



City of Lemon Grove
City Council Regular Meeting Agenda
Tuesday, October 15, 2019, 6:00 p.m.

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

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

Call to Order

Pledge of Allegiance:

Changes to the Agenda:

Public Comment:

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

City Council Oral Comments and Reports on Meetings Attended at the Expense of the City.

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

1. Consent Calendar:

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

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

Reference: Kristen Steinke, City Attorney

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

B. City of Lemon Grove Payment Demands

Reference: Molly Brennan, Finance Director

Recommendation: Ratify Demands

C. Approval of Meeting Minutes

September 19, 2019, Special Meeting

October 1, 2019, Regular Meeting

Reference: Shelley Chapel, City Clerk

Recommendation: Approve Minutes

D. Grant Application for the California Housing and Community Development (HCD) Senate Bill 2 (SB 2) Planning Grant Program

Reference: Noah Alvey, Community Development Manager

Recommendation: Adopt a Resolution entitled, "A Resolution of the City Council of the City of Lemon Grove, California, Authorizing Application For, and Receipt of, Senate Bill 2 Planning Grant Program Funds."

E. Roadway Lighting District Audit (Lemon Grove Roadway Lighting District Item)

Reference: Molly Brennan, Administrative Services Director

Recommendation: Adopt a Resolution entitled, "A Resolution of the Lemon Grove Lighting District Board Adjusting the Lemon Grove Roadway Lighting District Budget for Fiscal Year 2019-2020 and Authorizing Expenditures Thereto."

Public Hearing:

2. Encroachment Policy and Fees for Wireless Facilities within the Public Rights-of-Way.

Reference: Noah Alvey, Community Development Manager and Stephanie Boyce, Senior Management Analyst

Recommendation: Hold a Public Hearing, Receive Public Comment, and adopt a Resolution entitled, "A Resolution of the City Council of the City of Lemon Grove, California, Approving an Encroachment Policy and Fees for Wireless Facilities within the Public Right-of-Way."

Reports to Council:

3. Relocation and Lease Agreement with Outfront Media, LLC to Construct and Manage a Digital Message Board Sign on City-Owned Real Property

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

Recommendation: Adopt a Resolution entitled, "A Resolution of the City Council of the City of Lemon Grove, California, Approving A Relocation and Lease Agreement with Outfront Media, LLC to Construct and Manage A Digital Message Board Sign on City Owned Real Property"

4. Ordinance No. 453, Repeal and Replace Chapter 9.08 of the Lemon Grove Municipal Code Regarding Campaign Regulations.

The City Council will conduct the second reading, by title only, and adopt Ordinance No. 453 Repealing and Replacing Chapter 9.08 to the Lemon Grove Municipal Code.

Reference: Kristen Steinke, City Attorney

Recommendation: Conduct Second Reading, by Title Only, and Adopt Ordinance No. 453.

Closed Session:

1. CONFERENCE WITH REAL PROPERTY NEGOTIATIONS

Government Code Section 54956.8

Property: Remnant Parcel, portion of 475-402-24 & 475-402-25, Lemon Grove, CA 91945

Agency Negotiation: City of Lemon Grove

Negotiating Parties: City Manager, Lydia Romero, and Assistant City Manager, Mike James

Under Negotiation: Instruction to Negotiate

Adjournment

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

AFFIDAVIT OF NOTIFICATION AND POSTING

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

I, Shelley Chapel, MMC, City Clerk of the City of Lemon Grove, hereby declare under penalty of perjury that a copy of the above Agenda of the Regular Meeting of the City Council of the City of Lemon Grove, California, was delivered and/or notice by email not less than 72 hours before the hour of 5:30 p.m. on October 11, 2019, to the members of the governing agency, and caused the agenda to be posted on the City's website at www.lemongrove.ca.gov and at Lemon Grove City Hall, 3232 Main Street Lemon Grove, CA 91945.

/s/: Shelley Chapel

Shelley Chapel, MMC, City Clerk



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. 1.A

Meeting Date: October 15, 2019
Submitted to: Honorable Mayor and Members of the City Council
Department: City Manager's Office
Staff Contact: Kristen Steinke, City Attorney
Item Title: **Waive the Full Text Reading of all Ordinances**

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

Environmental Review:

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

Fiscal Impact: None.

Public Notification: None.



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. 1.B

Meeting Date: October 15, 2019
Submitted to: Honorable Mayor and Members of the City Council
Department: City Manager's Office
Staff Contact: Molly Brennan, Administrative Services Director
<mailto:MBrennan@lemongrove.ca.gov>

Item Title: **City of Lemon Grove Payment Demands**

Recommended Action: Ratify Demands.

Environmental Review:

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

Fiscal Impact: None.

Public Notification: None.

City of Lemon Grove Demands Summary

Approved as Submitted:

Molly Brennan, Administrative Services Director
For Council Meeting: 10/15/19

ACH/AP Checks 09/19/19-10/02/19 413,690.49
Payroll - 09/24/19 129,945.80

Total Demands 543,636.29

CHECK NO	INVOICE NO	VENDOR NAME	CHECK DATE	Description	INVOICE AMOUNT	CHECK AMOUNT
ACH	61293714	WEX Bank	09/19/2019	Fuel - Fire Dept - Aug'19	347.42	347.42
ACH	Refill 9/17/19	Pitney Bowes Global Financial Services LLC	09/19/2019	Postage Usage 9/17/19	250.00	250.00
ACH	Aug14-Sep10 19	California Public Empl Retirement System	09/24/2019	Pers Retirement 8/14/19-9/10/19	64,711.99	64,711.99
ACH	325391	Aflac	09/25/2019	AFLAC Insurance 09/25/19	757.02	757.02
ACH	Sep24 19	Employment Development Department	09/26/2019	State Taxes 9/24/19	7,306.23	7,306.23
ACH	Sep11-Sep24 19	Calpers Supplemental Income 457 Plan	09/26/2019	457 Plan 9/11/19-9/24/19	6,397.25	6,397.25
ACH	Sep24 19	US Treasury	09/30/2019	Federal Taxes 9/24/19	26,067.10	26,067.10
ACH	Sep19	Wage Works	09/30/2019	FSA Reimbursement - Sep'19	2,289.16	2,289.16
ACH	Sep19	Power Pay Biz/Evo	10/01/2019	Online Credit Card Processing - Sep'19	83.02	83.02
ACH	Oct 2019	Pers Health	10/02/2019	Pers Health Insurance - Oct19	45,538.31	45,538.31
ACH	Sep19	Authorize.Net	10/02/2019	Merchant Fees - Sep'19	25.35	25.35
11991	INV-ACC48410	Accela, Inc. #774375	09/25/2019	Annual Maintenance 10/18/19-10/17/20	21,928.00	21,928.00
11992	01-5359553	AppleOne Employment Services	09/25/2019	Temp Replacement/Exec Asst 9/9/19-9/14/19	877.44	877.44
11993	5656855930 5656862730	AutoZone, Inc.	09/25/2019	Diesel Exhaust Fluid - LGPW #32 GapVax Diesel Motor Oil	35.54 30.15	65.69
11994	17472L-IN 17473L-IN 17509L-IN	Aztec Landscaping Inc.	09/25/2019	#2020-03 -Trolley Corridor Improvements & Plant Replacemt/LGA@SM #2020-03 -Trolley Corridor Improvements & Plant Replacemt/LGA@SM #2020-04 - Vegetation Removal -San Altos Storm Drain Easement	3,059.38 1,635.92 3,660.00	8,355.30
11995	971561-9 972025-9 973602-9	BJ's Rentals	09/25/2019	Propane Propane Propane	16.97 17.91 6.34	41.22
11996	PettyCash-9/18 PettyCash-9/18 PettyCash-9/18 PettyCash-9/18 PettyCash-9/18 PettyCash-9/18 PettyCash-9/18 PettyCash-9/18 PettyCash-9/18 PettyCash-9/18 PettyCash-9/18 PettyCash-9/18	Brenda Wardrip	09/25/2019	Petty Cash- Mileage 6/13/19-6/24/19 Chapel Petty Cash- Parking/LCC/Policy Mtg/Mendoza, J 6/14/19 Petty Cash- Mileage 6/6/19-6/27/19 Boyce Petty Cash- Mileage 7/12/18-6/27/19 Zafico Petty Cash- Mileage 7/18/18-6/19/19 Wardrip Petty Cash- Mileage 6/6/19-6/13/19 Alvey Petty Cash- Mileage 6/4/19 Gonzalez Petty Cash- Livescan- 6/20, 7/11, 8/8 Petty Cash- Postage Petty Cash- Daycamp Supplies Petty Cash- Mileage 8/1/19-9/18/19 Boyce	29.58 19.50 49.98 22.50 5.66 40.60 39.96 60.00 12.30 21.58 69.02	370.68
11997	9-71100	Broadway Auto Electric	09/25/2019	LGPW#32 Truck/GapVax - Repair Wire Harness/Headlights	250.00	250.00
11998	9/24/19	California State Disbursement Unit	09/25/2019	Wage Withholding Pay Period Ending 9/24/19	161.53	161.53
11999	20518582 20524386 20524387	Canon Financial Services Inc.	09/25/2019	Canon Plotter Contract Charge 9/21/19-10/20/19 Canon Copier Contract Charge 9/20/19-10/19/19 Canon Plotter 2 Yr Carepack Contract Charge 9/20/19-10/19/19	144.00 81.35 72.73	298.08
12000	2183 2184 2211 2214 2215	Clark Telecom & Electric Inc.	09/25/2019	Street Light Dig-Alert Markouts - Jul'19 Street Light Repairs - Jul'19 Street Light Dig-Alert Markouts - Aug'19 Street Light Repairs/7909 Broadway - Aug'19 St Light Pole Replacement/Across from 6360 Federal Blvd - Aug'19	458.38 5,512.86 297.12 521.22 2,993.11	9,782.69
12001	212254-20	County of San Diego- Environmental Health	09/25/2019	Unified Program Facility Permit Renewal- 10/31/19-10/31/20	484.00	484.00
12002	4787 4814 4950	D- Max Engineering Inc.	09/25/2019	North Ave MMD Water Quality Review 1/14/19-1/28/19 6859 Federal MMD Water Quality Review 2/19/19-2/28/19 7508 Church St SWQMP 1st Review 5/8/19-5/11/19	467.50 482.50 187.50	1,137.50

