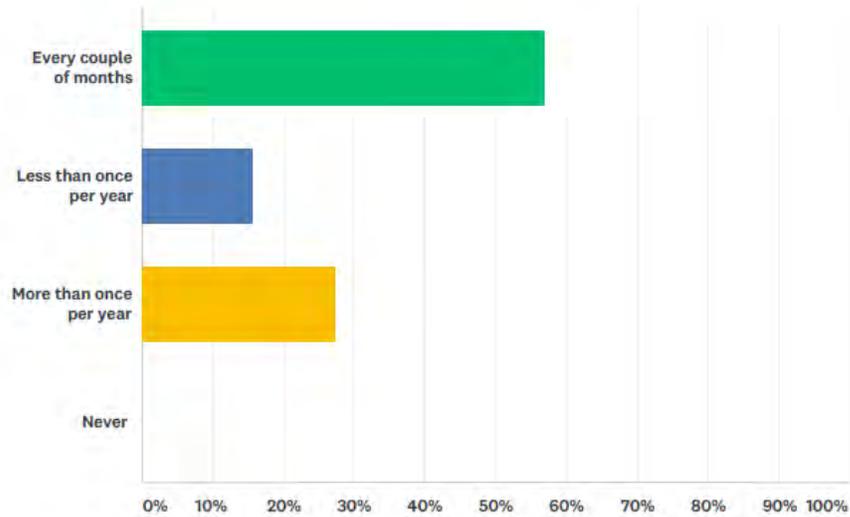


ANSWER CHOICES	RESPONSES	
Yes	78.85%	41
No	15.38%	8
No opinion	5.77%	3
TOTAL		52

Attachment D

Q4 How Often do you think that tobacco retailers should be checked for compliance of sales to minors?

Answered: 51 Skipped: 1



ANSWER CHOICES	RESPONSES	
Every couple of months	56.86%	29
Less than once per year	15.69%	8
More than once per year	27.45%	14
Never	0.00%	0
TOTAL		51

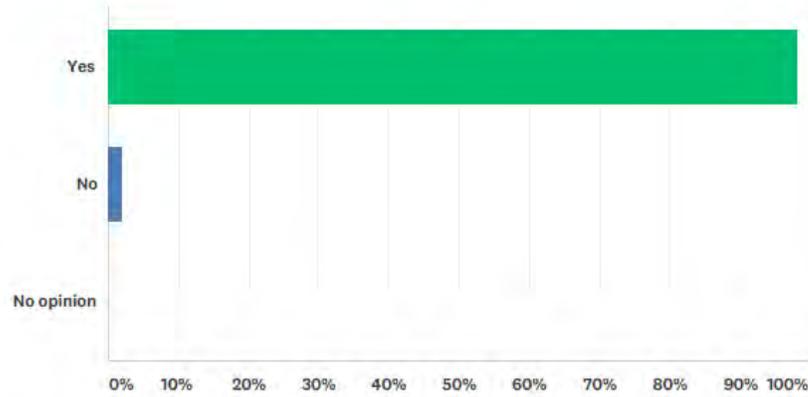
Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q5 Tobacco retailers in Lemon Grove should face consequences for selling tobacco to minors

Answered: 52 Skipped: 0

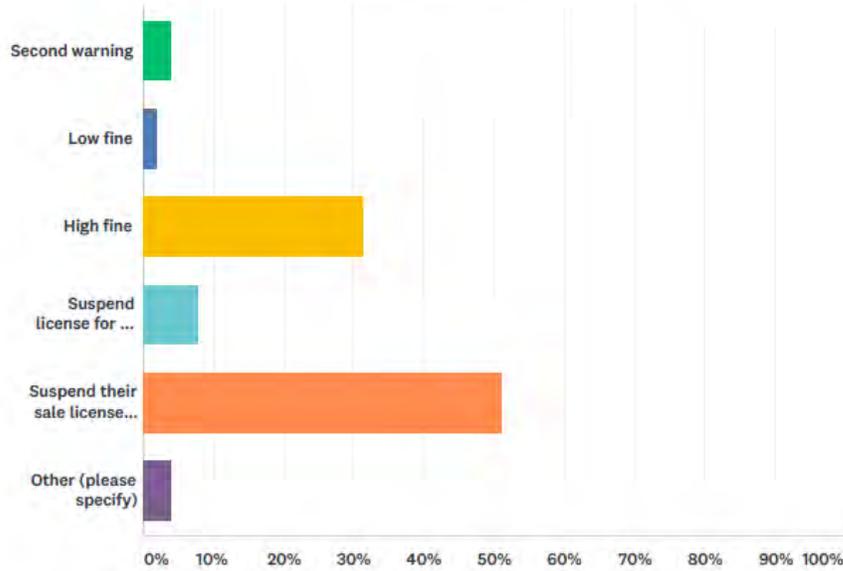


ANSWER CHOICES	RESPONSES	
Yes	98.08%	51
No	1.92%	1
No opinion	0.00%	0
TOTAL		52

Attachment D

Q6 If yes, if a tobacco retailer sells tobacco to youth more than once, their consequences should be:

Answered: 51 Skipped: 1



ANSWER CHOICES	RESPONSES	
Second warning	3.92%	2
Low fine	1.96%	1
High fine	31.37%	16
Suspend license for a few days	7.84%	4
Suspend their sale license for a period up to 6 months	50.98%	26
Other (please specify)	3.92%	2
TOTAL		51

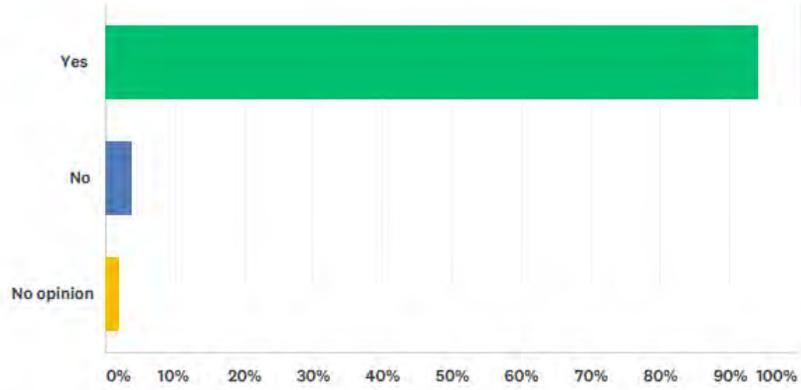
Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q7 Would you support a local control ordinance to hold tobacco retailers accountable for illegal sales to minors?

Answered: 52 Skipped: 0

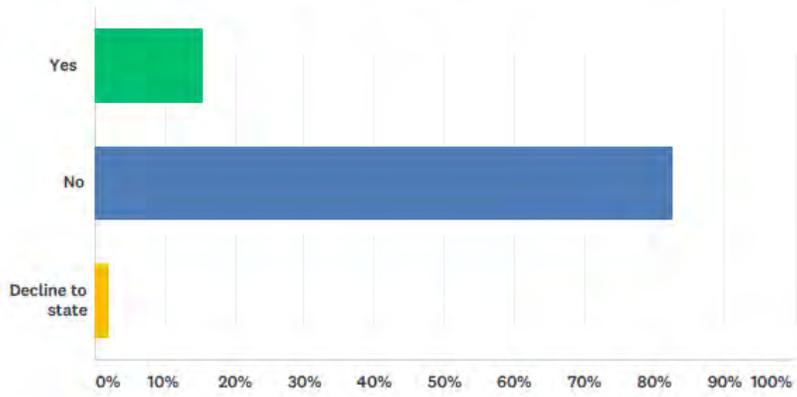


ANSWER CHOICES	RESPONSES	
Yes	94.23%	49
No	3.85%	2
No opinion	1.92%	1
TOTAL		52

Attachment D

Q8 Have you used any tobacco products in the past 6 months?

Answered: 52 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	15.38%	8
No	82.69%	43
Decline to state	1.92%	1
TOTAL		52

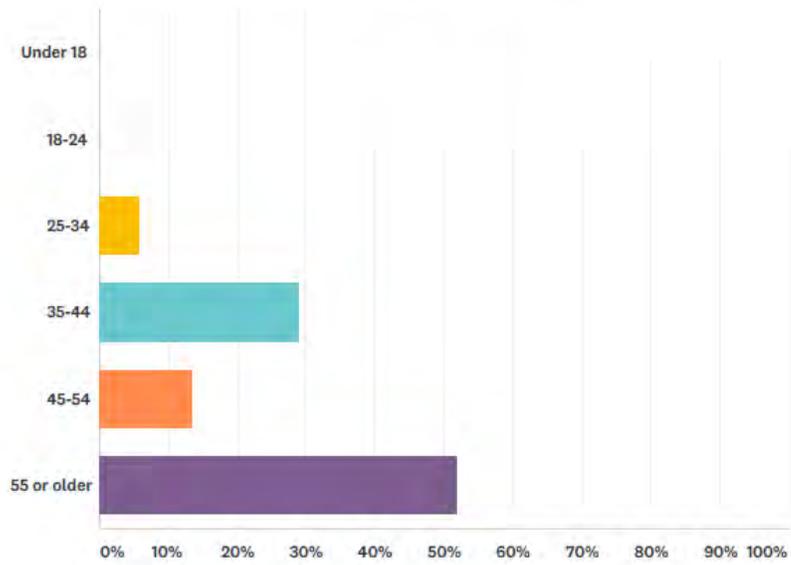
Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q9 What is your age?

Answered: 52 Skipped: 0



ANSWER CHOICES	RESPONSES	
Under 18	0.00%	0
18-24	0.00%	0
25-34	5.77%	3
35-44	28.85%	15
45-54	13.46%	7
55 or older	51.92%	27
TOTAL		52

Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q10 Other comments about illegal tobacco sales to minors that you would like to share

Answered: 18 Skipped: 34

#	RESPONSES	DATE
1	Regrading item 6, a 3rd time would be cause a high fine and license suspension up to 6 months.	10/10/2018 6:07 PM
2	N/A	10/10/2018 11:03 AM
3	None. Thank you!	10/10/2018 8:49 AM
4	None	10/9/2018 7:01 PM
5	Minors should also be held accountable for their behavior.. dont just punish the retailer.	10/8/2018 8:56 PM
6	My dad smoked 4-6 packs a day & I was an avid anti-smoking protester. As is typical, at age 16, I wanted to be cool at a party. That's how I started smoking. Bottom line is if kids want to smoke, they are going to smoke.	10/8/2018 6:17 PM
7	Share the results of this survey with the city of Lemon Grove City Council, please.	10/8/2018 11:49 AM
8	no selling of tobacco in vending machines.. Contact the parents if kids caught smoking.	10/8/2018 11:36 AM
9	Please include all tobacco products and "sides", (bowls, juul, papers, etc...)	10/8/2018 10:09 AM
10	Adults who purchase tobacco products for minors intentionally should be ticketed and fined heavily. For example; purchasing a pack of cigarettes and then handing them to a minor outside the store.	10/8/2018 10:00 AM
11	lack of availability is key. We do not need so many avenues for youth to get these products.	10/8/2018 9:53 AM
12	We need to protect our communities children and youth. And we need to clean up our city.	10/8/2018 9:20 AM
13	We really need to crack down on this. And let retailers know it will be done anonymously so they will comply.	10/8/2018 9:19 AM
14	None	10/8/2018 9:14 AM
15	This should be all tobacco and tobacco related products.. vape pens,e-cigs,etc	10/8/2018 9:04 AM
16	none	10/8/2018 8:57 AM
17	21 years old may be excessive. Kids can vote at 18. Boys of 18 must register for the draft. If we can kill them on the battlefield how can we say no to smoking? Similarly, kids can drive at 16 (and many of them are awful drivers) and can die or cause death. Let's get these ages in sync. Driving and smoking at 19. Draft, voting should be at 21. Some are in favor of everything at 21, the traditional "age of consent." The intention should be to save the lives of the new generation.	10/8/2018 8:46 AM
18	No	10/8/2018 8:37 AM



City of Lemon Grove
City Council Regular Meeting Agenda
Tuesday, November 20, 2018, 6:00 p.m.

Lemon Grove Community Center
3146 School Lane, Lemon Grove, CA

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

Presentations:

- A. Introduction of New Fire Chief Steven Swaney
- B. Recognition of Girl Scout Troop 5255 for their “100 Years of Girl Scout Achievement” exhibit.
- C. Presentation – CSAC – EIA Eagle Award for Sage/City Partnership
- D. Recognition of Service – Miranda Evans, Management Analyst

Public Comment

(Note: In accordance with State Law, the general public may bring forward an item not scheduled on the agenda; however, the City Council may not take any action at this meeting. If appropriate, the item will be referred to staff or placed on a future agenda.)

1. 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.)

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

Reference: Jim Lough, City Attorney

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

B. City of Lemon Grove Payment Demands

Reference: Molly Brennan, Finance Director

Recommendation: Ratify Demands

C. Approval of Meeting Minutes

Regular Meetings

October 16, 2018

November 6, 2018

Reference: Shelley Chapel, City Clerk

Recommendation: Approve Minutes

D. Rejection of Claim

Reference: Mike James, Assistant City Manager / Public Works Director
Recommendation: Reject Claim.

E. Update the City of Lemon Grove "Working with Public Records Request" Policy

Reference: Shelley Chapel, City Clerk
Recommendation: Recind Resolution No. 2608, and Adopt Resolution Approving the updated City of Lemon Grove "Working with Public Records Request" Policy.

F. Contract Award – Indirect Cost Allocation Plan

Reference: Molly Brennan, Finance Manager
Recommendation: Adopt Resolution awarding contract to Matrix Consulting Group.

G. Resolution Authorizing the Appointment of Deputy City Attorney Kristen Steinke as City Attorney under the Current City Attorney Contract Effective January 1, 2019.

Reference: Lydia Romero, City Manager
Recommendation: Adopt Resolution Authorizing the Appointment of Deputy City Attorney Kristen Steinke as City Attorney, Effective January 1, 2019.

Public Hearings:

2. Public Hearing to Consider Administrative Appeal No. AA1-800-0006 Regarding the Planning Commission's Decision to Approve Conditional Use Permit No. CUP-180-0004, a Request to Establish a 2,068 SF Childcare Center with an Outdoor Play Area at 3468 Citrus Street in the General Commercial–Heavy Commercial Zone.

The City Council will conduct the Public Hearing and consider a resolution denying Administrative Appeal No. AA1-800-0006, upholding the Planning Commission's Decision to Approve Conditional Use Permit No. CUP-180-0004, a Request to Establish a Childcare Center at 3468 Citrus Street in the General Commercial–Heavy Commercial Zone.

Reference: Arturo Ortuño, Assistant Planner
Recommendation: Conduct the Public Hearing; and Adopt a Resolution Denying Administrative Appeal No. AA1-800-0006, Upholding the Planning Commission's Decision to Approve Conditional Use Permit No. CUP-180-0004, a Request to Establish a Childcare Center at 3468 Citrus Street in the General Commercial–Heavy Commercial Zone.

3. Public Hearing to Consider an Amendment to the Transnet Local Street Improvement Program of Projects for FY 2019-23.

The City Council will conduct the Public Hearing and consider a resolution approving an amendment to the Transnet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023.

Reference: Molly Brennan, Finance Manager & Mike James, Assistant City Manager / Public Works Director
Recommendation: Adopt Resolution Approving an Amendment to the Transnet Local Street Improvement Program of Projects for Fiscal Years 2019 Through 2023.

Reports to Council:

4. Palm Street Red Curb

Reference: Mike James, Assistant City Manager / Public Works Director

Recommendation: The City Council will receive the report and provide feedback to staff.

5. Promenade Park Rejuvenation Plan

Reference: Mike James, Assistant City Manager / Public Works Director

Recommendation: That the City Council receive a report and provide feedback regarding the NewSchool of Architecture's Urban Design Club's Rejuvenation Plan at the Promenade Park.

6. Ordinance No. 449 Adding Chapter 8.70 to the Lemon Grove Municipal Code Establishing the Tobacco Retailer License

Reference: Miranda Evans, Management Analyst

Recommendation: The City Council will consider the proposed Tobacco Retailer License provisions, and Adopt Ordinance No. 449.

City Council Oral Comments and 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 and Department Director Reports: (Non-Action Items)

Closed Session:

1. LIABILITY CLAIM

Government Code Section 54956.95

Claimant: Hatsuko Hoss

Agency Claimed Against: City of Lemon Grove

Adjournment

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 schapel@lemongrove.ca.gov. A full agenda packet is available for public review at City Hall.

AFFIDAVIT OF NOTIFICATION AND POSTING

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

I, Shelley Chapel, MMC, 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 5:30 p.m. on November 15, 2018, 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.

Isi: Shelley Chapel

Shelley Chapel, MMC, City Clerk

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.A

Dept. City Attorney

Item Title: Waive Full Text Reading of All Ordinances on the Agenda.

Staff Contact: James P. Lough, City Attorney

Recommendation:

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

Fiscal Impact:

None.

Environmental Review:

Not subject to review

Negative Declaration

Categorical Exemption, Section

Mitigated Negative Declaration

Public Information:

None

Newsletter article

Notice to property owners within 300 ft.

Notice published in local newspaper

Neighborhood meeting

Attachments:

None.

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.B
Dept. Finance

Item Title: City of Lemon Grove Payment Demands

Staff Contact: Molly Brennan, Finance Manager

Recommendation:

Ratify Demands

Fiscal Impact:

None.

Environmental Review:

Not subject to review

Negative Declaration

Categorical Exemption, Section

Mitigated Negative Declaration

Public Information:

None

Newsletter article

Notice to property owners within 300 ft.

Notice published in local newspaper

Neighborhood meeting

Attachments:

None.

City of Lemon Grove Demands Summary

Approved as Submitted:

Molly Brennan, Finance Manager

For Council Meeting: 11/20/18

ACH/AP Checks 10/31/18-11/13/18 278,682.40

Payroll - 11/6/18 124,368.76

Total Demands 403,051.16

CHECK NO	INVOICE NO	VENDOR NAME	CHECK DATE	Description	INVOICE AMOUNT	CHECK AMOUNT
ACH	Nov 2018	PERS HEALTH - NOV'18	11/1/2018	Pers Health Insurance - Nov 18	51,901.03	51,901.03
ACH	Refill 11/1/18	Pitney Bowes Global Financial Services LLC	11/1/2018	Postage Usage 11/1/18	250.00	250.00
ACH	8814614	LEAF	11/1/2018	Ricoh C3502 Copier System-PW Yard - Oct'18	160.51	160.51
ACH	Oct18	Power Pay Biz/Evo	11/1/2018	Online Credit Card Processing - Oct'18	73.26	73.26
ACH	Oct18	Wells Fargo Bank	11/1/2018	Bankcard Fee Adjustment	12.00	12.00
ACH	Oct18	Authorize.Net	11/2/2018	Merchant Fees - Oct'18	20.70	20.70
ACH	4154920380 3568860625	SDG&E	11/07/2018	Electric Usage:St Light 10/1/18-10/31/18 Electric Usage:St Light 10/1/18-10/31/18	1,648.91 1,128.16	2,777.07
ACH	Oct18	Wage Works	11/08/2018	FSA Reimbursement - Oct'18	1,003.53	1,003.53
ACH	Oct23 18	Employment Development Division	11/08/2018	State Taxes 10/23/18	6,828.21	6,828.21
ACH	Oct11-Oct23 18	Calpers Supplemental Income 457 Plan	11/08/2018	457 Plan 10/11/18-10/23/18	5,523.53	5,523.53
ACH	18-Sep	Home Depot Credit Services	11/09/2018	Home Depot Purchases - Sep'18	34.06	34.06
10416	7045	911 Restoration of San Diego	10/31/2018	Water Damage/Mold Remediation - Demo & Repair - Sheriff Stn	15,245.83	15,245.83
10417	Fire-12087231	AT&T	10/31/2018	Fire Backup Phone Line- 9/22/18-10/21/18	40.00	40.00
10418	16394L-IN	Aztec Landscaping Inc	10/31/2018	Median Enhancement- LGA/Broadway & Repair Manifold- Comm Ctr	336.00	704.67
10419	900249-9	BJ's Rentals	10/31/2018	Propane	11.77	11.77
10420	BSA Fees: Jul-Sep	California Building Standards Commission	10/31/2018	BSA Fees: Jul-Sep'18	266.40	266.40
10421	1069-755939	California Electric Supply	10/31/2018	Replace Decorative Streetlight Hit - Broadway	6,545.81	6,545.81
10422	19345597	Canon Financial Services Inc	10/31/2018	Canon Copier Contract Charge 11/1/18	642.60	642.60
10423	4011408208	Cintas Corporation #694	10/31/2018	Janitorial - Fire - 10/25/18	333.10	333.10
10424	FRS0000127 FRS0000127 FRS0000127	City of El Cajon	10/31/2018	Overtime Reimbursement - Groller 10/8/18 Overtime Reimbursement - Stewart 10/15/18 Overtime Reimbursement - Stewart 10/16/18	1,227.23 486.79 1,168.30	2,882.32
10425	INV00051	City of Imperial Beach	10/31/2018	SD Bay WQIP Cost Share Agreement- FY18/19	9,791.00	9,791.00
10426	Oct18	Colonial Life	10/31/2018	Colonial Optional Insurance -Oct 18	446.80	446.80
10427	2873Skyline- 10/20 10/19/2018	Cox Communications	10/31/2018	Phone/PW Yard/2873 Skyline- 10/19/18-11/18/18 City Manager/Copy Room Fax Line- 10/18/18-11/17/18	212.63 5.42	218.05
10428	210496 210497	Dell Awards	10/31/2018	Nameplates for City Council Meetings- Planning Commissioners Nameplate for City Council Meetings & Wall Holder - Fire - Swaney	59.26 22.63	81.89
10429	Jul-Sep18	Department of Conservation	10/31/2018	Qtrly SMIP Fees - Jul-Sep'18	714.00	714.00
10430	10/8-11/18	Esgil Corporation	10/31/2018	75% Building Fees- 10/8/18-10/11/18	3,583.79	3,583.79
10431	59703 59768	EW Truck & Equipment Company, Inc.	10/31/2018	LGPW#29- '06 Dump Truck - Repair Brakes/Air Governor LGPW#29 - '06 Dump Truck - Repair Brakes/Valve	1,235.43 561.02	1,796.45
10432	100000009797510	Globalstar USA, Inc.	10/31/2018	Satellite Service 9/16/18-10/15/18	166.56	166.56
10433	8/21/18-10/20/18	Helix Water District	10/31/2018	Water Servies- 8/21/18-10/20/18	27,581.85	27,581.85
10434	70581	House of Automation	10/31/2018	Service Call- PW Yard Security Gate Repair	297.74	297.74
10435	CivicCtr-Oct18	Knott's Pest Control, Inc.	10/31/2018	Monthly Bait Stations- Civic Ctr - Oct18	60.00	105.00

	Sheriff- Oct18			Monthly Bait Stations- Sheriff - Oct18		45.00	
10436	1695	Law Offices of James F. Holtz, APC	10/31/2018	Legal Svcs: GHC0017548- Svcs thru 10/9/18		11,174.65	11,174.65
10437	IR-09018	LCPtracker	10/31/2018	LCPtracker Labor Compliance Software Purchase		7,200.00	7,200.00
10438	276	Metro Wastewater JPA	10/31/2018	CLG Share of Metro JPA 2018-19 Annual Budget		14,050.09	14,050.09
10439	805421	Miracle Recreation Equipment Co.	10/31/2018	Mast Ladder Top & Bottom- LG Park		955.16	955.16
10440	3010284636	Parkhouse Tire Inc	10/31/2018	Backhoe 420E- Fleet Service/Flat Repair		200.44	200.44
10441	31563462	RCP Block & Brick, Inc.	10/31/2018	Rapid Set Cement Grout - New Stop Sign Install/Ildica		62.39	62.39
10442	64098	Rick Engineering Company	10/31/2018	Prof Svc: City Engineer 9/1/18-9/28/18		38,392.83	38,392.83
10443	AR172175	San Diego Association of Governments	10/31/2018	ARJIS FY 2019 JPA Fees - 7/1/18-6/30/19		16,332.00	16,332.00
10444	10/22/2018 10/22/2018 10/22/2018	SDG&E	10/31/2018	3225 Olive- 9/18/18-10/18/18 3500 1/2 Main- 9/18/18-10/18/18 3601 1/2 LGA- Gas & Electric 9/18/18-10/18/18		150.22 248.79 29.68	428.69
10445	Nov-18	Standard Insurance Company	10/31/2018	Long Term Disability Insurance - Nov18		1,233.21	1,233.21
10446	9816413021	Verizon Wireless	10/31/2018	Mobile Broadband Access- 9/13/18-10/12/18		76.02	76.02
10447	97326	Vinyard Doors, Inc.	10/31/2018	Sectional Door Repair- Door 6 - Fire Station		614.00	614.00
10448	71990896 71999102	Vulcan Materials Company	10/31/2018	Asphalt Asphalt		101.55 302.67	404.22
10449	Westermeyer Fam	Westermeyer Family Trust	10/31/2018	Refund/Westermeyer Family Trust/Sewer Fees Collected in Error		2,293.12	2,293.12
10450	9/23/18-10/22/18	AT&T	11/07/2018	Backup City Hall Internet- 9/23/18-10/22/18		80.00	80.00
10451	11/6/2018	California State Disbursement Unit	11/07/2018	Wage Withholding Pay Period Ending 11/6/18		161.53	161.53
10452	81914641	Corelogic Solutions, LLC.	11/07/2018	Image Requests - Aug'18		16.50	16.50
10453	Peg- 10/30/18-11/29/18	Cox Communications	11/07/2018	Peg Circuit Svc- 10/30/18-11/29/18		2,896.29	2,896.29
10454	4375 4376 4377 4378 4381	D- Max Engineering Inc	11/07/2018	Grove Lofts Stormwater Inspections 5/1/18-5/31/18 Ildica Stormwater Inspections 5/1/18-5/31/18 FY17-18 Street Rehab Proj Stormwater Inspections 5/1/18-5/31/18 Center Hilltop Condos Stormwater Inspections 5/1/18-5/31/18 LGA Realignment Stormwater Inspections 5/1/18-5/31/18		385.00 440.00 330.00 252.95 417.95	1,825.90
10455	1030182305	Domestic Linen- California Inc	11/07/2018	Shop Towels & Safety Mats 10/30/18		82.10	82.10
10456	19118771	EAN Services, LLC	11/07/2018	Car Rental- Roosevelt Fire- 9/24/18-10/2/18 Hales		814.94	84.94
10457	10/15/18-10/18/18	Esgil Corporation	11/07/2018	75% Building Fees- 10/15/18-10/18/18		3,279.23	3,279.23
10458	420551	EW Truck & Equipment Company, Inc.	11/07/2018	PW/Supplies		10.00	10.00
10459	122670	Fire Etc	11/07/2018	Innerzone 2 Goggles- Face/Eye Protection - Pepin		285.54	285.54
10460	1506 1507	Janazz, LLC SD	11/07/2018	IT Services- City Hall- Oct'18 Hard Drive/PW Yard- Oct'18		2,500.00 172.40	2,672.40
10461	Oct 18	Law Offices of Chance Hawkins	11/07/2018	Legal Svcs - Oct '18		901.00	901.00
10462	4539632	Mallory Safety and Supply, LLC	11/07/2018	Drivers Gloves/Nitrile Gloves/Glasses		1,563.51	1,563.51
10463	40004652	Maneri Sign Co., Inc.	11/07/2018	Street ID Signs/Citywide & 2 Hour Parking Signs/Downtown LG		1,312.85	1,312.85
10464	605033009	Nichols Consulting Engineers, CHTD	11/07/2018	Prof Svc: Pavement Mgmt Prog 2018 Update thru 9/30/18		3,830.55	3,830.55
10465	3010284195	Parkhouse Tire Inc	11/07/2018	E10 - 2 Tires & Installation		1,764.36	1,764.36
10466	PickAxe180-01 PickAxe180-02	Pick Axe Holdings, LLC	11/07/2018	Refund/Pick Axe Holdings, LLC/Withdrawal ZCM-180-0001 Refund/Pick Axe Holdings, LLC/Withdrawal ZCM-180-0002		1,090.00 1,090.00	2,180.00
10467	INV025592	RapidScale Inc.	11/07/2018	Virtual Hosting 10/31/18		3,370.78	3,370.78
10468	64094	Rick Engineering Company	11/07/2018	Prof Svc: 20A UG Dist Project 9/1/18-9/28/18		460.00	460.00
10469	8125923081	Shred-It USA	11/07/2018	Shredding Services 10/23/18		69.46	69.46
10470	38027C-1018	Trepte Construction Company	11/07/2018	Prof Svcs: Oct'18		630.00	630.00
10471	1020180389	Underground Service Alert of Southern Califor	11/07/2018	66 New Ticket Charges - Oct'18		118.90	118.90
10472	STMT 10/22/2018 STMT 10/22/2018	US Bank Corporate Payment Systems	11/07/2018	Kitchen Faucet - Fire Stn Registration/Workshop/ITE SD Traffic- 9/28/18 James		203.65 15.00	17,268.28

	STMT 10/22/2018		Membership/MMASC/James		85.00	
	STMT 10/22/2018		Registration/MMASC Seminar- 9/27/18 James		20.00	
	STMT 10/22/2018		Registration/PARMA Conf- 2/10/19-2/13/19 James		350.00	
	STMT 10/22/2018		Regis&Lodging/MMASC Conf- 10/16/18-10/18/18 James		1,046.23	
	STMT 10/22/2018		Lodging/MMASC Conf-10/17/18-10/18/18 Boyce		410.82	
	STMT 10/22/2018		Repair/Sheriff Stn Bathroom		31.02	
	STMT 10/22/2018		PW/Industrial Floor Scrubber 20 Inch		1,859.08	
	STMT 10/22/2018		Notary Training/Macias		629.10	
	STMT 10/22/2018		Supplies/Employee Appreciation Event 10/11/18		259.28	
	STMT 10/22/2018		Giftcards/Employee Appreciation Event 10/11/18		250.00	
	STMT 10/22/2018		75 Foot Hi Visibility Hose & Nozzle - Fire Stn		87.22	
	STMT 10/22/2018		SCBA Mask Name Stickers		118.37	
	STMT 10/22/2018		Station Supplies - Fire		146.88	
	STMT 10/22/2018		Supplies - Fire		48.67	
	STMT 10/22/2018		Airfare & Regis/Clerk New Law Seminar/Chapel 12/12/18-12/14/18		523.98	
	STMT 10/22/2018		Supplies - City Clerk		12.36	
	STMT 10/22/2018		Membership/So Cal Fire Prev - Rodriquez		65.00	
	STMT 10/22/2018		E210 Transmission		11,106.62	
10473	981655749	Verizon Wireless	11/07/2018	Fire Prev Phone Line/Tablets- 9/21/18-10/20/18	361.93	361.93
						278,682.40

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.C

Dept. City Manager's Office

Item Title: Approval of City Council Meeting Minutes

Staff Contact: Shelley Chapel, MMC, City Clerk

Recommendation:

Approval of City Council Meeting Minutes for Regular Meeting held Tuesday, October 16, 2018, and Tuesday, November 6, 2018.

Fiscal Impact:

None.

