LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY

Item No. 3
Mtg. Date June 19, 2018
Dept. Development Services Department

Item Title: **Public Hearing to Consider a Request for a Conditional Use Permit (CUP-170-0001) to Establish a Medical Marijuana Dispensary at 6470 Federal Blvd. in the Light Industrial Zone**

Staff Contact: David De Vries, Development Services Director

Recommendation:

1) Conduct the public hearing; and
2) Adopt a Resolution (**Attachment B**) conditionally approving Conditional Use Permit CUP-170-0001, a request to establish a medical marijuana dispensary at 6470 Federal Blvd. in the Light Industrial (LI) Zone (Municipal Code Chapter 17.32).

Item Summary:

The project is a request to establish a medical marijuana dispensary (MMD) at 6470 Federal Blvd. in the Light Industrial Zone on a 0.96 acre parcel. A MMD is allowed by conditional use permit in commercial and industrial zones as a result of Measure V (Codified as Municipal Code Chapter 17.32) which required a majority vote from residents in the City of Lemon Grove in November 2016. Tenant and site improvements including new landscape and trees, weed abatement, street improvements and utility undergrounding are proposed. The applicant is requesting that weed abatement, street improvement and undergrounding utility improvements be a part of an agreement for future fair share contributions in lieu of immediate improvements.

Fiscal Impact:

No fiscal impact.

Environmental Review:

- ☐ Not subject to review
- ☐ Categorically Exempt, Section 15301
- ☐ Negative Declaration
- ☒ Mitigated Negative Declaration

Public Information:

- ☒ AB52
- ☐ Neighborhood Meeting
- ☒ Notice to property owners within 500 ft.
- ☒ Notice published in local newspaper
- ☒ Sign Posted on Property

Attachments:

A. Staff Report
B. Resolution of Conditional Approval
C. CEQA Initial Study ND18-02
D. Vicinity Map
E. Measure V
F. Comment Letter & Email Addendum (Applicant's Attorney)
G. Exhibit A – Project Plans

Attachment A

LEMON GROVE CITY COUNCIL
STAFF REPORT

Item No. 3

Mtg. Date June 19, 2018

Item Title: **Public Hearing to Consider a Request for a Conditional Use Permit (CUP-170-0001) to Establish a Medical Marijuana Dispensary at 6470 Federal Blvd. in the Light Industrial Zone**

Staff Contact: David De Vries, Development Services Director

Application Summary:

APPLICANT/OWNER:	Sean McDermott
PROPERTY OWNER:	Keith Anderson, Wing Avenue Investment, LLC
PROPERTY LOCATION:	6470 Federal Blvd., APN: 478-190-20-00. The site is located on the north side of Federal Blvd. between San Miguel Ave. and MacArthur Drive.
PROJECT AREA:	0.96 acres (41,711 square feet)
EXISTING ZONE:	Light Industrial (LI) Zoning District
GENERAL PLAN:	Industrial Land Use Designation
SURROUNDING PROPERTIES:	North: State Route 94 South: Single-family residences north of Blue Ash Drive and south of Federal Blvd. (60 feet above the project site location due to the slope and elevation change); Residential Low (RL) Zoning District East: Light industrial land uses; Light Industrial (LI) Zoning District West: Light industrial land uses; Light Industrial (LI) Zoning District
ENVIRONMENTAL IMPACT:	On May 24, 2018, a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) was filed with the San Diego County Clerk (ND18-02). The project could have a significant effect on the environment as it relates to air quality, biological resources, cultural resources, greenhouse gas emissions, noise, public services, transportation/traffic, and mandatory findings of significance. There will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. Mitigation measures are required. Staff acknowledges the applicant's attorney comments submitted on June 11, 2018 and recommends the installation of solar panels on the site in lieu of air quality analysis. CEQA allows for minor modifications to the mitigation measures when an equivalent mitigation may be provided. The MND will be updated accordingly. The comment letter also states that the project does not result in any impacts to biological resources. Compliance

	with Measure V requires compliance with the Zoning Ordinance and the Zoning Ordinance requires weed abatement on-site which includes the removal of invasive plant species in the tributary to Chollas Creek which is the reason why there are potential impacts to biological resources. The City Council can request staff to amend the MND, however, the City Council is required as a part of certification of the MND to find that there is no substantial evidence that the project will have a significant effect on the environment and the MND reflects the City's independent judgement and analysis. A lead agency is required to recirculate a MND when the MND must be substantially revised after public notice. Substantial revision includes when the lead agency determines that project revisions will not reduce potential effects to less than significance or if new measures or revisions are required that are not an equivalent substitute for existing mitigation measures. If the MND is amended, a finding must also be made that revised mitigation measures are an equivalent or more effective substitute than the existing mitigation measures.

Background

In November 2016, voters in the City of Lemon Grove passed Measure V, an initiative removing the City's prohibition of medical marijuana dispensaries and establishing performance standards and a permit process by which a medical marijuana dispensary (MMD) may be established. Measure V was subsequently codified in Chapter 17.32 of the Lemon Grove Municipal Code (LGMC) (**Attachment C**).

On March 7, 2017, staff presented a report to City Council describing the recommended draft review procedures and draft conditions of approval for requests to establish a MMD. Staff also presented the draft Medical Marijuana Zoning Map it had created. The review procedures include using the Zoning Clearance (ZC) process as the initial step in screening and reviewing of MMD applications. Complete ZC applications for sites which meet the zoning criteria and distance restrictions described in LGMC Chapter 17.32 and which include all required application materials will be deemed complete, and the applicants may then submit for conditional use permit (CUP) application to be reviewed by the City Council for approval. ZC applications for sites that do not meet the specified criteria are denied by staff. Staff's decision to deny any application is subject to appeal to the City Council, pursuant to LGMC Section 17.28.020(I). The permit process for a MMD requires approval of a conditional use permit (CUP) by the City Council, and the performance standards prohibit a MMD on properties within 1,000 feet of another MMD and certain protected uses, including licensed daycare facilities, schools and parks.

On March 20, 2017, an application was filed for a ZC request to apply for a CUP to establish a MMD at the subject property and on October 3, 2017, after several notices of incomplete, the Development Services Director found the application to be complete allowing application for a CUP. On October 4, 2017, an application was filed for this CUP and, on May 22, 2018, after one notice of incomplete, the Development Services Director found the application to be complete. Staff coordinated with the applicant to resolve several minor corrections as a part of the final submittal. Discussions also included in-lieu options for weed abatement, street improvements and utility undergrounding.

Since January 2018, Prop 64 allowing recreational marijuana in California with local approval is in effect and the State is issuing temporary licenses for cultivation, manufacturing/processing, distribution and sale. The California Department of Public Health, not the County of San Diego, is the authority on testing and inspecting edibles to ensure public safety.

Discussion

Project Description

The proposed project is a request for a CUP to authorize a MMD on a 0.96 acre parcel which includes tenant interior improvements converting office and warehousing space into MMD sales and display and security rooms in a 14,300 square feet (sf) building. A 2,300 sf unpermitted mezzanine is proposed to be permitted and converted to offices for administrative purposes for the MMD operations. A 7,700 sf warehouse space will remain. Exterior improvements include screening, landscape and trees and parking improvements. There is a natural drainage channel in the rear portion of the property that is a tributary to Chollas Creek where sensitive habitats may exist and be impacted if channel improvements occur. Street improvements, utility undergrounding and maintenance and remediation within the Tributary to Chollas Creek for weed abatement and drainage improvements located in the rear portion of the property are shown on the site plan. However, the applicant requests that the City Council consider an in-lieu fair share payment for these improvements to be used for drainage, street improvements, utility undergrounding and weed abatement within the Federal Blvd. corridor as a part of an improvement agreement (**Attachment F**). No site grading is proposed except for pavement removal and replacement with landscape. No cultivation, manufacturing, processing or delivery services are proposed. The current use of the property is licensed for a roofing contractor (G&F Roof Supply) who will relocate off-site as a result of the proposed MMD.

General Plan Conformance

This project is the result of a citizen's initiative (Measure V) which did not include CEQA analysis and conflicts with the General Plan Industrial Land Use Designation and was not analyzed as part of the 1996 General Plan Master Environmental Impact Report.

The project is located in the Industrial land use designation. The intended uses for this designation include a mix of manufacturing, processing, warehousing, and storage uses. The project does not conform to the General Plan, but is overridden by Measure V. Policies associated with this finding include Community Development Element Policy 1.1: Protect and enhance established neighborhoods; Policy 1.7: Promote a healthy, family-oriented community through appropriate land use and development decisions; and Policy 5.5: Promote development that enhances and is compatible with the surrounding environs.

Municipal Code Conformance

The Light Industrial (LI) zone is intended to provide for light manufacturing, warehousing, distribution and other related limited intensity activities. The proposed MMD provides services similar to a retail drugstore, but with higher intensity and does not conform to the purpose of the zone. Measure V requires a conditional use permit and full conformance with Title 17. The site complies with almost all development standards associated with the prospective MMD including lot sizing, minimum building height and setbacks, loading, landscape and screening, etc. Development standards associated with weed abatement, street improvements and utility undergrounding are requested to be a part of an in-lieu fair share payment for these improvements to be used for drainage, street improvements, utility undergrounding and weed abatement within the Federal Blvd. corridor as a part of an improvement agreement (**Attachment F**). These

improvements are required in accordance with the Zoning Ordinance Title 17 (reference LGMC Section 17.24.010(H), Chapter 12.10 and Section 17.24.050(B)).

Department representatives from each department including Sheriff, Fire, Building, Engineering, Planning and Code Enforcement met on the site to discuss proposed improvements and provided recommendations to the applicant which have been adhered to as conditioned in the Draft resolution (**Attachment B**). In addition, Measure V requires numerous operational requirements related to the following:

1. Background checks;
2. Security personnel on-site;
3. Video surveillance on-site;
4. Community relations liaison;
5. Operating procedures including no consumption or use on-site and limited hours from 8am to 8pm;
6. Inspections on-site include client, employee, medical marijuana, and financial records; and
7. Cultivation sources shall be licensed.

Measure V also allows the MMD license to be transferable through a CUP modification; allows a CUP to be revoked; and allows for daily administrative citations and fines up to $1,000 for each violation for non-compliance.

Street Improvements and Utility Undergrounding

There is no existing curb, gutter and sidewalk along Federal Blvd and there are overhead utility distribution lines (less than 12,000 volts) fronting the property and along the industrial district of Federal Blvd. Street improvements including utility undergrounding, curb, gutter, sidewalk, a landscape parkway with street trees and repavement of the street to the centerline to support fire apparatus will require the relocation of a fire hydrant and a street light.

Street improvements may be required as a part of a discretionary permit when there is a substantial change in mode or land use or as a part of a building permit valuation in commercial and industrial zones when the permit is valued at $25,000 or more. Preliminary cost estimates for tenant improvements are valued to be in excess of $250,000. The project is also a substantial change in use from a low intensity warehousing land use to a high intensity medical marijuana land use with increases in traffic volumes and there is a clear nexus or basis for requiring street improvements.

Measure V requires that a finding be made by the City Council that the proposed use complies with the Zoning Ordinance (LGMC Title 17). The Zoning Ordinance includes street improvement requirements per LGMC Chapter 12.10 and Section 17.24.010(H). A clear nexus is made to require street improvements because: 1) this is the highest and best use of the property from a revenue standpoint; 2) the proposed use is substantial change in mode and land use from a low intensity warehousing land use to a high intensity MMD; 3) medical marijuana dispensary means persons with disabilities are likely to need access to the facility via vehicles or as a pedestrian or bicyclist; and 4) the proposed retail use is inconsistent with the Light Industrial zone and with the General Plan Land Use Designation and was not analyzed as a part of the General Plan Master Environmental Impact Report and as a result of the traffic study proposes to increase the average daily vehicle trips to the site from 5 weekday trips per 1,000 square feet or 72 average daily vehicle trips to the site for a warehousing industrial use (ref. http://www.sandag.org/uploads/publicationid/publicationid_1140_5044.pdf) to 419 average daily

vehicle trips as shown in the April 11, 2018 traffic analysis (an increase in traffic volumes almost six times the current use). For reference, sidewalk and street improvements are largely supported by the General Plan Health & Wellness Element, Community Development Element and Mobility Element policies. The purpose of the light industrial (LI) zone is for light manufacturing, warehousing, distribution, or other related limited intensity activities. The traffic study describes the operations to be a higher intensity land use which conflicts with the purpose of the zone.

The City Council cannot find the project to be in compliance with the Zoning Ordinance without requirements to install street improvements and utility undergrounding. The applicant's attorney estimates the cost of street improvements to be $300,000 and the costs of utility undergrounding to be $500,000. Staff requested an estimate from a professional engineer, but the applicant's attorney requested this estimate be delayed until after the City Council public hearing as a condition of approval. The estimate provided by the applicant's attorney for utility undergrounding was not prepared by a professional engineer which is required. Preliminary cost estimates prepared by the applicant's engineer show costs for street improvements to be approximately $330,000 and the City Engineering division has not reviewed the estimate and cannot until authorization from the applicant is received for reimbursement purposes. SDG&E estimates that costs to underground the distribution lines are approximately $300 per lineal foot or $126,000 to underground utilities fronting the property to the nearest poles east and west of the site (approximately 470 feet). LGMC Chapter 12.10 discusses a street improvement agreement alternative in-lieu of immediate construction option when a block face is not improved with street improvements at a rate of 50 percent or more. The block face is defined as 300 feet along the public street frontage in either direction from the subject property. Since the block face is unimproved within 300 feet in either direction from the subject property, staff recommends that street improvement agreement option be initiated, which does not include utility undergrounding. Further, since the applicant's attorney recommendation includes utility undergrounding coupled with weed abatement as discussed below, staff is receptive to the applicant's attorney recommendation. However, the applicant's contribution should be equivalent to the actual costs and allow for flexibility in the improvements. Staff recommends that a restricted fund be created and allow payments from the applicant of the $126,000 for utility undergrounding combined with the $330,000 for street improvements over a five year time period at a flat quarterly rate with the total secured through a performance bond. This will restrict the funds to street and drainage improvements, utility undergrounding and weed abatement including removal of invasives, replanting of native plant materials, slope stabilization and irrigation within the tributary to Chollas Creek along and parallel to Federal Blvd. Also, trash and debris shall be required to be removed from the channel on a monthly basis.

Landscape and Weed Abatement

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

Landscape Requirements	Required	Provided
Min. 10% Landscape Area	5,458 sf	3,980 sf on-site plus 7,259 sf in rear channel
Required Trees on-site	5	8

Conditions for the proposed project will require that all landscaping be well maintained and adequately watered at all times and planted in accordance with City standards.

Attachment A

LGMC Section 17.24.050(B) requires all landscaping to be installed and maintained in accordance with a landscaping plan. Landscape areas are required to be kept free of weeds and debris. Plantings shall be replaced with other plant materials to ensure continued compliance with applicable landscaping requirements. LGMC Section 17.24.050(A) describes the purpose of the landscaping and screening regulations as intended to protect individual properties from undesirable impacts generated by surrounding land uses and general urban activity, and to improve the appearance of neighborhoods in the city by providing adequate landscaping and screening. In summary, landscape requirements in the LGMC require that landscape in natural drainage channels be maintained and require weed abatement and replacement. Also, LGMC Section 1.14.010(H) requires that dead, decayed, diseased, or hazardous trees, weeds, or other vegetation that is unsightly, dangerous to public safety or welfare, detrimental to nearby property or property values, or reasonably deemed to be a fire hazard is a public nuisance and that any person owning, leasing, occupying, or controlling any premises in this city on which a public nuisance exists is responsible for the public nuisance. Also, LGMC Chapter 8.08 requires that all weeds, dry grasses, dead shrubs, dead trees, stubble, brush, sagebrush, chaparral, weeds which bear seeds of a wingy or downy nature, and any other brush or weeds which by reason of their size, manner of growth, and location constitute a fire hazard to any building, improvements, crops or other property, and weeds and grasses which, when dry, will in reasonable probability endanger the public safety by creating a fire or other safety hazard, any of which are growing on the streets, sidewalks, or private property in the city are declared to be a public nuisance. Also, traffic is estimated to be almost six times the rate of the current land use which allows for additional oils and debris from vehicles on the site to flow into the tributary to Chollas Creek in the rear portion of the property which will result in higher contamination in storm water runoff from the site.

The general definition of “weed” is described as “a wild plant growing where it is not wanted and in competition with cultivated plants.” The Development Services Director determined as a part of this permit application that a “weed” would include non-native invasive plant species within the tributary to Chollas Creek. As a result, the City Council cannot find the project to be in compliance with the Zoning Ordinance without appropriate weed abatement. The applicant’s attorney estimates the cost of removing invasives, replanting of native plants, slope stabilization and irrigation with professional studies, design and State and local permits (remediation) to be $1,200,000 with an estimated three year timeline. Staff requested an estimate from a professional engineer, but the applicant’s attorney requested this estimate be delayed until after the City Council public hearing as a condition of approval. The estimate provided by the applicant’s attorney was not prepared by a professional engineer which is required. Preliminary cost estimates for remediation from staff based on similar projects in the area estimate the cost for weed remediation on-site to be approximately 1,000 per lineal foot of channel or approximately $180,000. This is based on a larger project area. Since upstream seeds float downstream creating new invasive plant species, staff is receptive to the applicant’s attorney recommendations, however, the applicant’s contribution should be equivalent to the actual estimated costs and allow for flexibility in the improvements. Staff recommends that a restricted fund be created and allow payments of the $180,000 from the applicant over a five year time period at a flat quarterly rate with the $180,000 secured through a performance bond. This will restrict the funds to street and drainage improvements, utility undergrounding and weed abatement including removal of invasives, replanting of native plant materials, slope stabilization and irrigation within the tributary to Chollas Creek along and parallel to Federal Blvd. Also, trash and debris shall be required to be removed from the channel on a monthly basis.