	STMT 8/22/2019			Pre-Movie in the Park/Laser Tag 8/9/19	450.00	
	STMT 8/22/2019			Daycamp Field Trip 8/14/19	145.40	
	STMT 8/22/2019			Work Pants & Work Shirts - Sanitation Crew	975.35	
12027	72333384 72337103 72337104 72345586 72345587	Vulcan Materials Company	09/25/2019	Asphalt/SS1H/4.5 Gallon Bucket Asphalt/SS1H/4.5 Gallon Bucket Asphalt Asphalt Asphalt	201.28 149.88 148.91 151.82 153.76	805.65
12028	7733 7735	W & S Electric Inc.	09/25/2019	Repair/Electrical/Panel Connection - 3225 Olive 9/4/19 Repair/Electrical/Panel Connection - 3225 Olive 9/9/19	208.25 140.00	348.25
12029	Walden	Walden, Charles	09/25/2019	Refund/Walden, Charles/Partial Deposit - Courtyard- 9/7/19	200.00	200.00
12030	8/11/2019 8/6/2019 8/9/2019 8/19/2019 8/1/2019 8/1/2019 7/30/2019 8/18/2019 7/30/2019 8/4/2019 4028093087 4028588737 4029100866 4029100906 74614 8/23/2019	Wells Fargo	09/25/2019	Cox - Calsense Modem Line:2259 Washington 8/11/19-9/10/19 Cox - Calsense Modem Line:7071 Mt Vernon/Berry St Pk 8/6/19-9/5/19 Cox - Calsense Modem Line:8235 Mt Vernon/Berry St Pk 8/9/19-9/8/19 Cox - Phone/PW Yard/2873 Skyline- 8/19/19-9/18/19 Cox - Main Phone/Fire 8/1/19-8/31/19 Cox - Phone/City Hall 8/1/19-8/31/19 Cox - Internet/Comm Ctr- 7/30/19-8/29/19 Cox - City Manager Fax Line- 8/18/19-9/17/19 Cox - PEG Circuit Svc- 7/30/19-8/29/19 Cox - Phone/Rec Ctr/3131 School Ln- 8/4/19-9/3/19 Cintas - Janitorial Supplies - 8/15/19 Cintas - Janitorial Supplies - 8/22/19 Cintas - Janitorial Supplies - Fire - 8/29/19 Cintas - Janitorial Supplies - 8/29/19 House of Automation - Service Call - Fire Station Gate Repair AT&T - Backup City Hall Internet- 8/23/19-9/22/19	26.45 20.28 94.39 214.65 474.79 978.42 75.00 3.83 2,896.56 98.73 188.74 188.74 355.61 1,190.18 198.00 80.00	7,084.37
12031	151675	West Coast Arborists, Inc.	09/25/2019	TDA Tree Maintenance 8/1/19-8/15/19	3,960.00	3,960.00
12032	Yeazel H&A	Yeazel Heating & Air	09/25/2019	Refund/Yeazel Heating & Air/Business License Fees Overpd 9/10/19	17.50	17.50
12033	L1072895TJ	American Messaging	10/02/2019	Pager Replacement Program 10/1/19-10/31/19	50.06	50.06
12034	01-5366366	AppleOne Employment Services	10/02/2019	Temp Replacement/Exec Asst 9/16/19-9/21/19	877.44	877.44
12035	13624206 13651694	AT&T	10/02/2019	Phone Service- 8/13/19-9/12/19 Fire Backup Phone Line- 8/22/19-9/21/19	84.88 40.79	125.67
12036	27292	Bickmore Actuarial	10/02/2019	Self-Insured Workers' Comp Program Actuarial Review	2,250.00	2,250.00
12037	83338010	Boundtree Medical LLC	10/02/2019	Medical Supplies- Suction Cups/Res-Q-Vac	47.41	47.41
12038	FRS0000174 FRS0000174 HCA0000294	City of El Cajon	10/02/2019	Overtime Reimbursement - Diaz 8/27/19 Overtime Reimbursement - Thorn 9/2/19 HCFAs Assessments - QTR 2 FY19/20	740.65 1,374.27 65,300.00	67,414.92
12039	21405 21405 21405 21405 21405 21405	City of La Mesa	10/02/2019	Overtime Reimbursement - Provence 8/9/19 Overtime Reimbursement - Lima 8/20/19 Overtime Reimbursement - Baum 8/21/19 Overtime Reimbursement - Hardenburger 8/27/19 Overtime Reimbursement - Georgi 8/29/19 Overtime Reimbursement - Georgi 9/6/19	1,203.32 1,310.41 1,478.17 1,478.17 1,310.41 1,310.41	8,090.89
12040	39429	Colantuono, Highsmith & Whatley, PC	10/02/2019	Legal Svcs/Campaign Finance Enforcement - thru Jun'19	6,179.00	6,179.00
12041	Aug19 Sep19	Colonial Life	10/02/2019	Colonial Optional Insurance -Aug19 Colonial Optional Insurance -Sep19	670.20 446.80	1,117.00
12042	HIRT-2020-011 UDC-2020-010	County of San Diego- OES	10/02/2019	FY19-20 (7/1/19-6/30/20) HIRT Membership Fee FY19-20 Unified SD County- Emergency Svc Membership Fee	21,888.00 734.00	22,622.00
12043	20400788	CSAC Excess Insurance Authority	10/02/2019	Employee Assistance Program - Oct-Dec 19	316.68	316.68
12044	Jul-Sep19 Jul-Sep19	Division of the State Architect	10/02/2019	State CASP Fee (\$4)- 7/1/19-9/30/19 State CASP Fee (\$1)- 7/1/19-9/30/19	46.00 1.80	47.80
12045	Oct-19	Fidelity Security Life Insurance Company	10/02/2019	Vision Insurance -Oct19	179.40	179.40
12046	100000010650819	Globalstar USA, Inc.	10/02/2019	Satellite Service 8/16/19-9/15/19	174.50	174.50
12047	Leif	Leif, Robert	10/02/2019	Refund/Leif, Robert/Extra Fire Review Fee B19-000-232	57.00	57.00
12048	May	May, Robert D	10/02/2019	Refund/May, Robert D/Diversion Deposit - CD1-900-0014	500.00	500.00
12049	PSI-57183	NPR, Inc.	10/02/2019	Return of ALS Supplies	175.00	175.00
12050	65534118	Occupational Health Centers of CA, A Medical	10/02/2019	Annual DMV Medical Exam - 9/18/19	103.00	103.00
12051	Perez	Perez, Magdalena	10/02/2019	Refund/Perez, Magdalena/Deposit - LeeHouse- 9/21/19	300.00	300.00
12052	Shores	Shores, Charles A	10/02/2019	Refund/Shores, Charles A/Diversion Deposit - DC1-900-0056	100.00	100.00
					413,690.49	413,690.49



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. 1.C

Meeting Date: October 15, 2019

Submitted to: Honorable Mayor and Members of the City Council

Department: City Manager's Office

Staff Contact: Shelley Chapel, City Clerk

Schapel@lemongrove.ca.gov

Item Title: **Approval of City Council Meeting Minutes**

Recommended Action: Approval of City Council Meeting Minutes.

Environmental Review:

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

Fiscal Impact: None.

Public Notification: None.

**MINUTES OF A SPECIAL MEETING OF
THE LEMON GROVE CITY COUNCIL
THURSDAY, SEPTEMBER 19, 2019**

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

Call To Order:

Mayor Vasquez called the Regular Meeting to order at 6:03 p.m.

Pledge of Allegiance:

Pledge of Allegiance to the Flag was led by Tom Bell, Interim Public Works Superintendent

Present: Mayor Racquel Vasquez, Mayor Pro Tem Jerry Jones, Councilmember Jennifer Mendoza, and Councilmember David Arambula.

Absent: Councilmember Matt Mendoza.

Staff Members Present:

Lydia Romero, City Manager, Mike James, Assistant City Manager/Public Works Director, Shelley Chapel, City Clerk, Molly Brennan, Administrative Services Director, Tom Bell, Interim Public Works Superintendent, Gary Harper, Engineering Inspector, and Noah Alvey, Community Development Manager.

Capital Improvement Projects

The City Council will conduct a workshop that discusses and provides feedback to city staff regarding capital improvement project categories that will frame a future five-year capital improvement program.

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

Recommendation: Discuss and Provide Direction to Staff

Assistant City Manager/Public Works Director Mike James provided the PowerPoint presentation and overview for discussion. Provided in the presentation was an overview of the program and opportunity for the City Council to provide direction to staff regarding the development of a work plan.

The City Council provided the City Manager and Assistant City Manager Confirmation of Consensus on Areas they agreed with staff regarding program focus points. Staff will return at a future meeting with more information regarding specific projects.

Councilmember Jones left the meeting at 8:35 p.m.

Public Comment:

Appeared to comment was: Robert Bulling

Adjournment:

There being no further business to come before the Council, the meeting was adjourned at 8:52 p.m. to a meeting to be held Tuesday, August 6, 2018, in the Lemon Grove Community Center located at 3146 School Lane, for a Regular meeting.

Shelley Chapel, MMC
City Clerk

**MINUTES OF A MEETING OF
THE LEMON GROVE CITY COUNCIL
TUESDAY, OCTOBER 1, 2019**

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

Call To Order:

Mayor Vasquez called the Regular Meeting to order at 6:03 p.m.

Present: Mayor Racquel Vasquez, Mayor Pro Tem David Arambula, Councilmember Jerry Jones, Councilmember Jennifer Mendoza

Absent: Councilmember Matt Mendoza.

Staff Members Present:

Lydia Romero, City Manager, Kristen Steinke, City Attorney, Noah Alvey, Community Development Manager, Shelley Chapel, City Clerk, Steven Swaney, Fire Chief, Lieutenant M. Rand, San Diego County Sheriff's Office - Lemon Grove Substation, Roberto Hidalgo, Human Resources Manager, and Molly Brennan, Administrative Services Director.