Environmental Review:

Not subject to review

Categorical Exemption, Section

Negative Declaration

Mitigated Negative Declaration

Public Information:

None

Newsletter article

Notice to property owners within 300 ft.

Notice published in local newspaper

Neighborhood meeting

Attachments:

None.

**MINUTES OF A MEETING OF
THE LEMON GROVE CITY COUNCIL
TUESDAY, OCTOBER 16, 2018**

*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:

Mayor Vasquez called the Regular Meeting to order at 6:00 p.m.

Present: Mayor Racquel Vasquez, Mayor Pro Tem Jerry Jones, Councilmember Jennifer Mendoza (*left at 7:31*), Councilmember David Arambula, and Councilmember Matt Mendoza.

Absent: None.

Staff Members Present:

Lydia Romero, City Manager, James Lough, City Attorney, Mike James, Assistant City Manager/Public Works Director, Mike Chasin, Interim Fire Chief, Lieutenant Scott Amos, San Diego County Sheriff's Office - Lemon Grove Substation, , Shelley Chapel, City Clerk, Molly Brennan, Finance Manager, Roberto Hildago, Human Resource Manager, Daryn Drum, Fire Division Chief and Mike Viglione, Assistant Planner.

Pledge of Allegiance:

Pledge of Allegiance to the Flag was led by Councilmember J. Mendoza.

Public Comments:

Appeared to comment was: John L. Wood

Consent Calendar:

- 1.A. Waive Full Text Reading of All Ordinances on the Agenda.
- 1.B. Ratification of Payment of Demands
- 1.C. City Council Meeting Minutes for the Regular Meeting of October 2, 2018.
- 1.D. Acceptance of Approved Planning Commission Meeting Minutes for the Regular Meeting of June 25, 2018.

Action: Motion by Mayor Pro Tem Jones, seconded by Councilmember Arambula to approve Consent Calendar Items 1.A-1.D. Item 1.E. was pulled by the public and was heard at the end of the agenda.

The motion passed by the following vote:

Ayes: Vasquez, Jones, Arambula, M. Mendoza, J. Mendoza

Absent: None.

Public Hearing:

2. First Reading and Introduction of Ordinance No. 2018-449, to Consider Zoning Amendment ZA1—800-0002 Separation Findings for Discretionary Permits.

City Manager Romero introduced Assistant Planner Mike Viglione who also introduced Claudia Tedford, CityPlace Planning Consultant who together presented the staff report and PowerPoint Presentation.

Mayor Vasquez opened the Public Hearing at 6:29 p.m.

During the discussion Councilmembers expressed concern about language in the Code regarding “pending” applications for Conditional Use Permits and 1000’ foot rule.

Councilmembers were concerned with mailings to property owners and tenants to ensure everyone is noticed of projects.

City Manager Romero, Development Services Staff, Consultant and City Attorney Lough provided the Council with response to questions.

No Public Comment.

Action: The public hearing was closed at 6:30 p.m. on a motion by Mayor Pro Tem Jones and second by Councilmember M. Mendoza. The motion passed by the following vote:

Ayes: Vasquez, J. Mendoza, Arambula, Jones, M. Mendoza

Noes: None

Action: Motion by Mayor Pro Tem Jones and second by Councilmember M. Mendoza. The motion passed to refer this item back to the Planning Commission with comments from the City Council, with direction that the Planning Commission must complete their review of this item within 60 days and return this item to the City Council. Included in the agenda item for Planning Commission will be the review of the issuance of Conditional Use Permits (CUP) for protected uses and determination on how they should be handled by the following vote:

Ayes: Vasquez, J. Mendoza, Arambula, Jones, M. Mendoza

Noes: None

3. Lemon Grove Avenue Realignment Project

The City Council will approve the project budget and time extension for the Lemon Grove Avenue Realignment Project.

City Manager Lydia Romero introduced Assistant City Manager/Public Works Director Mike James who presented the staff report. Mr. James also introduced Scott Adamson, Project Manager with IEC and City Engineer Edgar Camerino. Mr. James clarified amended agenda report was provided to Council with clerical changes to Fiscal Impact of the report only, the Resolution was correct.

Molly Brennan, Finance Manager provided an update on the status of the General Fund to pay for the additional costs associated with the shortfall.

Councilmembers were concerned with the delays of SDG&E work still needed regarding undergrounding the overhead lines, and removal of electric poles. Included in the discussion was the concern regarding the shortfall in financing of the project.

Appeared to comment was: John L. Wood

Action: It was moved by J. Mendoza and seconded by Councilmember Arambula to adopt Resolution No. 2018-3614 entitled, "A Resolution of the City Council of the City of Lemon Grove, California Approving the Project Budget for the Lemon Grove Avenue Realignment Project."

The motion passed by the following vote:

Ayes: Vasquez, J. Mendoza, Arambula, Jones, M. Mendoza

Noes: None

Item pulled by a member of the public

1.E. Resolution Approving a Sixth Amendment to the Option Agreement between the City of Lemon Grove and the San Diego Land Trust for 8084 Lemon Grove Way.

Appeared to speak was: John L. Wood

City Manager Lydia Romero, and Assistant Planner Mike Viglione provided an overview of the request for approval of the Sixth Amendment.

Action: It was moved by J. Mendoza and seconded by Mayor Pro Tem Jones to adopt Resolution No. 2018-3613 entitled, "A Resolution of the City Council of the City of Lemon Grove, California, approving the Sixth Amendment to an Option Agreement with the San Diego Community Land Trust for the Parcel Identified as 8084 Lemon Grove Way (APN 475-450-19-00)."

The motion passed by the following vote:

Ayes: Vasquez, J. Mendoza, Arambula, Jones, M. Mendoza

Noes: None

City Council Oral Comments & Reports on Meetings Attended At City Expense: (G.C. 53232.3(d))

Councilmember J. Mendoza attended the following meetings and events:

Lemon Grove Historical Annual Tea with Lemon Grove School District

Dr. Weber's Salute to Hispanic and Filipino Leaders

SANDAG Transportation Meeting

SANDAG Board Meeting

Annual Open House and Pancake Breakfast at the Lemon Grove Fire Department

Lecture at Library by Lemon Grove Author

J. Mendoza left the meeting at 7:31 p.m.

Councilmember Arambula attended the following meetings and events:

SANDAG Transportation Meeting

San Diego Night's County event

Heartland Fire Training Authority Commission Meeting

MTS Board Meeting

Mayor Pro Tem Jones attended the following meetings and events:
Attended the opening of the Lemon Grove Realignment Project.

Mayor Vasquez attended the following meetings and events:
Lemon Grove School Board Meeting presented Certificate of Recognition for 125th Anniversary
East County Mayors Meeting

Mayor Vasquez reminded the public of the upcoming Special Meeting regarding Budget.

City Manager and Department Director Reports: (Non-Action Items)

Interim Fire Chief Chasen reported the success of the Open House and Pancake Breakfast and reported a fire incident at 7100 block of San Miguel home fire.

Lieutenant Amos reported the success of Coffee with the Community at Anna's Restaurant.

City Clerk Chapel reminder Monday, October 22 is the last day to register to vote for the November 6 General Election.

Closed Session:

1. Conference with Legal Counsel – Anticipated Litigation
Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of G. C. Section 54956.9 (two cases)
2. Conference with Legal Counsel – Existing Litigation (G.C. § 54956.9 (1d))
Christopher Williams vs. David Arambula, City of Lemon Grove, et. al.
San Diego Superior Court - Case number 37-2018-00023369-CU-PO-CTL

City Attorney James Lough announced the City Council will be adjourning to closed session at 7:39 p.m. for the purposes above.

City Attorney Lough reported no reportable action on items discussed in Closed Session.

Adjournment:

There being no further business to come before the Council, the meeting was adjourned at 8:18 p.m. to a meeting to be held Tuesday, October 23, 2018, in the Lemon Grove Community Center located at 3146 School Lane, for a Special Budget Meeting.

Shelley Chapel, MMC
City Clerk

**MINUTES OF A MEETING OF
THE LEMON GROVE CITY COUNCIL
TUESDAY, NOVEMBER 6, 2018**

*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:

Mayor Vasquez called the Regular Meeting to order at 6:04 p.m.

Present: Mayor Racquel Vasquez, Councilmember Jennifer Mendoza, Councilmember David Arambula, and Councilmember Matt Mendoza.

Absent: Mayor Pro Tem Jerry Jones

Staff Members Present:

Lydia Romero, City Manager, James Lough, City Attorney, Mike James, Assistant City Manager/Public Works Director, Daryn Drum, Fire Division Chief, Lieutenant Scott Amos, San Diego County Sheriff's Office - Lemon Grove Substation, , Shelley Chapel, City Clerk, Roberto Hidalgo, Human Resources Manager, and Molly Brennan, Finance Manager, and Miranda Evans, Management Analyst.

Pledge of Allegiance:

Pledge of Allegiance to the Flag was led by Councilmember M. Mendoza.

Presentations:

- Mayor Vasquez introduced Girl Scout Troop 6786 and Troop Leader Courtney Cuellar and presented a Proclamation of Recognition for the Pillars Project.
- Mayor Vasquez introduced Miranda Evans Management Analyst with the City Manager's Office who gave an overview of the redesign of the City Website.

Public Comments:

Appeared to comment were: John L. Wood and Brenda Hammond.

Consent Calendar:

- A. Waive Full Text Reading of All Ordinances on the Agenda.
- B. Ratification of Payment of Demands
- C. City Council Meeting Minutes for the Special Meeting of October 23, 2018
- D. Acceptance of the Planning Commission Meeting Minutes for the Regular Meeting of September 24, 2018.
- E. Adoption of Resolution No. 2018-3615 approving a Professional Services Agreement with Rick Engineering Company to update the Citywide Drainage Master Plan.
- F. Adoption of Resolution No. 2018-3616 approving an Amendment to the Professional Services Agreement with Horton, Oberreht, Kirkpatrick, and Martha.
- G. Adoption of Resolution No. 2018-3617 to Declare a Shelter Crisis

Action: Motion by Councilmember J. Mendoza, seconded by Councilmember M. Mendoza to approve Consent Calendar Items 1.A, and 1.B, approved 4-0, with Mayor Pro Tem Jones absent and item 1.F approved 3-1, with Councilmember Arambula abstaining, and Councilmember Jones absent.

The motion passed by the following vote:

Ayes: Vasquez, J. Mendoza, M. Mendoza

Absent: Jones

Abstained: Arambula (Item 1.F)

Consent Items pulled by a member of the public for comment:

- C. City Council Meeting Minutes for the Special Meeting of October 23, 2018
- D. Acceptance of the Planning Commission Meeting Minutes for the Regular Meeting of September 24, 2018.
- E. Adoption of Resolution No. 2018-3615 approving a Professional Services Agreement with Rick Engineering Company to update the Citywide Drainage Master Plan.
- G. Adoption of Resolution No. 2018-3617 to Declare a Shelter Crisis

Appeared to comment were: John L. Wood and Chris Williams.

Staff responded to comments as requested by Mayor Vasquez.

Action: Motion by Councilmember J. Mendoza, seconded by Councilmember M. Mendoza to approve Consent Calendar Items C, D, E and G.

The motion passed by the following vote:

Ayes: Vasquez, Arambula, J. Mendoza, M. Mendoza

Absent: Jones

City Council Oral Comments & Reports on Meetings Attended At City Expense: (G.C. 53232.3(d))

Councilmember J. Mendoza attended the following meetings and events:

- Mexican American Business Association Lunch
- SANDAG Energy Working Group Meeting
- SANDAG Board Meeting on behalf of the Mayor
- Media Event to showcase the new Park Signs
- Salute to the Navy Luncheon the National City Chamber of Commerce on behalf of the Mayor
- San Miguel Pre-School Fall Festival
- Kids Care Fest
- Announced the Annual Chili Cook-Off hosted by the Lemon Grove Soroptimist Club and Lemon Grove Lions Club

Councilmember M. Mendoza attended the following meetings and events:

- Vista Prayer Breakfast

Mayor Vasquez attended the following meetings and events:

- Budget Workshop for the City of Lemon Grove

City Manager and Department Director Reports: (Non-Action Items)

City Attorney Lough announced the passing of John Whitt San Diego City Attorney for 32 years and observed a brief moment of silence in memory.

Closed Session:

1. LIABILITY CLAIM
Government Code Section 54956.95
Claimant: Gloria Smith
Agency Claimed Against: City of Lemon Grove

2. PUBLIC EMPLOYEE EMPLOYMENT

Government Code Section 54957

Position to be filled: City Attorney

City Attorney James Lough announced the City Council will be adjourning to closed session at 6:59 p.m. for the purposes above.

City Attorney Lough reported no reportable action on items discussed in Closed Session.

Adjournment:

There being no further business to come before the Council, the meeting was adjourned at 7:43 p.m. to a meeting to be held Tuesday, November 20, 2018, in the Lemon Grove Community Center located at 3146 School Lane, for a Regular Meeting.

Shelley Chapel, MMC
City Clerk

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.D
Mtg. Date November 20, 2018
Dept. Public Works

Item Title: Rejection of Claim

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Recommendation:

[That the City Council rejects a claim submitted by Gloria Smith.]

Item Summary:

[On October 15, 2018, the City of Lemon Grove received a timely submitted claim from Gloria Smith. After investigating the claim, staff recommends that the City Council rejects the claim.]

Fiscal Impact:

[None.]

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

None.

LEMON GROVE CITY COUNCIL AGENDA ITEM SUMMARY

Item No. 1.E

Meeting Date: November 20, 2018

Submitted to: Honorable Mayor and Members of the City Council

Department: City Manager's Office

Staff Contact: Shelley Chapel, City Clerk

Schapel@lemongrove.ca.gov

Item Title: Update the City of Lemon Grove "Working with Public Records Request" Policy

Recommended Action: Rescind Resolution No. 2608, and Adopt Resolution Approving the updated City of Lemon Grove "Working with Public Records Request" Policy.

Summary:

March 21, 2006, the City Council adopted a Public Records Request Policy that works in conjunction with the State of California Public Records Act (The Act). The Act enacted in 1968 is a key part of the philosophy that government in the State must be open and accessible to all.

The people have the right of access to information concerning the conduct of the people's business, and, therefore the meetings of the public bodies and the writings of public officials and agencies shall be open to public scrutiny. Cal. Const. Article 1, Section 3 (b).

In enacting this chapter, the Legislature, mindful of the right of individuals privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. Cal Government Code Section 6250.

The Act, provides that public records shall be open for inspection during regular office hours of the agency and that agency has the responsibility to provide copies of "identifiable public records." When a copy of a record is requested, the agency shall determine within ten (10) days whether to comply with the request, and shall promptly inform the requestor of its decision and the reasons therefor.

If records are not readily available the agency has an initial ten (10)-day period to make a determination which may be extended for up to fourteen (14) days. If immediate

disclosure is not possible, the agency must provide the records within a reasonable period of time, along with an estimate of that date that the records will be available. The City is not required to actually produce the disclosable records within the 10-24 days, they are produced within the reasonable amount of time, and “reasonable” is often tied to the complexity of the effort to gather the records, withholding and/or redacting etc. If a request is denied, it must be denied in writing.

Special circumstances may provide discretionary exemptions which may utilize a basis for withholding records from disclosure. These exemptions must be provided to the requestor at the time denial is presented or reasons the records or information were withheld.

Discussion:

The City of Lemon Grove has a strong commitment to efficient and accurate responses to public records requests. The average response time to a public records request is 6-10 days. The annual average of public records requests received within the City is 250.

The update of this policy is to reflect any changes in the law, fees and/or procedural changes. It is the policy of the City to recover the cost of producing records to the extent allowed by law in response to Public Records Requests.

The City of Lemon Grove is dedicated to providing more documents on the City website to create greater transparency through which the public can access documents on their own time. This is an ongoing effort and considered a priority for the City Clerk when time allows.

Environmental Review:

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

Fiscal Impact: None.

Public Notification: None.

Attachments:

Attachment A – Resolution rescinding Resolution No. 2608, and adopting the updated City of Lemon Grove "Working with Public Records Request" Policy.

Attachment B – Redline Policy adopted March 21, 2006

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA, ADOPTING THE “WORKING WITH PUBLIC RECORDS REQUEST” POLICY AND RESCINDING RESOLUTION NO. 2608

WHEREAS, March 21, 2006, the City Council of the City of Lemon Grove approved the “Working with Public Records Request” policy.

WHEREAS, California Public Records Act (the Act) was enacted in 1968, to: (1) safeguard the accountability of government to the public; (2) promote maximum disclosure of the conduct of governmental operations; and (3) explicitly acknowledge the principle that secrecy is antithetical to a democratic system of “government of the people, by the people, and for the people.”

WHEREAS, the Act expressly provides that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.”

WHEREAS, responding to Public Records Requests promptly and with quality are the key goals of the “Working with Public Records Request” Policy; and,

WHEREAS, the purpose of the “Working with Public Records Request” Policy is to outline the legal requirements for a request, identify the time requirements for the request, provide guidelines for processing public records requests, assist in determining when a record is exempt from public disclosure, the process the City will use to provide the service and describe what costs may be incurred by the requestor; and,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California, hereby approves the “Working with Public Records Request” Policy and rescinds Resolution No. 2608.

PASSED AND ADOPTED on _____, 2018, the City Council of the City of Lemon Grove, California, adopted Resolution No. _____, passed by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Raquel Vasquez, Mayor

Attest:

Shelley Chapel, MMC, City Clerk

Approved as to Form:

James Lough, City Attorney



REDLINE VERSION

City of Lemon Grove

Working with Public Records Request Policy

- California Government Code, Section 6250 - *In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.*
- California Government Code, Section 6251- *This chapter shall be known and may be cited as the California Public Records Act.*
- California Government Code, Section 6253 (a) - *Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.*

The Purpose:

The purpose of the Policy is to assure that a Public Records Request is responded to promptly and with quality customer service. ~~In responding to public requests for records, the City not only relies on the California Public Records Act, but also a strong commitment to efficient and accurate service.~~

It is the policy of the City to comply with the California Public Records Act and the Government Code, by providing a balance of public interests in transparency, privacy, and effective government. ~~and will provide the following assistance to members of the public so they may make an effective request by:~~

- ~~Helping the members of the public to identify records and information that are responsive to the request,~~
- ~~Describing the information technology and physical location in which the records exist.~~
- ~~Providing suggestions for overcoming any practical basis for denying access to the records or information sought.~~

Determination of Disclosure:

If the determination is exemption a response explaining that exemption will be provided to the requestor.

Public records that are exempt from disclosure need not be available for review or reproduced.

~~The following are excerpts from California Government Code 6254 regarding exempt records.~~

Public records that are exempt from disclosure will not be produced which includes but is not limited to:

- ❖ Preliminary drafts, notes or interdepartmental or intra-agency memoranda which are not retained in the ordinary course of business. Provided that the public interest in withholding such record clearly outweighs the public interest in disclosure.
- ❖ Records pertaining to litigation to which the City is named.
- ❖ Files that contain personnel or medical records
- ❖ Records related to applications filed with any state agency responsible for the regulation or supervision of securities or financial institutions.
- ❖ Geological or geophysical data relating to utilities.
- ❖ Certain police records – these records are requested directly from the San Diego County Sheriff's Office.
- ❖ Test questions, scoring keys and other examination data used in employee hiring.
- ❖ The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.
- ❖ Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.
- ❖ Library circulation records.
- ❖ **Attorney-Client memos or emails are confidential, even if the City is the client.**
- ❖ **Trade Secrets or Proprietary information, plans, or specifications submitted to the City by licensed design professionals, such as architects, engineers etc.**
- ❖ **Other unique exemptions contained in The Act are listed in Government Code 6254 and further defined through applicable case law.**

The following are not public records and are exempt from disclosure:

- ❖ City initiatives, referendum and recall petitions
- ❖ Computer software developed by a City department, such as a computer mapping systems, computer programs, and computer graphics systems.
- ❖ Archaeological Sites and Official Building Plans
- ❖ **Campaign Nomination Papers**
- ❖ **Electronic copies provided that may compromise the security or integrity of the original record or any proprietary software in which it is maintained.**

Refer to **this** Government Code Section 6254 and applicable case law for the complete list of exemptions.

The City is not required to create a record when a request is made. For example a requestor may ask for a list of the address of all City Businesses. If a list does not exist staff is not required to create a list. However, if there are records in the City's possession that contain the requested information (such as a map that marks each location), the record must be provided.

A request for record is not a question or series of questions posed to local agency officials or employees. The requestor must make an attempt to identify specific documents that would provide a response to questions. The Act creates no duty to answer written or oral questions submitted by members of the public. A staff member may direct a member of the public to the City website if the response or responding document is easily available.

Time Requirements for Response to a Request:

The Public Records Act allows for the time it may take to determine whether a **responding record is available and if said** record should be disclosed. ~~Department Directors or their designee must determine whether a record should be disclosed and respond to the requestor within ten calendar days after the request has been received.~~ **The requestor will receive written notice from staff notifying them of the status of the request.** In addition, the notice shall state the estimated date and time when the records will be made available.

Request for Extension of Time

In unusual circumstances, the ten (10) day time limit may be extended by written notice by the City Clerk or his or her designee to the person making the request, explaining the reasons for the extension and the date of the determination of disclosure.

No notice shall specify a date that would result in an extension for more than **fourteen** (14) days. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

- 1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
- (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

If the request is voluminous, or overly vague the agency has the option to ask the requestor to narrow the request. The Agency may also ask the requestor to consent to a later responsive deadline, and/or consent to providing responsive records on a "rolling basis" (as the records are located/redacted/prepared) rather than one complete package. The agency is not required to perform a "needle in the haystack" search to locate records nor is it required to undergo a search that will produce a "huge volume" of material in response to a request. The burden on the agency must be substantial enough to withhold the requested records on the basis that the public interest in nondisclosure clearly outweighs the public interest in disclosure.

Procedure:

City staff will provide the requestor with a receipt of request in writing. The receipt will acknowledge receipt of the email and of the ten (10) day notice.

Requests will be accepted during the days and hours that the City Hall is regularly open for business. If the email was received by email or otherwise after business hours or on a weekend or holiday, the next business day may be considered the first date of receipt. If the tenth (10) day falls on a weekend or holiday, the next business day is considered the deadline for responding to the request.

Records Duplication Costs:

It is the policy of the City to recover the cost of reproducing records to the extent allowed by State law. The City is allowed to recover only the direct and actual cost of duplication. ~~The “Fees for Public Records Act Duplication” provides the guideline in cost recovery.~~

Fees shall be in accordance with the current fee schedule adopted with the current City Budget.

The only exception is for Fair Political Practices Commission (FPPC) forms/filings which include Forms 510, 460, 470, 700, 802 etc. and are required to be provided as soon as possible, and in no event later than the second business day following receipt of the request. The regulated charge is \$.10 per page. In addition, an agency may charge a \$5.00 retrieval fee for copies of Campaign Statements (Forms 460/470) that are five (5) years or older. (Government Code 81000 et seq)

As a courtesy per the Act, the City may provide 20 free pages in the following cases:

~~The City may provide up to twenty free copies in the following cases:~~

- Any governmental agency or any public officer in his or her official capacity.
- Any person engaged in the performance of work at the City’s request where such copies of records are required to perform work.
- Bona fide students or teachers engaged in research projects
- Most of the City’s promotional materials.

Duplication of Non-Paper Records:

The format in which a record will be produced is the format stored: e.g. paper, electronic, etc. Under The Act the City is not required to create a record, therefore, if a document is stored and available in paper format it will not be scanned and emailed to the requestor.

The exception would be if the information is public and within a proprietary software a document could be printed and the requestor would pay a copy fee.

Attachment B

~~If the City receives a request, which constitutes an identifiable public record and not exempt from disclosure that is in an electronic format shall make that information available in an electronic format. The City is not required to reconstruct a record in an electronic format if the City no longer has the record available in an electronic format.~~

~~If the request is for records in other than electronic format, and the information also is in electronic format, the City may inform the requester that the information is available in electronic format. The City is not allowed to make record/information available only in an electronic format.~~

Requestor Reviewing the Records:

When reviewing records in volume the requestor will be placed in a conference room to review with a staff member. The requestor will be the only person allowed in to review the documents at a time.

The use of Cell Phones, Cameras, Laptop Computers, Ipad or other similar devices are prohibited when requestor is inspecting architectural or engineer plans with copyright protection.

Processing the Public Record Request:

For further assistance in ~~proession~~ processing the request, follow the steps using the “Public Records Checklist.”

FEES FOR PUBLIC RECORDS ACT DUPLICATION

PHOTOCOPIES (Govt. Code Section 6253(b)):

8 ½ x 11 Paper

Number of Pages _____ X \$0.10/per page \$ _____

Color Copies _____ x \$1.00/per page \$ _____

OVERSIZE COPIES:

8 ½ x 14 Paper

Number of Pages _____ X \$0.25/per page \$ _____

11 x 17 Paper

Number of Pages _____ X \$0.50/per page \$ _____

AUDIO TAPES:

Number of Tapes _____ X \$3.00 each \$ _____

ELECTRONIC RECORDS :

Number of CDs _____ X \$3.00 each \$ _____

CAMPAIGN STATEMENTS (Govt. Code Section 81009):

Number of Pages _____ X .10 cents each \$ _____

TOTAL: \$ _____

PUBLIC RECORDS ACT CHECKLIST

- Date stamp the request **on the date received**.
- Determine the initial due date. Count ten (10) calendar days beginning with the day received as day one.
Exception: Form 700 – Statement of Economic Interests/ **FPPC Forms- Campaign Filings provide immediately or** commencing as soon as practicable, but in any event not later than the second business day following the day on which it was received.
- Forward Request to the City Clerk to log.**
- City Clerk will identify** what is being requested.
 - Requesting access or copies?
 - Too broad? Too numerous? Too vague? **Call Email citizen requestor** to narrow request.
 - Are the records exempt to the Public Records Act?
 - Do I need to Is a request for** a fourteen (14) day extension of the ten (10) day deadline **needed?**
 - Contact the City Attorney for additional information.
- Determine **what** department(s) **holds the of** record(s).
- ~~If more than one department is involved, immediately forward the original Public Records Act Request to the City Clerk's Office to coordinate document retrieval and/or duplication.~~**
- Retrieve the records held by your **department office**.
- Determine the number of records.
- Determine cost of records, if requesting copies. (See **current Fee Schedule**) **~~Fees for Public Records Act Reproduction~~**
- Send out **~~standard Public Records Act form letter~~ Standard Receipt of Request email** within first day or two of receiving request.
- Within ten days of receipt of request **a response should be sent responding to requestor that the City is in possession of records responding to the request or that there are no records responding. If an extension is required that can be discussed at this time. In addition if exemptions are being made they will be mentioned in this response if known at the time. unless the City Clerk's Office is coordinating the retrieval.**



When response is received from requestor, do one of the following:

- O If ~~citizen~~ requestor is requesting ~~to~~ only to review documents, schedule a time for the ~~citizen~~ requestor to come in to review; (If Voluminous amount of records to review; schedule a conference room and staff member to remain in the room during review.)
- O Arrange for copying. ~~Call citizen~~ Email requestor when documents are copied and available for pickup, or mail if requested and paid for.
- O If request if voluminous a deposit may be requested prior to making copies.
- O Save all responding documents, correspondence, and emails to the PRA Folder under the requestor's name. Retention of these records will be according to the City Records Retention Policy.

**LEMON GROVE SANITATION DISTRICT BOARD
AGENDA ITEM SUMMARY**

Item No. 1.F
Mtg. Date November 20, 2018
Dept. Finance

Item Title: Contract Award – Indirect Cost Allocation Plan

Staff Contact: Molly Brennan, Finance Manager

Recommendation:

Adopt a resolution (**Attachment B**) awarding a contract for an Indirect Cost Allocation Plan.

Item Summary:

On September 18, 2018 the Sanitation Board authorized release of a Request for Proposal (RFP) to identify a qualified consulting firm that could complete an indirect cost allocation plan for the Lemon Grove Sanitation District.

On October 22, 2018, three proposals were received from qualified firms. Staff recommends awarding a contract for an indirect cost allocation plan to Matrix Consulting Group (Contract No. 2018-__).

Fiscal Impact:

A cost allocation plan will cost \$14,000, which staff was directed to include in the mid-year FY 18/19 budget revision from the Sanitation District, fund 15.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution, Indirect Cost Allocation Contract

Attachment A

LEMON GROVE SANITATION DISTRICT BOARD STAFF REPORT

Item No. 1.F

Mtg. Date November 20, 2018

Item Title: **Contract Award – Indirect Cost Allocation Plan**

Staff Contact: Molly Brennan, Finance Manager

Background:

In October 2017, a consulting firm conducted a study of the Sanitation District staffing cost distributions, resulting in a report on an updated distribution for staffing costs between the funds. However, the study did not include any indirect and overhead costs and specifically notes, "This analysis is not a fully calculated cost allocation plan." The intent of the contract is to fill the gap in the prior study by calculating the overhead and indirect cost allocation, which in combination with the prior study will create a fully calculated cost allocation plan.

During the FY 2018-2019 budget process, the gap in the prior cost allocation study was identified and staff was directed to prepare an RFP for a new study and to include the cost in the Mid-Year Budget Amendment. A professional cost allocation plan will provide Lemon Grove with a clear and defensible procedure for sharing indirect overhead expenses between the Sanitation District and the City's other funds.

Discussion:

Staff advertised the RFP for indirect cost allocation services after Board authorized release on September 18, 2018 and three proposals were received on or prior to the bid opening date of October 22, 2018.

In the RFP, the project scope was identified as:

- 1) Work with City staff to define the purpose, uses, and goals for an Overhead Indirect Cost Allocation Plan, ensuring that the development of the plan will be both accurate and appropriate for the Sanitation District's current needs.
- 2) Meet with various department staff to conduct interviews as needed to gain an understanding of the City's practices and operations.
- 3) Develop an overhead and indirect cost allocation plan that:
 - a. Establishes a defensible cost allocation methodology for specific administrative overhead costs that will properly distribute the costs between the City and Sanitation District
 - b. Allows for additions, revisions, or removal of costs, so the cost allocation plan can be easily adapted to a range of activities both simple and complex
 - c. Provides the ability to continuously update the plan from year to year to accommodate organizational and cost changes
- 4) Assist the Finance Department in presenting the draft cost allocation plan to selected City staff and the Sanitation District Board. It is expected that the comments and concerns will

Attachment A

be collected during the draft presentation phase for inclusion in a final cost allocation plan and model.

- 5) Prepare a final cost allocation plan and provide six (6) bound copies and one (1) unbound; as well as a digital copy of the final plan, including related schedules and cost documentation in excel format so it can be updated by City staff.

All three firms who submitted proposals are qualified finance consultants with expertise and experience in drafting cost allocation plan documents for cities in California. The names of each bidder and the amount of their bids from lowest to highest are:

Name	Project Cost
MGT Consulting Group	\$11,850
Matrix Consulting Group	\$14,000
Maximus Consulting Services, Inc.	\$16,400

Although MGT Consulting Group was the lowest bidder, their proposal did not conform to the entire scope listed in the RFP. The scope specifically asks for a plan that would provide Staff the ability to update the plan from year to year to accommodate organizational and cost changes and to provide final documentation in excel to facilitate those future updates. MGT Consulting Group and Maximus Consulting Services both use proprietary software to calculate cost allocation plans. Access to the software for future updates would be an additional unnamed on-going cost. Final documentation included static PDF or excel reports.