Screening

Crime Prevention Through Environmental Design (CPTED) require that shrubs be maintained low and tree canopies be maintained high to enhance visibility and staff added appropriate conditions in the resolutions. Proposed vehicular gates on-site will be open during all business hours and a new trash enclosure will secure trash on-site. In addition, there is a secured loading area inside the building for transfer of marijuana and cash from the safe room to the secured transport vehicles.

Lighting

CPTED encourages all exterior areas to be adequately lit and the project proposes adequate site lighting.

Signage

The sign ordinance permits up to three wall signs for a commercial use. The total allowable sign area permitted for this project would normally be 400 sf or less. Three wall signs are proposed and include "The GROVE" with the "V" shown as a green leaf and two signs are large green "+" signs which symbolize a MMD. Green is a color representative of marijuana and a "+" sign is a universal symbol for medical aid. A leaf, depending on its shape, is generally representative of marijuana. A condition of approval requires that signs do not include any terminology (including slang) or symbols for marijuana to avoid encouraging marijuana use to those without prescriptions to promote public health and safety. The color green is not proposed to be conditioned or restricted.

Public Information:

The Notice of Public Hearing for this item was published in the May 24, 2018 edition of the East County California 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. Staff will provide the City Council at the time of the public hearing with any comments.

A Native American Tribal Government Consultation was conducted pursuant to Government Code Sections 6540.2, 65092, 65351, 65352.3, 65352.4, 65562.5 et. seq. One tribe requested consultation requesting mitigation that cultural resource monitoring be conducted on-site and appropriate mitigation is conditioned in the resolution of approval.

Conclusion:

Measure V requires that the City Council make the following findings required in order to approve this conditional use permit:

1. The use is compatible with the neighborhood or the community;
2. The use is not detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity;
3. The use complies with performance standards according to Section 17.24.080;
4. The use is consistent with applicable provisions of the particular zoning district and with policies and standards of the general plan;
5. Whether the approval of the proposed use will violate the minimum requirements set forth in this chapter for distance separations between establishments which dispense,

process or cultivate *medical marijuana*; and separations between establishments which dispense, process or cultivate *medical marijuana* and other specific regulated or protected land uses as set forth in this chapter; and

6. Whether the proposed use complies with Title 17 of the Lemon Grove Municipal Code.

Staff believes the above findings can be made provided the conditions in the Resolution of Approval are adhered to as further referenced in this staff report.

Staff recommends that the City Council conduct the public hearing and adopt a Resolution (**Attachment B**) conditionally approving Conditional Use Permit CUP-170-0001.

Attachment B

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE CONDITIONALLY APPROVING CONDITIONAL USE PERMIT CUP-170-0001, A REQUEST TO ALLOW A MEDICAL MARIJUANA DISPENSARY AT 6470 FEDERAL BVLD., LEMON GROVE, CALIFORNIA.

WHEREAS, the California voters approved Proposition 215 in 1996 to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes and to encourage elected officials to implement a plan for the safe and affordable distribution of medicine; and

WHEREAS, the California State Legislature adopted Senate Bill 420, the Medical Marijuana Program Act, in 2003 to help clarify and further implement Proposition 215 in part by authorizing patients and *Primary caregiver*s to associate within the State of California in order to collectively or cooperatively cultivate cannabis for medical purposes; and

WHEREAS, the California State Legislature adopted Assembly Bill 243, Assembly Bill 266, and Senate Bill 643, collectively known as the Medical Marijuana Regulation and Safety Act, in 2015 to establish a statewide regulatory framework and establish the Bureau of Medical Marijuana Regulation for the regulation of *medical marijuana* activity occurring in jurisdictions across California; and

WHEREAS, on November 8, 2016, voters in the City of Lemon Grove passed Measure V, an initiative removing the City's prohibition of medical marijuana dispensaries and establishing performance standards and a permit process by which medical marijuana dispensaries may be established; and

WHEREAS, Measure V includes the adoption of Lemon Grove Municipal Code (LGMC) Chapter 17.32 which prohibits the establishment of medical marijuana dispensaries within 1,000 feet of certain protected uses, including schools and licensed daycare facilities; and

WHEREAS, Measure V states "measurement is made between the closest property lines of the premises in which the regulated uses and protected uses are located." Measure V further states "the measurement of distance between uses will take into account natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses. In such cases, the separation distance shall be measured as the most direct route around the barrier in a manner that establishes direct access." Measure V only references freeways and flood control channels as examples of constructed barriers. A freeway is defined as "an express highway, especially one with controlled access." Flood control is defined as "the act or technique of controlling river flow with dams, dikes, artificial channels, etc., so as to minimize the occurrence of floods." Examples of constructed barriers only include major linear obstructions traversing for miles where pedestrian access is prohibited or severely limited; and

WHEREAS, on March 20, 2017, an application was filed for Zoning Clearance ZC1-700-0004 and, on October 3, 2017, the Development Services Director found the application for to be complete; a request to apply for a conditional use permit to establish a medical marijuana dispensary at 6470 Federal Blvd. in the Light Industrial (LI) Zone; and

WHEREAS, on October 4, 2017, an application was filed for Conditional Use Permit CUP-170-0001 and, on May 22, 2018, the Development Services Director found the application to be

complete; a request to establish a medical marijuana dispensary at 6470 Federal Blvd. in the Light Industrial (LI) Zone; and

WHEREAS, no protected uses or marijuana dispensaries exist within 1,000 of the subject property in accordance with LGMC Chapter 17.32; and

WHEREAS, the Notice of Public Hearing for this item was published in the May 24, 2018 edition of the East County California and mailed to all property owners within 500 feet of the subject property. A large sign was posted on the property notifying the neighborhood of the forthcoming public hearing. A Native American Tribal Government Consultation was conducted pursuant to Government Code Sections 6540.2, 65092, 65351, 65352.3, 65352.4, 65562.5 et. seq. One tribe requested consultation requesting mitigation that cultural resource monitoring be conducted on-site during grading activities and appropriated conditions are included herein; and

WHEREAS, On May 24, 2018, a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) was filed with the San Diego County Clerk (ND18-02). The project could have a significant effect on the environment as it relates to air quality, biological resources, cultural resources, greenhouse gas emissions, noise, public services, transportation/traffic, and mandatory findings of significance. There will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. On the basis of the whole record, there is no substantial evidence that the project will have a significant effect on the environment and the MND reflects the City's independent judgement and analysis; and

WHEREAS, revised mitigation measures requiring the installation of solar panels on-site in-lieu of an air quality analysis are an equivalent or more effective substitute than the existing mitigation measures; and

WHEREAS, LGMC Section 17.24.050(B) requires all landscaping to be installed and maintained in accordance with a landscaping plan. Landscape areas are required to be kept free of weeds and debris. Plantings shall be replaced with other plant materials to ensure continued compliance with applicable landscaping requirements. LGMC Section 17.24.050(A) describes the purpose of the landscaping and screening regulations as intended to protect individual properties from undesirable impacts generated by surrounding land uses and general urban activity, and to improve the appearance of neighborhoods in the city by providing adequate landscaping and screening. In summary, landscape requirements in the LGMC require that landscape in natural drainage channels be maintained and require weed abatement and replacement. Also, LGMC Section 1.14.010(H) requires that dead, decayed, diseased, or hazardous trees, weeds, or other vegetation that is unsightly, dangerous to public safety or welfare, detrimental to nearby property or property values, or reasonably deemed to be a fire hazard is a public nuisance and that any person owning, leasing, occupying, or controlling any premises in this city on which a public nuisance exists is responsible for the public nuisance. Also, LGMC Chapter 8.08 requires that all weeds, dry grasses, dead shrubs, dead trees, stubble, brush, sagebrush, chaparral, weeds which bear seeds of a wingy or downy nature, and any other brush or weeds which by reason of their size, manner of growth, and location constitute a fire hazard to any building, improvements, crops or other property, and weeds and grasses which, when dry, will in reasonable probability endanger the public safety by creating a fire or other safety hazard, any of which are growing on the streets, sidewalks, or private property in the city are declared to be a public nuisance. The general definition of "weed" is described as "a wild plant growing where it is not wanted and in competition with cultivated plants." A "weed" would include non-native invasive plant species within the tributary to Chollas Creek. Also, traffic is estimated to be almost six times the rate of the current land use which allows for additional oils and debris

from vehicles on the site to flow into the tributary to Chollas Creek in the rear portion of the property which will result in higher contamination to in storm water runoff from the site; and

WHEREAS, the Zoning Ordinance includes street improvement requirements per LGMC Chapter 12.10 and Section 17.24.010(H). A clear nexus is made to require street improvements because: 1) this is the highest and best use of the property from a revenue standpoint; 2) the proposed use is substantial change in mode and land use from a low intensity warehousing land use to a high intensity MMD; 3) medical marijuana dispensary means persons with disabilities are likely to need access to the facility via vehicles or as a pedestrian or bicyclist; and 4) the proposed retail use is inconsistent with the Light Industrial zone and with the General Plan Land Use Designation and was not analyzed as a part of the General Plan Master Environmental Impact Report and as a result of the traffic study proposes to increase the average daily vehicle trips to the site from 5 weekday trips per 1,000 square feet or 72 average daily vehicle trips to the site for a warehousing industrial use (ref. http://www.sandag.org/uploads/publicationid/publicationid_1140_5044.pdf) to 419 average daily vehicle trips as shown in the April 11, 2018 traffic analysis (an increase in traffic volumes almost six times the current use). For reference, sidewalk and street improvements are largely supported by the General Plan Health & Wellness Element, Community Development Element and Mobility Element policies. The purpose of the light industrial (LI) zone is for light manufacturing, warehousing, distribution, or other related limited intensity activities. The traffic study describes the operations to be a higher intensity land use which conflicts with the purpose of the zone; and

WHEREAS, this permit does not excuse any owner or operator from complying with all applicable federal, state, county or local laws, ordinances or regulations. The owner or operator is required to determine if another permit or approval from any other agency or department is necessary. The City, by issuing this permit, does not relinquish its right to enforce any violation of law; and

WHEREAS, on June 19, 2018, the City Council held a duly noticed public hearing to consider Conditional Use Permit CUP-170-0001; and

WHEREAS, Measure V requires that the City Council make the following findings required in order to approve this conditional use permit:

1. The use is compatible with the neighborhood or the community;

   This project is the result of a citizen's initiative (Measure V) which did not include CEQA analysis and conflicts with the General Plan Industrial Land Use Designation and Community Development Element policies 1.1, 1.5 and 5.4 and was not analyzed as part of the 1996 General Plan Master Environmental Impact Report. The proposed use is incompatible with surrounding land uses, however, as a result of Measure V, the project is found to be consistent with the General Plan.

2. The use is not detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity;

   This project is the result of a citizen's initiative (Measure V) which did not include CEQA analysis and conflicts with the General Plan Industrial Land Use Designation and Community Development Element policies 1.1, 1.5 and 5.4 and was not analyzed as part of the 1996 General Plan Master Environmental Impact Report. The proposed use is potentially detrimental to the health, safety, convenience or general welfare of persons

residing or working in the vicinity, however, as a result of Measure V, the project is found to be consistent with the General Plan.

3. The use complies with performance standards according to Section 17.24.080;

   The proposed project complies with applicable performance standards according to Section 17.24.080 of the LGMC (specifically noise, glare, traffic circulation and parking, and fire hazards). A traffic impact analysis was prepared and provides for appropriate mitigation.

4. The use is consistent with applicable provisions of the particular zoning district and with policies and standards of the general plan.

   This project is the result of a citizen's initiative (Measure V) which did not include CEQA analysis and conflicts with the General Plan Industrial Land Use Designation and Community Development Element policies 1.1, 1.5 and 5.4 and was not analyzed as part of the 1996 General Plan Master Environmental Impact Report. However, as a result of Measure V, the project is found to be consistent with the General Plan.

5. Whether the approval of the proposed use will violate the minimum requirements set forth in this chapter for distance separations between establishments which dispense, process or cultivate *medical marijuana*; and separations between establishments which dispense, process or cultivate *medical marijuana* and other specific regulated or protected land uses as set forth in this chapter.

   No evidence was found to the contrary.

6. Whether the proposed use complies with Title 17 of the Lemon Grove Municipal Code.

   The proposed project complies with, or conditions have been included for this project to require it to comply with the LGMC Title 17 requirements for the proposed use.

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

SECTION 1. Certifies the Mitigated Negative Declaration (ND18-02) finding that Conditional Use Permit No. CUP-170-0001 will have no significant effect on the environment with the amendment that in lieu of an air quality analysis, solar panels will be installed on the property as conditioned here; and

SECTION 2. Approves Conditional Use Permit No. CUP-170-0001 and the site and architectural plans dated received May 21, 2018 (incorporated herein by reference as Exhibit A), except noted herein. This approval authorizes the establishment of a Medical Marijuana Dispensary at 6470 Federal Blvd. in the Light Industrial Zone. Except as amended, the approval of this project shall be subject to the following conditions:

A. Prior to issuance of a building permit for the use authorized by this Conditional Use Permit, the applicant shall comply with the following:

   1. All physical elements of the proposed project shown on the approved plans dated May 21, 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.

   2. All pre- and post construction best management practices (BMPs) shall be maintained for the duration of the project.

3. In order to mitigate any impacts to culturally sensitive resources that ground disturbing activities may cause:
   a. After initial investigation, a tribal representative shall be present at the pre-grading or pre-ground disturbing activities meetings to consult with the contractors.
   b. After initial investigation, a tribal representative shall be present at all times during any ground disturbing activities.
   c. The tribal representative shall be allowed to temporarily direct, divert or halt grading or ground disturbing activities to allow identification, recovery, archiving, and/or disposition of cultural resources.
   d. Prior to final inspection a report shall be prepared summarizing the results of the mitigation program and the coordination efforts with the tribal representative and submitted to the City of Lemon Grove Development Services Director. This report will include a discussion of methods employed, cultural resources discovered and their disposition, geologic context of the cultural resources and the significance of the mitigation program.
4. Submit landscape plans consistent with LGMC Section 17.24.050 and Chapter 18.44 with required notes. All plantings shall be bound by a six inch curb with curb openings for drainage inlets into landscape to the satisfaction of the Development Services Director and City Engineer.
5. Where storm water runoff flows into landscape areas, landscaped areas shall be designed to retain/capture first-flush of smaller storm events but larger storms must be provided with an adequate drainage pathway with appropriate mitigation. Storm water review for compliance shall be a part of a landscape plan review and shall include details for construction BMPs.
6. Wheel stops shall be installed at all parking spaces located along the perimeter of a parking lot adjacent to landscape areas to the satisfaction of the Community Development Director.
7. The applicant shall provide a letter indicating any hazardous materials to be used or stored on site for the dispensary. This does not include normal business cleaning materials however; they must be in a limited quantity.
8. The applicant shall provide a letter detailing the security provisions for the dispensary and how the applicable Building and Fire Code requirements will be achieved for emergency ingress and egress.
9. A warehouse storage plan shall be submitted prior to building permit issuance.
10. Per Municipal Code Section 12.10.050 a minimum 86 foot right of way is required for Federal Blvd. This requires a 43 foot minimum center line to property line dimension. Based on a review of the Assessor's Map a 3 foot dedication is required. Provide a preliminary title report dated within the last 180 days. This will be used to prepare the Street Dedication (agreement). Once the City prepares the agreement, it will then need to be signed and notarized by the property owner, and returned to the City for recordation. Please allow approximately 30 calendar days for the preparation of the agreement. The signed agreement is required prior to the issuance of building or engineering permits.

Attachment B

11. A Covenant not to oppose the formation of a future utility undergrounding district shall be required. The City will prepare the agreement and will require the owner to sign and notarize.
12. A Covenant not-to-oppose the formation of a future street improvement district shall be required. The City will prepare the agreement and will require the owner to sign and notarize.
13. A Covenant not-to-oppose the formation of a community facilities district shall be required. The City will prepare the agreement and will require the owner to sign and notarize.
14. Submit an application to be included into the Lemon Grove Lighting District. The property will be assessed annually.
15. Provide an access easement or agreement and appropriate open space easement to maintain and improve the tributary to Chollas Creek including weed abatement (removal of invasives), replanting and slope stabilization and irrigation.
16. Pay $100 for the preparation and recordation of each document as required for the subject permit. An additional fee of $275 will be charged for surveyor time.
17. Street improvements and street dedication shall be required in accordance with Chapter 12.10. In lieu of immediate street improvements, utility undergrounding and weed abatement, a street improvement, utility undergrounding and weed abatement agreement shall be executed between the applicant and the City. A restricted fund shall be created and require equal installment payments from the applicant for the $126,000 for utility undergrounding combined with the $330,000 for street improvements and $180,000 for weed abatement payable over a five year time period at a flat quarterly rate (equal installments) with the combined total ($636,000.00) secured through a performance bond. This will restrict the funds: 1) to street and drainage improvements and utility undergrounding within the Federal Blvd. public right-of-way and/or 2) to weed abatement including removal invasives, replanting of native plant materials, slope stabilization and irrigation within the tributary to Chollas Creek along and near and parallel to Federal Blvd.
18. A building permit shall be required and obtained for tenant improvements proposed including electrical, plumbing and mechanical improvements proposed. Structures and access shall meet current building and fire code regulations.
19. A State license shall be required prior to commencing operations. The license must be maintained at all times.