Pledge of Allegiance:

Pledge of Allegiance to the Flag was led by Councilmember Arambula.

Changes to the Agenda:

City Manager Romero requested that the presentation of new employee item be moved up on the agenda to the position of first presentation. Granted by the Mayor.

Presentation:

City Manager Romero introduced new employee, Audrey Malone, Executive Assistant in the City Manager's Office.

Mayor Vasquez invited Fire Chief Swaney to the podium who introduced Elette Nash, Fire Marshall and Frankie Rodriguez, Fire Inspector II to accept the Proclamation recognizing Fire Prevention Week.

Mayor Vasquez introduced a presentation by LT. Mike Rand, San Diego County Sheriff's Office Lemon Grove Substation Video Federation and Integration Presentation. Lt. Rand introduced special guest Commander Hank Turner with the San Diego County Sheriff's Office in attendance.

Public Comments:

Appeared to comment were: Howard Smith, James Bailey, John L. Wood, Liana LeBaron, Melanie Lucero, and Norma Santa Cruz.

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

Councilmember J. Mendoza attended the following meetings and event:

- San Diego Chamber Reception attended with spouse
- September 19, 2019 Special City Council Meeting – Capital Improvements Program (CIP)
- Lemon Grove Historical Society 20th Birthday Celebration
- SANDAG Transportation Committee Meeting

- Closed the Interfaith Homeless Shelter – 2 week event
- Sheriff Ride-Along
- Meeting with Councilmember Jones, Lt. Rand, City Manager Romero, and Assistant City Manager James

Councilmember Jones attended the following meetings and events:

- Historical Society 20th Birthday Celebration
- Metro Wastewater Finance Meeting
- Metro TAC Meeting
- Chamber of Commerce – Government Affairs Committee
- Reminder that KidCare Fest will be held October 5th

Mayor Pro Tem Arambula attended the following meetings and events:

- September 19, 2019 Special City Council Meeting – CIP Program
- MTS Committee Meeting

Mayor Vasquez attended the following meetings and events:

- Clarified the definition of “Structural Deficit”
- Candlelight Vigil 9-11 – American Legion Post 201
- 209th Anniversary Mexican Independence hosted by the General Counsel of Mexico of San Diego
- Recognized at 2019 Women in Leadership
- Lemon Grove Historical Society 20th Birthday Celebration
- Spears Academy to Youth – Speaker
- KIVA graduation at the McAllister
- Changes Their Lives Event where County Board of Supervisor Cox was honored
- SANDAG Meeting
- September 19, 2019 Special City Council Meeting – CIP Program

Consent Calendar:

- A. Waive Full Text Reading of All Ordinances on the Agenda.
- B. Ratification of Payment of Demands
- C. Approved City Council Meeting Minutes for Regular Meeting of August 20, 2019 and September 17, 2019.
- D. Adopted Resolution No. 2019-3684, approving a Time Extension of Approved Conditional Use Permit CUP-180-0002 located at 6859 Federal Boulevard,” Extending the Expiration Date of Conditional Use Permit CUP-180-0002 from September 4, 2019 to September 4, 2020.

Action: Motion by Mayor Pro Tem Arambula, seconded by Councilmember Jones, to approve Consent Calendar Items A-D, with Item C as noticed for correction.

The motion passed by the following vote:

Ayes: Vasquez, Arambula, Jones, J. Mendoza

Noes: None.

Absent: M. Mendoza

Public Hearing:

2. Public Hearing to Consider Ordinance No. 453 to Repeal and Replace Chapter 9.08 of the Lemon Grove Municipal Code Regarding Election Campaign Regulations.

Mayor Vasquez introduced Kristen Steinke, City Attorney who presented the staff report.

Mayor Vasquez opened the Public Hearing at 8:07 p.m.

Appeared to comment was: Liana LeBaron

Action: The public hearing was closed at 8:10 p.m. on a motion by Councilmember Jones, and second by Mayor Pro Tem Arambula, to introduce the Ordinance and accept the Ordinance as received with amendments to section 9.08 removing the language regarding fines. The Ordinance will return at a future meeting for Second Reading and Adoption.

The motion passed by the following roll call vote:

Ayes: Vasquez, Arambula, Jones, J. Mendoza

Noes: None

Absent: M. Mendoza

Closed Session:

City Attorney Steinke announced the City Council will be adjourning to closed session at 8:15 p.m. for the purposes above.

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

Adjournment:

There being no further business to come before the Council, the meeting was adjourned at 8:25 p.m. to a meeting to be held Tuesday, October 15, 2019, in the Lemon Grove Community Center located at 3146 School Lane, for a Regular Meeting.

Shelley Chapel, MMC
City Clerk



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. 1.D

Meeting Date: October 15, 2019

Submitted to: Honorable Mayor and Members of the City Council

Department: Community Development Department

Staff Contact: Noah Alvey, Community Development Manager

nalvey@lemongrove.ca.gov

Item Title: Grant Application for the California Housing and Community Development (HCD) Senate Bill 2 (SB 2) Planning Grant Program

Recommended Action: Adopt a resolution entitled, “A Resolution of the City Council of the City of Lemon Grove, California, Authorizing Application For, and Receipt of, Senate Bill 2 Planning Grant Program Funds.”

Summary:

In 2017, the California Legislature enacted Senate Bill 2 (SB 2), the Building Homes and Jobs Act Trust Fund. SB 2 establishes a \$75 recording fee on real estate documents to increase the supply of affordable homes in California. Specifically, the revenue generated from SB 2 is intended to be a permanent source of funding available to local governments for affordable housing purposes. On March 28, 2019, the Department of Housing and Community Development (HCD) released a Notice of Funding availability under SB 2 to all eligible local governments in California to adopt, and implement plans and process improvements that advance the goals of providing affordable housing through a noncompetitive grant process. The City is eligible for up to a maximum award amount of \$160,000 and staff intends to utilize funds to implement planning and permit processing improvements. The deadline to submit a grant application is November 30, 2019.

Discussion:

In 2017, Governor Brown signed a 15-bill housing package aimed at addressing the state’s housing shortage and high housing costs. Specifically, it included the Senate Bill 2 (SB 2), the Building Homes and Jobs Act, which establishes a \$75 recording fee on real estate documents which would be used to support an increase in the supply of affordable homes in California. Because the number of real estate transactions recorded will vary from year to year, the revenues collected will fluctuate.

During the first year of the program (2019), 50 percent of the revenue will be devoted to a state administered SB 2 Planning Grant. The purpose of the SB 2 Planning Grant is to provide funding and technical assistance to local governments in order to help prepare, adopt, and implement plans and process improvements that streamline housing approvals and accelerate housing production.

The City is eligible to receive up to \$160,000 for the SB 2 Planning Grant. The SB 2 Planning Grant amount is based on population size, with all cities lumped into three size categories; small, medium and large. Lemon Grove falls into the small sized category. In subsequent years grant revenues must go towards the actual production of affordable units.

Under the SB 2 Planning Grant, the eligible activities must show a nexus to the creation of affordable housing and may include:

- Updates to general plans, community plans, specific plans, local planning related to implementation of sustainable communities strategies, or local coastal plans.
- Updates to zoning ordinances.
- Environmental analyses that eliminate the need for project-specific review.
- Local process improvements that expedite local planning and permitting.

Staff proposes to utilize the funds for local process improvements that expedite planning and permitting. In order to expedite planning, staff will update the zoning ordinance provisions related to housing, such as accessory rental dwelling units and density bonus, to be consistent with State law. Grant funds will also enable staff to expand online permitting opportunities and invest in new equipment and technology that will reduce processing times for permits.

Applicants proposing activities in at least one of the State's Priority Policy Areas are automatically deemed to demonstrate a nexus to accelerating housing production without any further demonstration. HCD will accept applications for the SB 2 Planning Grant until November 30, 2019. Cities will have until June 30, 2022, to complete all activities under the Planning Grant and request all funding.

Environmental Review:

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

Fiscal Impact: None.

Public Notification: None.

Staff Recommendation: Adopt a resolution entitled, “A Resolution of the City Council of the City of Lemon Grove, California, Authorizing Application For, and Receipt of, SB 2 Planning Grant Program Funds.”

Attachment:

Attachment A – Resolution of the City Council of the City of Lemon Grove, California, Authorizing Application For, and Receipt of, SB 2 Planning Grant Program Funds

RESOLUTION NO. 2019-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE,
CALIFORNIA, AUTHORIZING APPLICATION FOR, AND RECEIPT OF,
SB 2 PLANNING GRANT PROGRAM FUNDS**

WHEREAS, the State of California, Department of Housing and Community Development (Department) has issued a Notice of Funding Availability (NOFA) dated March 28, 2019, for its Planning Grants Program (PGP); and

WHEREAS, the City Council of the City of Lemon Grove desires to submit a project application for the PGP program to accelerate the production of housing and will submit a 2019 PGP grant application as described in the Planning Grants Program NOFA and SB 2 Planning Grants Program Guidelines released by the Department for the PGP Program ; and

WHEREAS, the Department is authorized to provide up to \$123 million under the SB 2 Planning Grants Program from the Building Homes and Jobs Trust Fund for assistance to Counties (as described in Health and Safety Code section 50470 et seq. (Chapter 364, Statutes of 2017 (SB 2)) related to the PGP Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California resolves as follows:

1. The City Council is hereby authorized and directed to apply for and submit to the Department the 2019 Planning Grants Program application in the amount of \$160,000.
2. In connection with the PGP grant, if the application is approved by the Department, the City Manager or designee, is authorized to enter into, execute, and deliver a State of California Agreement (Standard Agreement) for the amount of \$160,000, and any and all other documents required or deemed necessary or appropriate to evidence and secure the PGP grant, the City's obligations related thereto, and all amendments thereto (collectively, the "PGP Grant Documents").
3. The City shall be subject to the terms and conditions as specified in the Standard Agreement, the SB 2 Planning Grants Program Guidelines, and any applicable PGP

guidelines published by the Department. Funds are to be used for allowable expenditures as specifically identified in the Standard Agreement. The application in full is incorporated as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the application will be enforceable through the executed Standard Agreement. The City Council hereby agrees to use the funds for eligible uses in the manner presented in the application as approved by the Department and in accordance with the Planning Grants NOFA, the Planning Grants Program Guidelines, and 2019 Planning Grants Program Application.