While Matrix Consulting Group is a bit more expensive in the short-term, they were the only firm willing to be completely transparent with the District and Staff about their analytical models and to provide staff the tools necessary to update the plan in the future at no additional cost. Their \$14,000 project price includes providing Staff with their technical models and a four hour training on how to use and update the models.

Due to MGT Consulting Group proposal's lack of essential project scope items, Staff found Matrix Consulting Group to be the lowest responsive and responsible bidder.

Conclusion:

Staff recommends that the Sanitation District Board adopts a resolution (Attachment B) awarding the Indirect Cost Allocation Plan Contract to Matrix Consulting Group (Contract No. 2018-??).

Attachment B

RESOLUTION NO. 2018 - _____

RESOLUTION OF THE LEMON GROVE SANITATION BOARD AWARDING A CONTRACT FOR THE INDIRECT COST ALLOCATION PLAN (CONTRACT NO. 2018-)

WHEREAS, the Lemon Grove Sanitation District Board identified the necessity of an indirect cost allocation plan to accurately share indirect expenses between the Sanitation District and the City's other funds; and

WHEREAS, bids were solicited and three (3) sealed bids were received for the Indirect Cost Allocation Plan (Contract No. 2018-); and

WHEREAS, bids were opened on October 22, 2018 and the lowest responsive and responsible bidder was Matrix Consulting Group; and

WHEREAS, the term of the contract is through April 30, 2019 or project completion, whichever is earlier; and

WHEREAS, the City Council finds it in the public interest that a contract for said services be awarded.

NOW, THEREFORE, BE IT RESOLVED that the Lemon Grove Sanitation District, California hereby:

1. Awards a contract to Matrix Consulting Group in the amount of \$14,000.00, and
2. Authorizes the District Director or designee to execute said contract (**Exhibit 1**).

/////

/////

Attachment B

**AGREEMENT
BY AND BETWEEN
THE LEMON GROVE SANITATION DISTRICT
AND
MATRIX CONSULTING GROUP**

THIS AGREEMENT is entered into this 20th day of November, 2018, by and between the LEMON GROVE SANITATION DISTRICT, a municipal corporation (the "DISTRICT"), and MATRIX CONSULTING GROUP, a financial services provider (the "CONTRACTOR").

R E C I T A L S

WHEREAS, the DISTRICT desires to employ a CONTRACTOR to provide
An Indirect Cost Allocation Plan.

WHEREAS, the DISTRICT has determined that the CONTRACTOR is a financial services provider and is qualified by experience and ability to perform the services desired by the DISTRICT, and the CONTRACTOR is willing to perform such services.

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

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

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

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

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

The DISTRICT may unilaterally, or upon request from the CONTRACTOR, from time to time reduce or increase the Scope of Services to be performed by the CONTRACTOR under this Agreement. Upon doing so, the DISTRICT and the CONTRACTOR 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, not to exceed a factor of 50% from the base amount.

3. **PROJECT COORDINATION AND SUPERVISION.**

The Finance Manager hereby is designated as the Project Manager for the DISTRICT and will monitor the progress and execution of this Agreement. The CONTRACTOR shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for the CONTRACTOR.

4. **COMPENSATION AND PAYMENT.** The compensation for the CONTRACTOR shall be based on monthly billings covering actual work performed. Billings shall include labor classifications, respective rates, hours worked and also materials, if any. The total cost for all work described in Exhibit "A" shall not exceed Fourteen Thousand Dollars (\$14,000) (the Base amount) without prior written authorization from the City Manager. 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 the DISTRICT.

The CONTRACTOR 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 DISTRICT and for furnishing of copies to the DISTRICT, if requested.

5. **LENGTH OF AGREEMENT.** This agreement is valid until April 30, 2019 or completion of the project scope, whichever is earlier. The CONTRACTOR estimates the project will take twelve (12) weeks from start date until final completion.

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

Contemporaneously with the transfer of documents, the CONTRACTOR hereby assigns to the DISTRICT and CONTRACTOR 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 DISTRICT's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONTRACTOR shall, upon request of the DISTRICT, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

The CONTRACTOR agrees that the DISTRICT may use, reuse, alter, reproduce, modify, assign, transfer, or in any other way, medium or method utilize the CONTRACTOR's

written work product for the DISTRICT's purposes, and the CONTRACTOR 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 DISTRICT of documents, drawings or specifications prepared by the CONTRACTOR shall relieve the CONTRACTOR from liability under Section 14 but only with respect to the effect of the modification or reuse by the DISTRICT, or for any liability to the DISTRICT should the documents be used by the DISTRICT for some project other than what was expressly agreed upon within the Scope of this project, unless otherwise mutually agreed.

7. **INDEPENDENT CONTRACTOR.** 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 CONTRACTOR nor the CONTRACTOR'S employees are employees of the DISTRICT and are not entitled to any of the rights, benefits, or privileges of the DISTRICT'S employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

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

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

9. **COMPLIANCE WITH APPLICABLE LAW.** The CONTRACTOR, 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 LEMON GROVE SANITATION DISTRICT and the CITY OF LEMON GROVE, whether now in force or subsequently enacted. The CONTRACTOR, and each of its subcontractors, 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 CONTRACTOR represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. The CONTRACTOR represents and covenants that the CONTRACTOR 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 CONTRACTOR to practice its profession.

11. **STANDARD OF CARE.**

A. The CONTRACTOR, 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 CONTRACTOR'S trade or profession currently practicing under similar conditions and in similar locations. The CONTRACTOR shall take all special precautions necessary to protect the CONTRACTOR'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 CONTRACTOR warrants to the DISTRICT 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 CONTRACTOR's professional performance or the furnishing of materials or services relating thereto.

C. The CONTRACTOR is responsible for identifying any unique products, treatments, processes or materials whose availability is critical to the success of the project the CONTRACTOR has been retained to perform, within the time requirements of the DISTRICT, or, when no time is specified, then within a commercially reasonable time. Accordingly, unless the CONTRACTOR has notified the DISTRICT otherwise, the CONTRACTOR warrants that all products, materials, processes or treatments identified in the project documents prepared for the DISTRICT are reasonably commercially available. Any failure by the CONTRACTOR to use due diligence under this sub-paragraph will render the CONTRACTOR liable to the DISTRICT for any increased costs that result from the DISTRICT'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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the DISTRICT setting forth the provisions of this non-discrimination clause.

13. **CONFIDENTIAL INFORMATION.** The DISTRICT may from time to time communicate to the CONTRACTOR certain confidential information to enable the CONTRACTOR to effectively perform the services to be provided herein. The CONTRACTOR shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the DISTRICT. The CONTRACTOR 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 CONTRACTOR, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the CONTRACTOR without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to the CONTRACTOR 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.

The CONTRACTOR 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 DISTRICT. In its performance hereunder, the CONTRACTOR 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.

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

14. **INDEMNIFICATION AND HOLD HARMLESS.** The CONTRACTOR agrees to defend, indemnify, and hold harmless the LEMON GROVE SANITATION DISTRICT, its officers and employees, against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out of the CONTRACTOR's negligent performance of this Agreement.

15. **WORKERS' COMPENSATION.** The CONTRACTOR 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 DISTRICT 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 DISTRICT 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 CONTRACTOR under this Agreement.

16. **INSURANCE.** The CONTRACTOR, at its sole cost and expense, shall purchase and maintain, and shall require its subcontractors, 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.

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 CONTRACTOR's employees.

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

F. Said policies, except for the professional liability and worker's compensation policies, shall name the DISTRICT 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 CONTRACTOR 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 DISTRICT.

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 DISTRICT. If the CONTRACTOR does not keep all of such insurance policies in full force and effect at all times during the terms of this Agreement, the DISTRICT 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 costs and expenses of suit, including 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 DISTRICT shall, in addition, be limited to the amount of attorney's fees incurred by the DISTRICT 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 mediation in San Diego, California, in accordance with the Commercial Mediation Rules of the American Arbitration Association (the "AAA") before resorting to arbitration. The costs of mediation shall be borne equally by the parties. Any controversy or claim arising out of, or relating to, this Agreement, or breach thereof, which is not resolved by mediation shall be settled by arbitration in San Diego, California, in accordance with the Commercial Arbitration Rules of the AAA then existing. Any award rendered shall be final and conclusive upon the parties, and a judgment thereon may be entered in any court having jurisdiction over the subject matter of the controversy. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each party shall pay for and bear the costs of its own experts, evidence and attorneys' fees, except that the arbitrator may assess such expenses or any part thereof against a specified party as part of the arbitration award.

19. **TERMINATION.** A. This Agreement may be terminated with or without cause by the DISTRICT. Termination without cause shall be effective only upon 60-day's written notice to the CONTRACTOR. During said 60-day period the CONTRACTOR shall perform all services in accordance with this Agreement.

B. This Agreement may also be terminated immediately by the DISTRICT for cause in the event of a material breach of this Agreement, misrepresentation by the CONTRACTOR in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the DISTRICT.

C. Termination with or without cause shall be effected by delivery of written Notice of Termination to the CONTRACTOR 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 CONTRACTOR, whether paper or electronic, shall immediately become the property of and be delivered to the DISTRICT, and the CONTRACTOR 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 DISTRICT by the CONTRACTOR's breach, if any. Thereafter, ownership of said written material shall vest in the DISTRICT all rights set forth in Section 6.

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

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 DISTRICT: MOLLY BRENNAN, FINANCE MANAGER
 CITY OF LEMON GROVE
 3232 Main Street
 Lemon Grove, CA 91945-1701

To the CONTRACTOR: MATRIX CONSULTING GROUP
 201 San Antonio Circle, Suite 148
 Mountain View, CA 94040

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 CONTRACTOR 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 or the LEMON GROVE SANITATION DISTRICT. The CONTRACTOR also agrees not to specify any product, treatment, process or material for the project in which the CONTRACTOR has a material financial interest, either direct or indirect, without first notifying the DISTRICT of that fact. The CONTRACTOR shall at all times comply with the terms of the Political Reform Act and the National City Conflict of Interest Code. The CONTRACTOR shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the DISTRICT in which the CONTRACTOR has a financial interest as defined in Government Code Section 87103. The CONTRACTOR 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 DISTRICT.

If checked, the CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR shall obtain from the City Clerk.

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

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.

**LEMON GROVE
SANITATION DISTRICT**

MATRIX CONSULTING GROUP

(Corporation – signatures of two corporate officers)

(Partnership – one signature)

(Sole proprietorship – one signature)

By: _____
Lydia Romero
City Manager

By: _____
(Name)

(Title)

APPROVED AS TO FORM:

By: _____
James Lough
City Attorney

By: _____
(Name)

(Title)

EXHIBIT A

Proposal for Overhead and Indirect Cost Allocation Plan

LEMON GROVE SANITATION DISTRICT,
CALIFORNIA

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October 31, 2018

Molly Brennan
Finance Manager
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

Dear Ms. Brennan:

The Matrix Consulting Group is pleased to have this opportunity to submit a revised proposal to conduct an Overhead and Indirect Cost Allocation Plan. This proposal will not only demonstrate our exceptional skills and experience required to meet the City's and District's needs for this study, but also establish the additional value of choosing a firm like the Matrix Consulting Group.

Our firm understands the urgency and importance of ensuring accurate allocation of direct and indirect costs, and is committed to helping our clients create and establish documented and defensible policies and procedures that meet current and future needs. The Matrix Consulting Group stands apart from other firms for the following reasons:

- **Experience in financial service studies:** Our firm and consulting team have extensive experience conducting cost of service studies for California municipalities, with current and recent clients including Santee, Bay Area Air Quality Management District, Central Contra Costa Sanitary District, City of South El Monte, and the City of Perris.
- **On-site presence and accessibility:** The Matrix Consulting Group will help the City reach its goals because we understand its needs, and are committed to serving our clients. This will be facilitated by the location of our Irvine office.
- **Qualified Project Team:** Our proposed project Manager, and project team have received training and certification in relation to best management practices for revenue management and cost allocation services.

The Matrix Consulting Group is prepared to enter into a mutually developed agreement and final scope of work with the Lemon Grove Sanitation District. For questions about this proposal or for contract negotiation please contact me, the firm's President, at rbrady@matrixcg.net, or at the letterhead contact points.

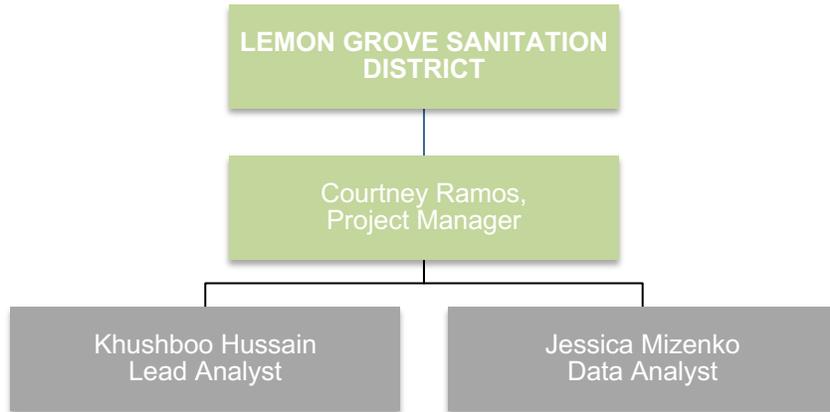
Matrix Consulting Group

Richard Brady, President

201 San Antonio Circle, Suite 148 ■ Mountain View, CA 94040 ■ 650.858.0507 ■ 650.917.2310 fax
SF Bay Area (Headquarters), Boston, Charlotte, Dallas, Irvine, Portland, St. Louis

1 Project Personnel

The proposed project team will be based out of our California offices and are all full-time permanent employees of Matrix Consulting Group. The following organizational chart provides the reporting structure for the proposed project team.



The specific roles of each proposed project team member are outlined below:

- Courtney Ramos:** Financial Services Vice President for the Matrix Consulting Group and will serve as the **Project Manager**. As the project manager, Ms. Ramos will be the primary contact for the project and will provide her expertise by leading interviews, discussing draft reviews, and presenting results.
- Khushboo Hussain:** A Manager with the Matrix Consulting Group and will serve as the **Lead Project Analyst**. Ms. Hussain will participate in interviews and coordinate necessary data collection for the financial analysis, as well as develop customized excel models.
- Jessica Mizenko:** A Consultant with the Matrix Consulting Group, will serve as a **Data Analyst**. Ms. Mizenko will assist with collection and compilation of necessary data, model development, and provide analytical support.

The table on the following page provides abbreviated biographical summaries for the staff who would manage, lead and conduct the project.

Courtney Ramos

Vice President,
Project Manager

Since joining the firm in 2004, Ms. Ramos has managed and assisted with numerous cost allocation plan, user fee, management, operations, and staffing analyses for our California and national clients.

Most recently, Ms. Ramos managed cost of service studies for the following jurisdictions: Downey, Long Beach, Pasadena, San Bernardino County, South El Monte, Suisun, and Winters (CA) as well as the Contra Costa County Sanitary District; Ft. Lauderdale, Kissimmee, and Cape Coral (FL); Asheville, (NC) Austin and Dallas (TX).

In addition to her analytical work on client projects, Ms. Ramos developed the Technical Models used by the Matrix Consulting Group. All of the references included have Ms. Ramos as the Proposed Project Manager.

Ms. Ramos has extensive experience with presentations to stakeholders, Council and Board members, leading interviews, and managing client expectations to ensure that projects are completed in a timely manner. She works closely with clients to ensure that the final product is implementable and provides support even after project termination.

Ms. Ramos is a Government Finance Officers Association (GFOA) Member and has received certification in trainings related to Cost of Service (User Fee Studies) and Cost Allocation Plan (OMB 2 CFR Part 200 Training)

Khushboo Hussain

Manager,
Lead Project
Analyst

Ms. Hussain has been a part of the Matrix Consulting Group for more than five years. While the primary focus of Ms. Hussain’s tenure has been on Financial Services studies including Cost Allocation Plans and User Fee Studies, she is also highly knowledgeable with Management Consulting, specializing in Development Services processes and policies. She leads our new Southern California office.

Most recently, Ms. Hussain has lead or assisted with financial management studies for the following jurisdictions: South El Monte, Livermore, Downey, Vacaville, Fairfield, Long Beach, Elk Grove, Pasadena, San Bernardino County, Suisun, and Winters (CA) as well as the Contra Costa County Sanitary District; Ft. Lauderdale and Kissimmee (FL); Asheville, (NC) Austin and Dallas (TX).

Ms. Hussain has experience leading meetings, reviewing data needs, and understanding the processes, guidelines, and statutory requirements behind fees for service. She will be involved in interviews and identification of potential revenue sources.

Ms. Hussain has received certification in courses from GFOA related to User Fees and Charges – Best Management Practices and Budgeting Best Management Practices.

Jessica Mizenko A Consultant who supports senior staff with cost allocation and user fee studies in Hercules (CA), Pacific Grove (CA), Montebello (CA), Orange (CA), Redwood City (CA), and San Bernardino County (CA).
Consultant,
Data Analyst

Prior to joining the Matrix Consulting Group, Ms. Mizenko worked in Data Analytics for various Silicon Valley firms, which makes her uniquely qualified for reviewing, condensing, and synthesizing data, such as revenue and cost information on a line-by-line basis. Her expertise will be used in this project for reviewing data, conducting comparative surveys, and basic financial analysis.

Each member of our proposed project team has successfully managed or participated in similar studies to the District’s requested scope of work.

2 Discussion of Similar Projects

The Matrix Consulting Group specializes in providing analytical services to local governments to assist them in providing responsive, efficient, and effective services to the public. Our service focus is financial, management, staffing and operations analysis of local government. Our firm’s history and composition are summarized below:

- We were founded in 2002, and incorporated in California.
- Our headquarters are based in Mountain View, California, with a satellite office in Southern California. We also have offices in Oregon, Illinois, North Carolina, Texas, and Massachusetts. We have just incorporated in Canada and have opened an office there.
- Our founders have worked together in this and other consulting organizations as one team for 10 to over 30 years.

Financial services are a core service area for the firm, which we have provided since we were founded. All of our financial services projects are managed and staffed out of our California offices in Mountain View and Irvine.

The market and service focus of the Matrix Consulting Group has always been financial, management, staffing and operations analysis of local government. Our experience includes hundreds of jurisdictions across the U.S. Our clients can provide testimony to our experience in helping public organizations operate effectively, efficiently, and more cost effectively. The following outlines the core services provided by our firm:

Law Enforcement	Community Development
Fire and EMS	Administrative
Emergency Communications	Public Works and Utilities
Corrections and Justice	Fleet Management
Financial Services	Parks, Recreation, and Libraries

No other firm has a better understanding of how public organizations operate, or how to help them thrive.

2 Firm’s Financial Services Experience

Our firm has extensive experience developing Full Cost and OMB compliant Cost Allocation Plans, as well as Indirect Cost Rate Proposals for various municipal organizations across the United States. Weather we are working with large cities, small towns, special districts, or individual departments, our goal is to document and define the services being provided, and accurately allocate costs to all beneficiaries. The following points highlight our experience with developing cost allocation processes and metrics:

- **Administrative Functions:** Our firm has extensive experience in evaluating processes and functions associated with Finance, Human Resources, and Purchasing. From basic tasks and responsibilities to process improvement and oversight controls, our project teams are able to:
 - Identify core service functions, such as payroll, employee benefits, budget preparation, agenda and commission support.
 - Review current data metrics, and work with staff to ensure resulting allocations are appropriate, fair, and equitable.
 - Recognize services that are not in direct support of departments, including business licenses and elections, and ensure they are accurately identified, but not further allocated.

Our project teams understand the core services associated with administrative functions, as well as the time associated with process completion, and are adept at helping staff determine daily, weekly, monthly, or annual time spent on a task. These assumptions form the core basis of a cost allocation plan, and should be defensible not only through documentation, but also by staff.

- **Governmental Functions:** The Matrix Consulting Group has worked with, and been a part of management studies. Additionally, we have extensive experience working with, and presenting to various boards, councils, and subcommittees. Our understanding of the various types of services provided allow our project teams to assess what services are best for allocation, including:
 - Categorizing services and support that benefit an organization, such as contract negotiation, and approval of internal policies.
 - Identifying services that benefit economically, such as lobbying, and economic development, which should not be allocated.

Our team understands how these costs can and should be treated in both a Full Cost Plan and OMB compliant plan, including making staff aware of common practices, as well as aggressive allocation options.

- **Internal Services:** The Matrix Consulting Group has significant experience evaluating services and functions associated with Facilities Maintenance, Fleet Services, and Information Technology. While these services can be part of the general fund or internal services, their allocation is important when trying to understand the indirect costs associated with any Fund, Department, or Program. Our project teams work with these departments to:

- Review existing allocation processes and metrics to ensure compliance with state and federal regulations.
- Determine if newer metrics, or metric alterations could provide more accurate allocations.

Our project team is committed to ensuring that all cost centers being allocated by our clients are in compliance with state and local laws, use fair and equitable allocation metrics, and are documented and defensible.

3 Similar Project Experience

The following table provides a list of previous clients for whom our firm has provided similar scopes of services as requested by the District, including Client name, project description, dates of service, and project status.

Client	Project Type	Project Date	Project Status
Bay Area Air Quality Management District, CA	Full Cost Allocation Plan	FY 13	Complete
	User Fee Study	FY 17	Complete
Central Contra Costa Sanitary District, CA	Development of Overhead Rates	FY 15	Complete
Champaign, IL	Cost Allocation Plan Comprehensive Fee Study	FY 17	Implementation Pending
Cupertino, CA	Cost Allocation Plan Comprehensive Fee Study	FY 15	Complete
Dallas, TX	Full Cost Allocation Plan	FY 16	Complete
	OMB Cost Allocation Plan	FY 17	Complete
	Indirect Cost Rate Proposal	FY 18	Initiation
	Special Event Fees		
Downey, CA	Cost Allocation Plan Citywide Comprehensive Fee Study	FY 17	Complete
Elk Grove, CA	Cost Allocation Plan	FY 16	Complete
		FY 17	Complete
Fairfield, CA	Full Cost Allocation Plan	FY 15	Complete
	OMB Cost Allocation Plan	FY 17	Complete
Fort Lauderdale, FL	Cost Allocation Plan	FY 14	Complete
	IT Cost Allocation Plan	FY 15	Complete
	FXE PILOT Review	FY 16	Complete

Client	Project Type	Project Date	Project Status
Hercules, CA	Full Cost Allocation Plan OMB Cost Allocation Plan	FY 17	Complete
Livermore, CA	Full Cost Allocation Plan OMB Cost Allocation Plan Fully Burdened Hourly Rates Development Services Fee Study	FY 15 FY 19	Complete Initiation
Long Beach, CA	Full Cost Allocation Plan OMB Cost Allocation Plan Departmental Cost Allocation Plans GEMT Cost Reports	FY 12 FY 13 FY 14 FY 15 FY 16 FY 17	Complete Complete Complete Complete Complete Complete
Manhattan Beach, CA	Cost Allocation Plan Comprehensive Fee Study	FY 14 FY 19	Complete Initiation
Maui County, HI	OMB Cost Allocation Plan	FY 13 FY 16	Complete Complete
Miami Beach, FL	Internal Services Cost Allocation Plan	FY 16	Complete
Pacific Grove, CA	Cost Allocation Plan Citywide Comprehensive Fee Study	FY 18	Complete
Port of Long Beach, CA	Overhead Cost Allocation Plan	FY 17	Complete
Redwood City, CA	Cost Allocation Plan Citywide Comprehensive Fee Study	FY 18	Complete
Richland, WA	OMB Cost Allocation Plan	FY 16	Complete
Santa Cruz County Resource Conservation District, CA	OMB Cost Allocation Plan	FY 15 FY 16 FY 17	Complete Complete Complete
South El Monte, CA	Cost Allocation Plan User Fee Study	FY 17	Complete
South Gate, CA	Cost Allocation Plan Comprehensive Fee Study	FY 16	Implementation Pending

Client	Project Type	Project Date	Project Status
Vacaville, CA	Cost Allocation Plan	FY 15	Complete
	Development Services Fee Study	FY 17	Complete
Winters, CA	Cost Allocation Plan Comprehensive Fee Study	FY 16	Complete

The Matrix Consulting Group, as well as our proposed project team has had significant experience working with a wide variety of jurisdictions across the United States. This experience has not only provided insight on how organizations can operate differently while providing similar services, but has also provided valuable awareness of how best to present results to ensure understanding among a variety of stakeholders and interested parties.

3 References

The following table provides relevant project references for five recent clients, for whom similar services were provided, managed and conducted by our proposed Project Manager and project team.

Client	Contact	Description
Downey, CA	Anil Gandhi Finance Director 562-904-7265 agandhy@downeyca.org	Full Cost Allocation Plan Citywide User Fee Study Development Impact Fee Analysis
Manhattan Beach, CA	Steve Charelian Interim Finance Director (310) 802-5555	Full Cost Allocation Plan OMB Compliant Cost Plan Citywide User Fee Study
Port of Long Beach, California	Abigail Hizon Port Financial Analyst (562) 283-7593 Abigail.hizon@polb.com	Indirect Cost Allocation Plan and Fully Burdened Hourly Rates
Garland Power and Light, Texas	Darrell Cline Chief Financial Officer (972) 205-2655 dcline@gpltexas.org	Evaluation of Internal Service Fund Allocation Methodologies

The following points provide further project descriptions for these references:

- Downey:** The Matrix Consulting Group worked with the City of Downey to conduct a Full Cost Allocation Plan, develop an OMB Compliant Cost Allocation Plan, as well as conduct a Comprehensive User Fee Study and a Development Impact Fee Study. As it related to the Development Impact Fee Study, the project team reviewed the City’s existing documentation to determine the nexus for current impact fees. Based upon review of documentation, the project team recommended alternatives to Development Impact Fees to better capture the support associated with those services. The City adopted the fee schedule and results of the study in June 2018.
- Manhattan Beach:** The Matrix Consulting Group updated the City’s Cost Allocation Plan and User Fee study in accordance with best management practices. The project team worked with City staff to refine allocation methodologies and update cost information to ensure that the Cost Allocation Plan provided fair and equitable results to all receiving departments and funds. As part of the User Fee Study, fee structures were streamlined to reflect current services, and indirect costs were incorporated to provide the City with an accurate picture of

the full cost of providing fee related services. The first iteration of these studies was completed in FY 15, with the second iteration of these studies to begin in January of 2019.

- **Port of Long Beach:** The Matrix Consulting Group looked at identifying and allocating indirect costs associated with internal port services, and developing fully burdened hourly rates for each division. The project team worked with Port staff to determine which internal divisions provide support to other divisions, as well as external agencies which benefit from the services provided. A model was developed for the Port to allow for organizational, budgetary, and staffing changes. This model identified indirect costs, and calculated indirect rates for billing purposes.
- **Garland Power & Light:** The Matrix Consulting Group worked with City and Power and Light staff to review allocation metrics and results of the City's cost allocation plan. The review included ensuring that Power and Light was receiving a fair and equitable share of indirect overhead support from the City. The goal of the study was to assess the accuracy of indirect costs being assessed to the Power and Light Fund, to ensure those costs could be passed on to rate payers. The first iteration of this study was completed in 2017, with the second iteration of this study being conducted currently.

We would be pleased to provide reference information for any other study listed as our experience.

4 Scope of Work and Project Strategy

The Lemon Grove Sanitation District is looking to develop an Overhead and Indirect Cost Allocation Plan. This plan will allow the District to accurately account for the full cost of providing services, and identify appropriate indirect costs associated with City departments who provide administrative support.

The following sections provide an overview of our general project approach, quality control, specific task plan, and proposed project schedule.

1 Project Approach

The Matrix Consulting Group works with a wide variety of clients ranging from small towns to major metropolitan cities in over 41 states across the U.S. We have recently incorporated in Canada to take our successful approach to consulting internationally. Every project is unique, and is managed according to the following essential project approaches:

- **Reputation for effective project management:** Our clients value the personal attention, enthusiasm, responsiveness, timely delivery, and expertise provided on their projects. This attention to project management is demonstrated in our work approach, as shown in the detailed work plans provided for each project.
- **Cross-trained project team:** Our project team's background in both financial and management analysis provides them with a unique understanding of the work processes and service level assumptions behind cost and fees for service.
- **Communication with the City / District:** At the onset of the project, a detailed schedule will be developed outlining key deadlines and deliverables, and regular progress reports will be provided to the City / District's Project Manager. We are known for being available to clients and for providing prompt responses to questions or issues.
- **Client staff support:** The Matrix Consulting Group is mindful of the City / District's current workload and our approach is to work with our clients' staff to minimize project impacts through strong project management, clear expectations of our roles versus staff roles, and careful as well as realistic scheduling.
- **Workshop data gathering approach:** The facilitation of data gathering workshops allows the project team to obtain more accurate time and service level data. It also provides staff with the knowledge needed to explain how results were derived and the assumptions behind the analysis.

- **Excel-based analytical models:** Our technical cost plan and user fee models are based in Microsoft Excel, which provides our clients with the ability to adapt and update them from year to year as their organization changes.

These approaches have led to high rates of implementation for all of our project results.

2 Project Management and Quality Control

We believe very strongly in the science of our craft, especially as it relates to cost allocation and cost of service studies. As such, our firm utilizes quality control techniques which include:

- **Project Management:** Ensuring our projects meet the needs and timelines of our clients are accomplished through the following:
 - The project manager and lead analyst develop general and project specific data collection plans and interview guides for all of our staff in each departmental function.
 - All project work activities are defined in advance and tied to each project team member, deliverables, the schedule and the budget.
 - We have frequent client review meetings to discuss the quality and direction of the project through interim deliverables and draft documents.
 - Clear deadlines are identified for both Client staff and project team members and even if there are delays from the Client, the project team does their best to make up any time to ensure the project is continued in a timely manner.
- **Quantitative Results:** Financial analyses are used to develop budgets and projections, and often are subject to public oversight and review. For this reason, our firm ensures data determined quality control through the following:
 - Expenditure and staffing data entered into cost models are tied to published budget or audit reports, unless specifically outlined otherwise.
 - Revenue projections developed using permit / workload information must be within 10% of actual revenue received.
 - Staff allocations must correlate to duty assignments, and not exceed time availability.

The project manager designs and personally reviews all interim and final products before they are delivered to the client. These project management approaches have resulted in all of our projects being delivered at a high level of quality, on time and on budget.

3 Proposed Work Plan

This section of our proposal provides an overview of our proposed work plan. The following tasks include a narrative, associated activities, and project staff time requirements for preparing an Overhead and Indirect Cost Allocation Plan.

Task 1 | Data Collection

Prior to our initial on-site meeting, the Matrix Consulting Group will provide the City / District with a list of initial data requirements for the study. This will allow our project team to review this information thoroughly in preparation for initial discussions with staff. The initial data collection list will include basic requirements such as:

- Line-item expenditure detail of the most recent fiscal year of audited actuals and budgeted expenditures.
- Staffing levels broken out by fund, department, division, program, and activities, and their funding sources, i.e. are positions split-funded between general fund and enterprise funds.
- Previous internal or external Cost Allocation plans.
- Current organizational chart for the City and District.