B. Prior to requesting a final inspection and occupancy of the structure, the applicant shall comply with the following:

1. Comply with Conditions A-1 through A-19 of this Resolution.
2. All physical elements of the proposed project shown on the approved plans dated May 21, 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. An HVAC system shall be installed to ensure proper interior ventilation in closed window and door condition throughout the facility. The HVAC system shall include 15 cfm of outside air per occupant for all occupied areas as well as exhaust of 4 air

changes per hour in the stock and packaging rooms. Additionally the HVAC system will utilize carbon filters and replaced per manufacturers recommended service. Carbon filtration is required prior to air exiting any exhaust point.

4. The San Diego Air Pollution Control District Rule 55 requires compliance with standard fugitive dust control best management practices which will be required as a part of normal practices.
5. Dispensaries shall comply with the most recent adopted California Fire Codes and Standards.
6. A fire inspection is required prior to a certificate of occupancy or business license being issued. The applicant shall ensure the dispensary is set up and ready for operation prior to the fire inspection.
7. A fire alarm system may be required to be installed and mag locks tied into the fire alarm system.
8. Electrical panel shall be clearly labeled and the panel door kept close.
9. Provide a Knox box padlock for the chain link fence, or provide a Knox Box for the building and put the gate key inside for Fire Department Emergency Access.
10. All improvements shall comply with Title 15 including 2016 Building and Fire Codes and ADA accessibility requirements.
11. The subject property shall comply with current landscape regulations.
12. Parking areas and striping shall comply with current standards and damaged paving shall be repaired and maintained in a good condition. Designated parking spaces are prohibited on-site.
13. Dumpsters shall be housed within a permitted trash enclosure.
14. Rooftop mechanical equipment shall be screened so that it may not be seen from the level of adjacent streets and sidewalks to the satisfaction of the Community Development Director.
15. A City Business License shall be obtained.
16. A bicycle rack with a minimum three bicycle capacity shall be provided within the front yard setback area.
17. Provide copies of all IRS and State Franchise Board filings within 30 days of filing.
18. Lighting shall be installed to adequately light the exterior and interior of the dispensary premises while in conformance with Section 17.28.080.
19. The location of the dispensary shall include the installation of a centrally monitored alarm system.
20. Windows and glass panes shall have vandal-resistant glazing, shatter resistant film, or glass block installed equipped with appropriate access to allow exit in the event of emergency in compliance with the 2016 Fire Code.
21. All emergency exits shall be solid core doors featuring hinge-pin removable deterrence. Emergency exit doors shall have latch guards at least 12 inches in length protecting the locking bolt area. Latch guards shall be of minimum 0.125-inch thick steel, affixed to the exterior of the door with non-removable bolts, and attached so

as to cover the gap between the door and the doorjamb for a minimum of six inches both above and below the area of the latch.

22. Windows vulnerable to intrusion by a vehicle must be protected by bollards or landscaping grade separation reasonably sufficient to prevent such intrusion.

23. All means of gaining unauthorized access to the roof shall be eliminated. Exterior roof ladders shall be secured with locked ladder covers.

24. Roof hatches and skylights shall be secured so as to prevent intrusion.

25. Recommended mitigation improvements in the traffic study shall be installed and maintained. On-site pavement markings and signage are required as recommended in the traffic study. Utility undergrounding and street improvements including pedestrian sidewalks is required to be consistent with the General Plan Mobility Element Circulation Plan for Federal Blvd.

26. Solar panels shall be installed on the property with sufficient energy generation to power projected energy use on the subject property.

C. Upon establishment of use in reliance with this Conditional Use Permit, the applicant shall comply with the following:

1. Comply with Conditions A-1 through A-19 and B-1 through B-26 of this Resolution.

2. All physical elements of the proposed project shown on the approved plans dated May 21, 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. If during employment with the dispensary, a director or employee is convicted of a crime identified in California Penal Code Section 1192.7, subdivision (c), and Health and Safety Code Section 11359 shall be immediately dismissed from employment or required to resign as a corporate board member or officer. For purposes of this section, a conviction in another state that would have been a conviction equivalent under California law to those convictions specified in this section will disqualify the person from employment or volunteering at the dispensary.

4. Dispensaries shall have at least one uniformed security guard on duty during operating hours that possess a valid Department of Consumer Affairs “Security Guard Card.”

5. Dispensaries shall designate a community relations liaison (liaison) who shall be at least eighteen years of age. The liaison may also be the director of the dispensary. To address community complaints or operational problems with the dispensaries, the individual designated as the community relations liaison shall provide his or her name, phone number and email address to the following:

   a. Lemon Grove city manager;

   b. San Diego County sheriff’s department personnel supervising law enforcement activity in Lemon Grove; and

   c. All neighbors within one hundred feet of the dispensary.

6. City code enforcement officers, San Diego sheriff’s department staff, and any other employee of the City requesting admission for the purpose of determining compliance with the standards set forth in this section shall be given access to the premises. City and sheriff staff shall not retain information pertaining to individual

patient records viewed during an inspection, and information related to individual patients shall not be made public. Inspectors will give reasonable notice of a scheduled inspection. Unannounced inspections of a dispensary may occur if city or sheriff's department staff have probable cause that the collective is violating the law.

a. Inspection Requirements. The following records must be maintained at the premises at all times and available for inspection by city code enforcement officers, San Diego sheriff's department staff, and any other employee of the city:

b. Client Records. The dispensary shall keep a record of its clients. The record shall include the following and shall be maintained for a seven-year period:

   i. Qualified patient member's name, name of primary caregiver when appropriate, and name of licensed physician recommending use of medical marijuana for the member.

c. Medical marijuana Records. Dispensary shall keep a record of its medical marijuana transactions. The following records shall be maintained for a seven-year period and labeling shall occur as specified:

   i. A record identifying the cultivation, manufacturing and distributor source or sources of all medical marijuana currently on the premises or that has been on the premises during the seven-year period preceding the current date. The record shall include the name of the cultivator or manufacturer and the address of the cultivation or manufacturing location.

   ii. All medical marijuana at the premises must at all times be physically labeled in Compliance with State requirements with information that will allow for identification of the cultivation, manufacturing and distributor source of the medical marijuana.

   iii. All medical marijuana at the premises shall be physically labeled with the monetary amount to be charged.

   iv. Dispensaries shall maintain all necessary permits, and pay all appropriate taxes. Dispensaries shall also provide invoices to cultivators, manufacturers and distributors to ensure tax liability responsibility;

d. Financial Records. Dispensary shall maintain records of all transactions involving money and/or medical marijuana occurring at the premises. Records shall be maintained for a seven-year period preceding the current date.

e. Employee Records. Dispensary shall maintain a record of each employee/volunteer and director. The record shall include name and background check verification. Records shall be maintained for a seven-year period following the end of an employee's employment or director's relationship with the dispensary.

7. The on-site display of unprocessed marijuana plants or representations of marijuana plants in any areas visible to the public is prohibited.

8. Dispensaries shall submit an "annual performance review report" for review and approval by the development services director. The "annual performance review report" is intended to identify effectiveness of the approved conditional use permit, operations manual, and conditions of approval, as well as any proposed modification to procedures as deemed necessary. The development services director may review and approve amendments to the approved "operations manual"; and the frequency

of the “annual performance review report.” Medical marijuana cultivation, manufacturing and dispensing monitoring review fees pursuant to the current Master Fee Schedule shall accompany the “annual performance review report” for costs associated with the review and approval of the report.

9. All activities involving the transportation of marijuana for a dispensary shall comply with California State Regulations, restrictions and guidelines, as enumerated in Division 8, Chapter 3.5 of the California Business and Professions Code, and established by the Bureau of Medical Marijuana Regulations.
10. Maintain a waste disposal plan detailing plans for disposal of chemicals and plant waste.
11. If the owners or operators of a MMD are a Limited Liability Company (LLC), corporation or trust, the names and addresses of all officers and designated signatories of the legal entities shall be provided to staff and shall be maintained in the conditional use permit project files. The City shall be notified of all changes to the property and business ownership including officers and designated signatories.
12. The portion of the tributary/drainage channel within the property shall be cleared of trash and debris on a monthly basis and the exterior site area shall be swept monthly to avoid additional trash, dirt and debris flowing into the channel.
13. The use of musical instruments and sound amplification devices on-site is prohibited at all times.
14. Prohibit the blocking or covering of egress windows.
15. Require all facilities to be reviewed by the Fire Department.
16. Nuisance odor complaints shall be filed with the Department of Environmental Health.
17. The second floor offices shall not be used for or resemble a residential use. Sleeping within the facility and residential occupancy is prohibited.
18. The dispensary shall post and maintain professional quality sign facing the parking lot(s) that reads “No loitering, no littering violators subject to arrest” in English and Spanish in accordance with LGMC. Loitering prohibitions shall be strictly enforced on-site.
19. All operational requirements of Measure V shall be adhered to at all times.
20. The business shall be subject to future local taxes and fees. If a local tax is implemented, a payment schedule may be established.
21. The rear portion of the building shall be for storage only and not leased or subleased to a separate tenant or utilized for other operations.
22. Each CUP shall be renewed every three years. The City Council can deny a CUP renewal if it’s determined that the MMD has operated contrary to the conditions of approval and the requirements of the LGMC, or if the MMD has become a public nuisance.
23. A compliance inspection shall be conducted quarterly to ensure operations are in compliance with conditions of approval and other applicable regulations.
24. The City or its designee may examine the records of licensees and inspect the premises of a licensee as the licensing authority as may be authorized by law. The

City or its designee shall have access to any licensed medical marijuana facility for inspection of the facility, the employees and records (HIPPA compliance rules apply) during any normal business hours or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request (Business and Professions Code 19327(c).) Authorized regulatory staff shall be allowed access to the premises in accordance with State law (Business and Professions Code 19311 (e); 19327 (c)). Compliance inspections shall be conducted by HDL (contracted) and City staff with time expensed to the MMD operator to ensure operations are properly inspected in compliance with conditions of approval and other applicable regulations.

25. Disposal of any unused or unwanted medical marijuana shall undergo a special process and shall not be disposed of as or with routine garbage.
26. Business activities shall be limited to medical marijuana dispensaries only.
27. Deliveries from the facility shall be prohibited, except as conducted by qualified patients and/or the Primary caregiver of the qualified patient, where the quantity transported and the method, timing and distance of the transportation are reasonably related to the medical needs of the qualified patient.
28. Prohibit the cultivation of medical marijuana on-site. If cultivation is permissible, additional conditions will be required.
29. The use of generators on-site is prohibited.
30. No marked company related fleet vehicles with logo and/or business name shall be permitted within the City of Lemon Grove.
31. Loitering and outdoor events shall be prohibited on the subject property.
32. Complaints related to noise and smell shall require professional investigation and analysis and appropriate mitigation.
33. The site shall be well lit, but glare shall be prohibited onto adjacent properties or onto the public right-of-way. All light fixtures shall be maintained and adjusted to reflect light downward, away from any road or street, and away from any adjoining premises. Glare from proposed roof and siding materials and signage shall be considered and designed to minimize impacts onto adjacent properties and the public right-of-way.
34. The building façade shall be well maintained at all times.
35. All graffiti and trash and debris shall be removed daily.
36. Except for designated employees, no persons shall be allowed within the tenant space except during normal business hours.
37. All site Crime Prevention Through Environmental Design (CPTED) recommendations shall be implemented and adhered to all times.
38. Sheriff “No Trespass” authorizations to enter and conduct enforcement on the subject property shall be completed and current at all times (renewed every 30 days).
39. Consumption, sampling, smoking or ingestion of alcohol, tobacco and marijuana products is prohibited on the subject property.
40. All activities associated with the business shall be conducted indoors.
41. Landscape shall be maintained in good condition at all times.

Attachment B

42. The use of barbed wire or razor ribbon on any fences, gates or walls is prohibited.
43. The hours of operation shall be restricted to 8am to 8pm seven days a week only.
44. All temporary signs are prohibited on-site.
45. A minimum of two employees and one Director is required per facility (three persons total) upon application. Live Scan background check shall be provided to the City prior to employment of all employees or a new Director and prior to commencing operations.
46. A State issued Medical Marijuana Identification Card (MMIC) shall be obtained for each qualified patient, except that qualified caregivers can provide a notarized statement that the "qualified patient is unable to obtain the Medical Marijuana Identification Card (MMIC) in person." Verification shall be provided as a part of annual renewal submittals. A log of all persons entering the facility shall be kept on-site indicating the name, mailing address, phone and MMIC numbers and if product was purchased from the facility.
47. A hazardous materials questionnaire was completed with no hazardous materials indicated. As such, no hazardous materials shall be permitted on-site except standard cleaning supplies at acceptable levels.
48. The site plan shows no outdoor storage of equipment, materials or fleet vehicles. As such, all outdoor storage is prohibited (e.g., equipment, materials and fleet vehicles).
49. The sale of alcoholic beverages, tobacco and tobacco products, and drug and tobacco paraphernalia is prohibited.
50. Dispensing medical marijuana to an individual qualified patient or primary caregiver more than once a day is prohibited;
51. Dispensaries shall only dispense medical marijuana to an individual qualified patient or primary caregiver who has a valid, verified licensed physician's recommendation, and if appropriate, a valid primary caregiver designation. The dispensary shall verify that the licensed physician's recommendation is current and valid;
52. On-site evaluation by a licensed physician for the purposes of obtaining a qualified status is prohibited;
53. Dispensaries shall maintain on the premises an on-site training curriculum capable of meeting employee, agents and volunteer training needs. The minimum training curriculum shall include professional conduct, ethics, and state and federal laws regarding patient confidentiality; specific procedural instructions for responding to an emergency, including robbery or violent incident. Dispensaries shall implement procedures as outlined in their approved operations manual. Dispensaries shall display the client rules and/or regulations in a conspicuous place that is readily seen by all persons entering the dispensary. The client rules and/or regulations shall include, but are not limited to:
    a. Each building entrance to a dispensary shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming medical marijuana on the premises or in the vicinity of the dispensary is prohibited unless specifically authorized within the governing conditional use permit.
    b. The building entrance to a dispensary shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen are precluded from entering the premises.

54. All signage for dispensaries shall require a sign permit from the city prior to installation. Signage shall not include any terminology (including slang) or symbols for marijuana.
55. Dispensaries shall maintain twenty-four-hour recorded video surveillance of the premises. Recordings shall be retained for 45 days for inspection by city staff. City staff must provide valid cause for viewing video surveillance. City staff must ensure that patient privacy is safeguarded. Video surveillance will not be shared with law enforcement except when formally requested as part of a law enforcement investigation directly involving the dispensary. On-site cameras shall be maintained and shall be tamper proof
56. All cultivation, manufacturing and distributor sources shall maintain a State license.
57. Cooking and processing of food or marijuana products is prohibited.
58. The use of vending machines is prohibited on-site. A vending machine is any device which allows access to medical marijuana without a human intermediary.
59. All temporary uses in accordance with Section 17.29.040 shall be prohibited on-site.
60. Food trucks and catering shall be prohibited on-site. Food and beverage and/or charitable offerings or solicitations to patrons shall be prohibited on-site.
61. Recreational activities and games of chance shall be prohibited on-site.
62. Prior to operation and annually thereafter, a record of Sheriff and Fire service calls shall be provided to the City of Lemon Grove for assessment.
63. The uniformed security guard on duty shall have an issued Private Patrol Operator # and a valid Department of Consumer Affairs “Security Guard Card” on their possession at all times. A copy of the security guard contract shall be reviewed and approved by the Sheriff’s Department. The Security Guard uniform shall be approved by the Bureau of Security and Investigative Services (BSIS).
64. No persons under the age of eighteen are allowed at, in or at a MMD facility, unless such individual is a qualified patient and accompanied by their licensed attending physician, parent or documented legal guardian.
65. Low plant materials in the front yard setback shall be no greater than 18 inches in height and tree canopies shall be maintained greater than eight feet high.
66. All cannabis products shall be tracked, tested, sealed and labeled at a minimum by State Medical Cannabis Regulation Act and as it may be amended.
67. All records related to cannabis activity shall be maintained a minimum of seven years.
68. Vehicular gates shall remain open during operating hours, except for secured loading areas.
69. AB 52 resulted in a consultation with the Viejas Band of Kumeyaay Indians, “Viejas”. As a result, Viejas requested that a Kumeyaay Cultural Monitor be on site for ground disturbing activities. This include pavement cuts and soil remediation and any demolitions removing foundations.
70. All activities involving the transportation of marijuana for a dispensary shall comply with California State Regulations, restrictions and guidelines, as enumerated in

Division 8, Chapter 3.5 of the California Business and Professions Code, and established by the Bureau of Medical Marijuana Regulations.