4. The City Manager or designee is authorized to execute the City of Lemon Grove Planning Grants Program application, the PGP Grant Documents, and any amendments thereto, on behalf of the City as required by the Department for receipt of the PGP Grant.

PASSED AND ADOPTED on _____, 2019, the City Council of the City of Lemon Grove, California, adopted Resolution No. _____, passed by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Racquel Vasquez, Mayor

Attest:

Shelley Chapel, MMC, City Clerk

Approved as to Form:

Kristen Steinke, City Attorney



CITY OF LEMON GROVE

ROADWAY LIGHTING DISTRICT BOARD STAFF REPORT

Item No. 1.E

Meeting Date: October 15, 2019

Submitted to: Members of the Lemon Grove Roadway Lighting District Board

Department: Finance Department

Staff Contact: Molly Brennan, Administrative Services Director
mbrennan@lemongrove.ca.gov

Item Title: Roadway Lighting District Audit

Recommended Action:

Adopt a resolution authorizing a budget adjustment of \$18,000 in increased professional services expenditures from the Lemon Grove Roadway Lighting District.

Summary:

In 1979, the City formed the Lemon Grove Roadway Lighting District, which established annual assessments to fund the installation, operation, and maintenance of the public lighting facilities in Lemon Grove. The District was broken into two zones, Zone A and Zone B, which are reflected in Fund 11 and 12 of the City's annual operating budget.

For many years Fund 11, the Fund titled General Benefit, has maintained a significant surplus, while Fund 12, the Fund titled Local Benefits, has maintained a significant deficit. Prompted by the District Board during the Fiscal Year 2019-2020 budget process, staff began to evaluate if the revenue and expenditures of the two zones were accurately divided in accordance with the District's formation in 1979.

The proposed professional services agreement will research and review the original formation documents and maps, which will provide the District with a clear list of which street lights belong in each zone. In addition, the project will audit the fixed assessments being charged by parcel to ensure each property owner is paying the correct amount. Based on the increased revenue anticipated from updating the benefit unit calculations and capturing all parcels on the tax rolls, this agreement will provide a return on investment within two years.

Discussion:

In 1964, prior to the City's incorporation, a district was established to provide street lighting to residents within the district's boundary in an unincorporated portion of the County of San Diego. When Lemon Grove incorporated in 1977, the County turned over the Lighting District to the City to operate, since the boundaries were fully within the new City's borders.

When the Lemon Grove Roadway Lighting District was formed in 1979, the District was broken into two zones. Zone A consisted of all of lights that were serviced by the prior 1964 lighting district, while Zone B consisted of all lights that fell outside the prior lighting district. Since Zone A matched the prior district boundaries, it included lights of General Benefit to the entire City, as well as street lights of Local Benefit. Whereas, in Zone B, the territory outside the pre-incorporation district, lights were only added into the City's service responsibility if they were of General Benefit.

Street lights of General Benefit are lights located in intersections, cul-de-sacs, and other terminations of streets. Street lights of local benefit are lights generally known as mid-block lights and are located at places other than the lights considered to be General Benefit.

The Roadway Lighting District is funded by the 1% share of the ad valorem property tax for the General Benefit lights and a fixed special assessment, or benefit charge, on parcels for Local Benefit lights. Each Zone's financial activity was supposed to be reflected in its own budget, which is why two funds in the annual budget contain Lighting District activity, Fund 11 and Fund 12. The revenue from the 1% share of the property tax was to be split between the zones, since there are General Benefit lights in each zone. However, over many years, the original intent and understanding of the zones and breakdown of General Benefit lights between the zones was lost. This created the current situation where one fund is operating at a surplus while the other has a deficit, when each should be cost neutral.

To be in compliance with the Roadway Lighting District's zone structure, staff cannot arbitrarily divide the revenue between the funds to fix the surplus/deficit discrepancy. To fix this problem, the structure, formation, and changes to the district between 1979 and present day need to be reviewed to identify an inventory of lights and which zone they belong in.

In addition, staff believes the special assessment to pay for the local benefit lights is being under charged. The assessment is \$12 per equivalent benefit unit, but the number of benefit unit per parcel has not been revised since 1997. Furthermore, the number of parcels being charged the annual special assessment is significantly lower than the total number of parcels within the City. Staff believes there are many parcels that should be paying for the services of local benefit lights but are not currently being charged. The audit services

provided by Harris & Associates will identify which zone each Lemon Grove parcel falls in, the property use of each parcel, and the related benefit units assigned to each parcel.

The proposed professional services project scope with Harris & Associates (Attachment B), will allow the District to accurately represent the activity of two zones moving forward, as well as maximize revenue to be received. It is important to appropriately charge parcels in order to fairly distribute the cost of the service being provided and generate enough revenue to fund the service being provided. Harris & Associates estimates their audit may be able to confirm changes that could result in additional annual revenue of \$15,000 to the Lighting District.

Any parcels found to be undercharged for their Lighting District assessment will not be charged retroactively. All changes will take effect for Fiscal Year 2020-2021 assessments.

The total cost to the District for the professional services detailed in Attachment B shall not exceed \$18,000. Based on the potential \$15,000 in additional annual revenue, this project will pay for itself within two years. Staff does not have the capacity or capability to complete the proposed scope of work internally. Although the project cost is under the City Manager's purchasing authority, the adopted Fiscal Year 2019-2020 budget does not include authorization for this expenditure. Staff is bringing the item to the Lemon Grove Roadway Lighting District Board to ask for a budget adjustment to pay for the work.

Environmental Review:

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

Fiscal Impact: Increase the line item for Professional Services in Fund 11 and Fund 12 by \$9,000 each, for a total budget increase of \$18,000 in the Roadway Lighting District.

Public Notification: None

Staff Recommendation:

Adopt a resolution authorizing a budget adjustment of \$18,000 in increased professional services expenditures from the Lemon Grove Roadway Lighting District.

Attachments:

Attachment A – Resolution

Attachment B - Professional Services Proposal from Harris & Associates

RESOLUTION NO. 2019-

A RESOLUTION OF THE LEMON GROVE ROADWAY LIGHTING DISTRICT BOARD ADJUSTING THE LEMON GROVE ROADWAY LIGHTING DISTRICT BUDGET FOR FISCAL YEAR 2019-2020 AND AUTHORIZING EXPENDITURES THERETO

WHEREAS, on June 18, 2019 the District Board adopted Resolution No. 2019-175 approving the Fiscal Year 2019-2020 District Budget; and

WHEREAS, the need for a one-time increase in professional services has been identified; and

WHEREAS, the District will benefit from proper classification of street lights between Zone A and Zone B and from appropriately charging parcels for local benefit lighting services; and

WHEREAS, the District Board desires to make provision for a professional services agreement with Harris & Associates not to exceed \$18,000.

NOW, THEREFORE, BE IT RESOLVED that the Lemon Grove Roadway Lighting District Board of Directors of the City of Lemon Grove, California, hereby authorizes a budget adjustment of \$18,000 in increased professional services expenditures from the Lemon Grove Roadway Lighting District in Fiscal Year 2019-2020.

PASSED AND ADOPTED on October 15, 2019, the Board of Directors of the Lemon Grove Roadway Lighting District, California, adopted Resolution No. 2019-____, passed by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

Racquel Vasquez, Board Chair

Attest:

Shelley Chapel, MMC, District Clerk

Approved as to Form:

Kristen Steinke, District Attorney



September 11, 2019

Stephanie Boyce
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

LEMON GROVE ROADWAY AND LIGHTING DISTRICT REVIEW AND AUDIT

Dear Stephanie:

The following describes the tasks necessary to review the structure and formation of the Lemon Grove Roadway and Lighting District. Our goal is to provide the City with the necessary information to document the District, any zones within the District, the revenues sources to the district and how those revenues can be accounted for and the expenses that can be covered by the District. Additionally, we will audit the parcels included in the District, which zone they are located in, the property use of each parcel and the benefit units assigned to each parcel. This will include an inventory of the streetlights and which zone they should be included in. By auditing the District as a whole, we will provide the City with maps indicating the location and zones of the streetlights and poles. This project will also include a review of the San Diego Gas and Electric bills to ensure that the City is being charge appropriately by the utility for the streetlights and energy being used.

We will make certain that you receive the maximum revenue allowed. Our validation of the district data will confirm that the City is charging parcels the correct amounts, as well identify any changes based upon the adopted methodology or parcels that should be charged that are not currently being assessed. In our experience, this usually results in maximizing the revenue to be received. By applying a fresh set of eyes, we confirm the charges are being applied correctly and the parcel data being used is the best available. Based on our knowledge of the City, we believe we may be able confirm changes that could result in additional annual revenues over \$15,000 to the Lighting District per year.

We are committed to serving your needs. Each member of our public finance team understands the importance of being responsive to the needs of our clients and your constituents. Emails and phone calls are responded to in a timely manner, generally the same day. You will always have access to someone knowledgeable on your project and available to address any of your questions or concerns.

The following outlines our proposed scope of services and estimated fee to provide these services.

SCOPE OF SERVICES

Scope of Services

A. Task 1: Research

Harris will obtain and review all available information from the City including:

- Geographic Information System (GIS) and data for the parcels within the District

- Historical Documentation for the Formation and Annexations to the District
- The latest Assessor Parcel Data for the City including such information as land use, parcel area and building area or other data required for the calculation of the assessment on each parcel.
- Data files from the City used in calculation of the annual charges
- Any other available information

B. Task 2: Review of Formation Documentation and District Maps

Harris will conduct a detailed review of the original District formation documents available from the City. We will compare the legal descriptions, any annexation documentation and compare those to the database for the current assessments. Harris will generate a new map showing the zones of the District and a Summary of the finding of the review. Our goal will be to document the zones within the district and determine the general benefit versus the special benefit portions of the District. A summary of findings will be provided to the City upon completion.