Collecting this information, prior to our initial meetings with City / District staff, will help the project team intimately familiarize itself with the City’s current processes for Cost Allocation, and identify any items of interest or concern in the expenditures, staffing, or revenue information.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • List of basic data requirements for the Study 	<ul style="list-style-type: none"> • Basic data requirements for the study
<p>Estimated Hours: 1-2 hours for City Auditor-Controller to collect and distribute information</p>	

Task 2 | Study Objectives and Project Schedule

Once the data has been collected, the project team will then meet with designated City / District staff to discuss any issues identified by the project team, as well as to clarify any

existing concerns held by the City or District in regards to the current cost allocation methodology. Discussions will include:

- Review of the City and District’s specific needs and critical issues surrounding development and implementation of the cost allocation plan(s).
- Opportunities for improvement and restructuring of previous plans, and/or review and discussion of existing cost allocation methodologies.
- Discussion of the level of detail required for the plan, including structure (Fund only or Fund, Department, Division, and Program).

At the culmination of the meeting, the project team and the designated City / District staff will leave with a greater understanding of the overall approach and methodology that will be taken by the project team to conduct the Cost Allocation study.

After, the meeting, the project team will put together a detailed schedule showing week by week, the deliverables for both the City / District and the project team.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • On-site initial meeting with Executive staff to review goals, objectives, and project management plans • Week-by-week detailed project schedule including outlining deliverables 	<ul style="list-style-type: none"> • Attendance at kick-off presentation and initial Executive staff meeting • Designate City project management representative

Estimated Hours: 2 hours for the Finance Department, and approximately 30 minutes for each attendee of the kick-off presentation and Executive staff meeting.

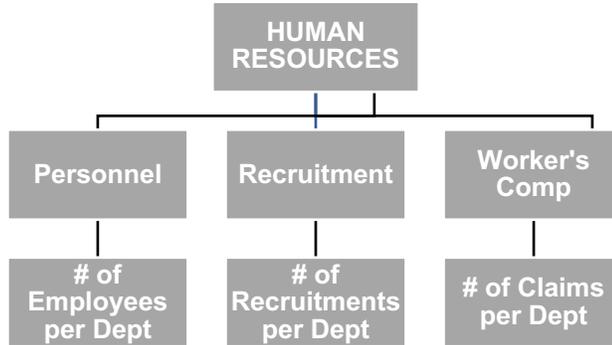
Task 3 | Interview Staff and Gather Data

The project team will work with City / District staff to structure a custom cost allocation plan. Our project team would perform the following tasks:

- Review and discuss the accounting (fund and organizational levels) and staffing structure of the City / District, as well as current budgeted expenditures.
- Identify and meet central services departments to develop allocation bases and ensure that the plan reflects the following aspects:
 - All current services provided by the Department are identified and documented within the Cost Allocation Plan.

- Allocation bases discussed to be utilized are reflective of the current level of effort and most relatable to the service being performed.

The following is a sample flowchart visually representing the outcome of these discussions, the first level is the central services department(s), the second level is the identified service category, and the third level is the basis by which costs will be allocated:



- Discuss alternative allocation methodologies, including possible outcomes and potential impacts of each method upon the City / District.

The points above provide examples of the types of detailed and in-depth discussions that the project team will have with Departments involved in the cost allocation process. Additionally, as the City / District intends to update the plan internally through the use of the technical model, if certain allocation statistics are not available currently, the project team will recommend the initiation of collection of those metrics for future Cost Allocation Plans.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • Staff interviews • Data collection for the structure, functions, costs and allocation bases needed to complete the first draft of the plan 	<ul style="list-style-type: none"> • Attendance at interviews • Provide consultant with data as requested • Review and discussion of consultant’s initial interpretation of the data

Estimated Hours: Approximately 2 to 3 hours for each administrative function in the study.

Task 4 | Structure and Prepare Draft Custom Cost Allocation Model

Based upon units of service identified in Task 3, allowable administrative or other indirect costs are allocated to each benefiting fund, department, division, program, or unit. At this point the project team would begin customizing the Cost Plan model in order to meet the City / District’s specified needs, including:

- Ensuring methodologies and assumptions comply with Federal and State regulations and general accounting principles.
- Customizing cost allocation summary schedules and narratives in a format that will best allow the City to apply them internally.

The draft Cost Allocation Plan will provide clear documentation regarding the basis for allocations, and the methodologies applied to achieve the plan’s final result. The Draft Cost Allocation Plan will be discussed and reviewed with each participating department as well as Executive staff. This review will include provision of a draft narrative explaining each of the central services and their allocation methodology.

As part of the review of the Draft Cost Allocation Plan, the project team will also compare the results from the proposed cost allocation methodology to the current cost allocation methodology. This comparison will be provided in an excel format to help reflect the impact of the changes to the allocation methodology, especially as it relates to recovery of costs for the general fund from non-general fund sources. This type of documentation will make it easier for City and District staff to understand the true impacts of changes in methodologies.

Lastly, the project team would discuss alternative methodologies or recommendations for future updates to the Cost Allocation Plan to refine the Cost Allocation Plan, as necessary.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • Delivery and discussion of the Draft Cost Allocation Plan and comparative schedules • Draft narrative report explaining the analysis • Comparison of current/proposed methodology 	<ul style="list-style-type: none"> • Review the Plan and provide requests for changes or points of discussion to the consultant

Estimated Hours: Approximately 2 hours for each administrative function in the study.

Task 5 | Final Cost Allocation Plan

Based upon the Draft Cost Allocation Plan developed in Task 4, the project team will conduct 1-2 rounds of revision with Departments to ensure that the Cost Allocation Plan is accurate, defensible, reflective of services, and compliant with all State and Federal regulations.

Once Departments and Management have reviewed and approved the Final Draft of the Cost Allocation Plan, the project team will finalize the Cost Allocation Plan.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • 1 – 2 rounds of revisions to finalize the CAP • One (1) unbound, Five (5) bound copies and 1 electronic copy of the Final Plan • Discussion and advice on implementation 	<ul style="list-style-type: none"> • Review and approve final Full Cost Allocation plan

Estimated Hours: Approximately 1 hour for each administrative function in the study.

Task 6 | Present Cost Allocation Plan

Once the Cost Plan has been finalized and delivered to City / District staff, the project team will work with the City / District to present the results of the Cost Allocation Plan to City Council, District Board, and any relevant financial subcommittees. The presentation will include discussion regarding the purpose of the Cost Allocation Plan, uses of the plan, as well as future updates to the Cost Allocation Plan.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • Presentation of Cost Allocation Plan results at up to two (2) City Council and Subcommittee meetings. 	<ul style="list-style-type: none"> • Attendance at City Council, District Board, and Subcommittee meetings

Estimated Hours: Approximately 1 – 2 hour Department staff

Analytical Model and Training

The City / District wishes to have the ability to update the final versions of the Cost Allocation Plans, including the ability to add, revise or remove costs or service types so the studies can be easily adapted to a range of activities.

Our technical models, produced in Microsoft Excel, provide the ability for the City / District to adapt and continuously update the studies from year to year as the organization changes. While the model is structured in Excel, the technical model is *proprietary* and for internal use by City / District staff only. By having our model based in Excel, the requirements for software training, cost of new software products, updates, licensing or other support, would be minimized.

After the final drafts of the cost allocation plans are approved, at the discretion of City and District staff, the project team will meet with and train designated employees on use of the Excel models. Staff will be provided with initial training that includes: a step-by-step PowerPoint presentation; a User’s Manual which explains key concepts and defines basic terms; and a customized updated checklist of data that needs to be entered.

While staff training typically takes about four hours, the Matrix Consulting Group is committed to supporting City and District staff well after project completion, including answering questions and providing model support, at no additional costs.

Project Deliverable – MCG	City / District Services Required
<ul style="list-style-type: none"> • Technical models • Supporting documentation • Four (4) hours of on-site training 	<ul style="list-style-type: none"> • Attend training session with Matrix Consulting Group
Estimated Hours: Training attendance – 4 hours	

4 Proposed Schedule

These types of studies typically take approximately 10-12 weeks (3 months) to complete. The table on the following page outlines the proposed project schedule on a task by task, week-by-week, and deliverable basis.

Task	Deliverable Week / Date	Deliverable / Task
Data Collection	Weeks 1-2	Initial Data Collection List requesting Budget information, Staffing Information, Previous studies
Study Objectives & Schedule	Weeks 1-2	Attendance at kickoff meeting, Proposed Project Schedule
Interview Staff & Gather Data	Weeks 2-6	Attendance at Meetings, Review Allocation Metrics
Draft Cost Allocation Plan	Weeks 4-10	Review Draft Cost Allocation Plan Results
Final Cost Allocation Plan	Weeks 6-10	Final Cost Allocation Plan
Presentation	Weeks 10-12	Presentation of Final Results to City Council

All timelines noted in the table above can be adjusted based upon City and District staff commitments and needs.

With a projected start date of November 19, 2018, the proposed timeline would indicate completion by February / March of 2019. Presentations to the City Council or the District Board for final study results can occur any time after the completion of the Final reports, and do not have to follow the proposed schedule.

5 Insurance

The Matrix Consulting Group carries insurance which meets the requirements of the City of Lemon Grove as well as the Sanitation District. The following page provides a sample insurance certificate detailing our current coverages.

**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

10/3/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER 855-491-0974 USI Insurance Services National, Inc. 8331 Norman Center Dr, Ste 500 Bloomington, MN, 55437	CONTACT NAME: Samuel Vazquez PHONE (A/C, No, Ext): 602-666-4833 E-MAIL ADDRESS: Samuel.Vazquez@usi.com	FAX (A/C, No): 610-537-2283
	INSURER(S) AFFORDING COVERAGE	
INSURED Matrix Consulting Group, Ltd 201 San Antonio Cir Suite 148 Mountain View, CA 94040-1254	INSURER A: Sentinel Insurance Co. Ltd	NAIC # 11000
	INSURER B: Sentinel Insurance Company Ltd.	NAIC # 11000
	INSURER C: Twin City Fire Insurance Company	NAIC # 29459
	INSURER D: Philadelphia Insurance Company	NAIC # 23850
	INSURER E:	
	INSURER F:	

COVERAGES**CERTIFICATE NUMBER:** 13530673**REVISION NUMBER:** See below

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			59SBARO0849	8/8/2018	8/8/2019	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
A	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			59SBARO0849	8/8/2018	8/8/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			59SBARO0849	8/8/2018	8/8/2019	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			59SBARO0849	8/8/2018	8/8/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Prof Liability			59PG0297372	08/08/2018	08/08/2019	\$1,000,000/\$3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is named as additional insured as it relates to general & auto liability & waiver of subrogation is granted as it relates to general and auto liability and workers comp in accordance with the terms and conditions of the policies. Umbrella follows form as it relates to additional insureds. The above coverage is primary and noncontributory where required by written contract.

CERTIFICATE HOLDER

Novato Fire Protection District
 95 Rowland Way
 Novato, CA 94945

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

6 Cost Proposal

The following chart provides a breakdown of project staff hours and costs for each task area to conduct an Overhead and Indirect Cost Allocation Plan:

	PM	Lead	Analyst	Total Cost
Data Collection	0	2	0	\$300
Study Objectives & Project Schedule	2	2	2	\$900
Interview Staff and Gather Data	2	10	10	\$2,900
Draft Full Cost Analysis	4	8	14	\$3,400
Final Full Cost Report	2	4	6	\$1,600
Presentation of CAP Results	4	4	0	\$1,400
Total Hours	14	30	32	
Hourly Rate	\$200	\$150	\$100	
Total Professional Fees	\$2,800	\$4,500	\$3,200	\$10,500
Model & Training				\$2,500
Travel				\$1,000
Total Project Cost				\$14,000

The Matrix Consulting Group proposes to perform the above tasks and services for a fixed-price fee of **\$14,000**. Our typical practice is to bill for hours worked on a monthly basis.

**LEMON GROVE [CITY COUNCIL]
AGENDA ITEM SUMMARY**

Item No. 1.G
Mtg. Date November 20, 2018
Dept. [City Manager]

Item Title: **RESOLUTION AUTHORIZING THE APPOINTMENT OF DEPUTY CITY ATTORNEY KRISTEN STEINKE AS CITY ATTORNEY UNDER THE CURRENT CITY ATTORNEY CONTRACT EFFECTIVE JANUARY 1, 2019**

Staff Contact: [Lydia Romero, City Manager]

Recommendation:

[Adopt Resolution Authorizing the Appointment of Deputy City Attorney Kristen Steinke as City Attorney, Effective January 1, 2019.]

Item Summary:

[This Resolution authorizes Deputy City Attorney Kristen Steinke to be appointed as the Lemon Grove City Attorney as of January 1, 2019, under the current agreement with Lounsbery, Ferguson, Altona & Peak. City Attorney James P. Lough has informed the City Council that he will retire as of December 31, 2018.]

Fiscal Impact:

None.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report.
- B. Resolution Authorizing the Appointment of Kristen Steinke as City Attorney, effective January 1, 2018.

LEMON GROVE [CITY COUNCIL] STAFF REPORT

Item No. 1.G

Mtg. Date November 20, 2018

Item Title: RESOLUTION AUTHORIZING THE APPOINTMENT OF DEPUTY CITY ATTORNEY KRISTEN STEINKE AS CITY ATTORNEY UNDER THE CURRENT CITY ATTORNEY CONTRACT EFFECTIVE JANUARY 1, 2019

Staff Contacts: [Lydia Romero, City Manager]

Background:

James P. Lough has served as City Attorney for the City of Lemon Grove, under the City's Contract with Lounsbery, Ferguson, Altona & Peak ("City Attorney Firm"), since February 2010. Mr. Lough has served as City Attorney since January 1, 2004. The City's contract is with the City Attorney Firm and not any individual attorney.

Mr. Lough has submitted his retirement notice to the City, effective December 31, 2018. Currently, the City has two Deputy City Attorneys from the City Attorney Firm. Deputy City Attorney Kristen Steinke serves as Mr. Lough's backup for advisory matters and covers Planning Commission and City Council meetings. She has been handling many significant matters for the City over the past two years.

Analysis:

The City's contract with the City Attorney Firm has no fixed term. Regardless of who is the appointed City Attorney, the Council can terminate the Agreement at any time. Currently, the City Attorney Firm is either handling the City's litigation or overseeing the firms that are handling litigation matters.

Litigation is delegated to attorneys who specialize in the issues of each case. Among the cases handled by the City Attorney Firm is the Affordable Housing Case, which the City Attorney Firm is also representing seven other cities. Each of those cities pays 1/8th of the hourly rate charged. The City Attorney Firm also handles real estate matters for the City. Criminal prosecutions of the Lemon Grove Municipal Code are handled by the firm with Deputy City Attorney Matthew Starr handling or supervising these cases. Real Estate legal matters are handled by the City Attorney Firm with Michael Wapner playing the primary role. One of the City Attorney's main duties is to coordinate all legal work.

Deputy City Attorney Kristen Steinke currently is handling most of the advisory items as well as City some civil litigation. She has been attending City Council and Planning Commission meetings over the past year. She is familiar with the current legal matters of the City. Mr. Lough has agreed to be a resource to Ms. Steinke and the City Manager after his retirement on an "as needed" without cost to the City.

Environmental Impact:

This Ordinance is not a project as defined under the California Environmental Quality Act. There are no physical changes made to the environment by this Agenda item.

Costs

None.]

Conclusion:

Staff recommends that the City Council approve the attached Resolution (Attachment "B").

ATTACHMENT B

[A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA, APPOINTING KRISTEN STEINKE AS CITY ATTORNEY

WHEREAS, the City Council has accepted the retirement notice of City Attorney James P. Lough, effective December 31, 2018; and

WHEREAS, the City Council desires to appoint Ms. Kristen Steinke as City Attorney, effective January 1, 2019, to ensure continuity of legal services to the City.

NOW THEREFORE, the City Council of the City of Lemon Grove does resolve as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. Ms. Kristen Steinke is hereby appointed as City Attorney, effective on January 1, 2019.

Section 3. The City Council authorizes City Manager Lydia Romero to take all steps necessary to implement this transition under the current contract for City Attorney services with the law firm of Lounsbery, Ferguson, Altona & Peak.

PASSED AND ADOPTED by the City Council of the City of Lemon Grove, State of California, on November 20, 2018 by the following vote:

AYES:

NOES:

ABSENT:

Racquel Vasquez, Mayor

Attest: _____

Shelley Chapel, City Clerk |

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 2
Mtg. Date November 20, 2018
Dept. Development Services Department

Item Title: **Public Hearing to Consider Administrative Appeal No. AA1-800-0006 Regarding the Planning Commission’s Decision to Approve Conditional Use Permit No. CUP-180-0004, a Request to Establish a 2,068 SF Childcare Center with an Outdoor Play Area at 3468 Citrus Street in the General Commercial–Heavy Commercial Zone.**

Staff Contact: Arturo Ortuño, Assistant Planner

Recommendation:

- 1) Conduct the public hearing; and
- 2) Adopt a Resolution (**Attachment B**) denying Administrative Appeal No. AA1-800-0006, upholding the Planning Commission’s decision to approve Conditional Use Permit No. CUP-180-0004, a request to establish a childcare center at 3468 Citrus Street in the General Commercial–Heavy Commercial zone.

Item Summary:

On October 22, 2018, the Planning Commission tentatively approved Conditional Use Permit No. CUP-180-0004. The project is a request to establish a 2,068 sq. ft. childcare center serving up to 32 toddlers and preschoolers with a 1,326 sq. ft. outdoor play area at 3468 Citrus Street in the General Commercial–Heavy Commercial zone on a 0.32-acre parcel. The Conditional Use Permit was intended to become effective on November 1, 2018, (10 days after the date of tentative approval) unless a valid request for a public hearing through the appeal process was filed by the applicant or another interested person(s). On October 31, 2018, two appellants, Gwen Mitchell and Jeanette Baranov, each subsequently filed an appeal and request for public hearing on November 20, 2018.

Fiscal Impact:

No fiscal impact.

Environmental Review:

- | | |
|---|---|
| <input type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input checked="" type="checkbox"/> Categorically Exempt, Section 15301 | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|---|---|--|
| <input type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input checked="" type="checkbox"/> Notice to property owners within 500 ft. |
| <input checked="" type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution of Denial
- C. Vicinity Map
- D. Childcare Tentative Schedule
- E. Childcare Tentative Breakfast/Lunch Menu
- F. Notice of Decision for CUP 180-0004, dated October 24, 2018
- G. Administrative Appeal Form—Appellant Gwen Mitchell (Bishop Mortuary, 3444 Citrus St.)
- H. Administrative Appeal Form—Appellant Jeanette Baranov (3479 & 3495 Citrus St.)
- I. Letter of Support for Appeal, dated October 31, 2018
- J. Site Photographs from Appellant, dated October 31, 2018
- K. Exhibit A—Project Plans

Attachment A

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 2

Mtg. Date November 20, 2018

Item Title: Public Hearing to Consider Administrative Appeal No. AA1-800-0006 Regarding the Decision to Approve Conditional Use Permit No. CUP-180-0004, a Request to Establish a 2,068 SF Childcare Center with an Outdoor Play Area at 3468 Citrus Street in the General Commercial–Heavy Commercial Zone.

Staff Contact: Arturo Ortuño, Assistant Planner

Application Summary:

APPLICANT:	Blanca Brown
APPELLANTS:	Gwen Mitchell and Jeanette Baranov
PROPERTY LOCATION:	3468 Citrus Street, APN: 479-042-32-00. The site is located on the west side of Citrus, between Broadway and North Ave.
PROJECT AREA:	0.32 acres (13,813 square feet)
EXISTING ZONE:	General Commercial (GC)–Heavy Commercial (HC)
GENERAL PLAN LAND USE DESIGNATION:	Retail Commercial within the Special Treatment Area III (Regional Commercial)
SURROUNDING PROPERTIES:	North: GC–HC South: GC–HC East: GC–HC West: GC–HC
ENVIRONMENTAL IMPACT:	The project is Categorically Exempt from the California Environmental Quality Act Section 15301 (Existing Facilities), Class 1. Mitigation measures are not required and no environmental impact is anticipated.

Attachment A

Background

The property at 3468 Citrus Street is a 27,007 sq. ft. (0.62 gross acre) rectangular parcel with an existing two-story 7,739 sq. ft. commercial building, originally developed with 3,781 sq. ft. of warehouse space on the first floor (Suites A through C) and 3,425 sq. ft. of office space on the second floor (Suites D through K). On August 1, 2008, City staff approved a holistic care center (Lemon Grove Holistic Care Center) at the subject property that occupied Suite A. The care center provided services such as hypnotherapy, massage therapy, and acupuncture. The business license for the care center expired on December 31, 2015. The General Commercial zone allows “personal services” that provide a variety of services associated with personal grooming or adornment, health maintenance, or well-being as a permitted use. On December 30, 2010, City staff approved a realty company (Hawkins Realty) to occupy Suite B. The business license for the realty company expired December 31, 2017. Suite C, which located at the rear of the property, adjacent to Suites A and B, is currently vacant.

On July 23, 2018, the applicant, Blanca Brown, submitted an application for a Conditional Use Permit (CUP-180-0004), to establish a 2,068 sq. ft. childcare center serving up to 32 toddlers and preschoolers with a 1,326 sq. ft. outdoor play area located at 3468 Citrus Street in the General Commercial–Heavy Commercial zone in Suites A and B. A childcare center is allowed with an approval of a conditional use permit in the General Commercial zone. The City of Lemon Grove found the application to be complete on September 17, 2018.

The Planning Commission tentatively approved CUP-180-0004 on October 22, 2018. The CUP would have become effective on November 1, 2018 (10 days after the date of tentative approval) if a valid request for a public hearing through the appeal process had not been filed.

In accordance with Lemon Grove Municipal Code (LGMC) Section 17.28.020(I), “Any applicant or other interested person who is dissatisfied with the denial, approval, conditional approval, or other application decision made in the administration of this title may appeal the decision. Decisions made by the development services director are appealed to the Planning Commission. Decisions made by the Planning Commission are appealed to the City Council. Decisions made by the City Council are final. Appeal applications, accompanied by the filing fee, shall be filed within ten days following the date a decision is made, on forms provided by the development services department.”

On October 31, 2018, two appellants each subsequently filed an appeal (Administrative Appeal AA1-800-006) of the Planning Commission’s decision. The appeals were filed within the time frame established by LGMC Section 17.28.020(I). Gwen Mitchell’s appeal (Bishop Mortuary, 3444 Citrus St., next door to the subject property) is provided in **Attachment G**. Jeanette Baranov’s appeal (3479 and 3495 Citrus St., across the street from the subject property), is provided in **Attachment H**.

Discussion

Land Use Analysis

The subject property is located in the General Commercial (GC)–Heavy Commercial (HC) zone that is also within the Special Treatment Area (STA) III overlay. In accordance with the General

Attachment A

Plan, STA III is planned for continued redevelopment with large retail stores. Uses within this STA shall serve both local residents and attract shoppers from adjacent communities. Until new land use regulations are developed to implement the regional commercial policies of the general plan, the use, and change of use, of existing developed properties shall be governed by the regulations of the current underlying zoning. In accordance with the Municipal Code, where conflicts occur between regulations, the more restrictive of any regulations shall apply. The General Commercial zone allows "Day Care Centers" that provide part-time care, for less than 24-hours per day, located in a commercial zone, with an approval of a Conditional Use Permit. The Municipal Code defines a "Day Care Center" as a day care, regardless of size or capacity that is located in a commercial zone or commercial structure.

The proposed land use will convert Suites A and B, a 2,068 sq. ft. space with two (2) existing restrooms located on the first floor, into a childcare center. The childcare center would include:

- Two (2) classrooms (350 sq. ft. and 305 sq. ft.); and
- One (1) 210 sq. ft. toddler room; and
- One (1) office and one (1) kitchen; and
- A 1,326 sq. ft. outdoor play area that includes a sandbox, bike path made up of decomposed granite, raised garden beds, and wood bench seating.

The applicant indicates the mission of the Lemon Grove Childcare Center is to provide a high quality setting to toddlers and preschoolers, where children receive education and care, and provided the following information. The Lemon Grove Childcare Center will use an active learning approach that allows opportunities for practicing social interaction and relationship building skills. The learning environment will aim to encourage children's curiosity and initiative by adults who actively frame their learning in a group setting. All areas of curriculum will support the California Early Learning and Development System. The California Preschool Foundations and Pearson Opening World of Learning (OWL) will be the framework of the curriculum. OWL prepares children for kindergarten through playful purposeful and individualized instructions. OWL also develops language and early literacy skills in the context of research-based content including math, science and social skills. The Director has the responsibility of hiring all teachers and staff with their respective assignments. Teachers shall complete all qualification requirements according to the Childcare Center General Licensing Requirements under Title 22 of the State of California Health and Human Services Agency Department of Social Services, to include, but not limited to, a background clearance, up to date immunizations and proper credentialing by the California Commission on Teacher Credentialing. Enrollment of toddlers and preschoolers shall be in accordance with the guidelines established by the Department of Social Services, Community Care Licensing Division. Enrollment priority shall be on a first come first served basis and second priority given to siblings of the same household. Required documents shall include birth certificate to verify age, current physical, and current immunization record.

The proposed childcare center intends to serve up to 32 toddlers and preschoolers ranging from 18 months to five years of age. Staff will consist of three teachers and one administrator at any given time. Proposed hours of operation will be from 7:00 am to 5:30 am, Monday through Friday (**Attachment D**). Meals will be either prepared off-site by Neighborhood House Association (NHA) or prepared at the on-site kitchen. The menu will be posted in the classrooms for families to view (**Attachment E**). No outside food will be permitted into the center unless authorized by the administration. Outdoor playtime will occur twice a day with a total time of one hour and fifteen

Attachment A

minutes. A proposed fence will secure the 1,326 sq. ft. outdoor play area. City staff shall determine appropriate height and material for the proposed fence.

The appellant’s letter of support for the appeal (**Attachment I**) refers to concerns regarding insufficient on-street parking due to oversized vehicles from nearby businesses parking along Citrus Street and/or occupying on-street spaces for loading purposes. Other concerns include the potential exposure young toddlers and preschoolers may experience from the associated activities from an adjacent mortuary business, and potential exposure to homeless issues and visible drug use activities in the surrounding area.

Conditions of the proposed childcare center will require that child drop-off and pick-up be located within the existing parking area of the subject property. Street parking for child drop-off and pick-up is prohibited. In addition, the childcare center will operate to allow for flexible drop-off and pick-up times to accommodate client’s work schedule. This flexibility will prevent a significant increase of average daily trips to the nearby surrounding at any one time. Lastly, according to the Municipal Code, there is no separation requirements for the proposed land use to any other use, including a mortuary business. Concerns regarding social issues such as homelessness and drug use activities are not included in the code.

Off-Street Parking

The required off-street parking requirements and the parking provided by the project are as follows:

Use	Size	Parking Ratio	Required Parking
Institutional (K-12)	2 classrooms	2 spaces / classroom	4 spaces
Office	3,425 sq. ft.	1 space / 500 sq. ft.	6.85 = 6 spaces
Warehouse	1,713 sq. ft.	1 space / 500 sq. ft.	3.42 = 3 spaces
Total Required:			13
Provided:			19

The proposed project will be using the existing parking layout with the exception of removing one (1) off-street parking space to relocate the existing trash enclosure, for a total of 19 off-street parking spaces, including one (1) ADA accessible parking space. The parking spaces provided exceed the minimum required parking for an existing 7,739 square feet building. Since the building is less than 10,000 square feet, there is no loading space requirement.

Landscape

The required landscape area and the landscape area proposed by the project are as follows:

Landscape Requirements	Required	Provided
Min. 10% Landscape Area	1,381 sq. ft.	± 1,600 sq. ft.

Attachment A

Min. 25% Vegetated Plant Materials	400 sq. ft.	± 1,000 sq. ft.
------------------------------------	-------------	-----------------

Conditions for the proposed project will require that all landscaping be well maintained and adequately watered at all times.

Screening

An existing trash container is currently screened by a solid masonry wall located at the eastern portion of the lot, adjacent to the driveway entrance. Location of the proposed play area resulted in the relocation of the trash enclosure. Relocation of the trash enclosure will result in removing one (1) off-street parking space. Design of the trash enclosure shall be in accordance with Municipal Code Section 17.24.050(M).

Street Improvements

The project is located on the west side of Citrus Street, between Broadway and North Avenue. There is an existing curb, gutter and sidewalk, and all utilities fronting the property are placed underground. Proposed street improvements include four (4) twenty-four inch box street trees, installed at a rate of one tree per thirty linear feet of street frontage along the subject property.

Public Information:

The Notice of Public Hearing for this item was published in the November 8, 2018 edition of the East County Californian and mailed to all property owners within 500 feet of the subject property. The City of Lemon Grove received no comments in response to the Notice of Public Hearing and Environmental Analysis at the time this staff report was prepared. At the time of the public hearing, Staff will provide the City Council with any comments received after the date this Staff report is prepared.

Conclusion:

Staff recommends that the City Council conduct the public hearing and adopt a Resolution **(Attachment B)** denying Administrative Appeal No. AA1-800-0006, upholding the Planning Commission's tentative approval of Conditional Use Permit No. CUP-180-0004, a request to establish a childcare center at 3468 Citrus Street in the General Commercial–Heavy Commercial zone, based on the findings of fact as provided in the Resolution **(Attachment B)**. This public hearing will be considered a *de novo* hearing and decisions shall be based only upon on the evidence presented in this staff report and at the public hearing and shall not be based upon any prior factual findings or legal conclusions.

Attachment B

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE DENYING ADMINISTRATIVE APPEAL AA1-800-0006, UPHOLDING THE PLANNING COMMISSION'S DECISION TO APPROVE CONDITIONAL USE PERMIT NO. CUP-180-0004, A REQUEST TO ESTABLISH A CHILDCARE CENTER WITH AN OUTDOOR PLAY AREA AT 3468 CITRUS STREET, LEMON GROVE, CALIFORNIA.