71. The doors and windows shall remain closed and the air conditioning system utilized during hours of operation to reduce noise and odor impacts in the surrounding neighborhood.
72. The project shall conform to all performance standards of Municipal Code Section 17.24.080.
73. Vehicular sight distance of all driveway entrances shall be to the satisfaction of the City Engineer.
74. Proper drainage shall be maintained throughout this property so as to prevent ponding and/or storage of surface water.
75. 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.
76. Clear and well lit addresses shall be provided on-site. Addresses contained within the subject properties shall be visible from the public street in all directions.
77. Damaged paving shall be repaired and parking area striped consistent with LGMC Section 17.24.010.
78. A CUP modification is required prior to transfer of ownership or change in business name.
79. Each violation on the subject property shall be deemed a separate offense subject to daily administrative citations and fines to both the property and the business owners for each violation in accordance with LGMC Chapter 1.24. Violations of this conditional use permit may result in the noticing of a public hearing for consideration by the City Council to revoke the conditional use permit in accordance with LGMC Title 17. If considered for revocation, the City Council shall consider the impact of the violation(s) on public health and safety and the Permit Holder's ability and willingness to rectify the violation in a timely manner to minimize the impact on public health and safety.

D. 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.

E. This Conditional Use Permit expires June 19, 2019 (or such longer period as may be approved by the City Council 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.

Notice of Intent to Adopt a Mitigated Negative Declaration

To: ___ Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

From: (Public Agency) CITY OF LEMON GROVE
Development Services Dept.
3232 Main Street
Lemon Grove, CA 91945
(619) 825-3805

_X_ County Clerk
County of San Diego
P.O. Box 1750
1600 Pacific Highway, Room 260
San Diego, CA 92101

SUBJECT: Filing of Notice of Intention to Adopt a Mitigated Negative Declaration in compliance with Section 15072 of the California Code of Regulations Title 14, Chapter 3. Conditional Use Permit CUP-170-0001, ND18-02.

On Tuesday, June 19, 2018 at 6:00 PM, the City of Lemon Grove will hold a public hearing in the City of Lemon Grove Community Center at 3146 School Lane, Lemon Grove, CA 91945, to consider a request for a Conditional Use Permit to authorize a medical marijuana dispensary on a 0.96 acre parcel which includes tenant interior improvements converting office and warehousing space into sales and display and security rooms in a 14,300 sf building. A 2,300 sf unpermitted mezzanine is proposed to be permitted and converted to offices. 7,700 sf of warehouse space will remain. Exterior improvements include screening, landscape and trees and parking improvements, street improvements, utility undergrounding, and maintenance and remediation within the Tributary to Chollas Creek for weed abatement and drainage improvements located in the rear portion of the property. This project is the result of a citizen's initiative (Measure V) which did not include CEQA analysis and conflicts with the General Plan Industrial Land Use Designation and was not analyzed as part of the 1996 General Plan Master Environmental Impact Report. The project proponents request modifications of the Municipal Code regulations as follows: 1) modifications and waivers to street improvement and utility undergrounding requirements, and 2) modifications and waivers to site landscape, maintenance and weed remediation including areas within the Tributary to Chollas Creek. The closest sidewalk connection is approximately 1,700 feet to the east. No site grading is proposed except for pavement removal and replacement with landscape. The subject property is within the Light Industirial (LI) zone. It is located at 6470 Federal Blvd., Lemon Grove, CA 91945 (APN: 478-190-20-00). Staff assigned: David De Vries.

A Draft Mitigated Negative Declaration has been prepared by the City of Lemon Grove Development Services Department.

The following determinations have been made regarding the above described project:

1. The project will not have a significant effect on the environment.
2. A Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures are proposed to be implemented as part of the project.
4. The project is not a designated hazardous waste facility, hazardous waste property or hazardous waste disposal site as specified under Section 65962.5 of the Government Code.

The draft Mitigated Negative Declaration, Initial Study, and supporting documents may be reviewed, or purchased for the cost of reproduction, at the Development Services Department, 3232 Main Street, Lemon Grove, CA 91945.

For information regarding this project, contact David De Vries, Development Services Director, at (619) 825-3812.

Written comments regarding the adequacy of this Draft Mitigated Negative Declaration must be received by the Development Services Department at the above address by June 14, 2018.

A final environmental report incorporating public input will then be prepared by the decision making authorities.

	May 24, 2018	Development Services Director
Signature (David De Vries, City of Lemon Grove)	Date	Title

Attachment C

INITIAL STUDY / ENVIRONMENTAL CHECKLIST

ENVIRONMENTAL ASSESSMENT NO. ND18-02

FOR CONDITIONAL USE PERMIT CUP-170-0001

LOCATED AT 6470 FEDERAL BLVD.

APN: 478-190-20-00

LEMON GROVE, CALIFORNIA

Prepared by:

Lemon Grove Planning Division Staff
3232 Main Street
Lemon Grove, CA 91945
(619) 825-3812

May 24, 2018

City of Lemon Grove
Initial Study / Environmental Checklist

This Initial Study / Environmental Checklist has been prepared pursuant to the California Environmental Quality Act (CEQA) [Public Resources Code §21000, et seq.] and the 2016 State CEQA Guidelines [California Code of Regulations §15000, et seq.]. This Initial Study / Environmental Checklist determines that the project will result in no impacts or less than significant impacts (with mitigation) on the environmental resources and issues evaluated herein, and hence would not have a significant impact on the environment.

This document is being made available for a 20-day public review comment period, beginning May 24, 2018 and ending June 14, 2018. Comments regarding this Initial Study/ Environmental Checklist must be made in writing to: David De Vries, Development Services Director, City of Lemon Grove, 3232 Main Street, Lemon Grove, California 91945. Comments must be received by 5:00 P.M. on the last day of the public review period.

1. Project Title:	The Grove MMD CUP-170-0001, ND18-02
2. Lead Agency Name and Address:	City of Lemon Grove 3232 Main Street Lemon Grove, CA 91945
3. Contact Person and Phone Number:	David De Vries Development Services Director City of Lemon Grove 3232 Main Street Lemon Grove, CA 91945 (619) 825-3812
4. Project Location and APN:	6470 Federal Blvd. Lemon Grove, CA 91945 APN: 478-190-20-00
5. Project Applicant:	Sean McDermott 8141 Center Street La Mesa, CA 91942
6. General Plan Designation:	Industrial
7. Zoning Designation:	Light Industrial (LI)

8. Project Description:
The project site is a rectangularly shaped lot with an existing industrial warehouse and office building located north side of Federal Blvd. The proposed project is a

Attachment C

request for a Conditional Use Permit to authorize a medical marijuana dispensary on a 0.96 acre parcel which includes tenant interior improvements converting office and warehousing space into sales and display and security rooms in a 14,300 sf building. A 2,300 sf unpermitted mezzanine is proposed to be permitted and converted to offices. 7,700 sf of warehouse space will remain. Exterior improvements include screening, landscape and trees and parking improvements, street improvements, utility undergrounding, and maintenance and remediation within the Tributary to Chollas Creek for weed abatement and drainage improvements located in the rear portion of the property. This project is the result of a citizen's initiative (Measure V) which did not include CEQA analysis and conflicts with the General Plan Industrial Land Use Designation and was not analyzed as part of the 1996 General Plan Master Environmental Impact Report. The project proponents request modifications of the Municipal Code regulations as follows: 1) modifications and waivers to street improvement and utility undergrounding requirements, and 2) modifications and waivers to site landscape, maintenance and weed remediation including areas within the Tributary to Chollas Creek. The closest sidewalk connection is approximately 1,700 feet to the east. No site grading is proposed except for pavement removal and replacement with landscape.

9. **Setting and Surrounding Land Uses:**
   The project site is in a developed urban industrial area. It is a rectangular shaped lot located north of Federal Blvd, 1,000 feet west of San Miguel Ave., 625 feet east of MacArthur Drive and directly south of State Route 94 at the bottom of the 2:1 slope supporting the freeway improvements. Single-family residences are directly south of the project on approximately 60 feet higher on top of a slope. Industrial land uses are to the east and west. The City of San Diego community of College Grove is immediately north beyond State Route 94.

10. **Approvals Required:**
    Conditional Use Permit CUP-170-0001.

11. **Other public agencies whose approvals are required (e.g., permits, financing approval, or participation agreement):**
    None known.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

Based upon the initial evaluation presented in the following Initial Study / Environmental Checklist, it is concluded that the Project **would** result in the following potentially significant adverse environmental impacts to the following resource areas:

- ☐ Aesthetics
- ☐ Agriculture & Forestry Resources
- ☒ Air Quality
- ☒ Biological Resources
- ☒ Cultural Resources
- ☐ Geology and Soils
- ☒ Greenhouse Gas Emissions
- ☐ Hazards and Hazardous Materials
- ☐ Hydrology and Water Quality
- ☐ Land Use and Planning
- ☐ Mineral Resources
- ☒ Noise
- ☐ Population and Housing
- ☒ Public Services
- ☐ Recreation
- ☒ Transportation / Traffic
- ☐ Utilities and Service Systems
- ☒ Mandatory Findings of Significance

DETERMINATION:

On the basis of this initial evaluation: (To be completed by the Lead Agency)

☐ I find that the project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (a) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (b) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT (EIR) is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or (MITIGATED) NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or (MITIGATED) NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the project, nothing further is required.

David De Vries, Development Services Director

5-24-18
Date

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EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3. Once the lead agency has determined that a particular physical impact may occur then, the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses", as described in (5) below, may be cross-referenced).

5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or (mitigated) negative declaration pursuant to Section 15063(c)(3)(D) of the CEQA Guidelines. In this case, a brief discussion should identify the following:

   a. Earlier Analysis Used. Identify and state where they are available for review.

   b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

   c. Mitigation Measures. For effects that are "Less Than Significant With Mitigation Measures Incorporated", describe the mitigation measures that were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances).

Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7. Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9. The explanation of each issue should identify:

   a. The significance criteria or threshold, if any, used to evaluate each question; and

   b. The mitigation measure identified, if any, to reduce the impact to less than significant.

Impact Terminology

The following terminology is used to describe the potential level of significance of impacts:

- A finding of ***no impact*** is appropriate if the analysis concludes that the project would not affect the particular resource in any way.

- An impact is considered a ***less than significant impact*** if the analysis concludes that it would not cause substantial adverse change to the environment and requires no mitigation.

- An impact is considered ***less than significant with mitigation incorporated*** if the analysis concludes that it would not cause substantial adverse change to the environment with the inclusion of environmental commitments that have been agreed to by the applicant.

- An impact is considered a ***potentially significant impact*** if the analysis concludes that it could have a substantial adverse effect on the environment and requires mitigation.

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I. AESTHETICS

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b. Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒
d. Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

Explanation of Checklist:

a-c: No Impact. The project site is not located within or near a designated scenic vista or a State Scenic highway and no scenic resources or historic buildings exist on-site.

d: Less than Significant. The site is located in a developed urbanized area. New landscape and trees are proposed on-site and along Federal Blvd where currently no landscape exists. Tributary to Chollas Creek Remediation will be conducted under a separate permit. Night time lighting of the exterior site area and from proposed signage will occur as a result of this project. Glare onto adjacent public rights-of-ways is required to be reduced to a level of no impacts.

Source: 1, 2, 3, 4, 6

II. AGRICULTURAL AND FOREST RESOURCES

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b. Conflict with existing zoning for agricultural use, or a Williamson Act Contract?	☐	☐	☐	☒
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220[g]), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104[g])?	☐	☐	☐	☒
d. Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e. Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

Explanation of Checklist:

a–e: No Impact. The project site is located in an existing urbanized area with no agricultural or forest resources within the vicinity. The site was previously developed as a warehouse and office structure, and no agricultural or forestry uses are located on-site. The project site is not zoned for agricultural or forestry purposes; nor is there a Williamson

Attachment C

Act Contract associated with the site or vicinity. Therefore, the project would not convert important farmland, conflict with agricultural zoning, or otherwise cause the conversion of farmland or forest land to non-agricultural/non-forest use. The project would have no agricultural resource impact.

Source: 1, 2, 3, 4, 12

III. AIR QUALITY

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☒	☐	☐
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☒	☐	☐
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☒
d. Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒
e. Create objectionable odors affecting a substantial number of people?	☐	☒	☐	☐

Explanation of Checklist:

c, d: No Impact. As a part of this project, there are no sensitive receptors proposed and there is no cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

a, b, e: Less Than Significant Impact with Mitigation Incorporated. No significant impact on air resources is likely to occur. While the proposed project will result in an

increase in vehicular traffic and a slight increase in air quality impacts to the region, the Master Environmental Impact Report (MEIR) for the City of Lemon Grove's General Plan anticipates vehicular air quality impacts associated with the build out of Lemon Grove but not to a level of significance. The cumulative air quality impacts of buildout of the Lemon Grove General Plan will remain significant and unmitigated. However, this project is not likely to result in a cumulatively considerable net increase of any criteria pollutant. In conformance with the General Plan MEIR, all existing buildings must be tested for asbestos prior to demolition and all necessary treatment implemented if identified. Standard conditions of project approval will require the control of dust during site grading and construction. During construction, diesel equipment may generate some nuisance odors; however, due to best management practice requirements to control dust and odors, odors associated with project construction would not be significant. As a medical marijuana dispensary, all product will be prepackaged upon arrival and remain packaged through the point of sale. An HVAC system with carbon filters is also proposed to reduce odors emitted to adjacent properties. As a result, the project would not generate objectionable odors. Therefore, odor impacts would be less than significant.

Section 15125(d) of the CEQA Guidelines contains specific reference to the need to evaluate any inconsistencies between the proposed project and the applicable air quality management plan, i.e., the San Diego Regional Air Quality Strategy (RAQS). Included in the RAQS are transportation control measures (TCMs). The RAQS and TCM set forth the steps needed to accomplish attainment of state and federal ambient air quality standards. The primary concern for assessing impacts on the RAQS is whether the project is consistent with the growth assumptions used to develop the plan.

San Diego Air Pollution Control District (SDAPCD) relies on land use designations contained in local general plan documents and the San Diego Association of Governments (SANDAG) regional transportation plans to prepare air quality plans. SDAPCD refers to approved general plans to forecast, inventory, and allocate regional emissions from land use and development-related sources. These emissions budgets are used in statewide air quality attainment planning efforts. As such, a project is inherently consistent if it proposes development in conformance with a given General Plan land use designation. Projects that propose development that is greater than anticipated in the growth projections warrant further analysis to determine consistency with RAQS and the State Implementation Plan (SIP). As such, to reduce air quality and greenhouse gas impacts resulting from increased traffic, the site proposes greenhouse gas reduction measures including the removal of pavement and adding nine percent landscape on the site with 11 new trees and proposes new pedestrian paths from the street to the front entrance and along Federal Blvd. including new curb, gutter and sidewalk along Federal Blvd. Bicycle parking is also a part. Absent these mitigations, an air quality and greenhouse gas emissions analysis with appropriate mitigation shall be required prior building permit issuance to ensure impacts to air quality and greenhouse gas emissions as it relates to increased traffic on the site are appropriately mitigated. This will result in the site likely being required to install solar panels to power the facility. Factors shall include increased traffic above what is anticipated in the general plan and above the current use of the facility as warehouse and office.

Source: 1, 2, 3, 4, 7, 9, 11, 14, 15, 16

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IV. BIOLOGICAL RESOURCES

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Have substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or U.S. Fish and Wildlife Service (USFWS)?	☐	☒	☐	☐
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the CDFW or USFWS?	☐	☒	☐	☐
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☒	☐	☐
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☒	☐	☐
e. Conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy or ordinance?	☐	☐	☐	☒

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

Explanation of Checklist:

a-d: Less Than Significant Impact: The site is located in a developed urbanized area. New landscape and trees are proposed on-site and along Federal Blvd where currently pavement exists (no landscape exists). Maintenance and remediation within the Tributary to Chollas Creek for weed abatement and appropriate drainage located in the rear portion of the property is required or, in-lieu of immediate remediation on-site, payment of fair share of costs for design and improvements for remediation along the entire Federal Blvd corridor or the southerly or northerly portions with scope and location determined by the Development Services Director is required. Potential sensitive plant communities or habitats in the Tributary to Chollas Creek may be prevalent. The Tributary to Chollas Creek remediation will be conducted under a separate City permit and impacts will be analyzed as a part. Prior to remediation on-site, the applicant shall prepare a biological resources assessment and a hydrology study by licensed professionals denoting the location, methods and recommended mitigation for removing invasive plant materials and an analysis of drainage flows and remediation for appropriate drainage. Include an assessment of sensitive plant and raptor species (including migratory birds) with appropriate mitigation to ensure no impacts. Appropriate State agency (include Department of Fish and Wildlife, Caltrans, State Water Quality Control Board and Army Corps of Engineers) notifications, permitting and mitigations shall be required as applicable. The portion of the tributary/drainage channel within the property shall be cleared of trash, debris and invasive plant materials. Clearing of the tributary/drainage channel shall be such that it promotes free and efficient flow of waters with no obvious impediments. Installation of native plant materials and slope stabilization may be required as recommended a licensed geotechnical engineer and biologist. A landscape permit shall be required and shall be considered a separate project for CEQA purposes. All local, State and Federal permits necessary to perform this work shall be obtained by the applicant/owner. Applicant/owner shall enter into an agreement with the City of Lemon Grove to maintain the portion of the tributary/drainage channel.

e-f: No Impact. The subject site is located in a developed urban area. The site only supports Developed and Disturbed habitat due to the historical development activities.

The MEIR for the City of Lemon Grove's General Plan conveys there are no known sensitive biological resources, riparian habitat, or wetlands on the subject property.