C. Task 3: District Audit

Harris will conduct a detailed review of the Roadway and Lighting District. The review and audit will include:

- A review of the boundaries and parcels being charged to verify all parcels that should be charged are being charged, and there are no parcels being charged that should not be charged.
- A detailed look at each parcel to verify that each is being charged correctly and according to land use and benefit units that should be charged.
- Review and recommend changes of benefit units, based on the detailed review of land use
- A review of the District for compliance with the requirements of State Law, including Proposition 218 and provide an update of recent court cases which have clarified the intent of Proposition 218 in the determination of special and general benefit, and other factors

D. Task 4: Inventory of Lights and Poles

Harris will conduct a review of the City provided inventory of City owned poles and lights and will identify the classification of the poles and lights and assign the appropriate zone and benefit to each item in the inventory. Harris will provide the City a map and a summary document outlining the current status of the lights and poles.

E. Task 6: Meeting with City Staff

Harris will attend a kickoff meeting with the City staff to review the initial handoff of documentation. Harris will attend up to 2 additional meetings to discuss the draft of the Summary Report.

F. Task 7: Report of Findings

Harris will prepare a report of our findings. The report will summarize the status of the Lighting District, the zones and what options are available for usage of revenue generated by each zone. The report will outline recommendations for restructuring the City's current assessment district to reduce the funding from non assessment revenues and to maximize the revenue generated based upon the current assessment methodology. This will include whether consideration of establishment of an overlay zone or restructuring of the current district in accordance with the requirements of Proposition 218 is necessary. Harris will meet with City staff to review our draft report and any comments received will be incorporated into the final Report of Findings.

PROJECT EXPERIENCE

Harris has successfully completed similar projects and has experience working with many public agencies. Below is a short list of some of our project experience

Project	Client	District Audit	Annual Administration	Engineers Report
Landscape and Lighting District No. 79-2	City of Thousand Oaks	●	●	●
CSA 152 NPDES Audit for Fiscal Year 2018	City of Rancho Mirage	●		
CSA 152 NPDES Audit & Annual Administration	City of Moreno Valley	●	●	
Assessment District Administration & Support Services	City of Lancaster	●	●	●
Administration of Lighting & Landscaping Districts, Administration of CFD 2014-1 OS	City of Oceanside	●	●	●
Landscape & Lighting District Administration	City of Encinitas	●	●	●
Administration of Lighting & Landscaping Districts	City of Temple	●	●	●
Administration of Lighting & Landscaping Districts	City of Carlsbad	●	●	●

PROJECT TEAM

Dennis Klingelhofer, P.E.

Project Director

Dennis has more than 30 years of assessment and financial engineering experience consulting to cities, counties, and special districts throughout California. He has served as the Assessment Engineer for more than 100 agencies. This has included the development of assessment methodologies in compliance with the requirements of Proposition 218, as well as managing the annual administration and levy processes. Dennis is a registered professional civil engineer in California. His services to public agencies for the formation of Public Finance Districts include 1913 Improvement Act districts, 1972 Landscaping and Lighting Act districts, Mello-Roos Community Facilities Districts, 1982 Benefit Assessment Act districts, Fire Suppression Assessment Districts, Special Tax Districts for police and fire services and Development Impact Fees under AB 1600. Dennis is considered to be an expert in development of the assessment methodology in compliance with the requirements of Proposition 218, as well as managing the annual administration and levy processes. Additionally, Dennis is considered an expert in assessment engineering and Proposition 218 processes and has been invited to speak before the California League of Cities, local chapters of the American Public Works Association, and the California Society of Municipal Finance Officers. Dennis has developed a reputation for providing complete and thorough reports, and meeting project deadlines and legally required time frames.

Tami Eaton

Project Manager

Tami Eaton has over 25 years of experience in Assessment Projects for Special Districts and cities in California. She has been responsible for developing systems and software to process millions of assessments in Southern California since 1988. Tami is familiar with placing assessments onto county tax rolls, complying with Proposition 218 notification requirements and conforming to county submittal requirements. Her work with Special Districts in California makes her uniquely qualified to analyze and aggregate data from the Assessor's and Auditor's offices in many California counties. Tami has been responsible for placing charges on the property tax bills in Riverside County for the county wide Landscape and Lighting Maintenance Districts, as well as the Economic Development Agency of Riverside County, the City of Hemet, and the City of Jurupa Valley.

Project Analysts

Harris & Associates has a number Project Analysts who will assist with the review of the parcel information, review of the district formation documentation, review of the utility billings and inventory.

PROJECT SCHEDULE

We have prepared the following project schedule for the work based on our past experience with similar projects. A primary goal would be to have the Report of Findings complete to ensure any changes would be reflected in the 2020-2021 submittal of charges to the San Diego County Auditor.

	September 2019	October 2019	November 2019	Hours
Task 1: Research	■			16
Task 2: Review of Formation Documentation and District Maps	■	■		20
Task 3: District Audit	■	■		36
Task 4: Inventory of Lights and Poles		■	■	26
Task 5: Review SDGE Billing			■	
Task 6: Meeting with City Staff	■		■	4
Task 7: Report of Findings			■	24
Total				120

PROPOSED FEES

Harris understands the Agency's need to have this work completed in a timely manner. Harris would propose to do the work described above on a time and materials basis with a not to exceed fee of **\$18,000** based upon the hourly rates shown below.

Staff Member	Title	Billing Rate
Dennis Klingelhofer	Vice President, Project Director	\$285
Tami Eaton	Project Manager	\$175
	Project Analysts	\$115 to \$150

Sincerely,
Harris & Associates, Inc.



K. Dennis Klingelhofer, PE
 Vice President, Municipal and District Finance
 (949) 655-3900 ext. 2326 ■ Dennis.Klingelhofer@WeAreHarris.com



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. 2

Meeting Date: October 15, 2019

Submitted to: Honorable Mayor and Members of the City Council

Department: Public Works Department

Staff Contact: Noah Alvey, Community Development Manager
Stephanie Boyce, Senior Management Analyst

nalvey@lemongrove.ca.gov and sboyce@lemongrove.ca.gov

Item Title: Encroachment Policy and Fees for Wireless Facilities within the Public Right-of-Way

Recommended Action: Hold a public hearing, receive public comment, and adopt a resolution (Attachment A) approving the City of Lemon Grove Encroachment Policy and Fees for Wireless Facilities within the Public Right-of-Way.

Summary: In 2018, the Federal Communication Commission (FCC) issued a Declaratory Ruling, Report, and Order (FCC Order) that limits a local jurisdiction's ability to regulate the placement of Small Cell Wireless Facilities (SCWs) and established maximum permit processing timelines and fees. In response to the FCC Order, staff prepared an Encroachment Policy and new fees for Wireless Facilities within the Public Right-of-Way (Policy).

The Policy is intended to ensure that SCWs mounted on utility poles within the public rights-of-way are designed in a manner that minimizes aesthetic impacts to public views from the public rights-of-way, and to promote health, safety, and walkability of the community. The Policy will also provide greater certainty in processing times by describing locational and design standards and it will also add new fees for SCWs in accordance with the FCC Order.

Discussion: In 2018, the Federal Communications Commission (FCC) issued the Declaratory Ruling, Report and Order (FCC Order) that limits a local jurisdiction's ability to regulate the placement of Small Cell Wireless facilities (SCWs). The FCC Order allows the City to regulate location, size and other operation related factors. In response to the FCC Order, staff proposes an Encroachment Permit Policy for Wireless Facilities within

the Public Right-of-Way (Policy). The Policy includes siting requirements to ensure that SCWs do not obstruct sidewalks and streets, as well as design standards to ensure that SCWs minimize aesthetic impacts to public views from the public rights-of-way by requiring shrouding, finishes, and landscaping when necessary. The Policy will also authorize the City Engineer to authorize pre-approved designs to further expedite the review process for SCWs.

The Federal Telecommunications Act of 1996 preempts state and local governments from regulating the placement, construction, and modification of personal service wireless facilities based on the environmental and health effects of radiofrequency emissions, if the wireless facilities comply with the set emissions standards. The proposed operation requirements indicate that SCWs shall be operated and maintained in compliance with applicable health and safety regulations, which includes all applicable regulations for human exposure to radio frequency emissions and compliance with the Federal Americans with Disabilities Act.

The FCC Order established a maximum application fee amount of \$500 for up to five SCWs and \$100 for each additional SCW installed on existing poles, and \$1,000 for a new pole supporting one or more SCWs. The FCC Order also established the maximum amount of recurring fees that a local jurisdiction could collect at \$270 per SCW per year for right-of-way access or attachment to a City-owned structure in the public right-of-way. The proposed resolution will add a new fee for SCWs in accordance with the FCC Order. The new fees will apply to SCWs within the public right-of-way and on private property.

While the FCC Order establishes a maximum application and right-of-way access fee, staff evaluated Policy implementation and determined that the fees are sufficient to recover the cost for the services which include plan, placement and pole review and review and approval of the encroachment permit application. In addition, the fees do not exceed the reasonable amount necessary to provide the services.

Once the resolution is adopted, the fee changes require sixty (60) days to be effective in accordance with state regulation.

The FCC's adoption of the small cell wireless regulations is currently being challenged in court by multiple cities. The litigation is primarily focused on implementation of the FCC's ruling related to new unfunded mandates, a loss of local control, and negotiations for public benefits. Staff will monitor the ongoing litigation and future FCC rulings and bring forward changes to the Policy as needed.

Environmental Review:

- Not subject to review
- Negative Declaration
- Categorical Exemption, Section 15301, 15302
- Mitigated Negative Declaration

Fiscal Impact: Industry representatives have indicated that approximately 10 facilities will be constructed within the City in the next year, which would represent annual revenue in the amount of \$2,700. Additional facilities are anticipated as demand increase for new technology.

Public Notification: On October 3, 2019, a legal notice of the public hearing was published in the newspaper of general circulation.

Staff Recommendation: Hold a public hearing, receive public comment, and adopt a resolution (Attachment A) approving the City of Lemon Grove Encroachment Policy and Fees for Wireless Facilities within the Public Right-of-Way.