WHEREAS, the applicant, Blanca Brown, filed an application for a Conditional Use Permit (CUP-180-0004) on July 23, 2018, a request to establish a 2,068 square foot childcare center (Lemon Grove Childcare Center) with a 1,326 square foot outdoor play area located at 3468 Citrus Street, Lemon Grove, California; and

WHEREAS, the proposed land use is allowed as a "Day Care Center" that provides part-time care, for less than twenty-four hours per day, located in a commercial zone, with an approval of a Conditional Use Permit; and

WHEREAS, the proposed childcare center intends to serve up to 32 toddlers and preschoolers ranging from 18 months to five years of age. Childcare staff will consist of three teachers and one administrator at any given time. Proposed hours of operation will be from 7:00 am to 5:30 am, Monday through Friday. Meals will be either prepared off-site by Neighborhood House Association (NHA) or prepared at the on-site kitchen. All areas of curriculum will support the California Early Learning and Development System. The California Preschool Foundations and Pearson Opening World of Learning (OWL) will be the framework of the curriculum; and

WHEREAS, the Planning Commission held a duly noticed public hearing and tentatively approved Conditional Use Permit No. CUP-180-0004 on October 22, 2018. The Conditional Use Permit was intended to become effective on November 1, 2018 (10 days after the date of the tentative approval) unless a valid request for a public hearing through the appeal process was filed by the applicant or another interested person(s); and

WHEREAS, on October 31, 2018 two appellants, Gwen Mitchell and Jeanette Baranov, each subsequently filed an appeal and request for public hearing (Administrative Appeal AA1-800-0006), for City Council consideration on November 20, 2018; and

WHEREAS, the Notice of Public Hearing for this item was published in the November 8, 2018 edition of the East County Californian and mailed to all property owners within 500 feet of the subject property; and

WHEREAS, on November 20, 2018, the City Council held a duly noticed public hearing to consider Administrative Appeal AA1-800-0006, an appeal of the Planning Commission's decision to approve Conditional Use Permit No. CUP-180-0004; and

WHEREAS, the City has found the proposed Conditional Use Permit to be categorically exempt from the environmental review requirements of the California Environmental Quality Act Guidelines (Section 15301, Existing Facilities); and

WHEREAS, the City Council determined that the following findings of fact as required by Lemon Grove Municipal Code (LGMC) Section 17.28.050(C) can be made as follows:

1. The use is compatible with the neighborhood or the community; and
 - a. **The proposed land use is located in the General Commercial–Heavy Commercial zone, which allows "Day Care Centers" with an approval of a Conditional Use**

Attachment B

Permit. The LGMC defines “Day Care Centers” as a day care, regardless of size or capacity that is located in a commercial zone or commercial structure.

2. The use is not detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity; and
 - a. **The proposed use is categorically exempt from environmental impacts and no impacts are anticipated. The proposed childcare center will be required to meet all applicable provisions of the LGMC and conditions of approval.**
3. The use complies with performance standards according to Section 17.24.080; and
 - a. **The proposed use complies or will be made to comply with applicable performance standards according to Section 17.24.080 of the LGMC (specifically noise, glare, traffic circulation and parking, waste, and fire hazards).**
4. The use is consistent with applicable provisions of the particular zoning district and with policies and standards of the general plan.
 - a. **The proposed use complies with the applicable provisions of the LGMC requirements and is consistent with the Retail Commercial land use designation of the General Plan. The proposed childcare center would promote a healthy, family-oriented community through appropriate land use and development decisions; and**

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

SECTION 1. Denies Administrative Approval AA1-800-0006, filed by appellants Gwen Mitchell and Jeanette Baranov, based on the above-findings; and

SECTION 2. Upholds the Planning Commission’s decision to approve Conditional Use Permit No. CUP-180-0004 and the site and architectural plans dated received August 14, 2018 (incorporated herein by reference as Exhibit A), except noted herein. The approval authorizes the establishment of a childcare center with an outdoor play area at 3468 Citrus Street in the General Commercial–Heavy Commercial zone. Except as amended, the approval of this project shall be subject to the following conditions:

- A. Within five days of approval, the applicant shall comply with the following:
 1. Submit the appropriate payment for the CEQA filing fee and County Clerk Processing Fee (Categorical Exemption).
 2. Pay all outstanding fees for City permits related to this project.
- B. A building permit shall be required and obtained for proposed tenant improvements including electrical, plumbing and mechanical improvements. Structures and access shall meet current building and fire code regulations.
 1. Provide a fully dimensioned site plan, floor plan and elevations drawn to scale.
 2. An automatic fire alarm system shall be provided in all buildings used as or containing a Group E Day Care.
 3. Duct and air transfer openings in smoke partitions shall be provided with a smoke damper in Group E Day Care.
 4. Group E Day Care facilities may not be located above the first story in a building that is not constructed of Type I-A, I-B, II-A, II-B and III-A construction.

Attachment B

5. Every enclosed gas-fired water heater or furnace in the child-care area needs to be protected to prevent children from making contact to those appliances. This doesn't apply to kitchen stoves or ovens.
 6. Day care facilities, rooms or spaces where care is provided for more than 10 children that are 2 years or age or less shall have access to not less than two exits or exit access doorways.
 7. Corridors serving more than 10 occupants in Group E day care shall be 1-Hour fire rated walls without sprinkler system.
 8. Corridor width shall not be less than 44 inches.
 9. Separate Occupancies: each space shall comply with the building code based on the occupancy classification of that portion of the building.
 10. Interior decorative material and furnishings shall meet the requirements in the 2016 CA Fire Code, Chapter 8.
 11. Heartland Fire & Rescue at time of plan or permit submission will charge certain fees for plan review and inspections. Fees will be determined at time of plan review and/or inspections.
 12. The construction drawings or changes to the project may require additional conditions not noted in this resolution in which case, applicable codes would apply.
- C. Prior to issuance of a building permit for the use authorized by this Conditional Use Permit, the applicant shall comply with the following:
1. Comply with Conditions A through B of this Resolution.
 2. All physical elements of the proposed project shown on the approved plans dated August 14, 2018, except as noted herein, shall be located, constructed and maintained substantially where they are shown in accordance with applicable Lemon Grove City Codes to the satisfaction of the Development Services Director.
 3. The applicant shall provide occupant load and exiting for each classroom.
 4. Existing bathrooms shall comply with California Building Code (CBC), Chapter 11B.
 5. The applicant shall provide on the plans all special requirements for a E occupancy daycare facility. Safe dispersal area, frontage or clearance at entry (see CBC Section 452).
 6. The applicant shall provide occupancy and appropriate fire separation per CBC Table 508.4 for all adjacent tenant spaces.
 7. The applicant shall provide a letter indicating any hazardous materials to be used or stored on site for the childcare center. This does not include normal business cleaning materials however; they must be in a limited quantity.
 8. The applicant shall clarify whether or not the building is equipped with a fire alarm system and note existing and proposed systems. A licensed contractor (C-10) is required to install or make adjustments to a fire alarm system.
 9. All improvements shall comply with Title 15 including 2016 Building and Fire Codes and ADA accessibility requirements.

Attachment B

- D. Prior to requesting a final inspection and occupancy of the structure, the applicant shall comply with the following:
1. Comply with Conditions A through C of this Resolution.
 2. All physical elements of the proposed project shown on the approved plans dated August 14, 2018, except as noted herein, shall be located, constructed and maintained substantially where they are shown in accordance with applicable Lemon Grove City Codes to the satisfaction of the Development Services Director.
 3. The most recent adopted California Fire Codes and Standards.
 4. A fire inspection is required prior to a certificate of occupancy or business license being issued. The applicant shall ensure the childcare center is set up and ready for operation prior to the fire inspection.
 5. Current standards for parking areas and striping. Damaged paving shall be repaired and maintained in a good condition consistent with LGMC Section 17.24.010. Designated parking spaces are prohibited on-site.
 6. Execute an Encroachment, Maintenance, and Removal Agreement for the street trees and irrigation along the Citrus Street frontage. The City will draft the document. Provide the City with an 8 ½" x 11" exhibit showing and labeling the locations of the trees and irrigation system.
 7. The applicant shall comply with all of the requirements of the appropriate State and County licensing agencies and shall provide the Development Services Department with evidence of said compliance.
 8. Installation. Gates serving multi-family, assembly, educational, hazardous, institutional, or storage structures must be automatic and meet UL 325 and ASTM F 2200 standards. Knox brand key-operated electric key switch keyed to Heartland Fire & Rescue specification are required. The Knox switch shall override all gate functions and open the gate. Other access control systems such as Opticom, siren, etc. shall be permitted with the approval of Heartland Fire & Rescue.
 9. All flammable vegetation shall be removed from each building site with slopes less than 15% at a minimum distance of 30-feet from all structures or to the property line, whichever is less.
 10. Facility shall provide at least one portable fire extinguisher with a 2-A: 10-B: C rating for every 75-feet of travel. Fire extinguisher shall be mounted up to 5-feet from the finished floor and it must be in an accessible area.
 11. An approved Fire Safety and Evacuation Plan is required.
 12. Fire lane designation shall be required for all fire access roadways as determined by Heartland Fire & Rescue. Posted signs which state "FIRE LANE, NO PARKING" shall be installed every 50 feet. Curbs shall be painted red and stenciled with white letters indicating the same on the face and top of any curb as directed by Heartland Fire & Rescue. All fire lanes shall be marked and identified prior to Certificate of Occupancy.
 13. Permanent address shall be posted to meet the minimum requirements: minimum 8 inches in height with one-half inch stroke, visible from the street and have a contrasting background. Additional numbers may be required for visibility.

Attachment B

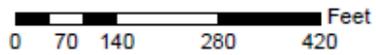
14. Exit signs shall be installed and maintained per the 2016 CA Fire Code, Chapter 10.
- E. Upon establishment of use in reliance with this Conditional Use Permit, the applicant shall comply with the following:
1. Comply with Conditions A through D of this Resolution.
 2. All physical elements of the proposed project shown on the approved plans dated August 16, 2018, except as noted herein, shall be located, constructed and maintained substantially where they are shown in accordance with applicable Lemon Grove City Codes to the satisfaction of the Development Services Director and City Engineer.
 3. The hours of operation shall be restricted from 7:00 A.M. to 5:30 P.M., five (5) days a week only (Monday through Friday).
 4. The use of the outdoor play area shall be limited to the hours of 7:00 A.M. to 5:00 P.M.
 5. Off-street parking for child drop-off and pick-up shall be located in the existing parking area of the subject property.
 6. Street parking for child drop-off and pick-up is prohibited.
 7. The permittee shall obtain from the Development Services Director certification that specified conditions of the permit have been met.
 8. The building façade shall be well maintained at all times.
 9. Landscape shall be maintained in good condition at all times.
 10. This project approval does not include signage, and sign permits shall be obtained prior to installation. All signs shall conform to the Municipal Code Section 18.12.
 11. The project shall conform to all performance standards of Municipal Code Section 17.24.080.
 12. Proper drainage shall be maintained throughout this property so as to prevent ponding and/or storage of surface water.
 13. Exit doors, including manually operated horizontal sliding doors, shall be able to be opened from the inside without use of a key or any special knowledge or effort.
 14. The unlatching of any door or leaf shall not require more than one operation.
- F. The terms and conditions of the Conditional Use Permit shall be binding upon the permittee and all persons, firms, and corporations having an interest in the property subject to this Conditional Use Permit and the heirs, executors, administrators, successors, and assigns of each of them, including municipal corporations, public agencies, and districts.
- G. The decision regarding this Conditional Use Permit became effective on November 20, 2018.
- H. This Conditional Use Permit expires November 20, 2019 (or such longer period as may be approved by the Planning Commission of the City of Lemon Grove prior to said expiration date) unless all requirements of this Conditional Use Permit have been met prior to said expiration date.

AA1-800-0006



Legend

-  3468 Citrus Street
-  LG Parcels
-  Roads



LEMON GROVE CHILDCARE CENTER
3468 Citrus Street Lemon Grove, CA 91945

Daily Schedule for Preschoolers

7:00-8:00am	Table Manipulatives
8:00-8:30am	Breakfast
8:30-8:45am	<i>Wash Hands</i> and bathroom-Clean tables.
8:45-9:00am	Meet for circle time- Rug area
9:00-9:30am	Center Time & Individualized support (Teacher Directed)
9:00-10:00am	Indoor Exploration (Child Directed)
10:00-10:15am	Bathroom and <i>Wash Hands</i>
10:15-11:00	Outdoor Play
11:00-11:15	<i>Wash Hands</i>
11:15-11:30	Circle Time- Revisit Lesson of the day
11:30-12:00	Lunch
12:00-12:15pm	Bathroom and <i>Wash Hands</i> -Clean Tables
12:15-2:00pm	Naptime/ Quiet Time
2:00-2:15pm	Wake up, Bathroom and <i>Wash Hands</i>
2:15-2:30pm	Circle Time- Introduce Math Lesson
2:30-2:45pm	Math Activity
2:45-3:00pm	Snack
3:00-3:30pm	Bathroom and <i>Wash Hands</i>
3:30-4:00pm	Outdoor Play
4:00-4:30pm	Indoor Table Manipulatives
4:30-5:00pm	Music and Movement
5:00-5:30pm	Creative Art

**Lemon Grove
Childcare
Center
Menu**



Menu 2018



Monday	Tuesday	Wednesday	Thursday	Friday
<p>Toasted Oats Banana, 1% Milk</p> <p>Stewed Beef with Cheese Grits, Salad, Orange, 1% Milk</p> <p>Strawberry Smoothie & Apple</p>	<p>English Muffin, Cream Cheese, Orange, 1% Milk</p> <p>Beef Tacos, Pico de Gallo, Wheat Tortilla, Pear, 1% Milk</p> <p>Black Bean Dip w/ tortilla Chips & Water</p>	<p>Rice Chex, Apple, 1% Milk</p> <p>Tomato Bake w/ Chicken, Broccoli & Raisin Salad, Pear, 1& Milk</p> <p>Orange and 1% Milk</p>	<p>Honey Granola, Pear, & 1 % Milk</p> <p>Red Bean Soup, Brown Rice, Kale, Orange, & 1% Milk</p> <p>Arroz con Leche & Banana</p>	<p>Kashi Heart to Heart, Orange, & 1% Milk</p> <p>Bean Taco, Corn Tortilla, w/ pico de gallo, salad, 1% Milk</p> <p>Cottage Cheese w/ wheat cracker & Water</p>
Monday	Tuesday	Wednesday	Thursday	Friday
<p>Rice Chex, Pear, 1% Milk</p> <p>Turkey on Wheat Bread, Cream of Potato Soup, Orange, 1% Milk</p> <p>Pico de Gallo with Tortilla Chips & Water</p>	<p>Bran Muffin, Apple, 1% Milk</p> <p>Rotini alla Bolognese, Caesar Salad, Orange, 1% Milk</p> <p>Edamame Hummus with Carrot Sticks & Water</p>	<p>English Muffin, Cream cheese, Cantaloupe 1% Milk</p> <p>Lentil Soup, Wheat Roll, Salad, Apple, 1% Milk</p> <p>Aztec Grain Salad & 1% Milk</p>	<p>Toasted Oats, Banana, 1% Milk</p> <p>Pesto Pasta w/ chicken, Cauliflower, watermelon, 1% Milk</p> <p>Orange & Water</p>	<p>Kashi Heart to Heart, Apple, 1% Milk</p> <p>Tuna Sandwich on wheat bread, roasted tomato soup, Spring Salad & 1% Milk</p> <p>Graham cracker, orange, 1% Milk</p>
Monday	Tuesday	Wednesday	Thursday	Friday
<p>Corn Chex, Pear, 1% Milk</p> <p>Chicken Sandwich on Mini Kaiser , Caesar Salad, Orange, 1% Milk</p> <p>Pico de Gallo with Tortilla Chips & Water</p>	<p>Toasted Oats, Apple, 1% Milk</p> <p>Couscous with Apples, Braised Vegetables, Honeydew, 1% Milk</p> <p>Carrot Sticks with Sesame Dip & Water</p>	<p>English Muffin, Cream cheese, Orange, Water</p> <p>Beef Picadillo, Brown Rice, Carrots, Orange, & 1% Milk</p> <p>Hummus with Zucchini stick</p>	<p>Wheat Bagel, cream cheese, Pear, 1% Milk</p> <p>Roasted Turkey, Mashed Potato, Wheat Roll, Salad, 1% Milk</p> <p>Apple, 1% Milk</p>	<p>Strawberries, Watermelon Slices, 1% Milk</p> <p>Black Bean Chili, Salad, 1% Milk</p> <p>Granola, Yogurt Parfait & Water</p>
Monday	Tuesday	Wednesday	Thursday	Friday
<p>Corn Chex, Apple, 1% Milk</p> <p>Meat Sauce, Penne Pasta, Caesar Salad, Orange, 1% Milk</p> <p>Blueberry Smoothie, Graham Crackers</p>	<p>Bran Muffin, Apple, 1% Milk</p> <p>Jerk Chicken, Rice, peas, Orange, 1% Milk</p> <p>Cucumber Slices & Water</p>	<p>Granola & Banana, 1% Milk</p> <p>Beef Burger, Sliced salad, orange & 1% milk</p> <p>Cottage Cheese & strawberries</p>	<p>English Muffin, cream cheese, 1% Milk</p> <p>Turkey, Herbed Squash, Banana, 1% Milk</p> <p>Graham Crackers, Water</p>	<p>Heart to Heart Kashi, banana, 1% milk</p> <p>Tuna Salad sandwich, strawberries, Salad, 1% milk</p> <p>Applesauce, 1% milk</p>



CITY OF LEMON GROVE
Community Development Department

"Best Climate On Earth"

October 24, 2018

Blanca Brown
3468 Citrus Street
Lemon Grove, CA

John Vo



Re: Conditional Use Permit No. CUP-180-0004 at 3468 Citrus Street, APN: 479-042-32-00

Dear Blanca Brown,

On October 22, 2018, the Lemon Grove Planning Commission approved Resolution No. 18-04 (enclosed).

Please review the Resolution of Approval carefully and contact the project planner if you have any questions regarding the conditions of approval. You are required to submit a copy of the attached resolutions when applying for building permits, a business license and improvements necessary to complete the conditions of approval.

An invoice for the project has been enclosed and is due at your earliest convenience and prior to application for additional permits or licenses.

Please contact me at 619.825.3805, or aortuno@lemongrove.ca.gov if you have any questions.

Sincerely,

Arturo Ortuño
Assistant Planner

Enclosures:
Planning Commission Resolution No. 18-04
Final Invoice 10-24-18





**APPEAL APPLICATION &
REQUEST FOR PUBLIC HEARING**

Community Development Department / Planning Division
3232 Main Street, Lemon Grove, CA 91945
Phone: 619-825-3805 Fax: 619-825-3818
www.ci.lemon-grove.ca.us

APPLICANT: *BISHOP MORTUARY* PHONE: [REDACTED]
ADDRESS: *3444 Citrus St* FAX: [REDACTED]
EMAIL: [REDACTED] / com

CASE/PROJECT NUMBER: *CUP-180-004*

DECISION /CONDITIONS OF APPROVAL BEING APPEALED (INCLUDE CONDITION ITEM NUMBERS):
CUP-180-004
High Homeless population

SPECIFIC REASON(S) FOR APPEAL OR REQUEST FOR PUBLIC HEARING:
Citrus Street is not suitable for a Daycare
Yard is too small for play area
Tenants at 3468 Citrus have to back of Driveway
because it is too small
Next to mortuary
Very heavy Commercial AREA Zone
Attach additional sheets if necessary. *Pictures Attached*

[Signature] *10/30/2018*
Applicants Signature Date

TO BE COMPLETED BY PLANNING STAFF

FILE #(s):
DATE:
FEES: RECEIPT #: **CITY OF LEMON GROVE**

COMMENTS and/or CONDITIONS: **OCT 31 2018**
DEVELOPMENT SERVICES



APPEAL APPLICATION & REQUEST FOR PUBLIC HEARING

Community Development Department / Planning Division
3232 Main Street, Lemon Grove, CA 91945
Phone: 619-825-3805 Fax: 619-825-3818
www.ci.lemon-grove.ca.us

APPLICANT: Janette Baranov PHONE: [Redacted]
ADDRESS: [Redacted] FAX: [Redacted]
EMAIL: [Redacted]

CASE/PROJECT NUMBER: CUP-180-0004

DECISION /CONDITIONS OF APPROVAL BEING APPEALED (INCLUDE CONDITION ITEM NUMBERS):
Conditional Use Permit No. CUP-180-0004

SPECIFIC REASON(S) FOR APPEAL OR REQUEST FOR PUBLIC HEARING:

Attached Comments
High homeless populations, Drug use

Attach additional sheets if necessary.

Janette Baranov
Applicants Signature

10/30/18
Date

TO BE COMPLETED BY PLANNING STAFF

FILE #(s):
DATE:
FEES: RECEIPT #:

CITY OF LEMON GROVE

COMMENTS and/or CONDITIONS:

OCT 31 2018

DEVELOPMENT SERVICES

Attachment I

- CUP-180-0004

I own property across the street from the propose child care center. 3479 Citrus St & 3495 Citrus St, Lemon Grove. Citrus street is a very busy street during the week.

There are trucks in the street from all the contractors who have their businesses on Citrus Street. A towing company who always has trucks on the street waiting to get in or out of his driveway with their crashed cars or towing crashed cars out of his yard.

Motor cycles run up and down Citrus Street to either see how fast they can go or how noisily they can be.

There is no parking on Citrus Street during the week, as all the workers at the companies have to have a place to park their cars. Then next door you have a mortuary who perform services for the deceased. The caskets are brought out the front door along with all their grieving families.

I would not want my young children to see all that sadness and they will see it from their play yard.

I oppose a daycare center at this location.

Thank you,

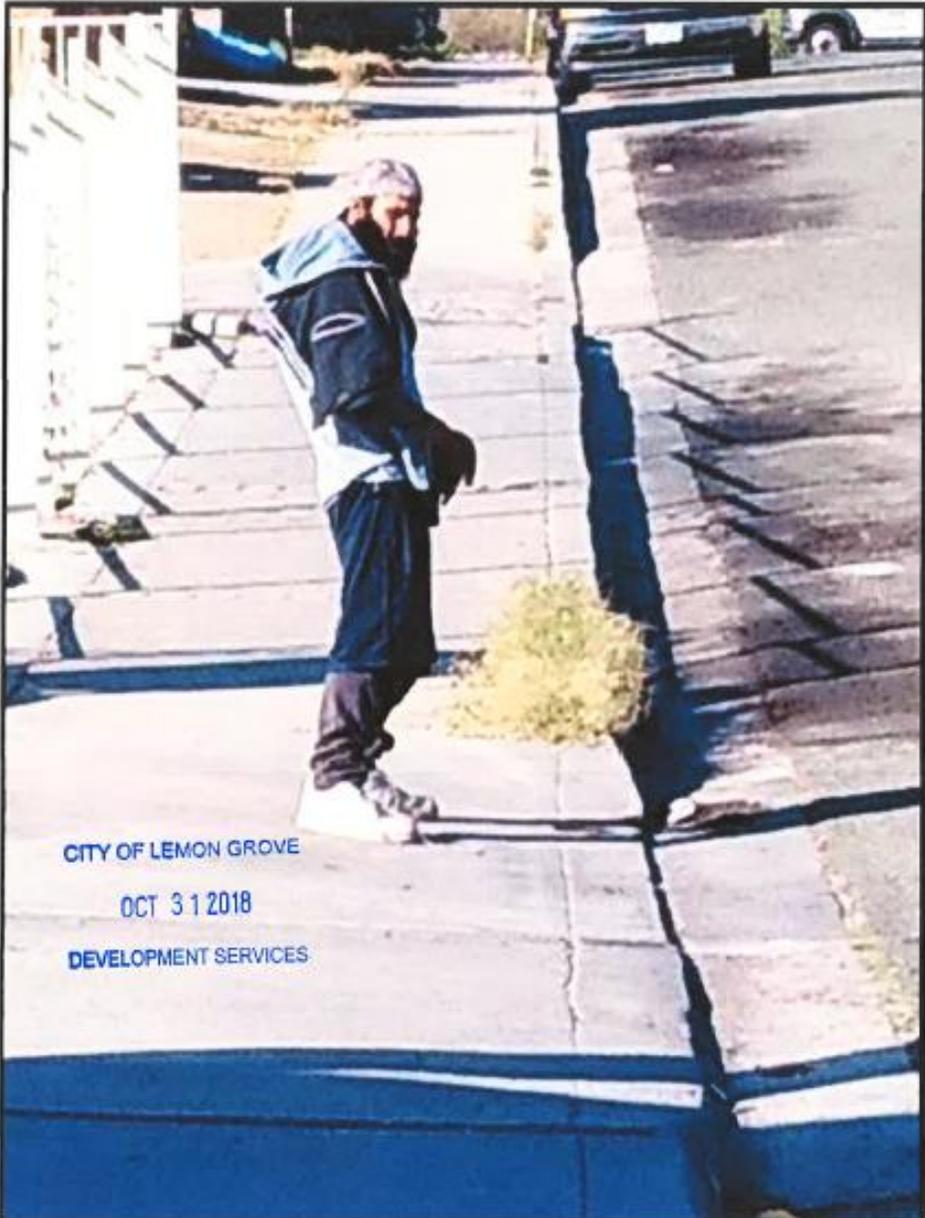
Jeanette Baranov, owner of above address

CITY OF LEMON GROVE

OCT 31 2018

DEVELOPMENT SERVICES

Attachment J



Date: 10/30/2018

Have Additional Pictures 3468 Citrus St
Per your Request 26

Attachment J



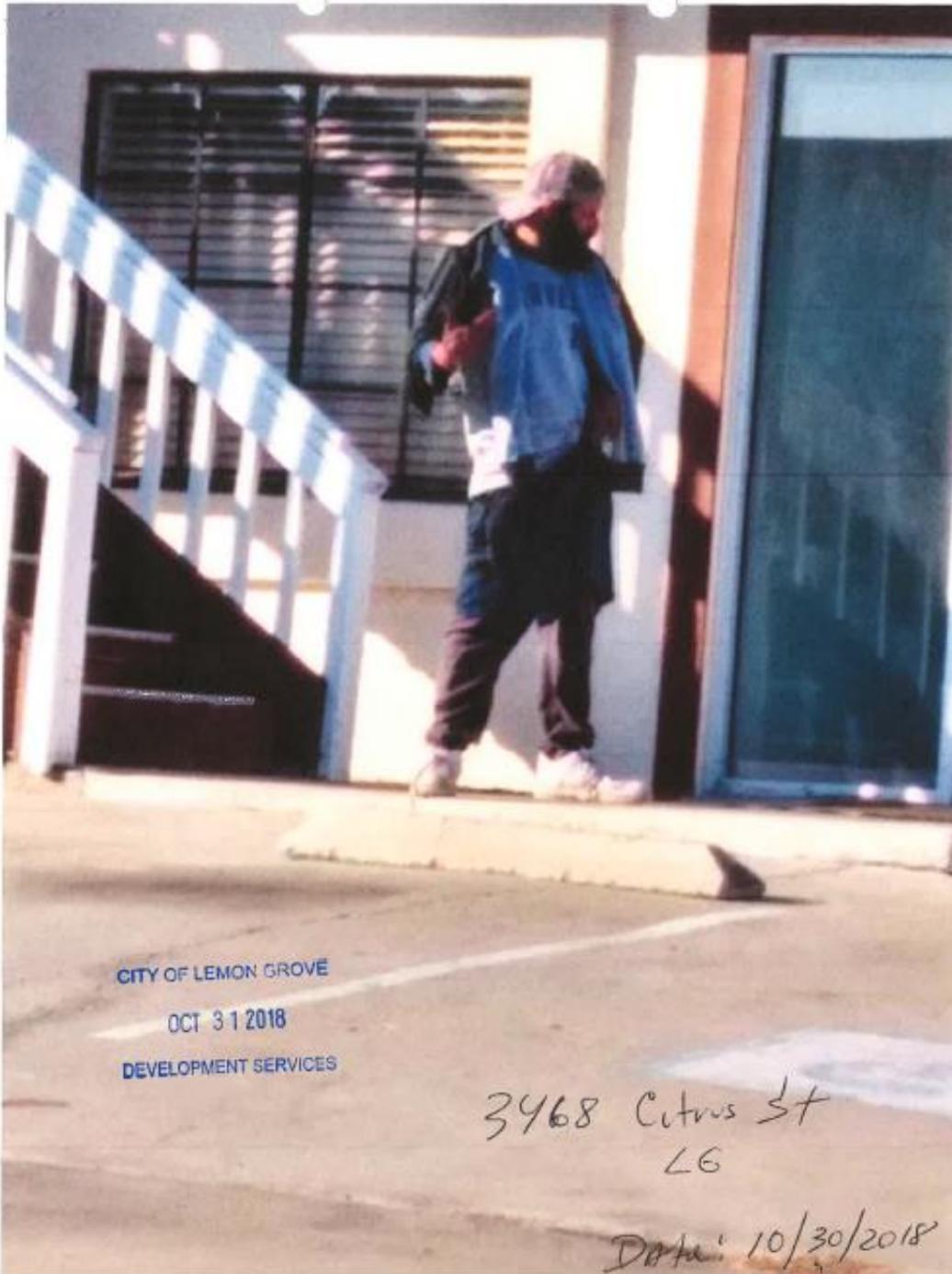
3468 Citrus St

CITY OF LEMON GROVE

OCT 31 2018

DEVELOPMENT SERVICES

Attachment J



Attachment J



CITY OF LEMON GROVE
OCT 31 2018
DEVELOPMENT SERVICES

3468 Citrus
Peeking over yard

Attachment J



Citrus Street

Attachment K

EXHIBIT A – PROJECT PLANS

Not Attached

Enclosed in City Council packet or available at City Hall for Review

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. Item 3
Mtg. Date November 20, 2018
Dept. Public Works

Item Title: **Public Hearing to Consider an Amendment to the Transnet Local Street Improvement Program of Projects for FY 2019-23**

Staff Contact: Molly Brennan, Finance Manager & Mike James, Assistant City Manager / Public Works Director

Recommendation:

Conduct a public hearing and adopt a resolution (**Attachment B**) approving an amendment to the Transnet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023.

Item Summary:

On November 4, 2004, the voters of San Diego County approved the San Diego Transportation Improvement Program Ordinance and Expenditure Plan (TransNet Extension Ordinance). The TransNet Extension Ordinance provides that SANDAG shall approve on a biennial basis a multi-year program of projects submitted by local jurisdictions, identifying those transportation projects eligible to use transportation sales tax (TransNet) funds.

On March 20, 2018, the City Council approved the TransNet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023. Since then, staff reviewed the 2018 RTIP TransNet expenditure plan and found it to be out of compliance with Section 2(C)(1) of the Transnet Extension Ordinance, which limits spending on preventative maintenance to 30% or less of total Transnet revenue. The staff report (**Attachment A**) details the amounts and projects that will be amended to reallocate funding between congestion relief and preventative maintenance projects. If the City Council adopts the resolution (**Attachment B**), the changes will be forwarded to the SANDAG Board of Directors for approval as a part of Amendment No. 1 (18-1) of the SANDAG TransNet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023.

Fiscal Impact:

None at this time. If the resolution is approved by the City Council and SANDAG Board of Directors, the amounts will be updated by the Finance Department in the FY 2018-19 budget.

Environmental Review:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|---|---|---|
| <input type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input checked="" type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- | | |
|-----------------|---------------|
| A. Staff Report | B. Resolution |
|-----------------|---------------|

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. Item 3

Mtg. Date November 20, 2018

Item Title: **Public Hearing to Consider an Amendment to the Transnet Local Street Improvement Program of Projects for FY 2019-21**

Staff Contact: Molly Brennan, Finance Manager & Mike James, Assistant City Manager / Public Works Director

Background:

On November 4, 2004, the voters of San Diego County approved the San Diego Transportation Improvement Program Ordinance and Expenditure Plan (TransNet Extension Ordinance). The TransNet Extension Ordinance provides that SANDAG shall approve, on a biennial basis, a multi-year program of projects submitted by local jurisdictions that identifies those transportation projects eligible to use transportation sales tax (TransNet) funds.