Source: 1, 2, 3, 4, 5, 13

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V. CULTURAL RESOURCES

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	☐	☐	☐	☒
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☐	☐	☒
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☒
d. Disturb human remains, including those interred outside of dedicated cemeteries?	☐	☐	☐	☒
e. Cause a substantial adverse change in the significance of a Tribal Cultural Resource as defined in Public Resources Code, Section 21074 as either: 1) a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, that is listed or eligible for listing on the California Register of Historical Resources, or on a local register of historical resources as defined in Public Resources Code section 5020.1(k), or 2) a resource determined by a lead agency, in its discretion and supported by substantial evidence, to be significant according to the historical register criteria in Public Resources Code section 5024.1 (c), and considering the	☐	☒	☐	☐

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
significance of the resource to a California Native American tribe.				

Explanation of Checklist:

a-d: No Impact

Neither the project site nor its contents are listed in any historical register, identified in historical surveys or are determined to be of particular historical import. There are no known cultural resources located on the property. There are no known human remains or those interred outside of formal cemeteries on the subject property or in the surrounding area. No geotechnical investigation was conducted since the project only proposes surface improvements.

e: Less than Significant Impact with Mitigation.

A Sacred Lands File (SFL) check was conducted for the project through the Native American Heritage Commission (NAHC) and resulted in no findings of Sacred Lands. Tribal consultation requests may result in consultation and tribal representation during any ground disturbing activities. As such, in order to mitigate any impacts that ground disturbing activities may cause: 1) A tribal representative may be required to be present at the pre-grading or pre-ground disturbing activities meetings to consult with the contractors. 2) A tribal representative may be required to be present at all times during the original cutting of previously undisturbed sediments. 3) The tribal representative shall be allowed to temporarily direct, divert or halt grading or ground disturbing activities to allow recovery of fossil and artifact remains. 4) Prior to final inspection a report shall be prepared summarizing the results of the mitigation program and the coordination efforts with the tribal representative and submitted to the City of Lemon Grove Development Services Director. This report will include a discussion of methods employed, fossils and artifacts recovered, geologic context of fossil and artifact remains and the significance of the mitigation program. With implementation of the mitigation measures specified above, potential impacts to cultural resources would be less than significant.

Source: 1, 2, 3, 4

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VI. GEOLOGY AND SOILS

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☒	☐
ii. Strong seismic ground shaking?	☐	☐	☒	☐
iii. Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv. Landslides?	☐	☐	☒	☐
b. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☒	☐

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒

Explanation of Checklist:

a-d: Less than Significant Impact. The site is located within the seismically active southern California region. The Rose Canyon Fault Zone is the nearest active fault system to the project site and lies approximately 8.8 miles to the west. No geotechnical evaluation was conducted because ground disturbance only includes pavement removal and minor grading for soil treatments for new trees and landscape and new base pavement materials. Given the proximity of the Rose Canyon fault system, a strong earthquake on this fault could produce severe ground shaking at the project site, but would be unlikely to produce ground rupture. Despite the potential of the Rose Canyon fault system to produce severe ground shaking at the project site, impacts to the project would be reduced through adherence to requirements specified in the Alquist–Priolo Act, the Uniform Building Code, Title 24 of the California Building Code, and all development regulations of the City. Compliance with these building standards would minimize impacts associated with seismic hazards.

e: No Impact. The project would be served by the City's wastewater system and would not require the use of septic systems. No impact related to septic system soil issues would occur.

Source: 1, 2, 3, 4, 8

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VII. GREENHOUSE GAS EMISSIONS

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☒	☐	☐
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

Explanation of Checklist:

a. Less Than Significant with Mitigation Incorporated.

To reduce air quality and greenhouse gas impacts resulting from increased traffic, the site proposes greenhouse gas reduction measures including the removal of pavement and adding nine percent landscape on the site with 11 new trees and proposes new pedestrian paths from the street to the front entrance and along Federal Blvd. including new curb, gutter and sidewalk along Federal Blvd. Bicycle parking is also a part. Absent these mitigations, an air quality and greenhouse gas emissions analysis with appropriate mitigation shall be required prior building permit issuance to ensure impacts to air quality and greenhouse gas emissions as it relates to increased traffic on the site are appropriately mitigated. This will result in the site likely being required to install solar panels to power the facility. Factors shall include increased traffic above what is anticipated in the general plan and above the current use of the facility as warehouse and office.

During project construction, a temporary increase in operational emissions may occur. Operational emissions include mobile source emissions and building emissions. The San Diego Air Pollution Control District Rule 55 requires compliance with standard fugitive dust control best management practices which will be required as a part of normal practices.

b: Less Than Significant Impact.

The proposed project is below the threshold of significance established by the Californian Air Pollution Control Officers Association (CAPCOA) for greenhouse gas emissions. According to the CAPCOA White Paper published in January 2008, it is presumed that the construction and operational greenhouse gas emissions for retail

projects of less than 11,000 square feet would not exceed 900 metric tons of CO_2-equivalent emissions per year, and would therefore have a less-than-cumulatively considerable impact to the environment. Pursuant to California Assembly Bill 32, the State must reduce greenhouse gas emissions by at least 16% in order to roll back the level of emissions for the year 2020 to those levels that existed in 1990. CAPCOA has determined that any project which generates less than 900 metric tons of CO2-equivalent emissions per year is below the level necessary to achieve the 16% reduction in anticipated state-wide emissions for the year 2020 under the "business as usual" scenario. Therefore, the impact is less than significant.

Source: 1, 2, 3, 4, 7, 9, 11, 14, 15, 16

VIII. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒

Explanation of Checklist:

a–h: No Impact. The project will not create a hazardous environment through the use or transport of hazardous materials. There are no known hazardous material sites within the City. The site is not located within an airport land use plan or within two miles of a public airport or public use airport and no such detriment should occur. The proposed project will not impair implementation of or physically interfere with any emergency response plan or evacuation plan because the project design and access has been reviewed and approved by the Fire Department. The project is located within an urbanized area and there are no wildlands located within the vicinity of the subject property. A contaminated underground storage tank case was closed in 1989. The Department of Environmental Health was notified of the proposed project in March 2018 and they determined no action is required based on the proposed commercial use and that the site will be staying as commercial use and that there will be no major soil removal so there will be no soil management

issues. The applicant completed a Hazardous Materials Management Plan Questionnaire by Heartland Fire & Rescue on August 11, 2017 and noted no on the 16 categories related to indoor storage of hazardous materials.

Source: 1, 2, 3, 4, 10

IX. HYDROLOGY AND WATER QUALITY

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table?	☐	☐	☐	☒
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site?	☐	☐	☒	☐
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☒	☐

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☒	☐
f. Otherwise substantially degrade water quality?	☐	☐	☒	☐
g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒
i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒
j. Contribute to inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒

Explanation of Checklist:

c-f: Less than Significant Impact. The project does not substantially degrade groundwater supplies or interfere substantially with groundwater recharge. Existing drainage patterns are unaltered or will be directed along Federal Blvd as a result of street improvements. Some storm water will be captured in proposed landscape islands. Drainage patterns may be altered as a result of the project, but not to a level of significance.

a-b, g-j: No Impact. The project site is located within an area prone to flooding. According to Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency, the subject site is located within Zone "A" subject to inundation by the one percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no Base Flood Elevations (BFEs) or flood depths are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply. The project site is located approximately 9.5 miles from the nearest shoreline of the Pacific Ocean at an

elevation of 379 feet above sea level. As such there is no threat to the site from seiche, tsunami, or mudflow.
Source: 1, 2, 3, 4, 5, 8, 13

X. LAND USE AND PLANNING

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Physically divide an established community?	☐	☐	☐	☒
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

Explanation of Checklist:

a, c: No Impact. The project will not divide the community. There are no habitat conservation plans in effect within the vicinity of the project.

b: Less Than Significant Impact. This project is the result of a citizen's initiative (Measure V) which did not include CEQA analysis and conflicts with the General Plan Industrial Land Use Designation and was not analyzed as part of the 1996 General Plan Master Environmental Impact Report, however, only impacts associated traffic, air quality and greenhouse gas emissions are not accounted for in the General Plan and appropriate mitigation is provided herein.

Source: 1, 2, 3, 4, 16

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XI. MINERAL RESOURCES

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

Explanation of Checklist:

a-b: No Impact. There are no known mineral resources of significance or categorized as locally important on the project site or within the City. As a result, there would be no impact to mineral resources associated with implementation of the project.

Source: 1, 2, 4

XII. NOISE

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☒	☐	☐
b. Expose persons to or generate excessive ground borne vibration or ground borne noise levels?	☐	☐	☒	☐
c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

Explanation of Checklist:

a: Less Than Significant Impact with Mitigation. The proposed project, which is retail in nature, will not introduce significant noise sources in the vicinity that are inconsistent

Attachment C

with the existing industrial development of the area. However, State Route 94 is a noise source within close proximity of the project. Figure N-2 in the 1996 General Plan indicates that the subject property is within an area encompassing 75 dB CNEL noise levels or less. The General Plan states that commercial and office building projects with existing noise levels below 75 dB CNEL are conditionally acceptable and require closed windows and fresh air supply systems or air conditioning. An HVAC system with carbon filters is proposed and required to provide appropriate noise mitigation for interior noise levels. No additional sound attenuating noise controls are required as mitigation. Conformance with the City's Noise Abatement and Control ordinance (Chapter 9.24 of the Lemon Grove Municipal Code) is required for operation of any single or combination of powered construction equipment at any construction site.

b: Less than Significant Impact. The proposed project which is commercial in nature will not expose persons to, or generate, excessive ground borne vibration or ground borne noise levels. Construction activities may create minor ground borne vibrations during the construction process, but any such vibrations would be temporary in nature and less than significant.

c-d: Less than Significant Impact. The proposed project which is commercial in nature will not introduce significant noise sources in the vicinity that are inconsistent with the existing industrial development of the area.

e-f: No Impact. The project site is not within an airport land use plan, is more than six miles from the nearest airport, and more than nine miles from the nearest private air strip.

Source: 1, 2, 3, 4

XIII. POPULATION AND HOUSING

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Explanation of Checklist:

a-c No Impact. No new housing, housing proposed for demolition or displacement of housing is proposed as a part of the project.

Source: 1, 2, 3, 4

XIV. PUBLIC SERVICES

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Result in substantial adverse physical impacts associated with the provision of new or physically altered				

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i. Fire protection?	☐	☒	☐	☐
ii. Police protection?	☐	☒	☐	☐
iii. Schools?	☐	☐	☒	☐
iv. Parks?	☐	☐	☒	☐
v. Other public facilities?	☐	☐	☒	☐

Explanation of Checklist:

a(i–ii): Less Than Significant Impact with Mitigation Incorporated. Police protection is provided by the San Diego County Sheriff's office in Lemon Grove. In addition, the project site is served by Heartland Fire & Rescue, a joint powers authority delivering fire protection and emergency medical services to the cities of El Cajon, Lemon Grove, and La Mesa. Based on historical evidence with marijuana dispensaries, the project may create increased fire and police calls for service resulting from the proposed marijuana cash-based business. The following conditions are required to reduce risks of calls for service:

1. Maintain site conditions as proposed.
2. Comply with appropriate building and fire codes.
3. Comply with conditions of approval referenced in the Municipal Code including Measure V (Chapter 17.32).
4. Comply with inspection and reporting requirements to ensure continued compliance.
5. Other conditions as determined by the Fire Marshal and Sheriff Division Lieutenant.

a(iii–v): Less Than Significant Impact. The project is located in an urbanized community well served with sewer and water lines, streets, storm drains and other public utilities.

The proposed project will not result in a significant increase in the demand for public services and facilities. San Diego Gas & Electric, EDCO disposal service, Helix Water

District, and the Lemon Grove Sanitation District have reviewed the proposed project and determined that existing services are adequate to serve the proposed project.

Source: 1, 2, 3, 4

XV. RECREATION

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
b. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	☐	☐	☐	☒

Explanation of Checklist:

a–b: No Impact. The proposed project will not create a significant increase in the demand on recreational services in the community. New commercial uses do not typically warrant a demand for park land and recreational services.

Source: 1, 2, 3, 4

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XVI. TRANSPORTATION / TRAFFIC

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☒	☐	☐
b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e. Result in inadequate emergency access?	☐	☒	☐	☐

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☒	☐	☐

Explanation of Checklist:

a, e, f: Less Than Significant Impact.

The traffic study estimates that the project will increase the average daily vehicle trips to the site from 5 weekday trips per 1,000 square feet or 72 average daily vehicle trips to the site for a warehousing industrial use (ref. http://www.sandag.org/uploads/publicationid/publicationid_1140_5044.pdf) to 419 average daily vehicle trips as shown in the April 11, 2018 traffic analysis with excerpt below (an increase in traffic volumes almost six times the current use). The access analysis indicates good LOS B/C operations at the access points. No access related changes along Federal Blvd. are deemed necessary. On-site pavement markings and signage are required as recommended in the traffic study. Utility undergrounding and street improvements including pedestrian sidewalks is required to be consistent with the General Plan Mobility Element Circulation Plan for Federal Blvd. The purpose of the light industrial (LI) zone is for light manufacturing, warehousing, distribution, or other related limited intensity activities. These regulations establish development standards and conditions through which uses may be located in this zone. The MEIR for the General Plan did not account for retail uses in Industrial zones. All uses shall be subject to the applicable regulations of Title 17 including street improvement requirements for discretionary permits. Failure to provide street improvements will result in a conflict with the General Plan Circulation Plan.

Mr. Wong
4/11/18
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LINSCOTT LAW & GREENSPAN engineers

TABLE 2
TRIP GENERATION SUMMARY

Description	Quantity	Daily Volumes		AM Peak Hour					PM Peak Hour				
		Rate	Volume	Rate	Split	In	Out	Total	Rate	Split	In	Out	Total
Marijuana Dispensary [a]	6,600 SF		380			11	3	14			19	19	38
Warehousing [b]	7,708 SF	5 /KSF	39	13%	70% : 30%	4	1	5	15%	40% : 60%	2	4	6
Total Project	14,308 SF		419			15	4	19			21	23	44

Footnotes:
a. AM Peak Hour is based on Trimster Mixed-Use traffic impact and PM peak hour is based on Otay Mesa Outlets traffic report. Daily trips calculated based on daily trip rates for the AM peak hour trips.
b. Estimated weekday vehicle trip generation rate for warehousing per *The Six Step Guide of Vehicular Traffic Generators Rates for the San Diego Region* (SANDAG, 2002).

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The project is estimated to generate an additional 419 vehicle trips per day. Based on the San Diego Traffic Engineers' Council (SANTEC) and the Institute of Transportation Engineers (ITE) document *SANTEC/ITE Guidelines for Traffic Impact Studies in the San Diego Region*, a Traffic Impact Study is not required because the project's trip generation is calculated to be less than 1,000 ADT and less than 100 peak hour trips. Additionally, the Trip Generation Analysis determined that the ADT and number of peak hour trips generated by the proposed project does not trigger Caltrans' threshold for a requirement to analyze State highway facilities.

The Fire Department and Engineering Department have determined that access is adequate for emergency vehicles. The proposed project meets the City's parking requirements. The project as designed complies with standard street design requirements. The subject property is not located within the vicinity of a private airstrip or public airport.

Police protection is provided by the San Diego County Sheriff's office in Lemon Grove. In addition, the project site is served by Heartland Fire & Rescue, a joint powers authority delivering fire protection and emergency medical services to the cities of El Cajon, Lemon Grove, and La Mesa. Based on historical evidence with marijuana dispensaries, the project may create increased fire and police calls for service resulting from the proposed marijuana cash-based business. The following conditions are required to reduce risks of calls for service:

1. Maintain site conditions as proposed.
2. Comply with appropriate building and fire codes.
3. Comply with conditions of approval referenced in the Municipal Code including Measure V (Chapter 17.32).
4. Comply with inspection and reporting requirements to ensure continued compliance.
5. Other conditions as determined by the Fire Marshal and Sheriff Division Lieutenant.

b-d: No Impact. The project will not conflict with an applicable congestion management program, result in a change in air traffic patterns, or increase hazards due to design features.

Source: 1, 2, 3, 4, 11, 14, 15, 16

XVII. UTILITIES AND SERVICE SYSTEMS

Would the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☒	☐
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☒	☐
e. Result in a determination by the wastewater treatment provided which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☒	☐

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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
g. Comply with federal, state, and local statutes and regulation related to solid waste?	☐	☐	☒	☐

Explanation of Checklist:

a–g: Less than Significant Impact.

Increases in solid waste and water supply is anticipated as a result of the change from an office warehousing use to an office, warehousing and retail use.

The subject property is served by the City of Lemon Grove Sanitation District. The proposed project will not result in a substantial increase in the demand for sanitary services.

The proposed project will not result in a significant increase in demand for domestic water supplies.

The proposed project will not result in a substantial increase in the generation of solid waste. The project will be required to comply with all federal, state, and local statutes and regulations regarding solid waste. Impacts to utilities and service systems are expected to be less than significant.