Attachments:

Attachment A – Resolution

Attachment B – Small Cell Wireless Design Standards, Application and Questionnaire

RESOLUTION NO. 2019 -

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE,
CALIFORNIA, APPROVING AN ENCROACHMENT POLICY AND FEES FOR
WIRELESS FACILITIES WITHIN THE PUBLIC RIGHT-OF-WAY**

WHEREAS, in 2018, the Federal Communication Commission (FCC) issued a Declaratory Ruling, Report, and Order (FCC Order) that limits a local jurisdiction's ability to regulate the placement of Small Cell Wireless Facilities (SCWs) and established maximum permit processing timelines and fees, and

WHEREAS, in response to the FCC Order, staff prepared an Encroachment Policy for Wireless Facilities within the Public Right-of-Way (Policy) and associated fees; and

WHEREAS, the Policy is intended to ensure that SCWs mounted on utility poles within the public rights-of-way are designed in a manner that minimizes aesthetic impacts to public views from the public rights-of-way, and to promote health, safety, and walkability of the community; and

WHEREAS, the Policy will also provide greater certainty in processing times by describing locational and design standards and add a new fee for SCWs in accordance with the FCC Order; and

WHEREAS, The FCC Order established a maximum application fee amount of \$500 for up to five SCWs and \$100 for each additional SCW installed on existing poles, and \$1,000 for a new pole supporting one or more SCWs. The FCC Order also established the maximum amount of recurring fees that a local jurisdiction could collect at \$270 per SCW per year for right-of-way access or attachment to a City-owned structure in the public right-of-way. These fees will apply to SCWs within the public right-of-way and on private property and will be adopted by the City of Lemon Grove; and

WHEREAS, the proposed fee increases do not exceed the reasonable amount required to provide the service for which the fee or service charge is levied and will not exceed the cost of providing the services.

NOW, THEREFORE, BE IT RESOLVED that the City of Lemon Grove City Council hereby approves the Encroachment Policy for Wireless Facilities within the Public Right-of-Way and the associated fees which will be updated in the Lemon Grove Master Fee Schedule for Fiscal Year 2019-2020.

PASSED AND ADOPTED on _____, 2019, the City of Lemon Grove, Lemon Grove, California, adopted Resolution No. _____, passed by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Racquel Vasquez, Mayor

Attest:

Shelley Chapel, MMC, City Clerk

Approved as to Form:

Kristen Steinke, City Attorney



CITY OF LEMON GROVE

Engineering Department

SMALL CELL WIRELESS FACILITY DESIGN STANDARDS

- A. Purpose: The following provisions are intended to ensure that small cell wireless facilities mounted on utility poles within the public rights-of-way are designed in a manner that minimizes aesthetic impacts to public views from the public rights-of-way, and to promote health, safety, and walkability of the community.
- B. Pole Standards:
1. Installation of new utility poles (wood, steel, and composite) shall only be allowed when it is not feasible to locate on existing infrastructure.
 2. Facilities located on existing utility poles may require certification from a licensed engineer that the structure can support the proposed equipment.
- C. Location, Size, and Operational Requirements:
1. Location
 - i. All equipment facilities shall comply with ADA requirements.
 - ii. To limit obstructions on sidewalks and protect health, safety, and walkability, ground mounted equipment, including meter pedestals, shall be located a minimum of 10 feet from utility poles and should be off-set from utility poles along the street frontage instead of directly behind utility poles. Exceptions to the separation requirement may be granted by the City Engineer or their designee if unique or unusual circumstances are present related to topography or existing improvements/structures within the right-of-way.
 2. Height, Clearance, and Projections
 - i. The combined height of any utility pole/structure with a small cell wireless facility shall not exceed 50 feet (including antennas).
 - ii. The combined height of any structure and small cell wireless facility shall be no more than 10 percent greater than other structures located within 100 feet.
 - iii. The lowest point of any pole-mounted equipment shall be at least eight feet above ground level adjacent to the pole. If applicable laws require pole-mounted equipment to be placed less than eight feet above ground level, the clearance from ground level shall be no less than required for compliance with such laws.
 - iv. Side-mounted antennas shall not protrude more than 24 inches from the support structure. If applicable laws require a side-mounted antenna to protrude more than 24 inches from the support structure, the protrusion shall be no greater than required for compliance with such laws.

3. Operational Requirements
 - i. All equipment and facilities shall comply with noise control standards of the Lemon Grove Municipal Code.
 - ii. All small cell wireless facilities and associated infrastructure shall be operated and maintained in compliance with applicable health and safety regulations, which includes all applicable regulations for human exposure to radio frequency emissions and compliance with the Federal Americans with Disabilities Act.

D. Design Standards

1. Shrouding/Finishes
 - i. All antennas and associated cables, jumpers, wires, mounts, masts, brackets and other connectors and hardware shall be installed within a shroud or stealth structure.
 - ii. All exterior surfaces shall be painted, colored, or shrouded in non-reflective hues that match the underlying support structure or blend with the surrounding environment.
 - iii. All surfaces shall be treated with graffiti resistant sealant.
 - iv. All finishes shall be subject to approval by the City Engineer or their designee
 - v. Any legs, handles, and logos shall be removed from any antennas or equipment
2. Landscaping/Walls
 - i. If the placement of ground mounted equipment requires the removal of landscaping, replacement landscaping may be required.
 - ii. Retaining walls or screening walls way be required for ground-mounted equipment not placed within an equipment cabinet, with exposed wiring, or with a design/color that would unnecessarily attract attention.
3. Signs
 - i. Signs or advertising devices shall be prohibited, except for certification, warning, or other legally required seats or legally required signage (e.g. warning sticker at minimum size and visibility).
 - ii. Facilities must include signage that accurately identifies the site owner or operator, the owner or operator's site name or identification number and a contact phone number to the owner or operator's network operations center.
4. Security Measures
 - i. Small cell wireless facilities may incorporate reasonable and appropriate site security measures, such as locks or anti-climbing devices, to prevent unauthorized theft or vandalism
 - ii. The City Engineer or their designee shall not approve barbed wire, razor ribbon, electrified fences or similar security measures.
5. Preapproved Designs
 - i. The City Engineer or their designee may authorize preapproved designs when such designs conform to the requirements in this policy.
 - ii. Preapproved designs may apply to existing and new utility poles.



City of Lemon Grove
 Engineering Department
 3232 Main Street
 Lemon Grove, CA 91945
 (619) 825-3811
 www.lemongrove.ca.gov

**SMALL CELL
 WIRELESS FACILITY
 AND
 ENCROACHMENT
 PERMIT
 APPLICATION**

For City Use Only

PERMIT #:

FEES PAID:

- \$500 Application (up to 5 sites)
- \$270 Encroachment (each site)

Proposed site location(s) and address(es)

Project description

Type Pre-existing (60 day review) New (90 day review)

Pole number if in ROW

Dig Alert #:

Applicant Information: Property Owner Other Entitled Person
 Name

Telephone

Address City State Zip Code Fax

Email

Property Owner or Pole Owner

Telephone

Address City State Zip Code Fax

Print Name: _____ Signature: _____ Date: _____

****If a utility pole, please submit approval from utility agency**

Contractor Name

Telephone

Address City State Zip Code

Email

State License No. Ex. Date Class Lemon Grove Business License No.

Licensed Contractor's Declaration: I hereby affirm that I am licensed by the state of California and that my license is in full force and effect and I will submit my liability insurance naming the City of Lemon Grove as additionally insured with the required limits listed on the back of this form.

Print Name: _____ Signature: _____ Date: _____

Applicant's Signature: I certify that I have read this application and state that the above information is correct, and that I am the property owner, authorized agent of the property owner, or other person having a legal right, interest, or entitlement to the use of the property that is the subject of this application. I understand that I am responsible for knowing and complying with the governing policies and regulations applicable to the proposed development or permit. The City is not liable for any damages or loss resulting from the actual or alleged failure to inform the applicant of any applicable laws or regulations, including before or during final inspections. City approval of a permit application, including all related plans and documents, is not a grant of approval to violate any applicable policy or regulation, nor does it constitute a waiver by the City to pursue any remedy, which may be available to enforce and correct violations of the applicable policies and regulations.

Print Name: _____ Signature: _____ Date: _____

INDEMNIFICATION, HOLD HARMLESS AND INSURANCE REQUIREMENTS

Owner of wireless facility must sign the Indemnification and Hold Harmless clause below, maintain the insurance limits/policies listed below and name the City as additionally insured for the duration of the placement of the equipment in the City's Right-of-Way

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

Print Name: _____ Signature: _____ Date: _____

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

- A. If checked, Professional Liability Insurance (errors and omissions) with minimum limits of \$1,000,000 per occurrence.
- B. Automobile insurance covering all bodily injury and property damage incurred during the performance of this Agreement, with a minimum coverage of \$1,000,000 combined single limit per accident. Such automobile insurance shall include non-owned vehicles.
- C. Comprehensive general liability insurance, with minimum limits of \$1,000,000 combined single limit per occurrence, covering all bodily injury and property damage arising out of its operation under this Agreement.
- D. Worker's Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
- E. The aforesaid policies shall constitute primary insurance as to the CITY, its officers, employees, and volunteers, so that any other policies held by the CITY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the CITY of cancellation or material change.
- F. Said policies, except for the professional liability and worker's compensation policies, shall name the CITY and its officers, agents and employees as additional insureds.
- G. If required insurance coverage is provided on a "claims made" rather than "occurrence" form, the CONTRACTOR shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Agreement.
- H. Any aggregate insurance limits must apply solely to this Agreement.
- I. Insurance shall be written with only California admitted companies which hold a current policy holder's alphabetic and financial size category rating of not less than A VIII according to the current Best's Key Rating Guide, or a company equal financial stability that is approved by the CITY.
- J. This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the CITY. If the CONTRACTOR does not keep all of such insurance policies in full force and effect at all times during the terms of this Agreement, the CITY may elect to treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.