As a quick summary, the Public Works Department and Engineering Division utilize TransNet funds to support the Capital Improvement Program (CIP) and on-going maintenance projects throughout the City. TransNet funds are programmed to congestion relief or maintenance related projects that impact city streets, city storm drain or traffic projects.

Per TransNet Ordinance (Section 6) each entity that receives and programs TransNet funds must hold a public hearing for amendments to the TransNet Program of Project 2018 RTIP adoption. The resolution (**Attachment B**) is a standard SANDAG template that is required to be adopted to meet the public hearing process to submit the final resolution to SANDAG before November 30, 2018. The amendment will be presented to the SANDAG Transportation Committee on January 18, 2019. The City's program is shown in **Attachment B – Exhibit 1**. The details of the projects are further explained in the remaining portion of this report.

Discussion:

On March 20, 2018, the City Council approved the TransNet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023. Since that time, staff has reviewed the 2018 RTIP TransNet expenditure plan and found it to be out of compliance with Section 2(C)(1) of the TransNet Extension Ordinance, which limits spending on preventative maintenance projects to 30% or less of total annual TransNet revenue.

The original approved 2018 RTIP allocated 64% of the FY2018-19 funding for congestion relief projects and 36% of funding for preventative maintenance projects. To be in compliance with Section 2(C)(1) of the TransNet Extension Ordinance, the City needs to spend a minimum of 70% of annual TransNet funding on congestion relief projects and a maximum of 30% on preventative maintenance projects. If the City remains out of compliance, there is a risk of losing all future TransNet funding until the program comes back into compliance. If adopted, the proposed amendment will not impact the available TransNet funds, but will reallocate a portion of funds from preventative maintenance projects to congestion relief projects.

In addition, staff found that the TransNet Extension Ordinance Regional Transportation Congestion Improvement Plan (RTCIP) fees programmed to be spent on the Lemon Grove Realignment project in March 2018, now requires an amendment to re-open project LG13 (LG Realignment) in order for the City to expend the funds in FY2018-19. The adopted 2018 RTIP did

Attachment A

not include LG 13, so the project has been closed and cannot track further activity without being re-opened through this amendment. Previously, the City had programmed \$563,216 of collected RTCIP fees to be spent on the Lemon Grove Realignment. Since that point in time, the City has collected an additional \$59,374 in RTCIP fees and staff recommends increasing the RTCIP programmed to LG13 to include the additional revenue collected, for a total of \$622,590. This amount was already included in the adopted FY2018-19 budget (Fund 27) and in the Lemon Grove Realignment project report to Council in October 2018. In order for the City to expend the RTCIP funds on the Lemon Grove Realignment project in FY2018-19, the amendment asks SANDAG to re-open the LG13 project for this purpose.

The RTCIP fee is a transportation mitigation fee collected by local jurisdictions to fund improvements to the regional arterial system. The fee is collected prior to issuance of building permits for new residential housing units. Although both RTIP and RTCIP are related to TransNet and overseen by SANDAG, the \$622,590 represents revenue the City already has on hand, unlike the TransNet RTIP funding which is provided on a reimbursement basis.

Staff created the table below to show what was originally programmed in the 2018 RTIP and what the new programmed amounts will equal if the amendment is approved by both the City Council and the SANDAG District Board. As a budgetary procedural step, if both governing bodies approve the amendment, staff requests that the City Council authorize the City Manager or her designee to make the budget adjustments to the FY 2018-19 budget document.

	Congestion Relief (CR):	Original 2018 RTIP	Amended 2018 RTIP
LG16	Storm Drain Rehabilitation - CR	14,000	14,000
LG18	Traffic Improvements - CR	65,000	65,000
LG20	Street Improvements - CR	365,000	411,300
	Preventative Maintenance (PM):		
LG14	Traffic Improvements - PM	119,000	119,000
LG15	Storm Drain Rehabilitation - PM	26,000	19,700
LG17	Street Improvements - PM	124,000	84,000
		\$713,000	\$713,000

If the City Council adopts the resolution (**Attachment B**), the plan as outlined in **Attachment B – Exhibit 1** will be forwarded to the SANDAG Board of Directors for approval as a part of Amendment No. 1 to the TransNet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023.]

Conclusion:

Staff recommends that the City Council:

1. Conducts a public hearing;
2. Adopts the resolution (**Attachment B**) approving an amendment to the TransNet Local Street Improvement Program of Projects for Fiscal Years 2019 through 2023, and
3. Directs the City Manager or her designee to amend the City Budget for Fiscal Year 2018-2019, if approved by the SANDAG Board of Directors, to reflect TransNet budget adjustments reflected in Amendment No. 1.

Attachment B

RESOLUTION NO. 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA APPROVING AN AMENDMENT TO THE TRANSNET LOCAL STREET IMPROVEMENT PROGRAM OF PROJECTS FOR FISCAL YEARS 2019 THROUGH 2023

WHEREAS, on November 4, 2004, the voters of San Diego County approved the San Diego Transportation Improvement Program Ordinance and Expenditure Plan (*TransNet* Extension Ordinance); and

WHEREAS, the *TransNet* Extension Ordinance provides that SANDAG, acting as the Regional Transportation Commission, shall approve on a biennial basis a multi-year program of projects submitted by local jurisdictions identifying those transportation projects eligible to use transportation sales tax (*TransNet*) funds; and

WHEREAS, the City of Lemon Grove was provided with an estimate of annual *TransNet* local street improvement revenues for fiscal years 2019 through 2023; and

WHEREAS, the City of Lemon Grove approved its 2018 *TransNet* Local Street Improvement Program of Project (POP) on March 20, 2018 and the City of Lemon Grove desires to make adjustments to its Program of Projects; and

WHEREAS, the City of Lemon Grove has held a noticed public hearing with an agenda item that clearly identified the proposed amendment (*Exhibit 1*) prior to approval of the projects by its authorized legislative body in accordance with Section 5(A) of the *TransNet* Extension Ordinance and Rule 7 of SANDAG Board Policy No. 31.

NOW THEREFORE, BE IT RESOLVED that the City of Lemon Grove requests that SANDAG make the following changes to its 2018 POP (the "Amendment"); and

BE IT FURTHER RESOLVED that pursuant to Section 2(C)(1) of the *TransNet* Extension Ordinance, the City of Lemon Grove certifies that no more than 30 percent of its annual revenues shall be spent on local street and road maintenance-related projects as a result of the Amendment.

BE IT FURTHER RESOLVED that pursuant to Section 4(E)(3) of the *TransNet* Extension Ordinance, the City of Lemon Grove certifies that all new or changed projects, or major reconstruction projects included in the Amendment and funded by *TransNet* revenues shall accommodate travel by pedestrians and bicyclists, and that any exception to this requirement permitted under the Ordinance and proposed was clearly noticed as part of the City of Lemon Grove's public meeting process for the Amendment.

BE IT FURTHER RESOLVED that the City of Lemon Grove does hereby certify that all applicable provision of the *TransNet* Extension Ordinance and SANDAG Board Policy No. 31 have been met.

Attachment B

BE IT FURTHER RESOLVED that the City of Lemon Grove continues to agree to indemnify, hold harmless, and defend SANDAG, the San Diego County Regional Transportation Commission, and all officers and employees thereof against all causes of action or claims related to City of Lemon Grove's TransNet funded projects.

PASSED AND ADOPTED by the City of Lemon Grove on the 20th day of November, 2018.]

/////
/////

Attachment B – Exhibit 1

Table 1
2018 Regional Transportation Improvement Program
Amendment No. 1
San Diego Region (in \$000s)

Lemon Grove, City of										
MPO ID: LG15								RTIP #:18-01		
Project Title:		Storm Drain Rehabilitation (Preventive Maintenance)						TransNet - LSI: Maint		
Project Description:		Citywide - improvements or repairs to multiple storm drain facilities such as spot repairs to existing pipes, berms or other diversion devices; attention will be given to the continuous maintenance of Chollas Creek in accordance with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit which involve debris removal, vegetation control, and/or habitat restoration; city staff/consultant to inventory storm drain system and input into GIS; condition assessment, repair options and strategy report to follow								
Change Reason:		Reduce funding								
Capacity Status:		NCl Exempt Category:Other - Plantings, landscaping, etc								
Est Total Cost: \$895										
	TOTAL	PRIOR	18/19	19/20	20/21	21/22	22/23	PE	RW	CON
TransNet - LSI	\$359	\$220	\$20	\$26	\$26	\$26	\$41			\$359
TransNet - LSI Carry Over	\$286	\$257	\$28					\$27		\$259
Local Funds	\$250		\$250							\$250
TOTAL	\$895	\$477	\$298	\$26	\$26	\$26	\$41	\$27		\$868
PROJECT LAST AMENDED 18-00										
	TOTAL	PRIOR	18/19	19/20	20/21	21/22	22/23	PE	RW	CON
TransNet - LSI	\$365	\$220	\$26	\$26	\$26	\$26	\$41			\$365
TransNet - LSI Carry Over	\$286	\$257	\$28					\$27		\$259
Local Funds	\$250		\$250							\$250
TOTAL	\$901	\$477	\$304	\$26	\$26	\$26	\$41	\$27		\$874

MPO ID: LG17										
MPO ID: LG17								RTIP #:18-01		
Project Title:		Street Improvements (Preventive Maintenance)						TransNet - LSI: Maint		
Project Description:		Citywide - maintain city streets and fund costs to survey all streets as part of the pavement management system								
Change Reason:		Reduce funding								
Capacity Status:		NCl Exempt Category:Safety - Pavement resurfacing and/or rehabilitation								
Est Total Cost: \$1,291										
	TOTAL	PRIOR	18/19	19/20	20/21	21/22	22/23	PE	RW	CON
TransNet - LSI	\$1,094	\$412	\$84	\$148	\$150	\$150	\$150	\$15		\$1,079
TransNet - LSI Carry Over	\$197	\$101	\$95							\$197
TOTAL	\$1,291	\$513	\$179	\$148	\$150	\$150	\$150	\$15		\$1,276
PROJECT LAST AMENDED 18-00										
	TOTAL	PRIOR	18/19	19/20	20/21	21/22	22/23	PE	RW	CON
TransNet - LSI	\$1,134	\$412	\$124	\$148	\$150	\$150	\$150	\$15		\$1,119
TransNet - LSI Carry Over	\$197	\$101	\$95							\$197
TOTAL	\$1,331	\$513	\$219	\$148	\$150	\$150	\$150	\$15		\$1,316

** Pending final SANDAG approval

Attachment B – Exhibit 1

2018 Regional Transportation Improvement Program Amendment No. 1 San Diego Region (in \$000s)

Lemon Grove, City of

MPO ID: LG20		RTIP #:18-01									
Project Title:	Street Improvements (Congestion Relief - Non CI)									TransNet - LSI: CR	
Project Description:	Citywide - this project involves roadway rehabilitation (grinding and overlay, new structural pavement, or new overlay 1-inch thick or greater) of several streets within the city. Streets were prioritized for work based on levels of deterioration identified in the Pavement Management System; Sidewalk Rehabilitation: this annual project adds sidewalks, widens sidewalks, removes and/or replaces various sidewalk locations and installs Americans with Disabilities Act (ADA) compliant curb ramps throughout the city; Street Improvements: this as needed project would widen or install curb/gutter, sidewalk, curb ramps										
Change Reason:	Increase funding										
Capacity Status:	NCI Exempt Category: Safety - Pavement resurfacing and/or rehabilitation										
Est Total Cost: \$6,635											
	TOTAL	PRIOR	18/19	19/20	20/21	21/22	22/23	PE	RW	CON	
TransNet - LSI	\$2,259	\$387	\$411	\$365	\$365	\$365	\$365			\$2,259	
TransNet - LSI (Cash)	\$147	\$147								\$147	
TransNet - LSI Carry Over	\$2,282	\$1,324	\$957					\$61		\$2,221	
Local Funds	\$1,947	\$153	\$194	\$250	\$400	\$450	\$500			\$1,947	
TOTAL	\$6,635	\$2,011	\$1,562	\$615	\$765	\$815	\$865	\$61		\$6,574	
PROJECT LAST AMENDED 18-00											
	TOTAL	PRIOR	18/19	19/20	20/21	21/22	22/23	PE	RW	CON	
TransNet - LSI	\$2,212	\$387	\$365	\$365	\$365	\$365	\$365			\$2,212	
TransNet - LSI (Cash)	\$147	\$147								\$147	
TransNet - LSI Carry Over	\$2,282	\$1,324	\$957					\$61		\$2,221	
Local Funds	\$1,947	\$153	\$194	\$250	\$400	\$450	\$500			\$1,947	
TOTAL	\$6,588	\$2,011	\$1,516	\$615	\$765	\$815	\$865	\$61		\$6,527	

** Pending final SANDAG approval

Attachment B – Exhibit 1

**2018 Regional Transportation Improvement Program
Amendment No. 1
San Diego Region (in \$000s)**

RTIP Fund Types

<u>Local Funding</u>	
Local Funds AC	Local Funds - Advanced Construction; mechanism to advance local funds to be reimbursed at a later fiscal year with federal/state funds
TransNet-LSI	Prop. A Extension Local Transportation Sales Tax - Local System Improvements
TransNet-LSI Carry Over	TransNet - LSI funds previously programmed but not requested/paid in year of allocation
TransNet-LSI (Cash)	TransNet - LSI funds which agencies have received payment, but have not spent

** Pending final SANDAG approval

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. Item 4
Mtg. Date November 20, 2018
Dept. Public Works

Item Title: **Palm Street Red Curb**

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Recommendation:

Receive report and provide feedback to staff.

Item Summary:

In 2018, residents and the Sheriff's Department staff expressed concerns regarding the vehicle sight distance for vehicles traveling south on city streets intersecting with Palm Street at multiple intersections. These sight distance concerns prompted the Engineering Division to assess the sight distance and safety at the multiple locations.

The staff report (**Attachment A**) provides additional details regarding the initial concern, how the study was performed, and staff's final recommendation that was implemented. At the conclusion of staff's presentation, staff requests that the City Council provide feedback and provide direction about staff's recommended follow up action.

Fiscal Impact:

None.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input checked="" type="checkbox"/> Notice to property owners |
| <input type="checkbox"/> Notice published in local newspaper | | <input type="checkbox"/> Neighborhood meeting |

Attachments:

- A. Staff Report
- B. Overhead Image and Site Photographs
- C. City and Rick Engineering Company Comparison

Attachment A

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. Item 4

Mtg. Date November 20, 2018

Item Title: **Palm Street Red Curb**

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Background:

In 2018, residents and Sheriff's Department staff expressed concerns regarding the vehicle sight distance for vehicles traveling south on city streets intersecting with Palm Street at multiple intersections. Specifically, there were four intersections with Palm Street that were identified and they were Myra Street, Washington Street, Dennis Lane, and Palm Lane (**Attachment B**).

These sight distance concerns, excessive speed complaints and recent traffic collisions on Palm Street prompted the Engineering Division to assess the sight distance and safety concerns at the four locations. The Engineering Division conducted field visits to the intersections in question, which was followed by an analysis utilizing design standards from the California Department of Transportation Highway Design Manual (Design Manual).

The Design Manual utilizes two types of sight distances for intersections: corner sight distance and stopping sight distance. Both are defined below:

- Corner sight distance is a distance that provides motorists 7.5 seconds of line of sight for the driver on the crossroad to complete the necessary maneuver while the approaching vehicle travels at the assumed design speed of the roadway. Based on Chapter 400, Topic 405, Table 405.1A, the corner sight distance for a 40 mile per hour roadway is 440 feet.
- Stopping sight distance is a distance that the average operator of a motor vehicle needs to be able to see an object and stop before colliding with said object. Based on Table 201.1 of Chapter 200 of the California Highway Design Manual, the design stopping sight distance is 300 feet.

In this analysis, the City used the Design Manual's stopping sight distance criteria to ensure that the operator of the motor vehicle at the stop signs at Myra Street, Washington Street, Dennis Lane, and Palm Lane can maneuver and still leave the eastbound and westbound motorist on Palm Street enough time to make a decision. To explain why stopping sight distance was used, staff referred to Topic 405. In this specific example, obtaining the approximate corner sight distance would require removing portions of private property (e.g. trees, walls) and would burden the City with excessive costs for construction and right-of-way acquisition. If excessive costs are associated with obtaining corner sight distance, then the corner sight distance shall be equal to the stopping sight distance. The final recommendation by the Contract City Engineer to complete this analysis was to use the stopping sight distance in order to calculate the minimum length of red curb at each intersection.

The results of the analysis was shared via field visits from the Engineering Division staff. The actual work to paint the red curb along Palm Street was performed by the City's contractor, who also paved the westbound lanes of Palm Street from Golden Avenue to Skyline Drive.

Attachment A

Discussion:

Following the curb painting, the City Council heard concerns voiced from residents who were impacted by the red curb painting on Palm Street. Most recently, this occurred on October 2, 2018 when residents shared their concerns and comments that their safety was negatively impacted by:

- Not being able to park in front of their residence,
- Limited space to walk and park,
- There is a new safety issue with parking on the south side of Palm Street and walking across the street,
- There is no sidewalk on Palm Street,
- Packages are now being stolen from the front of homes, and
- Comments that the Design Manual was not the only method in which red curb distances could be measured and in some instances, the actual distance did not have to be followed.

In light of these new concerns brought from the local residents, city staff requested Rick Engineering Company to perform a second analysis to either confirm or amend the previous recommendations. In that analysis, Rick Engineering Company's Traffic Division performed an independent analysis and concluded that all four of the recommended red curb lengths were too long. The table below identifies city staff's recommendation and Rick Engineering Company's recommendation.

Intersection	Original Red Curb Length	Recommended Red Curb Length	Minimum Linear Foot Decrease
Myra @ Palm	88 feet	64 feet	-24 feet
Washington @ Palm	92 feet	66 feet	-26 feet
Dennis @ Palm	95 feet	52 feet	-43 feet
Palm Ln @ Palm	108 feet	88 feet	-20 feet

Based on the second analysis performed by Rick Engineering Company, the new lengths are less than the previous and staff is now recommending that the length of the original red curb be reduced to meet minimum lengths for site distance safety. The primary reasons for the adjustment in lengths to red curb include:

- Location of a vehicle at the stop bar/limit line,
- Correct line of sight of the vehicle,
- Driveway locations in the no parking zone, and
- Parked vehicles limiting the line of site of moving vehicles.

In **Attachment C**, the images shown compare city staff's recommendation and Rick Engineering's recommendation. On average, the decrease in red curb at all four intersection is 28 feet per intersection. With a total decrease of 113 feet, there will be approximate 7 parking spaces (at an average of 15 feet per parking space) added to the north side of Palm Street.

Attachment A

Field Recommendations:

Based on the quantitative analysis performed by Rick Engineering Company, staff recommends that the new lengths are changed in the field as soon as possible. Should the City Council decide to not change the reduction in red curb linear feet, there is likely little to no increase to the City's liability for requiring an additional site distance to prevent vehicle collisions from occurring at the four intersection. However, this may set a precedent of not following the Design Manual's minimum safe distance calculation for site distance with future requests that the City's Traffic Advisory Committee may hear.

In light of the public comment received in October, staff also took note of a smaller segment on the south side of Palm Street near the intersection of Golden Avenue that may be changed from red curb to gray curb (open for parking). This specific location was painted red at the same time as the red curb on the north side of the street because it contained red faded paint. Upon further review, staff recommends that this red curb paint be removed. With its removal, there is an additional 200 linear feet (or 13 parking spaces) that will be available to Palm Street residents to park their vehicles.

Conclusion:

That the City Council receive the report and provide direction to city staff.

Overhead Image and Intersection Photographs



Attachment B

Myra Street at Palm Street



Washington Street at Palm Street



Attachment B

Dennis Lane at Palm Street



Palm Lane at Palm Street



Myra Street at Palm Street



Attachment C

Washington Street at Palm Street



Attachment C

Dennis Lane at Palm Street



Attachment C

Palm Lane at Palm Street



**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. Item 5
Mtg. Date November 20, 2018
Dept. Public Works

Item Title: [**Promenade Park Rejuvenation Plan**]

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Recommendation:

[That the City Council receive a report and provide feedback regarding the NewSchool of Architecture's Urban Design Club's rejuvenation plan at the Promenade Park.]

Item Summary:

[On June 19, 2018 the City Council received a presentation (**Attachment A**) prepared by students from the NewSchool of Architecture detailed a plan to activate and energize Promenade Park with ideas stemming from tactical urbanism. The proposal outlined a plan in which the students would solicit feedback from the park patrons, conduct outreach with local businesses, reach out to the residents from neighboring residential units, and conclude with a detailed 90-day plan that outlines all of this information in conjunction with methods to enhance the park that can be accomplished in a set time period with a specific measurable outcome.

Since the City Council approved the outreach plan, city staff has worked with the students to coordinate the feedback process from park patrons and provide additional responses to questions that the students had as they progressed through the process. The final proposal (**Attachment B**) includes a site plan with identified local partners, list and quantified materials/supplies needed to construct improvements, list tasks or services for the City to perform during the trial period, and concludes with a request that the City Council provides feedback as to whether the plan should be implemented and which solutions should be integrated.]

Fiscal Impact:

[No fiscal impact.]

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorically Exempt | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Urban Design Club Request for Permission to Place Signs
- B. Final Proposal

Attachment A

Title: Promenade Park Rejuvenation Plan

Team: NewSchool of Architecture and Design- Urban Design Club
Francesca Redetzke, Madison Rolf, Jason Nededog, Colin McGregor, Erik Vang, and Tyler Jones

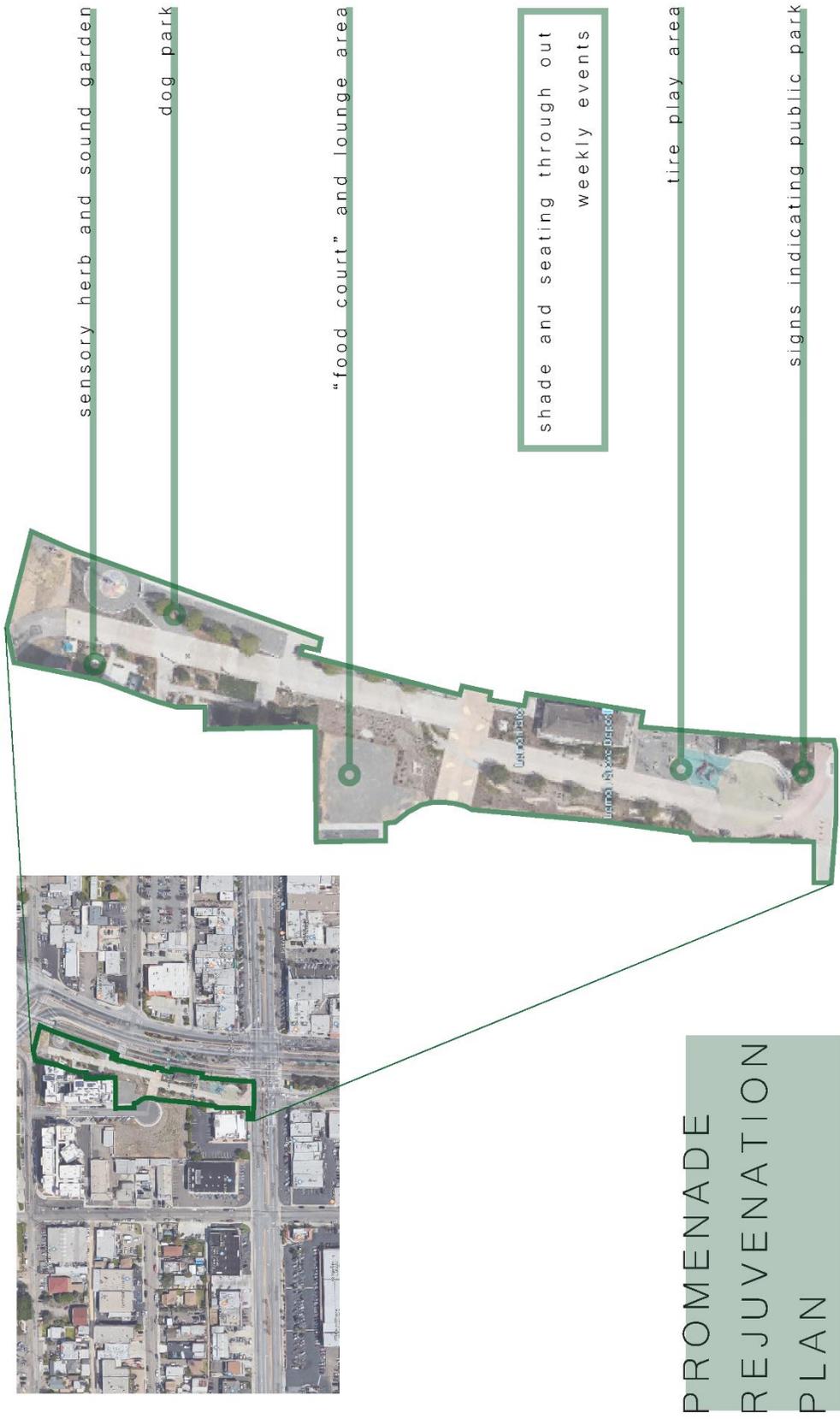
Focus: Tactical Urbanism. Defined as an umbrella term used to describe a collection of low-cost, temporary changes to the built environment, usually in cities, intended to improve local neighborhoods and city gathering places.

Based on research performed in Lemon Grove through canvassing, hosting community meetings, surveying and posting signs for park users to write on, precedent research, continual communication, and evaluation from advisors between July 2, 2018 and the date of this report was created, a proposal was created to implement several physical and non-physical amenities to the Promenade. Contingent on approval from the City Council and fundraising, the proposed changes, listed below, are anticipated to occur in the 90-day period:

- a. Increase seating and shade in the form of umbrellas, collapsible shade structures, lounge chairs, tables and benches.
- b. Nighttime activation through lighting and events.
- c. Increase recognition through visible signage, social media activity, and partnerships with local businesses.
- d. Create activities for children such as a tire play area and a sensory herb and sound garden.
- e. Create a dog Park with support from local residents and businesses.
- f. Create a lounge and food truck area in place of the vacant lot in the middle of the Promenade Park.
- g. Create an event schedule, taking place mainly on Saturday mornings, in partnership with Studio Nectary, Art Science Complex, Lemon Grove Community Garden, PAWS San Diego, and the Lemon Grove Clergy Association.

By activating the Promenade Park it is anticipated that an increase in foot traffic in Lemon Grove's downtown will occur and it will positively impact the businesses adjacent to the Park. The project team believes with a few changes to activities and events, the Promenade Park will become attractive to residents and visitors. Initial feedback revealed that the Promenade Park was underutilized because most Lemon Grove residents are unaware that the Promenade Park is an available public space for use. And those who did know about the park there was little to no activities to do in the space. By providing seating and activity spaces, the Promenade Park may become an amenity for both the residents and the businesses of Lemon Grove.

Attachment B





California Fuels and Convenience Alliance
3835 North Freeway Blvd., Suite 240
Sacramento, CA 95834

November 19, 2018

**Lemon Grove City Council
3232 Main Street, Lemon Grove, CA 91945**

Re: 8.70.030 (C) Requirement for Tobacco Retail License

To: Mayor Raquel Vasquez, Mayor Pro Tem Jerry Jones, Councilmember Jennifer Mendoza, Councilmember David Arambula and Councilmember Matt Mendoza

The California Fuels and Convenience Alliance (CFCA) represents about 300 members, including nearly 90% of all the independent petroleum marketers in the state and about one quarter of the state's 12,000 service stations. Our members are small, family- and minority-owned businesses that provide services to nearly every family in California. Additionally, CFCA members fuel local governments, law enforcement, city and county fire departments, ambulances/emergency vehicles, school district bus fleets, construction firms, marinas, public and private transit companies, hospital emergency generators, trucking fleets, independent fuel retailers (small chains and mom-and-pop gas stations) and California agriculture, among many others. CFCA appreciates the opportunity to provide comment on this proposed ordinance.

The retailers represented by CFCA are mostly small, family, and/or immigrant owned businesses whose young employees will be severely affected by the proposed Chapter Ordinance 8.70.030 (C). They have been heavily involved in keeping age restricted products out of the hands of youth, including the recent change to California's age of sale from 18 to 21 years of age. Not only does our industry comply with federal and rapidly changing state and local laws, but they also conduct internal sting operations and build their own successful prevention policies, such as the WeCard Program. The ability to sell age restricted products, including tobacco, is part of the financial stability of these community convenience stores. Through the support of CFCA, the State of California recently passed a resolution declaring September "WeCard Awareness Month", in order to promote the safe and legal sale of age restricted products.

Section 8.70.030 (C)

"No person who is younger than the minimum age established by California law for the purchase or possession of Tobacco Products shall engage in Tobacco Retailing."

Sonoma County introduced this same restriction and quickly repealed the rule due to unintended consequences for employees aged 18-21. This rule would have forced retailers in the area to fire or relocate all employees under the age of 21, as they would not be able to fulfill their job responsibilities. Luckily, this was avoided when the Board of Supervisors spoke with retailers in the area and rescind the prohibitive clause.

California's Department of Alcoholic Beverage Control allows employees under the age of 21 to sell alcoholic beverages, we believe this should also be applied to Tobacco Retailing. It allows gas stations, convenience stores, and other retailers to employ younger employees that need part-time jobs and the flexible schedules to further their education and seek higher paying employment in the future. California benefits from these younger employees receiving higher education while working part-time or outside of their school schedule.

The fuels and convenience industry sees a high rate of turnover in these positions and limiting the pool of eligible applicants will harm both the retailer and job seekers. We urge to you not include this restriction in the final ordinance.

Youth Sales

The illegal sale of tobacco and nicotine products is not a common occurrence at convenience stores. **In 2005, the California Tobacco Survey found that 82% of adolescent smokers obtained the products from “social sources”, mainly older friends and family members.**¹

Furthermore, this ordinance would give stores whose “primary business purpose” is tobacco sales expanded sales capabilities, despite 2016 research from the California Department of Public Health showing they are the number one retail source of youth tobacco. **Convenience stores were found to be much less likely to be a source of illegal sales, below the state average, and should continue to be allowed to use coupons for their age restricted products.**²

Identification Requirement and Online Sales

Given the rise of online purchases of all goods, and the government’s complicity in encouraging this - including age restricted products, the City should be more focused on the modern ways youth are obtaining these otherwise legal products. A short exploration of the ordering process for major manufacturers shows the ease with which youth can obtain these products. **Many companies do not require adult signatures for these products and they can be delivered to the user’s door with no identification verifying their legal age.**

Convenience stores and other brick-and-mortar locations are perfectly situated to adhere to federal, state, and local laws by checking a physical identification card and following the guidelines created and followed by the industry, such as the WeCard program. WeCard is a non-profit organization that provides training and materials such as age-of-purchase calendars that make it simple for an employee to ensure the purchaser is of legal age. They also have an e-cigarette specific webpage and materials.³ WeCard ensures the correct materials and standards are being used in those locations and provides an invaluable service to small businesses that sell age restricted products.