Source: 1, 2, 3, 4

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

Does the project:

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐
c. Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

Explanation of Checklist:

a: Less Than Significant Impact with Mitigation. Maintenance and remediation within the Tributary to Chollas Creek for weed abatement and appropriate drainage located in the rear portion of the property is required or, in-lieu of immediate remediation on-site, payment of fair share of costs for design and improvements for remediation along the

Attachment C

entire Federal Blvd corridor or the southerly or northerly portions with scope and location determined by the Development Services Director is required. Potential sensitive plant communities or habitats in the Tributary to Chollas Creek may be prevalent. The Tributary to Chollas Creek remediation will be conducted under a separate City permit and impacts will be analyzed as a part. Prior to remediation on-site, the applicant shall prepare a biological resources assessment and a hydrology study by licensed professionals denoting the location, methods and recommended mitigation for removing invasive plant materials and an analysis of drainage flows and remediation for appropriate drainage. Include an assessment of sensitive plant and raptor species (including migratory birds) with appropriate mitigation to ensure no impacts. Appropriate State agency (include Department of Fish and Wildlife, Caltrans, State Water Quality Control Board and Army Corps of Engineers) notifications, permitting and mitigations shall be required as applicable. The portion of the tributary/drainage channel within the property shall be cleared of trash, debris and invasive plant materials. Clearing of the tributary/drainage channel shall be such that it promotes free and efficient flow of waters with no obvious impediments. Installation of native plant materials and slope stabilization may be required as recommended a licensed geotechnical engineer and biologist. A landscape permit shall be required and shall be considered a separate project for CEQA purposes. All local, State and Federal permits necessary to perform this work shall be obtained by the applicant/owner. Applicant/owner shall enter into an agreement with the City of Lemon Grove to maintain the portion of the tributary/drainage channel.

b, c: Less Than Significant Impact. The project results in increased exposure to and availability of medical marijuana. Associated impacts to human beings are anticipated to be less than significant. Impacts were not addressed in the General Plan MEIR.

XIX. DETERMINATION AND PREPARERS

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE FEE DETERMINATION

(Fish and Game Code Section 711.4, Statutes of 2006 – SB 1535)

[ ] It is hereby found that this project involves no potential for any adverse effect, either individual or cumulatively, on wildlife resources and that a "Certificate of Fee Exemption" shall be prepared for this project.

[X] It is hereby found that this project could potentially impact wildlife, individually or cumulatively, and therefore, fees in accordance with Section 711.4(d) of the Fish and Game Code shall be paid to the County Clerk.

XX. REFERENCES

Section 15150 of the State CEQA Guidelines permits an environmental document to incorporate by reference other documents that provide relevant data. The documents listed below are hereby incorporated by reference. The pertinent material is summarized throughout this Initial Study / Environmental Checklist where that information is relevant to the analysis of impacts of the project. The following references were used in the preparation of this Initial Study / Environmental Checklist and are available for review at the City Hall located at 3232 Main Street, in Lemon Grove.

Reference #	Document Title
1.	City of Lemon Grove General Plan
2.	Master Environmental Impact Report for the Lemon Grove General Plan
3.	City of Lemon Grove Municipal Code
4.	CUP-170-0001 Application Packet
5.	Hydrology Study for The Grove MMD, by BWE (January 2018)
6.	Caltrans Scenic Highway website: http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/
7.	San Diego Air Pollution Control District's Regional Air Quality Standards (RAQS) available at: http://www.sdapcd.org/content/sdc/apcd/en/air-quality-planning.html
8.	Department of Conservation's Alquist-Priolo Earthquake Fault Zoning Map available at: http://www.conservation.ca.gov/cgs/rghm/ap
9.	CAPCOA White Paper, published January 2008.
10.	California Environmental Protection Agency Cortese List Data Resources available at: http://www.calepa.ca.gov/sitecleanup/corteselist/
11.	SANDAG Brief Guide of Vehicular Traffic Generation Rates available at: http://www.sandag.org/uploads/publicationid/publicationid_1140_5044.pdf
12.	Department of Conservation, Farmland Mapping and Monitoring Program website: http://www.conservation.ca.gov/dlrp/fmmp
13.	FEMA Flood Insurance Rate Map Panel No. 06073C1910G May 16, 2012
14.	SANTEC/ITE Guidelines for Traffic Impact Studies in the San Diego Region
15.	Caltrans Guide for the Preparation of Traffic Impact Studies
16.	Transportation Letter Report by Linscott Law & Greenspan for The Grove MMD (4/11/8)

Individuals and Organizations Consulted

David De Vries, Development Services Director, City of Lemon Grove
Tim Gabrielson, City Engineer, City of Lemon Grove
Jeremiah Harrington, Assistant Engineer, City of Lemon Grove
Chris Jensen, Fire Marshal, Heartland Fire and Rescue
Kurt Culver, President and CEO, Esgil
Arturo Ortuno, Assistant Planner, City of Lemon Grove

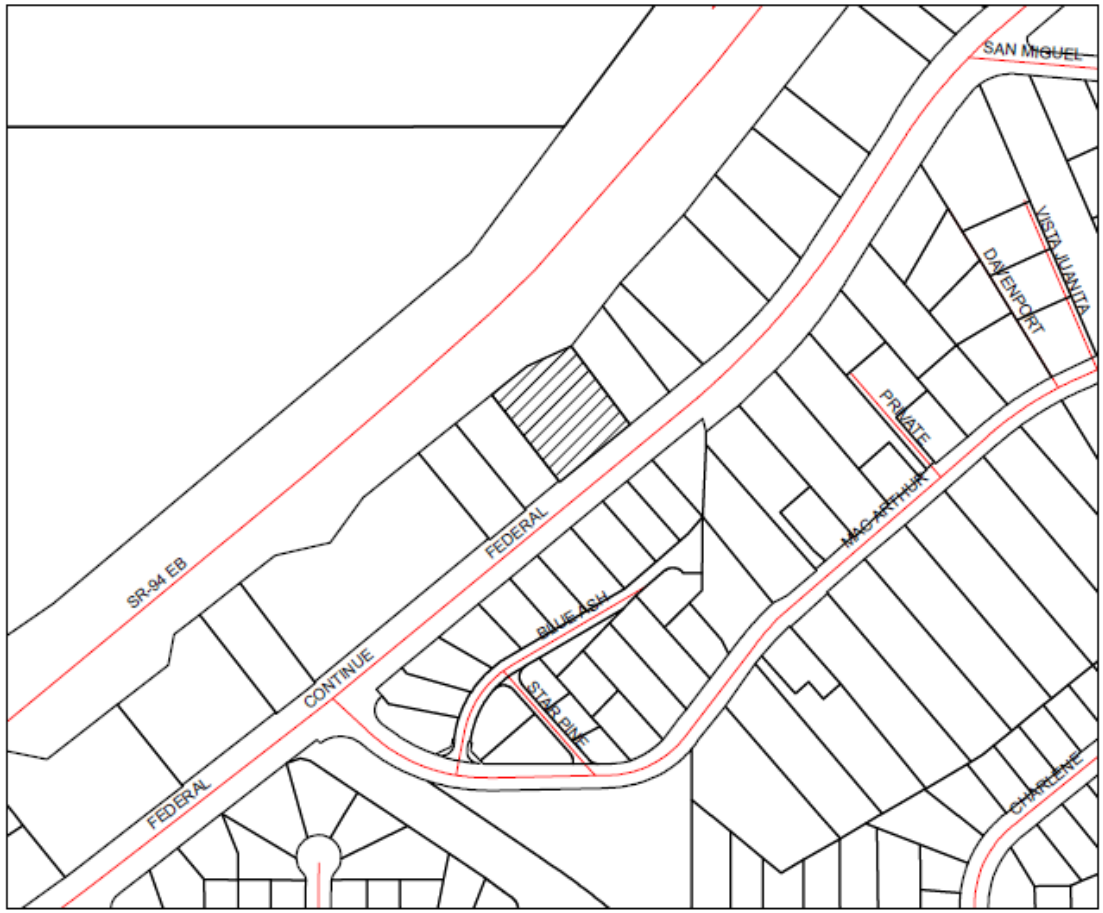
CUP-170-0001

N

Legend

- 6470 Federal Blvd.
- LG Parcels
- Roads

0 90 180 360 540 Feet



Measure V
An Initiative to Rescind the Prohibition of Marijuana Dispensaries and Add the Medical Marijuana Regulatory Ordinance to the Lemon Grove Municipal Code

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WHEREAS the California voters approved Proposition 215 in 1996 to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes and to encourage elected officials to implement a plan for the safe and affordable distribution of medicine; and

WHEREAS the California State Legislature adopted Senate Bill 420, the Medical Marijuana Program Act, in 2003 to help clarify and further implement Proposition 215 in part by authorizing patients and *Primary caregivers* to associate within the State of California in order to collectively or cooperatively cultivate cannabis for medical purposes; and

WHEREAS the California State Legislature adopted Assembly Bill 243, Assembly Bill 266, and Senate Bill 643, collectively known as the Medical Marijuana Regulation and Safety Act, in 2015 to establish a statewide regulatory framework and establish the Bureau of Medical Marijuana Regulation for the regulation of *medical marijuana* activity occurring in jurisdictions across California;

The People of the City of Lemon Grove and the City Council of the City of Lemon Grove hereby ordain as follows:

Section 1. Chapter 17.32 (Medical Marijuana Regulatory Ordinance - Land Use) is hereby added to the Lemon Grove Municipal Code to read as shown in Attachment "1" as though fully set forth at this point.

Section 2. Lemon Grove Municipal Code Section 5.04.220 is hereby amended to read as shown in Attachment "2" as though fully set forth at this point. This amendment adds a provision to the Lemon Grove Municipal Code for a business license tax for *Medical Marijuana Dispensaries* permitted under State law and approved under regulatory authority granted by the State to the City. No other business license tax amounts or classifications are amended, raised or adopted by this Ordinance.

Section 3. Severability. If any section, sub-section, sentence, clause, phrase, part, or other portion of this measure, or application thereof, is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the remaining portions or provisions of this measure. It is hereby declared by the people voting for this measure that this measure, and each section, sub-section, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, sub-sections, sentences, clauses, phrases, parts or portions, or the application thereof, are declared invalid or unconstitutional.

Section 4. Conflicting Ballot Measures. This measure is inconsistent with and intended as an alternative to any other initiative or measure placed on the same ballot that addresses the same subject matter as this measure. In the event that this measure and another initiative or measure addressing the same subject matter as this measure, or any part thereof, is approved by a majority of voters as the same election, and this measure receives a greater number of affirmative votes than any other such initiative or measure, then this measure shall prevail and control in its entirety and said other initiative or measure shall be rendered void and without any legal effect.

Section 5. Amendment of this Measure. This measure, except as specified herein, shall only be amended by a subsequent vote of the People. Notwithstanding any other law or provision in this measure, the City Council shall have the right and the ability to amend or modify this measure under the following circumstances:

Attachment E

a. After this measure has been in effect in the City of Lemon Grove for a period of three years, the City Council, in its sole and exclusive discretion, determines that regulations, fees, permits or penalties warrant adjustment due to inflation, unreasonable cost burdens to the City or *Dispensaries*, unreasonable regulatory burdens to the City or *Dispensaries*, or that a zoning or regulatory restriction contained in the measure has created any other unnecessary or unanticipated burden to the City or *Dispensaries*;

b. The City Council, in its sole and exclusive discretion, determines that the regulations, penalties or fees established in this measure no longer conform to the California State regulations for marijuana activity or that the regulations established in this measure fail to conform to the local licensing requirements for marijuana *Dispensaries*, as outlined in Division 8, Chapter 3.5 of the California Business and Professions Code; or

c. The City Council, in its sole and exclusive discretion, determines that the City or any of its subsidiary agencies, departments or other controlled legal entities will lose or receive reduced funding, including potential funds from grant eligibility, from the state or federal government for implementing and/or enforcing this measure or any related Lemon Grove law or regulation.

Section 6. Administrative Regulations. This measure specifically delegates to the Lemon Grove City Manager the ability to prepare implementing regulations that are consistent with the terms and conditions of this Ordinance and any amendments or modifications thereto. The City Council shall have the ability to review, modify and approve any implementing regulations adopted by the City Manager at its discretion.

Section 7. Implementation Date. No permit application shall be accepted for processing for a period of three (3) months after the effective date of this Ordinance to allow for the City of Lemon Grove to develop implementing policies. No use shall be permitted under this Ordinance during this three-month (3) implementation period.

Section 8. Effective Date. This Ordinance, in order to go into effect, must be approved by a two-thirds vote of the full City Council. Thereafter, this Ordinance shall not take effect unless and until approved by a majority vote of the people at the November 8, 2016, General Election. Upon approval by the people, the ordinance shall take effect in the manner allowed by law and as specified herein.

Measure V Attachment 1
LGMC Chapter 17.32

17.32.010. Purpose.
This Chapter establishes the regulations for the use of *medical marijuana*, to the extent allowed by State
Law, in a way that will minimize the impacts on the community and help pay for costs associated with the usage of a controlled substance. This Ordinance does not authorize or permit any conduct not allowed by state law.

17.32.020. Applicability.

A. The intent of this section is to regulate the cultivation, processing and dispensing of *medical marijuana* in a manner that protects the health, safety and welfare of the community. This section is not intended to interfere with a *qualified patient* or *Primary caregiver*'s right to *Medical marijuana*, as provided for in California Health & Safety Code Section 11362, nor criminalize the same.

B. *Medical marijuana* for personal use shall be in conformance with the standards set forth in this Title.

17.32.030. Release of Liability and Hold Harmless. The owner and permittee of a *Medical Marijuana Dispensary* or cultivation facility shall release the City of Lemon Grove, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of cooperative or collective or cultivation owners, operators, employees, *Primary caregiver* or *Qualified patient*s for violation of state or federal laws in a form satisfactory to the Director of Development Services. In addition, the business owner and permittee of each *Medical marijuana* cooperative, collective or cultivation facility shall indemnify and hold harmless the City of Lemon Grove and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the cooperative, collective or cultivation facility, and for any claims brought by any of their *Qualified patient*s for problems, injuries, damages, or liabilities of any kind that may arise from the distribution, cultivation and/or on- or off-site use of *Medical marijuana* provided at the cooperative, collective or cultivation facility in a form satisfactory to the Director of Development Services.

17.32.040. Application. *Medical marijuana Dispensary* which dispense, process and cultivate medicinal marijuana shall be required to obtain a Conditional Use Permit consistent with 17.28.050 prior to operation. The fact that an applicant possesses other types of state or City permits or Licenses does not exempt the applicant from the requirement of obtaining a Conditional Use Permit to operate a *Medical marijuana Dispensary*.

17.32.050. Definitions. The following words and phrases are italicized throughout this title and shall have the meanings found in this section.
"Director" means a corporate officer, corporate board member, or employee with supervisory responsibilities of an authorized *Dispensary* business that dispenses *medical marijuana*.
"Licensed Physician" means a person educated, clinically experienced, and licensed by the Medical Board of California, or the Osteopathic Medical Board of California to practice medicine.
"Medical Marijuana" means marijuana product used for the treatment of pain and suffering caused by diseases and ailments. *Medical marijuana* does not include recreational use.
"Medical Marijuana Dispensary" (*Dispensary*) means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, as defined by Section 19300.5 of the California Business and Professions Code.
"Medical Marijuana Identification Card" (*MMIC*) A document provided by the San Diego County *Medical Marijuana Identification Card* (*MMIC*) Program pursuant to the State Department of Health Services that identifies a *Qualified patient* authorized to engage in the medical use of marijuana and the person's designated *Primary caregiver*, if any as per California Health and Safety Code §11362.7, and as may be amended.

Attachment E

"Operations Manual" a manual that each *Dispensary* shall develop, implement and maintain on the *Premises* which contains requirements outlined in Section 17.32.090.C.6.
"Person with an Identification Card" means an individual who is a *Qualified patient* who has applied for and received a valid identification card pursuant to this article and the California Health and Safety Code §11362.7, and as may be amended.
"Premises" means a lot, parcel, tract or plot of land, together with the buildings, structures and appurtenances thereon.
"Primary caregiver" means the individual or individuals designated by a *qualified patient* who has consistently assumed responsibility for the housing, health or safety of that *qualified patient*. As used herein, a *Primary caregiver* may only grow, administer, transport, or engage in the activities regulated hereunder on behalf of the *qualified patient* for whom they have consistently assumed responsibility for the housing, health or safety of that *qualified patient*. A *primary caregiver* may engage in other activities as specifically enumerated herein.
"Protected Uses" are for purposes of computing distance separations from any public or private preschools and schools, licensed daycare facilities, any park or playground, alcohol and substance abuse treatment centers.
"Qualified patient" means a person who has obtained a written recommendation or approval from a *licensed physician* to use marijuana for personal medical purposes.
"Regulated uses" are for purposes of computing distance separations for *medical marijuana* Cooperative or Collective businesses (with or without accessory cultivation uses) but excluding individual residential cultivation sites operated by *qualified patient*s or *primary caregiver* and located solely in Single Family Residential Zones.

17.32.060. General Provisions
The following information must be submitted with an application to request *medical marijuana* use in conformance to this section and the City of Lemon Grove. All documents which relate to the general provisions and the requirements listed in the submittal requirements must be included in the *Operations Manual*.

A. Physician/Patient Confidentiality.
All processes and reviews conducted pursuant to this Ordinance shall preserve to the maximum extent possible all legal protection and privileges. Disclosure of any member information shall not be deemed a waiver of confidentiality of those records under any provision of state law.

B. **Medical marijuana Cultivation Permitted by Compassionate Use Act**.
All cultivation of marijuana for medical purposes shall not be declared unlawful by the City of Lemon Grove when said cultivation is conducted solely for the personal medical purposes of *qualified patient*s, in accordance with the Compassionate Use Act of 1996. Such cultivation may include the cultivation and possession of both male and female plants in all stages of growth, clones, seedlings and seeds and related cultivation equipment and supplies. *Qualified patient*s and/or their *primary caregiver*s may cultivate individually and/or collectively as permitted by the State of California and as outlined in the following sections.

17.32.080. Findings
In addition to the findings required for the granting of a Conditional Use Permit by Section 17.28.050 of this Title, the decision making authority shall consider the following:

A. Whether the approval of the proposed use will violate the minimum requirements set forth in this chapter for distance separations between establishments which dispense, process or cultivate *Medical marijuana*; and separations between establishments which dispense, process or cultivate *Medical marijuana* and other specific regulated or protected land uses as set forth in this chapter.