Print Name: _____ Signature: _____ Date: _____



SMALL CELL WIRELESS FACILITY QUESTIONNAIRE

BULLETIN

8

SEP 2019

Engineering Department
3232 Main Street, Lemon Grove, CA 91945
Phone: 619-825-3811 Fax: 619-825-3818
www.lemongrove.ca.gov

Applicant: _____

Project Location: _____

Please Check YES or NO (Attach Application for Small Cell Wireless Facility Permit)

- | | |
|--------------------------|---|
| YES | NO |
| <input type="checkbox"/> | <input type="checkbox"/> The project's wireless facilities are within the City maintained public right-of-way |
| <input type="checkbox"/> | <input type="checkbox"/> The project's wireless facilities are on private property within the City |
| <input type="checkbox"/> | <input type="checkbox"/> The project includes use of existing City poles |
| <input type="checkbox"/> | <input type="checkbox"/> The project includes use of existing utility poles |
| <input type="checkbox"/> | <input type="checkbox"/> The projects includes use of existing structures on private property |
| <input type="checkbox"/> | <input type="checkbox"/> The project is co-located with existing wireless telecommunication facilities |
| <input type="checkbox"/> | <input type="checkbox"/> The project requires excavation in the right-of-way |

- | | |
|--------------------------|---|
| YES | NO (Further Review may be required for a "YES" answer below) |
| <input type="checkbox"/> | <input type="checkbox"/> The project will interfere will public use or maintenance of the roadway |
| <input type="checkbox"/> | <input type="checkbox"/> The project will impede upon the sidewalk, pathway or trail |
| <input type="checkbox"/> | <input type="checkbox"/> The project will impact a traffic signal or street light poles(s) |
| <input type="checkbox"/> | <input type="checkbox"/> The project will remove vegetation |
| <input type="checkbox"/> | <input type="checkbox"/> The project will harm or remove healthy, mature or scenic trees |
| <input type="checkbox"/> | <input type="checkbox"/> The project is on a property with an easement |
| <input type="checkbox"/> | <input type="checkbox"/> The project is on a property with a current use permit. If yes, provide permit No. _____ |
| <input type="checkbox"/> | <input type="checkbox"/> The project will have significant impact to aesthetics |
| <input type="checkbox"/> | <input type="checkbox"/> The project will have impacts to historic or |

The language below shall be placed on the face of the plans and will become a permit condition:

- "If existing landscaping is to be removed, the applicant will replace it in kind."
- "Construction activities will not occur before 7 a.m. or after 7 p.m. nor will any construction occur on Sundays or holidays as defined by the Lemon Grove Municipal Code Section 9.24.120 without first obtaining a noise variance."

I hereby certify the above answers are true and correct to the best of my knowledge:

Permit Signature: _____ Date: _____



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. 3

Meeting Date: October 15, 2019

Submitted to: Honorable Mayor and Members of the City Council

Department: **City Manager's** Office

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

mjames@lemongrove.ca.gov

Item Title: Relocation and Lease Agreement with Outfront Media, LLC to Construct and Manage a Digital Message Board Sign on City-Owned Real Property

Recommended Action: Adopt a resolution approving the relocation and lease agreement with Outfront Media, LLC to construct and manage a digital message board on city-owned real property.

Summary: Since Fiscal Year 2017-2018 (FY 2017-18), the City Council has approved consolidated annual budgets that estimated General Fund structural deficits. That trend is not anticipated to improve moving forward. Diversification of revenues has been a City Council goal since the 2018 Priority Setting Workshop. This agenda item brings forward a revenue diversification option to lessen the structural deficit by approving the relocation and lease agreement with Outfront Media, LLC to construct a digital message board sign on City owned real property in exchange for an annual revenue stream for the next 20 years, as well as other benefits.

Background: The idea of a digital message board (DMB) is not a new idea for the City to consider. Beginning in 2014, city staff explored the idea of a partnership with a media company to construct and manage a DMB in City owned right-of-way (ROW) through a request for proposal (RFP) process. However, at that time, the results of the RFP were not pursued and no further action was taken.

Fast forward to June 5, 2018, during the draft FY 2018-19 budget discussion, city staff presented revenue options that did not require voter approval and a DMB was listed as an option. Staff was directed to move forward with the creation of a RFP and then return

to the City Council for feedback and direction. On September 18, 2018, staff presented a report detailing a RFP for the construction and management of a DMB on city-owned real property, key points of the RFP, and the benefits and risks of constructing and managing a DMB. At the conclusion of the presentation, staff was directed to advertise the RFP with a submittal deadline established in November 2018.

Staff received two proposals to the RFP from Clear Channel Outdoor and Outfront Media, LLC (OUTFRONT). An internal panel consisting of representatives from the City **Manager's Office, Finance Department, and Planning Division** evaluated both proposals based on the criteria advertised in the RFP. Those criteria included:

- Community Benefit to the City,
- Detailed Development Information,
- Financial Consideration to the City,
- Organization and Structure,
- Project Consideration, and
- Relevant Experience.

After reviewing each proposal the panel concluded that **OUTFRONT's** proposal was the most detailed, responsive and beneficial to partner with to design, construct and manage a DMB on City-owned real property. Staff notified both parties of the decision and since that time has had on-going discussions with OUTFRONT to develop the information that is contained in the remaining portion of this report.

City staff is now returning to present the details of the final negotiation process with OUTFRONT that created a relocation and lease agreement. Specifically, the location of the DMB, the appearance of the DMB, the anticipated process that OUTFRONT will use to design, construct, permit and manage the DMB, the estimated revenues the City will receive, the on-going operation and maintenance of the DMB, and in conclusion, **staff's** recommendation that the City Council approve the agreement.

Discussion: Before discussing the details of the negotiation process, staff wanted to share additional information about OUTFRONT.

Founded in 1938, OUTFRONT is one of the largest outdoor media companies operating in the United State and Canada. In addition to billboards it also advertises on transit displays (e.g. subway stations, light rail, bus shelters). Headquartered in New York City, New York it has a \$5 billion enterprise value, is publicly traded on the New York Stock Exchange (ticker: OUT), generates \$450 million in cash flow, and employs approximately 2,200 people. Other public entities that OUTFRONT has partnered with include: The Cities of Artesia, Bell, Carson, Garden Grove and Montebello, as well as Amtrak, Los Angeles County MTA, Massachusetts Bay Transportation Authority, New York MTA, as

well as other notable entities. OUTFRONT also provides outdoor advertisements for companies such as Apple, Coca Cola, Google, Cox Communications and Qualcomm.

Staff was encouraged to see the large amount of resources that OUTFRONT has, what other cities and public entities have been partners in the recent past, and the large advertisement accounts that are current clients. That baseline of supporting information helped encourage the next steps in the process which are detailed below.

Relocation and Lease Agreement: City staff and **OUTFRONT's** Legal Counsel created an agreement (*Attachment A – Exhibit 1*) that will remove four static billboards from within the City and lease an area in the 3600 block of Olive Street for the location of the DMB.

Removal of Four Billboards: There are currently two static billboard signs that are located at Broadway/Citrus and Broadway/West. Both of these signs will be removed as a part of this project. Street views of both signs are shown in *Attachment B*. The net result of this agreement is a reduction in the number of billboard signs from four to two.

Location and Operation of the DMB: **The DMB with two (2) 14'x48' faces** is proposed to be located at the furthest northerly portion of Olive Street just south of State Route 94 and it will operate 18 hours per day, shutting down from 12:00 a.m. to 6:00 a.m. Initial analysis from OUTFRONT shows that Caltrans permitting should not be a concern when preparing the permit to construct the DMB. Lastly, OUTFRONT has a lot of experience working with local governments to address the CEQA review process during the formal permit application and review.

Appearance of the DMB: The final appearance of the DMB is still under consideration and will be a part of the plan review process when that stage of the project is entered. Initial renderings of the DMB on Olive Street, from SR94 looking eastbound, and from SR94 looking westbound are shown as *Attachment C*. The advertisement that is displayed will change every eight seconds. No moving graphics or videos will be displayed. Additional technical specification about the DMB include:

Remote Diagnostic Capabilities: Full remote diagnostics that will notify **OUTFRONT's** digital network operations command center (NOC) in Spokane, WA of any abnormality. It is staffed 24-hours a day, every day.

Amber Alert Capabilities: Full Amber Alert interruptions are available, **which is automated per the Outdoor Advertising Association of America's (OAAA) Specifications.**

Automatic Brightness Adjustments: There is a triple level display brightness control with an automated brightness sensor located at the display. There is a global positioning system (GPS) location for each display with an online lookup for sunrise and sunset times. The program that monitors brightness and GPS sunrise and sunset times will override the entire system to ensure that displays are never too bright during the night or too dull during the day.

UL and IEC Criteria: Full electrical testing laboratories (ETL) and underwriter's laboratories (UL) are in place to maintain minimum product standards for safety.

Color Calibration: Full color calibration down to the individual pixel level will exist.

Remote Shutdown Capabilities: The NOC has full shutdown capabilities 24-hours a day.

Process to design, construct, permit and manage the DMB: If approved by the City Council, OUTFRONT plans to begin the design process, City and Caltrans permit application process, and materials/supplies ordering by December 2019. Once all permits are acquired, construction may begin as soon as March 2020 and will be completed by June 2020. OUTFRONT estimates that the initial construction costs will equal \$500,000 and will be 100 percent borne by OUTFRONT. When the **DMB life's expectancy of 10 years occurs, the DMB will be replaced by OUTFRONT** at no additional cost to the City. Near the end of the 20 year term, City and OUTFRONT staff will meet and discuss the continuation of the DMB.

Estimated Duration and Revenues: The lease agreement has a term of 20 years. There is a minimum annual guarantee (MAG) of \$325,000 with a 3% annual increase. Over the life of the 20 year agreement OUTFRONT projects the City may receive \$8.7 million of revenue. The agreement also includes a revenue share component which may increase the amount of the MAG over the life of the 20 year agreement.

On-Going Operation and Maintenance: The DMB will be visited no less than once per week to ensure cleaning and maintenance standards are met and the

OUTFRONT maintenance team will respond to any calls for service initiated by the City. OUTFRONT has budgeted \$50,000 per year solely for maintenance and refurbishment of the DMB.

Final Considerations: During the July 23, 2019 Special City Council meeting budget information was presented by staff that showed the estimated structural deficit for the next two years (including this current fiscal year). Staff summarized the annual deficits through FY 2021-22.

Description	FY 2019-20	FY 2020-21	FY 2021-22
Estimate Year End Deficit	(\$426,032)	(\$795,453)	(\$1,181,349)

For comparison, if this agreement is approved, during the same time period, **OUTFRONT's** estimated project pro forma will produce the following annual payments to the City.