Conclusion

CFCA urges the Lemon Grove City Council to examine the methods by which youth are obtaining these age restricted products, including cigarettes and vapes or ENDS. We encourage the Lemon Grove to work with the California Department of Public Health, the FDA, and others to do the necessary research in order to effectively limit youth access to tobacco while acknowledging the hard work by convenience stores and others to achieve the same goal. The fuels and convenience industry is willing to do its part to prevent youth access to age-restricted products, especially to find a manner to do it without the harm and negative impacts that ordinances such as this will bring onto small, family- and minority-owned businesses.

Please contact Sam Bayless, CFCA’s Regulatory Issues Specialist, by email or phone with any questions or comments, bayless@cfca.energy and (916) 646-5999.

¹ <https://www.tobaccofreekids.org/assets/factsheets/0073.pdf>

² <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/ResearchandEvaluation/FactsandFigures/YouthTobaccoPurchaseSurveyYTPSHistoricalSalesChart2016.pdf>

³ <http://www.wecard.org/e-cig-and-vapor-central>

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 6
Mtg. Date November 20, 2018
Dept. City Manager's Office

Item Title: **[Ordinance No. 449 Adding Chapter 8.70 to the Lemon Grove Municipal Code Establishing the Tobacco Retailer License]**

Staff Contact: [Miranda Evans, Management Analyst]

Recommendation:

Staff recommends that the City Council:

- 1) Consider the proposed Tobacco Retailer License provisions; and
- 2) Adopt Ordinance No. 449

Item Summary:

[During the City Council's goal setting workshop held on May 9, 2017, the Council stated that establishing a tobacco retailer licensing program was one of its top priorities to continue to protect the public health, safety and welfare and improve the quality of life for Lemon Grove residents. City staff researched programs implemented in other local jurisdictions in preparing the attached Tobacco Retailer License (TRL) ordinance. Staff's report (**Attachment A**) includes background information on state and local TRL programs; data on tobacco use by youth; an overview of regulations from other San Diego County jurisdictions; community feedback; and information on the proposed TRL program provisions, implementation plan and program cost. **Attachment B** includes the proposed TRL Ordinance.]

Fiscal Impact:

The proposed TRL program will include a fee structure that will offset the cost of license administration by the City and annual compliance checks by the San Diego County Sheriff's Department. The City was recently awarded \$46,071.00 in grant funding from the California Department of Justice (DOJ) towards program administration and enforcement costs for 2018 – 2020.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Exempt | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Tribal Government Consultation Request |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Notice to property owners within 500 ft. | |

Attachments:

- | | |
|-------------------------------|------------------------------|
| A. Staff Report | C. Letters of Support |
| B. Proposed Ordinance No. 449 | D. Community Survey Response |

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 6

Mtg. Date | November 20, 2018

Item Title: [**Proposed Tobacco Retailer License Ordinance**]

Staff Contact: [Miranda Evans, Management Analyst]

Background:

During the City Council's May 9, 2017 goal setting workshop, the Council stated that establishing a tobacco retailer licensing program was one of its top priorities to continue to protect the public health, safety and welfare and improve the quality of life for Lemon Grove residents. City staff researched programs implemented in other local jurisdictions in preparing the TRL Ordinance.

State Tobacco Retail Licensing Program

All tobacco retailers that sell cigarette and tobacco products, including electronic cigarettes (e-cigarettes), are required to obtain and annually renew a tobacco retail license from the state of California and pay an annual licensing fee of \$265 for each retail location where cigarette and tobacco products are sold. Prior to January 1, 2017, the state's licensing requirements only applied to retailers selling traditional cigarette and tobacco products and only required a one-time \$100 fee per location. The state's tobacco retail licensing program is primarily intended to target and fund the enforcement of cigarette tax evasion and black market sales. The state's program does not fund local enforcement activities relating to illegal tobacco sales to persons under 21 years of age.

To further regulate illegal tobacco sales to persons under 21 years of age, over 120 California cities and counties have adopted local TRL programs in addition to the state's licensing requirement. A local license is issued by a city or county to a business selling tobacco products and is aimed at ensuring that licensees are aware of certain eligibility requirements and performance standards.

Proposed Local TRL Program and Community Outreach

At the March 6, 2018 City Council meeting, staff presented an overview of the City's proposed TRL program and associated municipal code provisions.

On May 22, 2018, a focus group meeting was held to solicit feedback from the community. Nine adults and four children attended the meeting. Feedback from the adult participants was provided on the effects of tobacco advertising and its influence on the youth, the need for a local licensing program to enforce violations at the local level, consequences of violating the proposed TRL ordinance, the prevalence of tobacco and tobacco products in the community and tobacco addiction. The group consensus was that a local licensing program is necessary in Lemon Grove and that there should be a zero-tolerance policy for sales to youth. Specifically, the participants requested a "tough law". The youth who attended the workshop ranged between the ages of 13-17 years old and all reside in Lemon Grove. None of the youth participants who attended the focus group reported that they had ever used tobacco products. The youth attendees shared an awareness of tobacco advertisements in print and on the radio. All youth attendees think tobacco

Attachment A

retailers should be required to obtain a local license and that violators of the law should receive fines and have their licenses revoked if the violations continue.

At the August 8, 2018 City Council meeting, staff presented an update on the proposed TRL program. The DOJ grant award was announced, as were the plans for public outreach. The City Council requested that staff revise the penalties for violations to be based on a three-strike structure over a three-year period, rather than the five-strike structure over a five-year period initially proposed.

Following the August 8, 2018 meeting, staff implemented the public outreach plan. A workshop for tobacco retailers was held on October 3, 2018 at 6 p.m. Each of the 31 tobacco retailers in Lemon Grove were invited to attend the workshop with a certified letter from the City Manager sent 14 days in advance of the workshop to allow for adequate time for scheduling. All 31 return receipts were received at City Hall. Despite this notification process, only one retailer attended the workshop. At the workshop, the City provided an overview of the proposed TRL Program, background information, an explanation of the proposed violations and enforcement plan and an overview of the project timeline. The sole retailer in attendance shared positive feedback on the proposed ordinance and received retailer information and resources.

On October 8, 2018 at 10 a.m., the first community workshop was held. Three individuals attended the workshop along with City staff and Community Action Service & Advocacy (CASA) staff. Positive feedback was shared by all attendees. None of these attendees live in Lemon Grove, but were public policy students at San Diego State University. KUSI advertised the workshop that morning.

On October 10, 2018 at 6 p.m., another community workshop was held. Six individuals attended, one of which represented the National Association of Convenience Stores. The workshop attendees received an overview of the proposed ordinance, asked clarifying questions, and the group consensus was supportive of the proposed TRL program.

In addition to the workshops, an online survey (**Attachment D**) was shared with interested stakeholders who were unable to attend and participate in the in-person workshops. The survey was distributed via the City's e-notification system through the website's list serve and also on Facebook. A total of 56 survey responses (52 online, 4 printed) were collected during a three-week survey response window. The overwhelming majority of survey respondents are in favor of swift and severe punishments to retailers who sell tobacco and tobacco products to persons under 21 years of age.

All of the workshops were advertised on the City's social media platforms, on the home page of the website and the City calendar. Additionally, multiple media outlets and local news stations (CBS 8, Fox 5, KUSI) covered the workshops and the proposed ordinance and aired segments on the morning and evening news broadcasts.

Discussion:

In the United States, over 480,000 people die from tobacco-related diseases every year¹, making tobacco use the nation's leading cause of preventable death. Cigarettes and other tobacco product sales are very lucrative and are usually the third top grossing items sold in convenience stores. According to data from the National Association of Convenience Stores, the average convenience store nationwide generated over \$558,000 in sales from cigarettes alone, accounting for 28.62% of all in-store sales in 2017. While cigarette sales continue to decrease, the use of

¹ United States Department of Health and Human Services Surgeon General 2015 Report.

Attachment A

other tobacco products (especially e-cigarettes) is steadily increasing among youth due to product innovation and the shift from combustible tobacco products to other forms of tobacco.

Tobacco Troubles

E-cigarette use among U.S. youth and young adults is now a major public health concern. E-cigarette use has increased considerably in recent years, growing an astounding 900% among high school students from 2011 to 2015. These products are now the most commonly used form of tobacco among youth in the United States, surpassing conventional tobacco products, such as cigarettes, cigars, chewing tobacco, and hookahs.² It is notable that hookah lounges are prohibited in the City.

Local data from the California Healthy Kids Survey of seventh graders in the Lemon Grove School District³ revealed that 5% of seventh graders tried electronic smoking devices. Although there are no high schools in Lemon Grove, available data indicates that among East County cities eleventh grade students, 4% smoked cigarettes in the past 30 days and 11% used e-cigarettes in the past 30 days. Additionally, 60% of the eleventh grade students believe cigarettes are “fairly easy/very easy to obtain.” According to the Centers for Disease Control and Prevention, nearly 9 out of 10 smokers started smoking and began their tobacco addiction by age 18.

As mentioned above, Lemon Grove currently has 31 tobacco retailers⁴ from a variety of retail uses including, but not limited to, convenience stores and gas stations, grocery stores, smoke shops and liquor stores. The City has a high concentration of tobacco retail establishments within the Broadway commercial corridor, but a low concentration in the remaining areas of the City. While the California statewide average for sales to youth is 10.3%, Lemon Grove’s sales rates have historically been significantly higher.

According to Youth Tobacco Purchase Surveys conducted by CASA, survey findings revealed that in 2014, 39% of tobacco retailers in Lemon Grove sold tobacco products illegally to youth, including e-cigarettes. In 2015, 41% made illegal sales using the same survey protocol. These results were despite retailer education visits to each store conducted one to two weeks prior to each of these surveys.

As of June 9, 2016, individuals must now be at least 21 years old to purchase any tobacco products, including e-cigarettes. The only exception to this law is for active duty military personnel who may purchase tobacco products if they are 18 years old and have military identification. In 2017, following adoption of the new legislation, a young adult tobacco purchase survey was conducted in Lemon Grove. Prior to that survey, retailer education materials were hand-delivered to all stores in the City. Even so, 31% of stores still sold tobacco products, both cigarettes and e-cigarettes, to youth surveyors under 21 years of age in violation of state law.

As of the writing of this report, the United States Food and Drug Administration (FDA) is expected to propose a ban on menthol cigarettes. The FDA Commissioner Dr. Scott Gottlieb has announced the agency will move forward with a ban on menthol cigarettes in conjunction with limiting the sales of most flavored e-cigarettes, including candy and fruit flavors, in convenience stores and gas stations. According to the Tobacco Control Act, these regulations are anticipated to take effect one year after the policy is finalized, but it may be earlier if it is deemed necessary to protecting public health.

² *E-Cigarette Use Among Youth and Young Adults*. 2016. Vivek H. Murthy, M.D., M.B.A. U.S. Surgeon General.

³ 2014-2015 California Healthy Kids Survey data

⁴ 31 tobacco retailers equates to 1.2 retailers per 1,000 population which is the highest ratio among the five San Diego County cities with a TRL ordinance.

Attachment A

San Diego County Jurisdiction Regulations

In San Diego County, the following five cities currently have TRL ordinances in place: El Cajon (2004), San Diego (2007), San Marcos (2016), Solana Beach (2009) and Vista (2005). Of the five cities, El Cajon, San Marcos and Vista are considered by tobacco control organizations to be the most effective due to their regular compliance checks. Compliance checks must review the following: existing tobacco laws regulating underage sales, compliance with identification and signage requirements in accordance with the Stop Tobacco Access to Kids Enforcement (STAKE) Act and prohibiting sales of drug paraphernalia. An overview of the program details for each San Diego County jurisdiction with an adopted ordinance are outlined in the following matrix.

Overview of San Diego County Tobacco Retailer Licensing Programs

Jurisdiction	Year Approved	Municipal Code Section	Annual License Cost	Enforcement Agency	Number of Retailers	Retailers per 1,000 Population
City of El Cajon	June 2004	ECMC 8.33	\$675	Code Enforcement Officers (2) and CASA	114	1.1
City of San Diego	November 2007	SDMC 3.3.45	\$132*	San Diego Police Department	1,144	.9
City of San Marcos	July 2016	SMMC 8.65	\$189.50	San Diego Sheriff's Department	55	.6
City of Solana Beach	July 2009	SBMC 6.17	\$110	City Code Compliance Officer	7	.5
City of Vista	May 2005	VMC 3.56	\$250	San Diego County Sheriff's Department	72	.7

* includes \$56 application fee in addition to the \$132 license fee

Proposed TRL Program Provisions

More than 20 years of research throughout California reveals that effective TRL programs require the payment of annual fees adequate to offset program costs and support annual compliance checks. In addition, some ordinances include additional retailer incentives for those with exemplary performance during annual compliance checks. Violations for documented illegal sales to minors result in fines and penalties such as mandated periods of license suspension, up to and including the revocation of a license to sell tobacco products.

Attachment A

The proposed regulations include effective, research-based TRL provisions with the addition of incentives for responsible retailers. Such incentives offer retailers who comply with licensing requirements and pass compliance checks a discount on their annual TRL license fee. For example, fee reductions may result from compliance with the following items: no tobacco violations on the previous year's compliance check, no tobacco advertising on store windows or doors, electronic age verification at the point of sale, compliance with state-required age of sale signage at each point of sale, and employee tobacco retailing education programs. Under this proposed model, penalties for violations may include fines in lieu of license suspensions that are much more costly to the business, but with revocations for multi-year repeat offenders. Should a license be suspended or revoked, the proposed ordinance includes an appeal process to allow for an impartial review.

This incentive approach is modeled after the City of Vista's ordinance that has been in place for over a decade, and was later adopted by San Marcos in 2016. The approach was created to lower youth smoking rates, reduce youth access to tobacco, educate the community on the issues of illegal tobacco sales to youth and help create a safer and healthier environment. Prior to the adoption of Vista's ordinance, the youth sales rate was 39%. That figure decreased significantly to 1.9% following the adoption and enforcement of Vista's TRL ordinance⁵.

Proposed TRL Ordinance

The attached TRL Ordinance (**Attachment B**) establishes the TRL program in Lemon Grove based in large part on successful programs in the Cities of Vista and San Marcos.

The proposed regulations require all sellers of tobacco products, smoking materials and tobacco paraphernalia to obtain a City TRL license annually using a process that is similar to the regular business license and renewal process. It requires businesses to obtain a TRL by December 31, 2019 for the 2020 calendar year. Licenses would thereafter need to be renewed each year. The core of the program is the annual compliance check conducted by the San Diego County Sheriff's Department with retailer education and assistance from CASA.

Penalties for violations:

After receiving feedback from the City Council and the community requesting swift and severe punishments for retailers that violate the ordinance, staff has amended the penalties for violations. At the August 8, 2018 City Council meeting, a violation structure of five penalties in five years resulting in revocation of a license was proposed. The City Council requested that the penalties be revised to reflect a "three strikes" policy within a three-year period which is coincidentally in accordance with the community's desire.

Staff will take certain factors into consideration to ensure that the penalty is suitable for the violation, including, but not limited, the severity of the violation, the number of violations committed by the tobacco retailer, the amount of time that has passed since the last violation was committed, and whether the tobacco retailer is cooperating with the City and the Sheriff's Department in implementing corrective measures, among other factors.

Under the proposed ordinance, a first violation within a three-year period would result in a warning issued to the licensee, including providing an educational notice about the nature of the violation. A fine would also be imposed based on the severity of the violation. A second violation within a three-year period would result in a requirement to provide education training to employees within 60 days of the notice and an additional fine imposed based on the severity of the violation. A third violation within a three-year period would result in either suspension or revocation of the license.

⁵ September 2013 data from the Center for Tobacco Policy & Organizing

Attachment A

Should a license be suspended or revoked, the proposed ordinance sets forth an appeal process that allows for a review of the City's determination by an impartial hearing officer. Additionally, any violation(s) found during a compliance check of the business would automatically result in the rescinding of any discounts, and the full TRL fee would be charged.

Drug paraphernalia sales prohibited as a license condition:

Businesses that sell drug paraphernalia sometimes sell tobacco products, and those retailers often claim that the paraphernalia is for the use of tobacco to get around state law that prohibits such sales. The proposed ordinance requires that the retailer comply with all state laws relating to drug paraphernalia as a condition of the license. As a result, if a compliance check reveals that a retailer is selling items constituting drug paraphernalia (as defined by state law), the retailer is violating the local license, which can then be suspended or revoked. Drug control organizations believe this addition to a tobacco retailer license can be a very effective tool to fight substance abuse in communities.

Fiscal impact and licensing fees:

As with the other five San Diego County jurisdictions that have implemented TRL programs, the proposed TRL program would be created with a license fee designed to completely cover the cost of the program administration by the City and enforcement costs incurred by the San Diego County Sheriff's Department. The initial fee proposed is \$250/year which will begin to be collected with business licenses issued in December 2019 for the 2020 calendar year.

The goal in setting this license fee is to provide a discount that incentivizes compliance, but still allows the City to cover all of the direct costs paid to the Sheriff's Department for inspections. It is essential that the fee structure stay within the confines of Proposition 26 which mandates that the City cannot recover more revenue than the cost of implementing the program.

License fee and discounts for compliance:

Under California law, the cost of the license may not exceed the cost to issue the license, carry out annual inspections, or any other associated costs. The City estimates that the cost of inspections, processing the license, and other administrative costs will be approximately \$250 per license. As a result, the fee for 2019 will also be approximately \$250. This fee will be reviewed in 2020 to make sure that it continues to match the salaries and administrative processing costs, as well as the time spent per license. Upon introduction of the Ordinance, staff will include an accompanying resolution which states that the fee will be adjusted up or down in accordance with state law.

Starting the second year of the license, eligible retailers will receive a reduction in their annual fee if no violations are found during their compliance check. Additionally, fee reductions will be available if the retailer has a magnetic strip reader to verify age, conducts regular staff training and/or has no tobacco advertising on store windows or doors. No discounts will be available the first year, but will be available the following year after the retailer has been through at least one successful compliance check.

The proposed amount for each discount beginning in year two of the program will be approximately \$20 (about 8% percent of the 2019 proposed license cost). The goal is to provide a discount that incentivizes compliance. Due to the nature of the grant funding, the license fee and discount for good-actors will need to be revisited after the award cycle ends in June 2020. This proposed fee structure allows for more time spent on set-up and enforcement in 2019 and 2020. Staff recommends that after the grant completion, the CASA case study be reviewed and fee amounts revisited to re-assess if the program is sustainable without grant funding, with

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providing discounts and incentives, and at the low cost offered to retailers. Staff will also look for additional, future grant funding opportunities.

Proposition 56 grant funding award:

In November 2016, California voters approved Proposition 56 which increased the excise tax for tobacco products sold in the state. Thirty million dollars of the projected annual revenue is to be distributed annually to local law enforcement agencies through a grant program to support enforcement of certain state and local tobacco laws. In January 2018, staff became aware of this opportunity and identified it as an implementation measure for the proposed TRL program. In accordance with the State Budget Act and Proposition 56, the grant program guidelines require that only local law enforcement agencies within the State of California are eligible to receive funds. As such, only local agencies with enforcement authority for tobacco-related state laws may apply. However, City staff prepared and submitted a joint-award application with the Sheriff's Department and successfully received grant funding.

The City was awarded a total of \$46,071.00 to fund the administration and enforcement of the TRL Program. This funding is provided through June 2020 and is a crucial component of the start-up costs of the program. The core components of the program in its infancy stage are 1) start-up of the program including public outreach, program implementation including form creation, interagency-coordination with the Sheriff's Department and CASA and 2) enforcement costs from yearly compliance checks performed by law enforcement.

As part of the grant award, CASA will develop and produce an implementation case study for small jurisdictions. The case study will provide background of the jurisdiction and a problem statement utilizing the data derived from multiple youth/young adult purchase surveys. It will also discuss strategies for small jurisdictions to identify constituents, allies and opponents as well as tactics to educate the community and build organizational support. The Case Study will also address various policy considerations for other small jurisdictions interested in pursuing a TRL ordinance and will include pre-and post-ordinance data documenting the reductions in illegal sales to people under age 21 years old, if applicable.

Implementation:

If approved, once the ordinance goes into effect 30 days after the second reading, staff will begin the process to educate Lemon Grove's retailers of the impending changes forthcoming in 2019. All retailers will receive notifications mailed to them and the City's tobacco retailer webpage will continue to be updated. License fees will begin to be collected as licenses are issued in December 2019 for calendar year 2020.]

Conclusion:

[Staff recommends that the City Council consider and adopt the draft Tobacco Retailer License Ordinance No. 449.]

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ORDINANCE NO. 449

AN ORDINANCE OF THE CITY OF LEMON GROVE CITY COUNCIL ADDING CHAPTER 8.70 (TOBACCO RETAIL LICENSE) TO THE LEMON GROVE MUNICIPAL CODE ESTABLISHING A TOBACCO RETAIL LICENSE AND PROHIBITING THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 21 YEARS OF AGE

WHEREAS, California Penal Code Section 308 prohibits the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors; and

WHEREAS, California Business & Professions Code Section 22956 requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 21 years of age; and

WHEREAS, California Business & Professions Code Section 22952 and California Penal Code Section 308 require that tobacco retailers post a conspicuous notice at each point of sale stating that selling tobacco products to minors is illegal; and

WHEREAS, California Business & Profession Code Section 22962 prohibits the sale or display of cigarettes though a self-service display and prohibits public access to cigarettes without the assistance of a clerk; and

WHEREAS, California Penal Code Section 308.1 prohibits the sale of "bidis" (hand-rolled filterless cigarettes) except at those businesses that prohibit the presence of minors; and

WHEREAS, California Penal Code Section 308.3 prohibits the manufacture, distribution, or sale of cigarettes in packages of less than 20 and prohibits the manufacture, distribution, or sale of "roll- your-own" tobacco in packages containing less than 0.60 ounces of tobacco; and

WHEREAS, California Business & Professions Code Section 22971.3 authorizes local authorities to adopt tobacco retailer licensing laws to provide for the suspension and revocation of the local tobacco retailer license for any violation of a state tobacco control law; and

WHEREAS, a 2015 Center for Disease Control and Prevention report states that middle and high school students' use of electronic cigarettes tripled from 2013 to 2014; and

WHEREAS, the same report states that 9 out of 10 cigarette smokers had their first cigarette before the age of 18; and

WHEREAS, according to 2017 data from Youth Tobacco Purchase Surveys conducted by Community Action Service & Advocacy (CASA), 31 percent of Lemon Grove's tobacco retailers sold tobacco products illegally to youth surveyors under 21 years of age; and

WHEREAS, the City of Lemon Grove has a substantial interest in promoting compliance with federal, state and local laws intended to regulate tobacco sales to youth and use by youth; and

WHEREAS, studies have shown that local tobacco retail licensing programs coupled with a strong enforcement program substantially reduces youth access to tobacco; and

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WHEREAS, state law prohibits sales of “drug paraphernalia” however many retailers sell items that are commonly known to be “drug paraphernalia” including water pipes and personal vaporizers used to smoke illicit drugs, claiming the items are for tobacco or e-liquid use; and

WHEREAS, Lemon Grove intends to require compliance with state drug paraphernalia laws as a condition of obtaining and maintaining the local tobacco retail license; and

WHEREAS, in 2016, the Governor approved Senate Bill 7 to change the age for which individuals can purchase tobacco products to 21 years old; and

WHEREAS, the City desires to add Chapter 8.70 to the Lemon Grove Municipal Code to create a Tobacco Retail License.

NOW, THEREFORE, the addition of Chapter 8.70 (Tobacco Retail License) establishing tobacco retailer license regulations, is hereby added to the City of Lemon Grove Municipal Code to read as shown in the attached Exhibit A.

EXHIBIT A

TEXT OF PROPOSED REGULATIONS

NOTE:

- Text proposed to be added is displayed in underlined type.
- Text proposed to be deleted is displayed in strikeout type.

The City of Lemon Grove Municipal Code to add Chapter *** to read as follows:

CHAPTER 8.70 TOBACCO RETAIL LICENSE

SECTIONS:

8.70.010	Purpose
8.70.020	Definitions
8.70.030	Requirement for Tobacco Retail License
8.70.040	Applications Procedure
8.70.050	Issuance and Renewal of License
8.70.060	Display of License
8.70.070	License Fee
8.70.080	Licenses Nontransferable
8.70.090	License Violation - Compliance Monitoring
8.70.100	Suspension or Revocation of License
8.70.110	Denial, Suspension and Revocation - Appeals
8.70.120	Hearings - Generally
8.70.130	Conduct of Hearing
8.70.140	Form and Contents of Decision of Hearing Officer - Appeal to City Manager – Finality of Decision
8.70.150	Enforcement
8.70.160	Severability

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8.70.010 Purpose

The purpose of this Chapter is to encourage responsible tobacco retailing and discourage violations of tobacco related laws that prohibit the sale or distribution of tobacco products, including all smoking materials as defined in section 8.65.020, to minors. This Chapter is not intended to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalty provided therefore.

8.70.020 Definitions

When used in this chapter, the following definitions shall have the meanings given by this section, whether or not these words or phrases are capitalized:

“Drug Paraphernalia” shall have the meaning set forth in Health & Safety Code section 11014.5, as that section may be amended from time to time.

“Electronic Smoking Device” means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances by delivering a vaporized or heated solution. Electronic Smoking Device includes any such device, whether manufactured, distributed marketed or sold as an electronic cigarette, an e-cigarette, an electronic cigar, electronic cigarillo, an electronic pipe, an electronic hookah, vaporizer, vape pen, heated tobacco product, or any product name or descriptor, including any component, part or accessory of such a device, whether or not sold separately. Electronic Smoking Device does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use.

“Electronic Smoking Device Paraphernalia” means cartridges, cartomizers, e-liquid, smoke juices, tips, atomizers, Electronic Smoking Device batteries, Electronic Smoking Device chargers and any other item specifically designed for the preparations, charging or use of Electronic Smoking Devices.

“Hearing Officer” means the impartial hearing officer designated to serve in this capacity.

“Itinerant Tobacco Retailing” means engaging in tobacco retailing at other than a fixed location.

“License” means a Tobacco Retail License issued by the City pursuant to this Chapter.

“Licensee” means a Person to whom a License has been issued.

“Person” means any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

“Proprietor” means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent or greater interest in the stock, assets or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person has, or can have, sole or shared control over the day- to-day operations of a business.

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“Smoking Materials” means Tobacco Products, Electronic Smoking Device, Electronic Smoking Device Paraphernalia, and any other product containing tobacco or nicotine that releases gases, particles or vapors into the air as a result of combustion, heating, electrical ignition or vaporization, when the apparent or usual purpose is human inhalation of the byproducts.

“Tobacco Product” means: (1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and (2) any Electronic Smoking Device. (3) Notwithstanding any provision of subsections (1) and (2) to the contrary, “Tobacco Product” includes any component, part, or accessory of a tobacco product, whether or not sold separately. “Tobacco Product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

“Tobacco Paraphernalia” includes cigarette papers or wrappers, blunt wraps, pipes, holders of Smoking Materials of all types, cigarette rolling machines, and any other item or instrument designed for the smoking, consumption, use or ingestion of Tobacco Products.

“Tobacco Retailer” means any Person who sells, offers for sale, exchanges, or offers to exchange for any form of consideration, tobacco, Tobacco Products, or Tobacco Paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange.

“Tobacco Retailing” shall mean selling, offering for sale, exchanging, or offering to exchange for any form of consideration, tobacco, Tobacco Products, or Tobacco Paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange.

8.70.030 Requirement for Tobacco Retail License

A. It shall be unlawful for any Person to act as a Tobacco Retailer in the City without first obtaining and maintaining a valid Tobacco Retail License pursuant to this Municipal Code Chapter for each location at which Tobacco Retailing is to occur. No Tobacco Retail License will be issued to an authorized Tobacco Retailing at any location other than a fixed location. No License will be issued for Itinerant Tobacco Retailing or Tobacco Retailing from vehicles.

B. Nothing in this Chapter shall be construed to grant any Person obtaining a Tobacco Retail License any status or right other than the right to act as a Tobacco Retailer at the location in the City identified on the face of the License, subject to compliance with all other applicable laws, regulations, and ordinances. Nothing in this Chapter shall be construed to render inapplicable, supersede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on indoor smoking made applicable to business establishments by Labor Code Section 6404.5.

C. No Person who is younger than the minimum age established by California law for the purchase or possession of Tobacco Products shall engage in Tobacco Retailing.

8.70.040 Applications Procedure

A. An application for a Tobacco Retail License shall be submitted to the City in the name of each Proprietor proposing to conduct a Tobacco Retailing business and shall be signed by each

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Proprietor or an authorized agent thereof. A Proprietor proposing to conduct Tobacco Retailing at more than one location shall submit a separate application for each location.

B. All applications shall be submitted on a form supplied by the City and shall contain the following information:

1. The name, address, and telephone number of each Proprietor.
2. The business name, address and telephone number of the fixed location for which a Tobacco Retail License is sought.
3. The name and mailing address authorized by each applicant to receive all License-related communications and notices (the "authorized address"). Failure to supply an authorized address shall be understood to consent to the provision of notice at the business address specified in paragraph 2, above.
4. Whether or not any applicant has previously been issued a License pursuant to this Chapter, or other permit, license or entitlement issued by the City to operate the business, that is or was at any time suspended or revoked, or whether the applicant has previously had a tobacco retail license issued by another jurisdiction denied, suspended or revoked, and, if so, the dates of such denial, suspension or revocation.
5. Such other information as the City Manager deems necessary for the administration or enforcement of this Chapter.
6. Any and all additional information required by the City to be included in a Tobacco Retail License application.

8.70.050 Issuance and Renewal of License

A. Upon the receipt of an application for a Tobacco Retail License and the payment of a Tobacco Retail License fee, the City shall issue a License unless:

1. The application is incomplete or inaccurate.
2. The application seeks authorization for Tobacco Retailing at an address that appears on a License that is suspended, has been revoked, or is subject to suspension or revocation proceedings for violation of any of the provisions of this Chapter. Notwithstanding the foregoing, this subparagraph shall not constitute a basis for denial of a License if either or both of the following apply:
 - a) The applicant provides the City with documentation demonstrating that the applicant has acquired or is acquiring the premises or business in an arm's length transaction. For the purposes of this subparagraph, an "arm's length transaction" is defined as sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of this chapter that occurred at the location, is presumed not to be an "arm's length transaction."

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b) It has been more than three years since the most recent License for that location was revoked.

3. The application seeks authorization for Tobacco Retailing by a Proprietor for which or whom a suspension is in effect or by a Proprietor which or who has had a License revoked, pursuant to this chapter.

4. The application seeks an authorization for Tobacco Retailing that is unlawful pursuant to this Chapter, or that is unlawful pursuant to any other local, state or federal law.

5. The City has information that the applicant or his or her agents or employees have violated any local, state, or federal tobacco control law at the location for which the License or renewal of the License is sought within the preceding 30-day period.

6. The City has information that the applicant or his or her agent or employee has violated any local, state or federal tobacco control law, including this Chapter, within the preceding (12) months.

7. The issuance of a Tobacco Retail License would be in conflict with any other City ordinance.

B. Beginning from the effective date of this Chapter, all Tobacco Retailers have until December 31, 2018 to obtain a License. An application to renew such License shall be made no later than 30 days prior, but no earlier than 60 days prior to the expiration of the License. The City has no obligation to issue notification of impending expiration of any License. The applicant shall follow all of the procedures and provide all of the information required by Section 8.65.040 above. The City shall process the application according to the provisions of this section. A License may be renewed annually by submitting a Tobacco Retail License application to the City along with payment of the annual Tobacco Retail Licensing fee; provided, however, a Tobacco Retail License that is suspended, has been revoked, or is subject to suspension or revocation proceedings shall not be renewed pending the final outcome of such suspension or revocation.