B. Whether the proposed use complies with Title 17 of the Lemon Grove Municipal Code.

17.32.090. Medical marijuana Dispensary Regulations

A. Zones:

Dispensaries may be established by Conditional Use Permit in the Heavy Commercial (HC), Limited Commercial (LC), General Commercial (GC) and Light Industrial (LI) Zones and subject to the distance requirements. *Dispensaries* are prohibited in Mixed-Use Zones (Downtown Village Specific Plan and Central Commercial) and all residential zones (RLM, RL, RM, RMH).

B. Distance Requirements

An application may be submitted provided the proposed facility meets the required distance measurements. For purposes of measurements, all *Dispensaries* are considered *Regulated uses* and public parks as defined at Section 12.20.030 of Lemon Grove Municipal Code, playgrounds as defined at Section 18.28.020, subdivision (v), of the Lemon Grove Municipal Code, licensed day care facilities as defined at Section 17.08.030 of Lemon Grove Municipal Code, schools as defined at California Health and Safety Code section 11362.768, subdivision (h), and alcohol and substance abuse treatment centers are considered *Protected Uses*. Measurement is made between the closest property lines of the *Premises* in which the *Regulated uses* and *Protected Uses* are located. A regulated use must not be:

1. Within 1000 feet of any other regulated use which is located either inside or outside the jurisdiction of the City,
2. Within 1000 feet from any protected use which is located either inside or outside the jurisdiction of the City.

The measurement of distance between uses will take into account natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses. In such cases, the separation distance shall be measured as the most direct route around the barrier in a manner that establishes direct access.

C. Standards

1. **Background Check Required for *Director*s and Employees**. The *Director* and employees of a *Dispensary* must obtain a Live Scan background check through the California Department of Justice or the San Diego County Sheriff's Department prior to employment. *Director*s convicted of a serious felony, as defined in California Penal Code section 1192.7, subdivision (c), and Health & Safety Code Section 11359 (Possession for sale) within the previous ten years shall not be eligible for a license. Other potential collective employees and volunteers convicted of the crimes identified in this section in the previous five years are ineligible for employment or participation. If during employment with the *Dispensary*, a *Director* or employee is convicted of a crime identified in this section shall be immediately dismissed from employment or required to resign as a corporate board member or officer. For purposes of this section, a conviction in another state that would have been a conviction equivalent under California law to those convictions specified in this section will disqualify the person from employment or volunteering at the *Dispensary*.
2. **Security Personnel Required.** *Dispensaries* shall have at least one uniformed security guard on duty during operating hours that possess a valid Department of Consumer Affairs "Security Guard Card."
3. **Community Relations Liaison Required.** *Dispensaries* shall designate a community relations liaison (liaison) who shall be at least 18 years of age. The liaison may also be the *Director* of the *Dispensary*. To address community complaints or operational problems with the *Dispensaries*, the individual designated as the community relations liaison shall provide his or her name, phone number and email address to the following:
    a. Lemon Grove City Manager,
    b. San Diego County Sheriff's Department personnel supervising law enforcement activity in Lemon Grove

c. All neighbors within one hundred feet of the *Dispensary*.

4. **Inspection of *Premises*.** City Code Enforcement Officers, San Diego Sheriff's Department staff, and any other employee of the City requesting admission for the purpose of determining compliance with the standards set forth in this section shall be given access to the premise. City and Sheriff Staff shall not retain information pertaining to individual patient records viewed during an inspection, and information related to individual patients shall not be made public. Inspectors will give reasonable notice of a scheduled inspection. Unannounced inspections of a *Dispensary* may occur if City or Sherriff Department staff have probable cause that the collective is violating the law.

5. **Inspection Requirements.** In order to facilitate verification that a *Dispensary* operates pursuant to State and local laws, the following records must be maintained at the *Premises* at all times and available for inspection by City Code Enforcement Officers, San Diego Sheriff's Department staff, and any other employee of the City:

   a. Client Records - The *Dispensary* shall keep a record of its clients. The record shall include the following and shall be maintained for a two-year period:

      i. *Qualified patient* member's name, name of *primary caregiver* when appropriate, and name of *Licensed Physician* recommending use of *medical marijuana* for the member.

   b. *Medical Marijuana* Records - *Dispensary* shall keep a record of its *medical marijuana* transactions. The following records shall be maintained for a two-year period and labeling shall occur as specified:

      i. A record identifying the source or sources of all *Medical marijuana* currently on the *Premises* or that has been on the *Premises* during the two-year period preceding the current date. The record shall include the name of the cultivator or manufacturer and the address of the cultivation or manufacturing location.

      ii. All *Medical marijuana* at the *Premises* must at all times be physically labeled with information that will allow for identification of the source of the *Medical marijuana*.

      iii. All *Medical marijuana* at the *Premises* shall be physically labeled with the monetary amount to be charged.

   c. Financial Records - *Dispensary* shall maintain records of all transactions involving money and/or *Medical marijuana* occurring at the *Premises*. Records shall be maintained for a two-year period preceding the current date.

   d. Employee Records - *Dispensary* shall maintain a record of each employee/volunteer and *Director*. The record shall include name and background check verification. Records shall be maintained for a two- year period following the end of an employee's employment or *Director*'s relationship with the *Dispensary*.

6. **Operations Manual.** The application for a Conditional Use Permit shall include a detailed *Operations Manual* including but not necessarily limited to the following information:

   a. Authorization for the City, its agents and employees, to seek verification of the information contained within the application;

   b. A description of the staff screening process including appropriate background checks;

   c. The hours and days of the week the *Dispensary* will be open;

   d. Text and graphic materials showing the site, floor plan and facilities of the *Dispensary*. The material shall also show adjacent structures and land use;

   e. A description of the security measures located on the *Premises*, including but not limited to, lighting, alarms, and automatic law enforcement notification;

   f. A description of the screening, registration and validation process for *qualified patients*;

g. A description of *qualified patient* records acquisition and retention procedures;

h. The process for tracking *Medical marijuana* quantities and inventory controls employed, including the source of *Medical marijuana* (on-site cultivation, processing, or plant material, or processed products, received from outside sources);

i. Procedures to ensure accurate record keeping, including protocols to ensure that quantities purchased do not suggest re-distribution;

j. Other information required by the Development Services Director.

7. **Operating Standards.** *Dispensaries* shall comply with all of the following operating standards. In addition to these standards, the *Dispensaries* shall comply at all times with conditions outlined in the approved Conditional Use Permit and the Operational Manual.

a. Dispensing *Medical marijuana* to an individual *qualified patient* or *primary caregiver* more than once a day is prohibited;

b. *Dispensaries* shall only dispense *Medical marijuana* to an individual *qualified patient* or *primary caregiver* who has a valid, verified *Licensed Physician*'s recommendation, and if appropriate, a valid *Primary caregiver* designation. The *Dispensary* shall verify that the *Licensed Physician*'s recommendation is current and valid;

c. On-site evaluation by a *Licensed Physician* for the purposes of obtaining a qualified status is prohibited;

d. *Dispensaries* shall display the client rules and/or regulations in a conspicuous place that is readily seen by all persons entering the *Dispensary*. The client rules and/or regulations shall include, but are not limited to:

i. Each building entrance to a *Dispensary* shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming *Medical marijuana* on the *Premises* or in the vicinity of the *Dispensary* is prohibited unless specifically authorized within the governing Conditional Use Permit.

ii. The building entrance to a *Dispensary* shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the *Premises*.

iii. The hours of operation for an authorized *Dispensary* shall be limited to between 8:00 a.m. to 8:00 p.m. or as specified within the Conditional Use Permit.

iv. *Dispensaries* shall not permit the use or consumption of *medical marijuana* on-site unless specifically authorized under the Conditional Use Permit.

v. *Dispensaries* shall not permit the on-site display of unprocessed marijuana plants or representations of marijuana plants in any areas visible to the public;

vi. All signage for *Dispensaries* shall require a sign permit from the City prior to installation. Signage shall not include any terminology (including slang) or symbols for marijuana.

vii. *Dispensaries* shall only permit the distribution of *medical marijuana* plant material and *medical marijuana* manufactured products from licensed sources as allowed by the approved Conditional Use Permit. Such distribution shall be limited to *qualified patient*s or *primary caregiver*;

e. *Dispensaries* shall maintain on the *Premises* an on-site training curriculum capable of meeting employee, agents and volunteer training needs. The minimum training curriculum shall include professional conduct, ethics, and state and federal laws regarding patient confidentiality; specific procedural instructions for responding to an emergency, including robbery or violent incident.

f. *Dispensaries* shall maintain all necessary permits, and pay all appropriate taxes. *Dispensaries* shall also provide invoices to cultivators and manufacturers to ensure tax liability responsibility;

g. *Dispensaries* shall implement procedures as outlined in their approved *Operations Manual*;

h. *Dispensaries* shall submit an "Annual Performance Review Report" for review and approval by the Development Services Director. The "Annual Performance Review Report" is intended to identify effectiveness of the approved Conditional Use Permit, *Operations Manual*, and Conditions of Approval, as well as any proposed modification to procedures as deemed necessary. The Development Services Director may review and approve amendments to the approved "*Operations Manual*"; and the frequency of the "Annual Performance Review Report." *Medical marijuana* cultivation and dispensing monitoring review fees pursuant to the current Master Fee Schedule shall accompany the "Annual Performance Review Report" for costs associated with the review and approval of the report.

i. *Dispensaries* shall maintain 24-hour recorded video surveillance of the *Premises*. Recordings shall be retained for 30-days for inspection by City staff. City staff must provide valid cause for viewing video surveillance. City staff must ensure that patient privacy is safeguarded. Video surveillance will not be shared with law enforcement except when formally requested as part of a law enforcement investigation directly involving the *Dispensary*.

j. Sales of alcoholic beverages are prohibited.

k. Sales of tobacco and tobacco products are prohibited.

l. Sales of drug paraphernalia are prohibited.

m. The location of the *Dispensary* shall include the installation of a centrally monitored alarm system

n. Lighting shall be installed to adequately light the exterior and interior of the *Dispensary Premises* while in conformance with 17.24.080£.2.

8. **Source of Medical Marijuana**. A *Dispensary* shall only dispense marijuana from the following sources and this information shall be included in the *Operations Manual*:

a. On-site Cultivation for Authorized *dispensary*. If the Conditional Use Permit authorizes limited, on-site *Medical marijuana* cultivation at the *dispensary*, on-site cultivation shall be considered an accessory use and shall not exceed twenty-five (25) percent of the *dispensaries*' total floor area and in no case exceed 1,500 square feet. In addition to these area limitations, the accessory use shall conform to the specific zone regulations, Section 17.24.060 Accessory Buildings and Uses, Section 17.32.100 of this Title, and applicable Building and Fire Codes. The *Operations Manual* shall include information regarding the on-site cultivation including, but not limited to:

i. Description of measures taken to minimize or offset energy use from the cultivation or processing of *medical marijuana* on-site; and

ii. Description of chemicals stored or used; and

iii. Description of any effluent discharged into the City's wastewater and/or stormwater system;

a. **Licensed External Source**. Until one year following the date when the California State Bureau of Medical Marijuana Regulation begins accepting applications for licenses, or sooner, if such a deadline is set by the Bureau, *Dispensaries* shall source their *medical marijuana* from cultivators and manufacturers that have obtained a local business license or equivalent document showing that the organization is operating in zoning and

regulatory compliance from another jurisdiction for the *Medical marijuana* cultivation or manufacturing. One year from the date that the California State Bureau of Medical Marijuana Regulation begins accepting applications for licenses, or sooner, if such a deadline is set by the Bureau, all sources of *medical marijuana* or *medical marijuana* products sold in a *dispensary* must also have a state license for their *medical marijuana* activities.

17.32.100. *Medical Marijuana* Cultivating Regulations.
The cultivation of *medical marijuana* for personal use by a *qualified patient* shall be permitted in connection with a residence owned or leased by a *qualified patient* and meeting the minimum standards noted below.

A. *Medical Marijuana* Cultivation for Personal Use

1. An individual *qualified patient* shall be allowed to cultivate *Medical marijuana* within his/her private residence. If the private residence is leased or rented, a notarized authorization from the property owner must be filed with the City. A *primary caregiver* shall only cultivate *Medical marijuana* at the residence of a *qualified patient* for whom he/she is the *primary caregiver*.

B. **Zones.** Cultivating *medical marijuana* is allowed in conforming Residential Low (RL) and Residential Medium/Low (RLIM) zones where there is an existing single family development subject to the following standards and authorized by a Zoning Clearance.

C. Standards

1. Cultivation shall only occur within an enclosed structure that can be secured and locked including the residence, new or remodeled addition to a residence, residential accessory building or a legally converted garage.
2. Garage conversions shall require a replacement in kind prior to authorizing a cultivation area.
3. The grow area shall be within a self-contained structure, with a 1-hour firewall assembly made of green board, and shall be ventilated with odor control, and shall not create a humidity or mold problem
4. The *Qualified patient* shall reside in the residence where the *Medical marijuana* cultivation occurs;
5. The interior area dedicated to the cultivation of marijuana in an existing residence or within a proposed addition to the residence shall not exceed 50 square feet.
6. An accessory structure containing a *Medical marijuana* cultivation area shall not exceed 50 square feet and shall be consistent with the accessory structure requirements of the residential zone and Section 17.24.060.
7. *Medical marijuana* cultivation lighting shall not exceed 1200 watts;
8. Evidence of *medical marijuana* cultivation either within or outside the residence shall not be visible from outside the *Premises*.
9. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and shall not be displaced by *Medical marijuana* cultivation.
10. The *medical marijuana* cultivation area shall be in compliance with the current, adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s)).
11. The *medical marijuana* personal cultivation and processing shall comply with stormwater, wastewater, and applicable greenhouse gas reduction requirements;
12. Personal *medical marijuana* cultivation and processing shall not be visible from the exterior of the *Premises*;

Attachment E

13. A *Qualified patient* or *Primary caregiver* shall participate in *Medical marijuana* cultivation in only one residential location within the City of Lemon Grove.

D. Prohibitions

1. The cultivation of *medical marijuana* shall not be authorized by or considered a Home Occupation and no Home Occupation permit shall be issued.
2. The use of gas products (C02, butane, etc.) for *medical marijuana* cultivation or processing for personal use.
3. Sale or dispensing of *medical marijuana* from a residential zoned property.
4. Signage identifying any uses related to *medical marijuana* in a residential zone.

E. Deviations

1. Any proposed *medical marijuana* cultivation for personal use by an individual *qualified patient* or *primary caregiver* that does not meet the grow area standard of Section 17.32.090.8 shall require review and approval by the director of Development Services or designee. The proposed deviation from the cultivation area limitations shall be processed as a Zoning Clearance. The director of Development Services or designee shall review the submitted information and make an interpretation of need. A complete application shall include the following documentation:
   a. *Licensed Physician*'s recommendation or verification of more than one *qualified patient* living in the residence shall be submitted with the request showing why the cultivation area standard is not feasible.
   b. Written permission from the property owner.
   c. Show conformance to the residential zone and accessory building regulation.
   d. The Building Official and Fire Chief may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.
   e. *Medical marijuana* cultivation area shall be enclosed in a structure with a 1-hour firewall assembly of green board.
   f. The *medical marijuana* cultivation area shall not exceed 100 square feet.

17.32.110. Transportation of *Medical Marijuana*.

All activities involving the transportation of marijuana for personal patient use, to the extent permitted by The Compassionate Use Act of 1996, shall be conducted by *Qualified patient*s and/or the authorized *Primary caregiver* of the *Qualified patient*, where the quantity transported and the method, timing and distance of the transportation are reasonably related to the medical needs of the *Qualified patient*. All personal transportation shall be conducted in accordance with state law.

All activities involving the transportation of marijuana for a *Dispensary* shall comply with California State Regulations, restrictions and guidelines, as enumerated in Division 8, Chapter 3.5 of the California Business and Professions Code, and established by the Bureau of Medical Marijuana Regulations.

17.32.120. Procedures

A. **Administrative Citation and Revocation**.

1. Any violation of this ordinance occurs the City has the authority to immediately cite a *Dispensary* for the violation. The *Dispensary* is given one warning and if not corrected within seven calendar days, the City may issue an administrative citation of $500 per violation. The citations may escalate according to the schedules identified in Section

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June 11, 2018

Via Hand Delivery and Email

David B. De Vries, AICP
Development Services Director
City of Lemon Grove
Development Services Department
3232 Main St.
Lemon Grove, CA 91945
ddevries@lemongrove.ca.gov

Re: **Comments regarding conditional use permit CUP-170-0001 and associated draft mitigated negative declaration for "The Grove" medical marijuana dispensary**

Dear Mr. De Vires:

This firm represents The Grove, a medical marijuana dispensary seeking a conditional use permit (CUP) and associated California Environmental Quality Act (CEQA) approvals required to operate at 6470 Federal Boulevard in the City of Lemon Grove (City), California (the Dispensary). The Grove wishes to thank City Staff for the work they have done in preparing the Draft Mitigated Negative Declaration (MND) and attendant conditions of approval. However, we believe the mitigation measures proposed for impacts to biological resources in and around Chollas Creek and air quality impacts are the result of misinterpretations of CEQA and as such are unconstitutional exactions in the form of conditions of approval of the CUP. This letter briefly explains the nature of these CEQA and constitutional issues, explains why the mitigation measures related to Chollas Creek and street improvements must be revised as conditions of approval for the Dispensary's CUP, and supports "fair share" commitments and other alternative mitigation measures suggested in the MND by which The Grove can achieve the City's goals in conformity with CEQA and the Constitution of the United States.

Misapplication of CEQA

The MND misapplies CEQA requirements in two ways. First, the analysis of impacts to biological resources to Chollas Creek fails to explain how the Project will

result in any impacts, significant or otherwise.[1] Second, the air quality and greenhouse gas impact analysis relies on an inappropriate threshold of significance.[2]

The most significant flaw in the CEQA analysis is the incorrect inclusion of preexisting environmental conditions in the Dispensary's impact analysis when the Dispensary will neither cause nor exacerbate these conditions. The State Supreme Court has recently held that CEQA analysis is not required for preexisting environmental conditions if a project does not exacerbate those existing conditions.[3] Issues with Chollas Creek and the surrounding land were present well before The Grove applied for this CUP, yet the Draft MND includes these existing conditions in its impact analysis and lists them as findings requiring mitigation. [4]

Unconstitutional Conditions of Approval

Although conditions of approval for CUPs are quite common, these conditions are subject to constitutional requirements.[5] To be constitutional, these conditions must satisfy two criteria.

First, the condition must have an "essential nexus" to the project at issue, which is demonstrated by a logical connection between the state interest asserted in the condition imposed.[6] In the CEQA context, the lead agency must demonstrate there is a significant impact before mitigation can be required. For instance, and discussed in greater detail below, the Draft MND requires significant mitigation to Chollas Creek as a condition of approval but fails to explain how the Project produces the impacts sought to be mitigated.[7]

Second, conditions of approval must be "roughly proportional" meaning "related in both the nature and extent to the impact of the proposed development."[8] Conditions of approval significantly greater in nature and extent to the Dispensary's impacts are one or our primary concerns with the MND. For instance, in order to satisfy a less than 1% deficit in a 10% landscaping requirement, some have suggested the demolition of more

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[1] City of Lemon Grove, Development Services Department "Initial Study/Environmental Checklist Environment Assessment No. 18-02 for Conditional Use Permit CUP-170-0001" (May 24, 2018) (attached to City of Lemon Grove, Development Services Department "Notice of Intent to Adopt a Mitigated Negative Declaration" (May 24, 2018) (hereinafter "MND") at pp. 19-12, 17-18, 34-35.
[2] MND at pp. 9-10, 17-18.
[3] *California Building Industry Association v Bay Area Air Quality Management District (2015) 62 Cal.4th 369 (hereinafter "CBIA").*
[4] MND at pp. 9-12, 34-35.
[5] *Koontz v. St. Johns River Water Management Dist.*, 570 U.S. 595 (2013) (citing *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987)).
[6] *Ehrlich v. City of Culver City*, 12 Cal.4th 854 (Cal. 1996) (citing *Nollan* at p. 860).
[7] MND at pp. 11-12.
[8] *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994).

than 1,000 square feet of existing structure. This is an excellent example of where rough proportionality is lacking, and more are discussed below.

The mitigation measures related to the rehabilitation of Chollas Creek and frontage improvements fail to satisfy one or both of these essential requirements. Given these serious concerns, we request the City remove or revise any unconstitutional conditions before it approves the Dispensary's CUP.

Chollas Creek

A significant number of the mitigation measures being required as a condition of approval for The Grove relate to the preexisting condition of Chollas Creek. The Draft MND finds the Dispensary will have significant impacts on various biological resources.[9] However, there is no explanation whatsoever to support these findings or even a fair argument of any new impacts, which means there is no Constitutionally required essential nexus between the Project and the condition of approval.[10] Instead, the analysis appears to focus on the preexisting condition of Chollas Creek, which is a condition that in no way will be exacerbated by the Dispensary, and thus an inappropriate consideration in a CEQA analysis. Moreover, implementing the proposed mitigation measures related to Chollas Creek is estimated to take at least three years and $1,200,000 dollars, which in the absence of any demonstrable impacts from the approval of a Dispensary clearly lacks the rough proportionality required of conditions of approval.[11]

Air Quality and GHG Analysis and Mitigation

The street improvement requirements demonstrate how the improper application of a threshold of significance under CEQA result in the imposition of unconstitutional conditions in the form of mitigation measures that lack both a nexus to the impact and the requisite rough proportionality. These improvements would purportedly mitigate a conflict with or obstruction of the applicable air quality plan and prevent a violation of any air quality standard or substantial contribution to an existing or projected air quality violation.[12] The MND provides no substantial evidence to support these assertions. Moreover, both the City of San Diego and the County of San Diego in reliance on the California Air Pollution Control Officers guidance have concluded that retail space of less than 11,000 square feet is presumed to have construction and operational GHG emissions which does not exceed the 900 metric tons carbon dioxide equivalent thereby

[9] MND at pp. 11-12.
[10] The only evidence of anything remotely affecting Chollas Creek is what appears to be an inappropriate application of the City's ordinances related to weed abatement and demands for drainage maintenance. The Project has no impacts related to these concerns, nor does it exacerbate issues related to these preexisting conditions.
[11] Email from S. Wayne Rosenbaum to David De Vries (May 24, 2018) (attached hereto as "Exhibit A").
[12] MND at pp. 9-10, 17-18.

Attachment F

resulting in less than a significant impact.[13] Thus, a GHG study as suggested in the Draft MND is neither necessary nor appropriate, especially in light of The Grove's offer to install additional GHG reduction measures it is not otherwise required to do.

Even assuming a tenuous connection between the impacts of the Dispensary that exceed the air quality and GHG threshold, the undergrounding of utilities, curb and gutter improvements, installation of sidewalks and repaving of Federal Boulevard proposed fail to satisfy the rough proportionality requirement for conditions of approval. For instance, the mitigation measure calls for the undergrounding of 470 feet of utilities when the Dispensary property has only 180 feet of frontage. Costs for this mitigation measures are estimated to be in excess of $500,000 or $2,778 per foot as a standalone project.

The requested sidewalk fronting the property would be disconnected from any other sidewalk and is unlikely to do anything to increase pedestrian traffic in lieu of vehicular traffic. In isolation, the curb and gutter improvements would likely result in hazardous traffic conditions. The limited paving of a portion of Federal Boulevard is simply nonsensical without a more comprehensive road improvement plan. The costs of the street, sidewalk, curb and gutter improvements are estimated to exceed $300,000 or $1,666 per foot of frontage as a standalone project.[14]

Suggestions to Improve the Draft MND

Constitutional requirements preventing unconstitutional conditions in the land use approval process exist to protect property owners from "the risk that the government may use its substantial power and discretion in land use permitting to pursue governmental ends that lack an essential nexus and rough proportionality to the effects of the proposed new use of the specific property at issue."[15] Out of deference to these requirements, one treatise on CEQA suggests "agencies should forego the temptation to try to force an applicant to provide a generalized public benefit unrelated to those impacts or that would do more than fully mitigate the impacts of the project.[16]

The Grove is not objecting to performing mitigation related to its demonstrable impacts to the environment, so long as that mitigation is based on a correct application of CEQA and is constitutional. The Grove has already memorialized its commitment to fund its fair share of improvements once the City can approve Capital Improvement Projects (CIP) and Public Facilities Finance Plans (PFFP) for improvements to Chollas Creek and Federal Boulevard which properly allocates responsibility and costs for these public

[13] California Air Pollution Control Officers Association (CAPCOA), "CEQA & Climate Change" (January 2008) at pp. 43-44. *See also* City of San Diego, Environmental Analysis Section, "Memorandum: UPDATED Addressing Greenhouse Gas Emissions from Projects Subject to CEQA" (August 18, 2010); County of San Diego, Planning & Development Services, "2015 GHG Guidance: Recommended Approach to Addressing Climate Change in CEQA Documents" (January 21, 2015) at p. 1.
[14] See Opinion of Probable Cost for Public Improvements, prepared by BWE (May 21, 2018) (attached hereto as "Exhibit B").
[15] *Koontz*, at p. 614.
[16] Remy et. al., "Guide to CEQA,"11th Ed. (2007) at p. 517.

facilities. The Grove will further commit to mitigating air quality impacts commensurate with its activities through reasonable measures such as the installation of solar panels. However, any conditions of approval attached to this project must demonstrate an essential nexus, rough proportionality, and comport with the legal obligations of CEQA. In other words, they must be fair.

The Grove requests that conditions related to Chollas Creek be revised to comport with CEQA and the US Constitution. The Grove further requests that it be relieved of conditions associated with utility undergrounding, repaving of Federal Boulevard and construction of frontage improvements until such a time as an appropriate CIP and PFFP have been approved by the City. In lieu of these objectionable conditions, The Grove proposes the following conditions:

1. Upon adoption of a CIP and PFFP for improvements to Chollas Creek, the Grove will pay its fair share towards the costs of implementation.

2. Upon adoption of a CIP and PFFP for improvements to Federal Boulevard including street, gutter sidewalk, repaving and undergrounding of utilities, The Grove will pay its fair share towards the costs of implementation.

3. The Grove will install solar panels on the roof of the building sufficient to offset its power consumption to the maximum extent practicable.

Finally, we also request that this letter and associated exhibits be incorporated in the staff report for the Council's consideration.

Please feel free to contact me if you have any questions regarding this matter.

Yours very truly,

ENVIRONMENTAL LAW GROUP LLP
VARCO & ROSENBAUM

S. Wayne Rosenbaum

S. Wayne Rosenbaum

SWR/sw
Enclosures
cc: Lydia Romero

Attachment F

EXHIBIT A

From:	Wayne Rosenbaum
To:	"David DeVries"
Cc:	"Lydia Romero"
Bcc:	Sean McDermott; "Corey McDermott"; thegrovellc; Ambrose Wong; Michelle Landis
Subject:	Stream Restoration Cost Estimate for the Grove CUP
Date:	Thursday, May 24, 2018 3:06:00 PM

David,

Per your request that we provide you with cost estimates for both the frontage improvements and the improvements to Chollas Creek. What follows is our best estimate for the Chollas Creek improvements. This estimate is based on both Michelle's and my experience permitting and building projects of this type. However, a final cost estimate for bonding purposes would require detailed drawings and reviews by at least five agencies including the City to determine the extent of permitting and enhancement actually required.

For the purposes of this estimate we have made the following assumptions:

1. The segment of Chollas Creek to be enhanced is approximately 180 feet long and has a change in elevation of approximately 1.3 feet.
2. Chollas Creek is a water of both the State and the United States and is a component of the City of Lemon Grove's MS4.
3. Discretionary Approvals will be required from the following agencies
    a. Army Corps of Engineers – 404 Permit
    b. Regional Water Quality Control Board – 401 Certification
    c. California Department of Fish and Wildlife – 1602 Stream Bed Alteration Agreement AND California Endangered Species Act (CESA) Permit
    d. US Fish and Wildlife Service – Endangered Species Take Permit
    e. County flood control FEMA approvals
    f. City of Lemon Grove grading permit
4. Because the approvals above are discretionary, the Project Proponent will also need to prepare an Environmental Impact Report per CEQA an Environmental Impact Statement per NEPA.

Although somewhat duplicative, we estimate the cost to prepare each of the

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seven applications to be in the range of $25,000 to $50,000 each or $175,000 to $350,000 in the aggregate. Then, there are the costs associated with the preparation of the NEPA and CEQA documents which are likely to be an additional $50,000 each. Next are the costs of responding to comments and public hearings which we expect will add an additional $50,000 to $100,000 given the number of interested agencies and likely third parties. Based on experience and assuming that project approvals are not contested by third parties, all of this work will likely cost in the range of $325,000 to $550,000. Given the complexity of permitting a restoration project of this kind, I expect the approval process to take 24 to 36 months. If any of the permits or environmental analysis are challenged (which happens in many cases) add an additional $500,000 and two years to resolve the litigation.

Thus, just getting the necessary approvals is likely to be a $1,000,000 five year exercise. I should note that the costs of permitting likely would not be significantly higher if the City to obtain approvals for the entire reach of Chollas Creek within its jurisdiction.

Regarding costs of construction, our preliminary estimate for cost of construction are as follows understanding that these cost do not include civil work such as gabions.

1. Design and General Conditions -- $47,000
2. Riparian Restoration -- $85,000
3. Establishment and 5 year Maintenance & Monitoring -- $91,000
4. Contingency -- $66,000
5. **Total -- $289,000**

Together, the cost of permitting and construction is estimated to be in the range of $1,300,000 or $7,222 per linear foot of which the largest component is the cost of permitting. If the City were to take this on as a CIP project the cost per linear foot to permit would be amortized over a significantly longer length and thus the cost imposed on each property would be significantly less.

Please let me know if you require any further information in this regard.

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Wayne

I will be out of the state between June 15, 2018 and June 18, 2018 with limited access to phones or e-mail. In my absence, please contact my partner Suzanne Varco, at SVarco@envirolawyer.com or 619-231-5858 or my law clerk, Josh Rosenbaum, at jtrosenb@gmail.com or 619-920-1535 . Thank you.

S. Wayne Rosenbaum
The Environmental Law Group, LLP
Varco & Rosenbaum
225 Broadway, Suite 1900
San Diego, CA 92101
Phone: (619) 231-5858
Cell: (619) 518-6618
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EXHIBIT B

BWE
9449 Balboa Avenue, Suite 270
San Diego, CA 92123
P: 619.299.5660
F: 619.299.9934

DATE: 05.21.2018
PROJECT: 6470 Federal Blvd MMD
BWE # : 12837U.1.00
W.O. # :
DRAWING # :

OWNER:
Sean McDermott

Phone: 619.342.6500
E-mail: thegrovellc@gmail.com

PUBLIC IMPROVEMENTS
(OPINION OF PROBABLE COST)

DESCRIPTION	UNIT	QUANTITY		UNIT COST	TOTAL COST
DEMOLITION					
Sawcut	LF	450		$10.00	$4,500
Asphalt/Concrete pavement removal	SF	7722		$3.27	$25,251
					$0
					$0
GRADING/EARTHWORK					
Paving preparation of subgrade	SF	7722		$0.44	$3,398
Erosion control Sand/Gravel Bag	EA	100		$3.27	$327
					$0
IMPROVEMENTS					
6" Curb & Gutter (G-02)	LF	180		$40.00	$7,200
Driveway (G-14A)	SF	516		$15.00	$7,740
Trees	EA	3		$750.00	$2,250
Ground Cover	SF	541.75		$2.00	$1,084
Striping	LF	180		$7.00	$1,260
AC Pavement	SF	5652		$7.00	$39,564
Sidewalk	SF	1800		$10.00	$18,000
AC overlay	SF	54		$3.00	$162
UTILITIES					
Relocate fire hydrant	EA	1		$2,636.14	$2,636
Street light	EA	1		$6,535.90	$6,536
					$0
					$0
SUBTOTAL					$119,907

A BOND IN THE AMOUNT OF
$330,616
WILL SATISFY THE PROVISIONS
OF THE MUNICIPAL CODE FOR THE IMPROVEMENT OF
6470 Federal Blvd MMD
ESTIMATED TIME OF COMPLETION IS _____

ENGINEER OF WORK

Ambrose Wong
RCE 68985

IMPROVEMENT:	$119,907
10% CONTINGENCY:	$11,991
TOTAL BOND:	$131,898

_____ DATE
_____ CONTROL ENGINEER

Temporary construction		$20,000
Mobolization		$30,000
Safety		
Manpower		$20,000
Equipment		$50,000
GC costs	25%	$62,974
Escalation	5%	$15,744
TOTAL ANTICIPATED BID		$330,616

NOTE: UNIT PRICES ARE BASED ON THE COUNTY OF SAN DIEGO UNIT PRICE LIST, JULY 2017
AND THE CITY OF SAN DIEGO UNIT PRICE LIST, JANUARY 2009

Attachment F

David DeVries

From: Wayne Rosenbaum <swr@envirolawyer.com>
Sent: Tuesday, June 12, 2018 3:18 PM
To: David DeVries
Cc: 'Josh Rosenbaum'
Subject: The Grove CUP

David,

I have discussed your concerns with my client and in the spirit of working together, we proposed the following conditions as additional to those I proposed in my letter:

1. The Grove will pay the City $500,000 to be used to facilitate the CIP projects previously described. Payments will be as follows in order for The Grove to develop a sufficient cash flow to address this new obligation:
    a. Year 1 -- $50,000
    b. Year 2 -- $75,000
    c. Year 3 -- $100,000
    d. Year 4 -- $125,000
    e. Year 5 -- $150,000
2. Annual amounts will be divided by four and paid quarterly
3. Payments will serve as a credit against The Grove's "fair share" contributions to the CIP projects previously discussed in my letter.
4. The Grove will agree not to object to the formation of any improvements districts related to the Project
5. No covenants running with the land.

If these terms are acceptable, please advise and I will prepare a follow up letter memorializin same. Will call you to discuss

Wayne

I will be out of the country between July 6, 2018 and July 28, 2018 with limited access to phones or e-mail. In my absence, please contact my partner Suzanne Varco, at SVarco@envirolawyer.com or 619-231-5858 or my law clerk, Josh Rosenbaum, at jtrosenb@gmail.com or 619-920-1535 . Thank you.

S. Wayne Rosenbaum
The Environmental Law Group, LLP
Varco & Rosenbaum

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Attachment G

EXHIBIT A – PROJECT PLANS

Not Attached

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