C. If the information required in the License application pursuant to any subsection of Chapter 8.65 changes, a new Tobacco Retail License is required before the business may continue to act as a Tobacco Retailer. For example, if a Proprietor to whom a License has been issued changes business location, that Proprietor must apply for a new License prior to acting as a Tobacco Retailer at the new location. If the business is sold, the new owner must apply for a License for that location before acting as a Tobacco Retailer.

D. A Tobacco Retail License that is not timely renewed pursuant to this Chapter shall be automatically suspended by operation of law. If not renewed, a license shall be automatically revoked six (6) months after the renewal date. Additionally, civil, criminal and/or administrative citations may be issued during this interim period for failure to maintain the appropriate License. To reinstate the paid status of a License that has been suspended due to the failure to timely renew the License or pay the renewal fee, the Tobacco Retailer must:

1. Submit the License renewal application and fee plus a reinstatement fee of ten percent of the License renewal fee; and

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2. Submit a signed affidavit affirming that he or she has not sold any Tobacco Product or Tobacco Paraphernalia during the period the License was suspended for failure to pay the License renewal fee.

8.70.060 Display of License

Each License shall be prominently displayed in a publicly visible location at the Licensed premises. Failure to properly display the License will result in the issuance of a citation.

8.70.070 License Fees

The fee for issuance or renewal of a Tobacco Retail License shall be established by resolution of the City Council and shall be in addition to the City's business license fee and any other license or permit fee imposed by this Code upon the applicant. The Tobacco Retail License fee shall be paid to the City at the time the License application is submitted. The fee shall be calculated so as to recover the cost of administration and enforcement of this Chapter, including, for example, issuing a License, administering the License program, Tobacco Retailer education, Tobacco Retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this Chapter. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.

8.70.080 Licenses Nontransferable & Convey a Limited, Conditional Privilege

A Tobacco Retail License is nontransferable and subject to the provisions of this Municipal Code Section. Nothing in this Chapter shall be construed to grant any Person obtaining and maintaining a Tobacco Retailer License any status or right other than the limited conditional privilege to act as a Tobacco Retailer at the location within the City's jurisdictional boundaries identified on the face of the License, subject to compliance with the terms and conditions of this Chapter.

8.70.090 License Violations – Compliance Monitoring

A. It shall be a violation of a Tobacco Retail License for a Tobacco Retail Licensee or his or her agents or employees to violate any local, state or federal tobacco-related law.

B. It shall be a violation of this Chapter for any Tobacco Retail Licensee or any of the Licensee's agents or employees to violate any local, state, or federal law regulating controlled substances or Drug Paraphernalia including, but not limited to, California Health and Safety Code section 11364.7, as that section may be amended from time to time.

C. In addition to the provisions of this Municipal Code, compliance with this Chapter shall be monitored by the San Diego County Sheriff's Department. Any peace officer or Municipal Code compliance official also may enforce this Chapter. The San Diego County Sheriff's Department shall check compliance of each Tobacco Retailer at least one time per twelve (12) month period and shall conduct additional compliance checks as warranted. The compliance checks shall be conducted to determine, at a minimum, if the Tobacco Retailer is complying with tobacco laws regulating underage sales. The San Diego County Sheriff's Department shall use youth decoys and comply with protocols for the compliance checks developed in consultation with the San Diego County Department of Health and Human Services and the San Diego District Attorney. When appropriate, the compliance checks shall determine compliance with other tobacco-related laws.

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D. The City shall not enforce any tobacco related minimum age law against a Person who otherwise might be in violation of such law because of a Person's age (hereinafter "youth decoy") if the potential violation occurs when:

1. The youth decoy is participating in a compliance check supervised by a peace officer;
or

2. The youth decoy is participating in a compliance check funded in part by the San Diego County Department of Health and Human Services or funded in part, either directly or indirectly through sub-contracting, by the California Department of Health Services; or

3. The youth decoy has a letter of permission for such compliance check activity from the District Attorney's Office.

8.70.100 Suspension or Revocation of License

A. In addition to any other penalty authorized by law, and including the provisions of this Municipal Code, a Tobacco Retail License may be suspended or revoked if the City finds, after notice to the Tobacco Retail Licensee and opportunity to be heard, that the Tobacco Retail Licensee or his or her agents or employees has or have violated any of the provisions of this Chapter; provided, however, violations by a Licensee at one location may not be accumulated against other locations of that same Tobacco Retail Licensee, nor may violations accumulated against a prior Tobacco Retail Licensee at a Licensed location be accumulated against a new Tobacco Retail Licensee at the same Licensed location.

1. Upon a finding by the City of a first License violation within any three-year period, the City shall:

a) Issue a written warning to the Licensee, including providing an educational notice about the nature of the violation; and

b) Assess a fine against the Licensee for violation of this Chapter

2. Upon a finding by the City of a second License violation within any three-year period, the City shall:

a) Require the Licensee to provide documentation to the City that all employees engaged in the Retail Sale of tobacco have received training in a City approved program within sixty (60) days after the warning, or such other time as shall be set by the City; and

b) Assess an additional fine against the Licensee for violation of this Chapter

3. Upon the finding by the City of a third License violation within any three-year period, the City may suspend or revoke the License.

B. A Tobacco Retail License shall be revoked if the City finds, after notice and opportunity to be heard, that any one of the conditions listed below exist. The revocation shall be without prejudice to the filing of a new application for a Tobacco Retail License.

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1. One or more of the bases for denial of a Tobacco Retail License under Section 8.65.050 existed at the time the Tobacco Retail License application was made or at any time before the Tobacco Retail License was issued.

2. The application is incomplete for failure to provide the information required by Section 8.65.040.

3. Any information contained in the application, including supplemental information, if any, is found to be false in any material respect.

4. The application seeks authorization for Tobacco Retailing that is unlawful pursuant to this Code, or that is unlawful pursuant to any other local, state or federal law.

C. In the event the City suspends or revokes a Tobacco Retail License, written notice of the suspension or revocation shall be served upon the Tobacco Retail Licensee within five (5) days of the suspension or revocation in a manner prescribed in Section 8.65.040. The notice shall contain:

1. A brief statement of the specific grounds for such suspension or revocation;

2. A statement that the Tobacco Retail Licensee may appeal the suspension or revocation by submitting an appeal, in writing, in accordance with the provisions of Section 8.65.110, to the City, within ten (10) calendar days of the date of the service of the notice; and

3. A statement that the failure to appeal the notice of suspension or revocation will constitute a waiver of all rights to an administrative appeal hearing, and the suspension or revocation will be final.

8.70.110 Denial, Suspension and Revocation - Appeals

A. Any Tobacco Retail License applicant or Licensee aggrieved by the decision of the City in denying, suspending, or revoking a Tobacco Retail License, may appeal the decision, by submitting a written appeal to the City Clerk within ten (10) calendar days from the date of service of the notice of denial, suspension, or revocation. The written appeal shall contain:

1. A brief statement of the specific action protested, together with any material facts claimed to support the contentions of the appellant;

2. A brief statement of the relief sought, and the reasons why it is claimed the protested action should be reversed or otherwise set aside;

3. The signatures of all parties named as appellants and their official mailing addresses; and

4. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

B. The appeal hearing shall be conducted by a Hearing Officer.

C. Upon receipt of any appeal filed pursuant to this section, the City Clerk shall transmit said appeal to the Hearing Officer who shall calendar it for a hearing. The Hearing Officer shall

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give the parties at least fifteen (15) calendar days written notice of the time and place of the hearing either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal. Upon good cause, the Hearing Officer may grant one extension for the date of the hearing not to exceed fifteen (15) days from the original date set for the hearing.

D. Only those matters or issues specifically raised by the appellant in the notice of appeal shall be considered in the hearing of the appeal.

E. Failure of any Person to file a timely appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the notice and order, or any portion thereof.

F. Following the hearing on the appeal by the Hearing Officer, the decision of the Hearing Officer may be appealed to the City Manager or his or her designee. A decision of the City Manager or his or her designee shall be the final decision of the City.

G. During a period of License suspension, the Tobacco Retail Licensee must remove from public view all Tobacco Products and Tobacco Paraphernalia at the address that appears on the suspended or revoked Tobacco Retail License.

8.70.120 Hearings – Generally

A. At the time set for hearing, the Hearing Officer shall proceed to hear the testimony of material witnesses, the appellant, and other competent Persons, including members of the public, respecting those matters or issues specifically listed by the appellant in the notice of appeal.

B. The proceedings at the hearing shall be electronically recorded. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense.

C. The Hearing Officer may, upon the request of the appellant or upon the request of the City, grant continuances from time to time for good cause shown, or upon his or her own motion.

8.70.130 Conduct of Hearing

A. Hearings need not be conducted in accordance to the technical rules relating to evidence and witnesses. Government Code section 11513, subsections (a), (b) and (c), or as such section may be amended from time to time, shall apply to hearings under this Chapter.

B. Oral evidence shall be taken only upon oath or affirmation.

C. Irrelevant and unduly repetitious evidence shall be excluded.

D. Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing.
2. To introduce documentary and physical evidence.

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3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing.
4. To impeach any witness regardless of which party first called the witness to testify.
5. To rebut evidence presented against the party.
6. To represent himself, herself, or itself, or to be represented by anyone of his, her, or its choice who is lawfully permitted do so.

E. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact that may be judicially noticed by the courts of this state or that may appear in any of the official records of the City of any of its departments.

8.70.140 Form and Contents of Decision of Hearing Officer - Appeal to City Manager - Finality of Decision

A. If it is shown, by a preponderance of the evidence, that one or more bases exist to deny, suspend, or revoke the Tobacco Retail License, the Hearing Officer shall affirm the City's decision to deny, suspend, or revoke the Tobacco Retail License. The decision of the Hearing Officer shall be in writing and shall contain findings of fact and a determination of the issues presented.

B. The decision of the Hearing Officer shall inform the appellant that the decision may be appealed to the City Manager by filing a written appeal with the Hearing Officer within ten (10) days of receipt of the decision of the Hearing Officer. The written appeal shall be forwarded to the City Manager upon receipt.

C. Within fifteen (15) days of receipt of the written appeal, the City Manager shall review the record of the hearing and issue a written decision to grant or deny the appeal. A decision of the City Manager shall be final. The City Manager shall provide appellant with a copy of his or her decision and that the time for judicial review is governed by California Code of Civil Procedure section 1094.6, or as such section may be amended from time to time. Copies of the decision shall be delivered to the parties personally or sent by certified mail to the address shown on the appeal. The decision shall be final when signed by City Manager and served as provided in this section.

8.70.150 Enforcement

A. In addition to any other remedy, any Person violating any provision of this Chapter shall be guilty of a misdemeanor for each day a violation continues.

B. Any violation of this Chapter may be remedied by a civil action brought by the City Attorney. The City may recover attorneys' fees and costs of suit, including witness fees, in any civil action brought by the City Attorney to remedy any violation of this Chapter.

C. Violations of this Chapter are hereby declared to be public nuisances subject to abatement by the City.

D. In addition to criminal sanctions and other remedies set forth in this Chapter, civil and administrative penalties may be imposed pursuant to Chapter 1.24 of this Municipal Code against

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any Person violating any provision of this Chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 1.24 of this Municipal Code.

8.70.160 Severability

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

Attachment C

LETTERS OF SUPPORT RECEIVED



March 6, 2018

Lorenzo Higley, MSW
CASA Consultant
275 E. Douglas, Suite 115
El Cajon, CA 92020

Dear Lorenzo,

On behalf of the Lemon Grove Clergy Association which is made up of pastors of many denominations, we want to write to show our support of the new Tobacco Retailer Licensing Program ordinance.

After reading over the material and looking at the research, we believe it will help protect lemon grove youth from a life of tobacco addiction which has many negative consequences. As church pastors we often walk through these devastating effects of smoking with our church members. It especially breaks our hearts when they are youth. This is why we believe that we as a community need to do our best to keep tobacco related products (including electronic smoking devices) out of the hands of our children.

We have seen Tobacco Retailer Licensing work in other communities like El Cajon, Vista and San Marcos and we believe it would be a wise decision to implement a similar program like this in Lemon Grove since the last study done (2017) showed that 1/3 of our Lemon Grove stores sold cigarettes to minors. We need this tool to help ensure that retailers comply with existing laws that prohibit tobacco sales to minors.

Thank you for giving serious consideration to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark & Anne Stapleton', written in a cursive style.

Mark & Anne Stapleton, as representatives of the Lemon Grove Clergy Association

Attachment C



March 6, 2018

Raquel Vasquez
Mayor, City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

Dear Mayor Vasquez & Members of the City Council:

Cigarette smoking kills an estimated 480,000 people in America each year – more than alcohol, illegal drug use, homicide, suicide, car crashes, and AIDS combined! (CDC 2014). In California, 9 out of 10 smokers started smoking before age 21.

Tobacco products include cigarettes, electronic cigarettes, vape pens, hookah pens, and little cigars/cigarillos. While the rate of tobacco use among youth in East County has declined slightly over the years, it is still unconscionable that retailers continue to sell tobacco to minors (<age 21). And 18-19 year olds are twice as likely as 16-17 year olds to be current smokers.

CASA and our youth volunteers conducted multiple surveys of all retailers in Lemon Grove over the past three years. The results indicate that 31-41% of local tobacco retailers illegally sold a tobacco product to a minor. Nearly three-quarters of the retailers didn't even ask the age of the young volunteer. And this was after we visited each retailer and provided training material about California tobacco laws and their responsibility to prevent illegal tobacco sales to minors. The bottom line is that tobacco sales represent a large portion of revenue for small retailers and the risk of being held accountable is non-existent.

To reduce illegal sale of tobacco products to minors, many cities and counties in California have adopted strong local tobacco retailer licensing ordinances. Here in San Diego County, the cities of El Cajon, San Marcos, Solana Beach, and Vista have all adopted tobacco retailer ordinances that include licensing fees and enforcement. These are two key elements of an effective ordinance: 1) fees set high enough to sufficiently fund program administration and enforcement; and 2) a rigorous annual enforcement program with progressive consequences to deter illegal sales. Research shows that these elements result in drastically reduced sales to minors.

The US Surgeon General reports that among teens who start smoking before age 18: 1 out of 3 will quit, 2 out of 3 will have a lifetime of addiction to nicotine, and one-half of those will die of tobacco-related disease. We support your leadership in seeking to protect young people from a lifetime of addiction and poor health.

Thank you for considering a local ordinance to hold tobacco retailers accountable for illegal sales to minors.

Respectfully,

A handwritten signature in black ink, appearing to read "Dana J. Stevens".

Dana J. Stevens
Executive Director

Attachment D

COMMUNITY SURVEY RESULTS

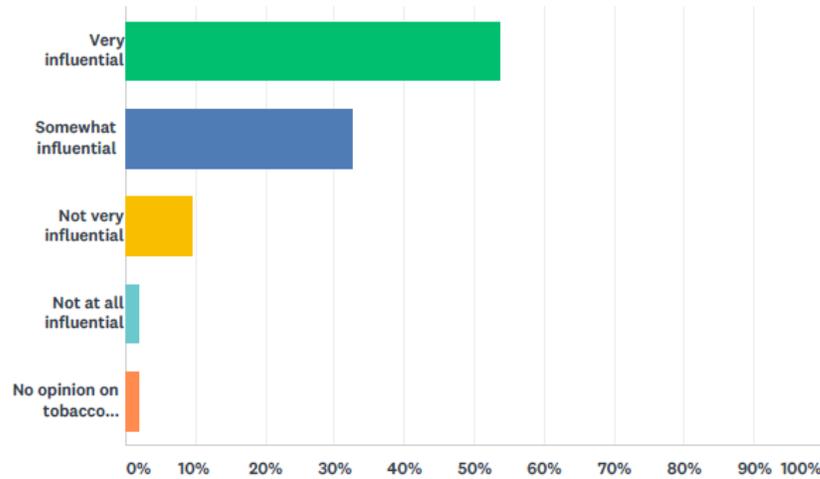
FALL 2018

Lemon Grove TRL Survey

SurveyMonkey

Q1 How much influence do you think tobacco advertising has on young people?

Answered: 52 Skipped: 0

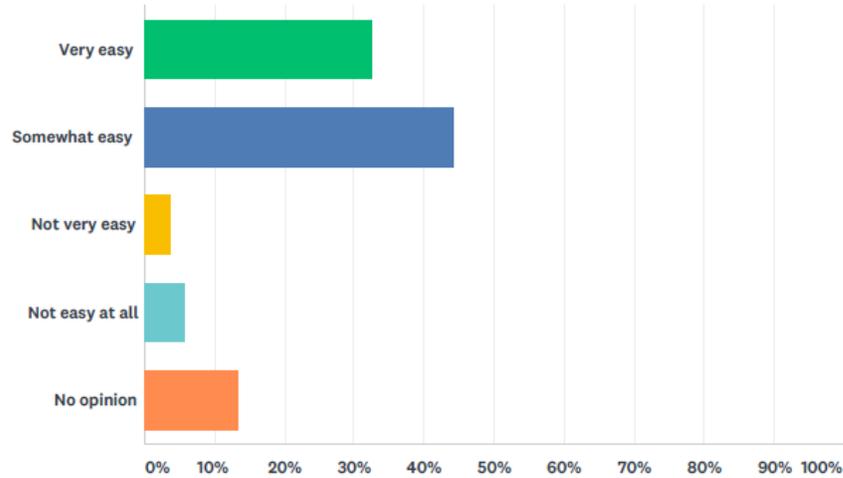


ANSWER CHOICES	RESPONSES	
Very influential	53.85%	28
Somewhat influential	32.69%	17
Not very influential	9.62%	5
Not at all influential	1.92%	1
No opinion on tobacco advertising influence on youth	1.92%	1
TOTAL		52

Attachment D

Q2 How easy do you think it is for youth to purchase tobacco products in Lemon Grove?

Answered: 52 Skipped: 0



ANSWER CHOICES	RESPONSES
Very easy	32.69% 17
Somewhat easy	44.23% 23
Not very easy	3.85% 2
Not easy at all	5.77% 3
No opinion	13.46% 7
TOTAL	52

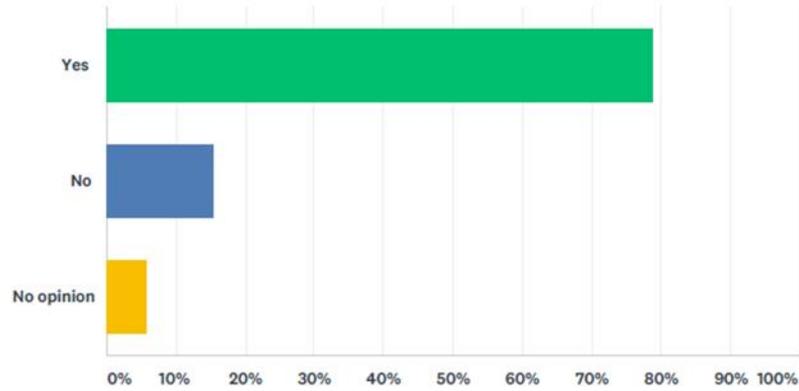
Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q3 Tobacco retailers in Lemon Grove should be required to purchase a local license to sell tobacco

Answered: 52 Skipped: 0

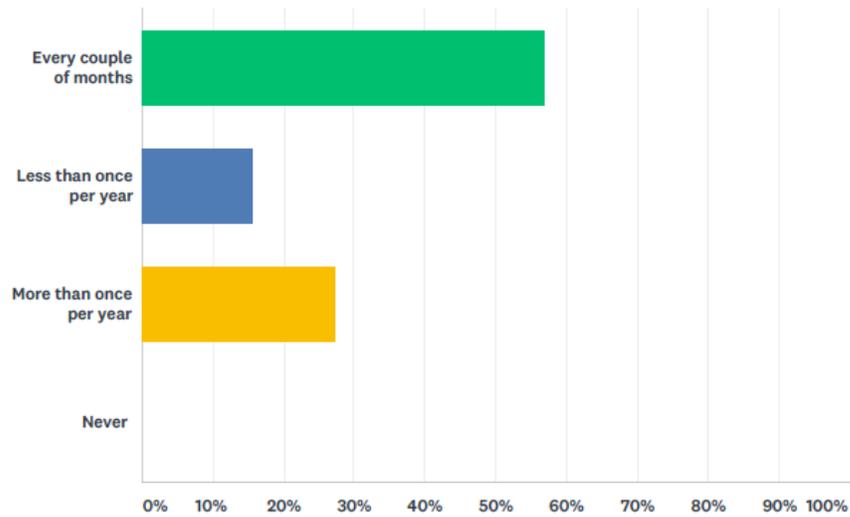


ANSWER CHOICES	RESPONSES	
Yes	78.85%	41
No	15.38%	8
No opinion	5.77%	3
TOTAL		52

Attachment D

Q4 How Often do you think that tobacco retailers should be checked for compliance of sales to minors?

Answered: 51 Skipped: 1



ANSWER CHOICES	RESPONSES	
Every couple of months	56.86%	29
Less than once per year	15.69%	8
More than once per year	27.45%	14
Never	0.00%	0
TOTAL		51

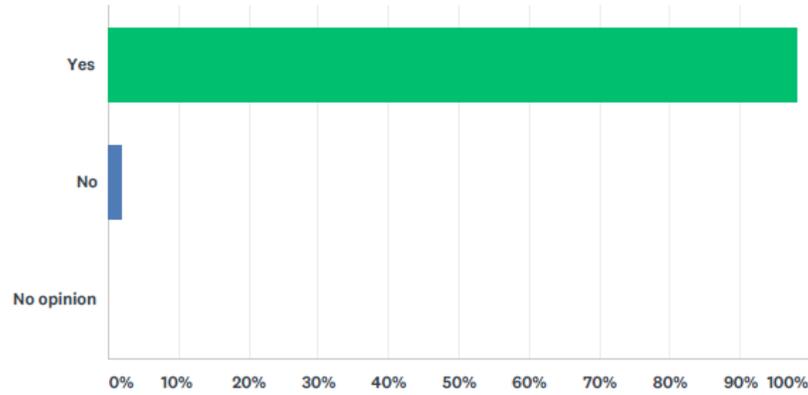
Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q5 Tobacco retailers in Lemon Grove should face consequences for selling tobacco to minors

Answered: 52 Skipped: 0

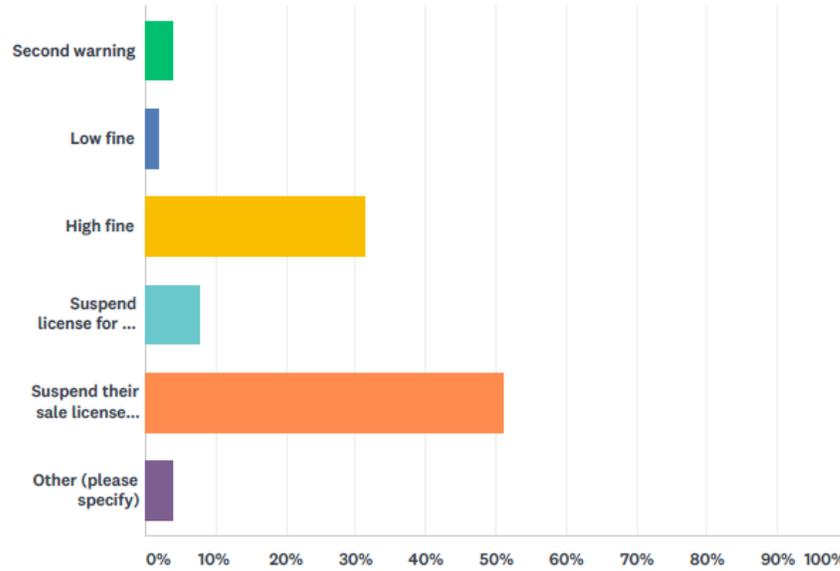


ANSWER CHOICES	RESPONSES	
Yes	98.08%	51
No	1.92%	1
No opinion	0.00%	0
TOTAL		52

Attachment D

Q6 If yes, if a tobacco retailer sells tobacco to youth more than once, their consequences should be:

Answered: 51 Skipped: 1



ANSWER CHOICES	RESPONSES	
Second warning	3.92%	2
Low fine	1.96%	1
High fine	31.37%	16
Suspend license for a few days	7.84%	4
Suspend their sale license for a period up to 6 months	50.98%	26
Other (please specify)	3.92%	2
TOTAL		51

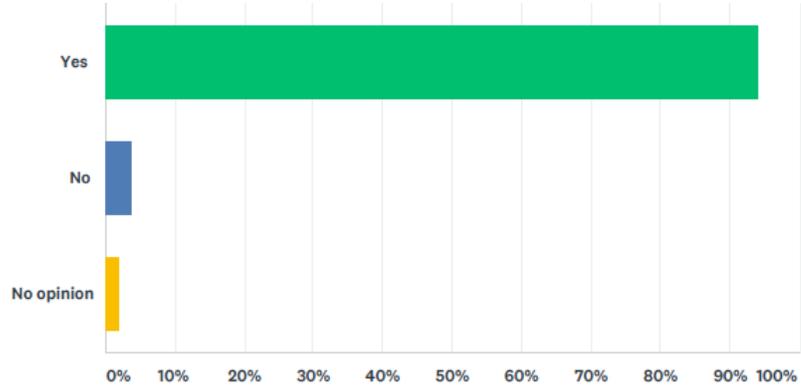
Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q7 Would you support a local control ordinance to hold tobacco retailers accountable for illegal sales to minors?

Answered: 52 Skipped: 0

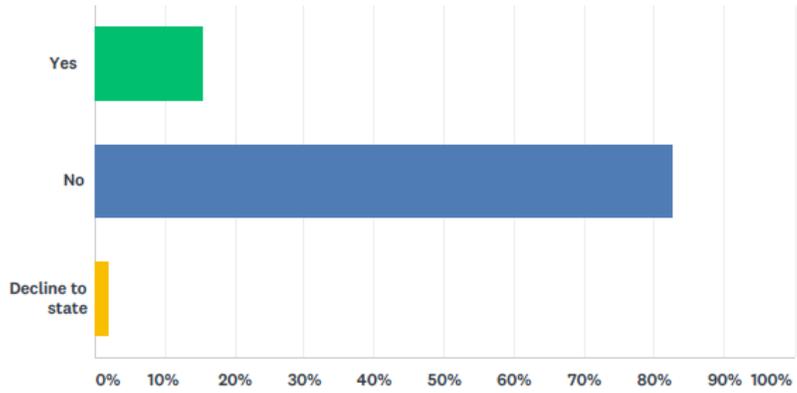


ANSWER CHOICES	RESPONSES	
Yes	94.23%	49
No	3.85%	2
No opinion	1.92%	1
TOTAL		52

Attachment D

Q8 Have you used any tobacco products in the past 6 months?

Answered: 52 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	15.38%	8
No	82.69%	43
Decline to state	1.92%	1
TOTAL		52

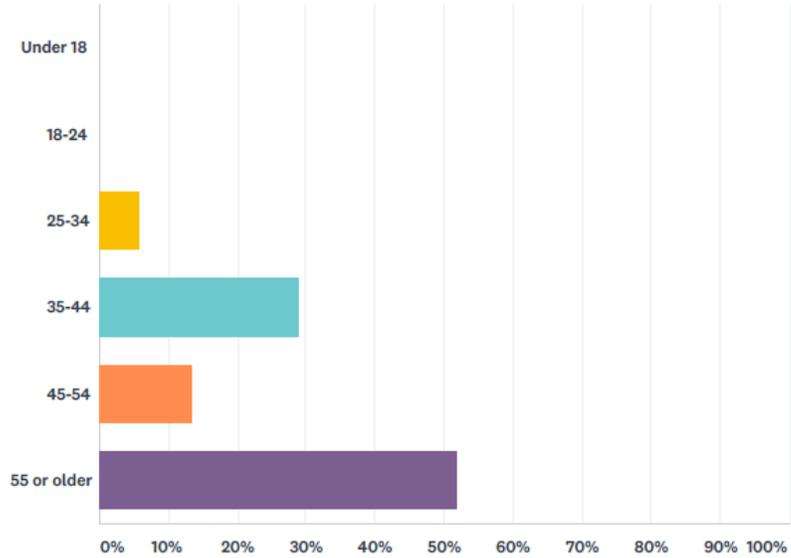
Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q9 What is your age?

Answered: 52 Skipped: 0



ANSWER CHOICES	RESPONSES	
Under 18	0.00%	0
18-24	0.00%	0
25-34	5.77%	3
35-44	28.85%	15
45-54	13.46%	7
55 or older	51.92%	27
TOTAL		52

Attachment D

Lemon Grove TRL Survey

SurveyMonkey

Q10 Other comments about illegal tobacco sales to minors that you would like to share

Answered: 18 Skipped: 34

#	RESPONSES	DATE
1	Regrading item 6, a 3rd time would be cause a high fine and license suspension up to 6 months.	10/10/2018 6:07 PM
2	N/A	10/10/2018 11:03 AM
3	None. Thank you!	10/10/2018 8:49 AM
4	None	10/9/2018 7:01 PM
5	Minors should also be held accountable for their behavior.. dont just punish the retailer.	10/8/2018 8:56 PM
6	My dad smoked 4-6 packs a day & I was an avid anti-smoking protester. As is typical, at age 16, I wanted to be cool at a party. That's how I started smoking. Bottom line is if kids want to smoke, they are going to smoke.	10/8/2018 6:17 PM
7	Share the results of this survey with the city of Lemon Grove City Council, please.	10/8/2018 11:49 AM
8	no selling of tobacco in vending machines.. Contact the parents if kids caught smoking.	10/8/2018 11:36 AM
9	Please include all tobacco products and "sides", (bowls, juul, papers, etc...)	10/8/2018 10:09 AM
10	Adults who purchase tobacco products for minors intentionally should be ticketed and fined heavily. For example; purchasing a pack of cigarettes and then handing them to a minor outside the store.	10/8/2018 10:00 AM
11	lack of availability is key. We do not need so many avenues for youth to get these products.	10/8/2018 9:53 AM
12	We need to protect our communities children and youth. And we need to clean up our city.	10/8/2018 9:20 AM
13	We really need to crack down on this. And let retailers know it will be done anonymously so they will comply.	10/8/2018 9:19 AM
14	None	10/8/2018 9:14 AM
15	This should be all tobacco and tobacco related products.. vape pens,e-cigs,etc	10/8/2018 9:04 AM
16	none	10/8/2018 8:57 AM
17	21 years old may be excessive. Kids can vote at 18. Boys of 18 must register for the draft. If we can kill them on the battlefield how can we say no to smoking? Similarly, kids can drive at 16 (and many of them are awful drivers) and can die or cause death. Let's get these ages in sync. Driving and smoking at 19. Draft, voting should be at 21. Some are in favor of everything at 21, the traditional "age of consent." The intention should be to save the lives of the new generation.	10/8/2018 8:46 AM
18	No	10/8/2018 8:37 AM