Description	FY 2019-20 (Year 1)	FY 2020-21 (Year 2)	FY 2021-22 (Year 3)
Minimum Annual Guarantee	\$325,000	\$334,750	\$344,793

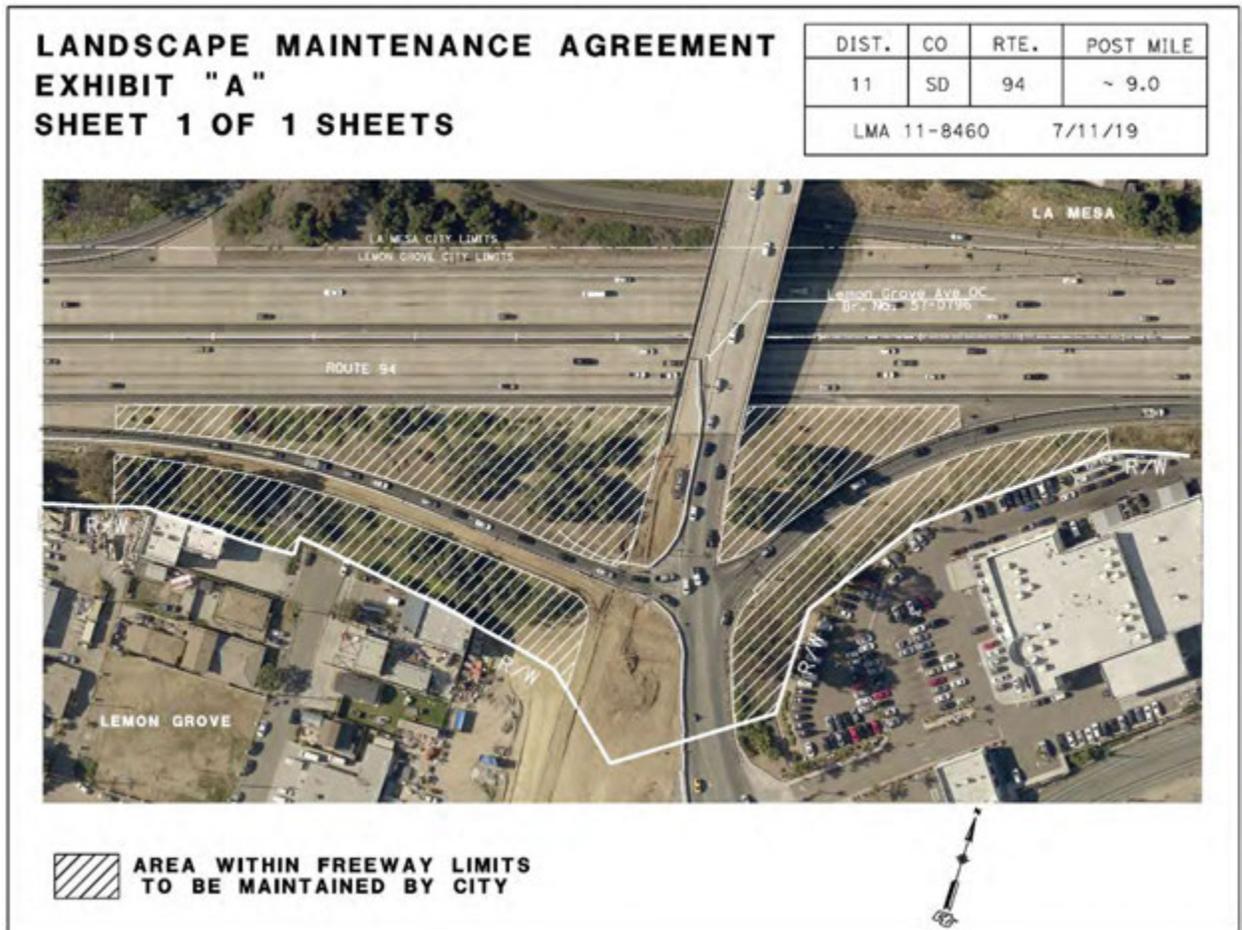
Staff concluded that the new revenue source will significantly help to reduce the structural budget deficit moving forward. Notwithstanding the financial benefit of this partnership, there are other benefits that staff believes are important to highlight when considering the total assessment of opting into this partnership.

Discussion Process: Since 2014, staff and the City Council have considered this additional source of revenue to diversify its revenue sources. During the public comment period of the September 2019 meeting, staff did not receive any verbal public comment in opposition to the DMB. Recent the City received letters of support for the use of a DMB in the City (*Attachment D*). Conversely, since 2014, one group, Scenic San Diego, has provided written opposition of the DMB. The group is based out of the City of San Diego and is a coalition of individuals and organizations opposed to digital signage and other sign proliferation. It is affiliated with a national organization that fights for “beautification and against sign pollution”, titled Scenic America.

Frequent Construction in the Area: The timing of this project will lessen the construction impact to the neighboring residents on Olive Street, North Avenue and the Lemon Grove Avenue on/off-ramp location. With the Lemon Grove Avenue Realignment project completed and the SDG&E utility undergrounding project set to construct at any time, if the DMB begins construction now it will likely occur at the

same time as the undergrounding project. This will prevent a third iteration of construction delays for the residents, businesses and guests.

Beautification of the Caltrans Right-Of-Way (ROW): On August 6, 2019, the City Council adopted a resolution that revised the landscape maintenance agreement the City has with Caltrans. As a part of the adoption of the revised ROW, the southerly quadrants in the area known as “Plant Lemon Grove” will be redesigned by OUTFRONT’s landscape architect to match the landscaping along the new Lemon Grove Avenue Realignment entrance. OUTFRONT has agreed to design the area per **the City’s direction and perform all** initial construction activities. Once completed and accepted by the City, the City will resume maintenance activities identified in the exhibit below.



Lemon Grove Business Discount: OUTFRONT agreed to provide a 20 percent discount off the retail price to advertise on billboards, digital signage, bus and rail media in San Diego County. This discount is only applicable to local businesses in the City of Lemon Grove.

Special Event Advertisement and Design: The City will be allowed to market its special events throughout the year on the DMB at no cost. Sample special events include the Annual Holiday Bonfire, Concerts in the Park, Movies in the Park, and Extravaganza. **If future City special events are added, they will be included in the City's advertisement plan.**

Stimulate Economic Investment to the City: **By showcasing the DMB at the City's** newest gateway entrance into the City it will provide a unique and identifiable landmark that will highlight the economic investment occurring in the City.

Types of Advertisement: OUTFRONT does not accept advertising that is lewd or **inappropriate, promotes tobacco products, gentlemen's clubs, firearms, or anything** that is discriminatory in nature.

Conversely, there are perceived drawbacks that individuals/groups have expressed to the installation of any DMB.

Artificial Lighting during the Evening Hours as a Hazard: An increase in the amount of light from the DMB may be a concern because the artificial lighting did not previously exist. However, the Business and Professional code section 5403(g) defines a brightness standard for commercial electronic variable message signs to prevent impairment to the vision of drivers on the highway. OUTFRONT intends to operate this DMB at 1/6 of the maximum brightness levels allowed by California state law. The maximum brightness is estimated at 1,713 nits above ambient levels and OUTFRONT will operate at 300 nits (*a nit is a brightness measurement of light whose standard is the amount of light that one candle gives off in one square meter of area*). 300 nits above ambient is equal to 0.3 foot candles (*one foot candle is the amount of light a single candle makes at a distance of 1 foot*) at 250 feet which is comparable to the light emanating from a computer monitor. Operating the DMB any brighter than what **OUTFRONT is proposing will likely cause a "washed out" appearance and reduce the** clarity of the advertisement.

Potential Distraction to Vehicular Traffic: There are two frequently referenced reports that discuss the impacts of electronic billboards on drivers:

1. In 2012, the Swedish National Road and Transport Research Institute created a report (<http://www.scenic.org/storage/PDFs/eebdd.pdf>) based on 41 drivers.
2. In 2006, a study by Virginia Tech for the National Highway Traffic Safety Administration based on 241 primary/secondary drivers.

Both concluded that DMB have the potential to distract drivers from focusing on the roadway. Specifically, in 2006 the Virginia Tech study (<https://vtnews.vt.edu/articles/2006/04/2006-237.html>) claimed that anything that **takes a driver's eyes off the road for more than two second greatly increases the risk of a crash.**

Conversely, information shared in an article by the Huffington Post in 2014 (https://www.huffingtonpost.ca/jorg-cieslok/digital-billboards_b_5675149.html) concluded that DMB may not be as dangerous as was originally published. Within the article it was printed that the longest fixation time for a DMB was 1.335 seconds with an average fixation time of 379 milliseconds for all billboards which are both less than the two second thresholds stated in the Virginia Tech study. Additionally, the City of Toronto (Canada), commissioned a study (published in 2013) that stated there is little legitimate evidence to support that billboards have a correlation to accidents or distraction leading to accidents on highways.

Finally, Dr. Paul P Jovanis, a professor at the Pennsylvania State University specializing in transportation engineering, has reviewed a wide range of studies **involving billboards and transportation safety, and concluded that the “scientific literature reveals that there is insufficient evidence to link the presence of digital billboards to changes in road safety.” His assessment is included in the administrative record of proceedings. It is noted that OUTFRONT's proposed “dwell times,” or the rate at which electronic advertisements will change, is 8 seconds, which is above the state minimum of 4 seconds and consistent with federal recommendations.**

The current driving environment has changed dramatically since 2006 and 2012. Looking back 7 to 13 years ago the initial construction of DMB along freeways may have been a surprise to drivers but they are now becoming more popular, especially in Los Angeles and Orange Counties, and as drivers **become more accustomed to DMB's** operating on/near Caltrans freeways in southern California the initial surprise will be lessened as they are becoming part of the modern landscaping appearance.

Potential Liability Regarding the Content of Material Advertised: Anyone that views the content on the DMB may file a claim against the City which could evolve into a lawsuit. However, the language in the relocation and lease agreement has successfully transferred all future liability to OUTFRONT because they are the owners of the DMB as well as the responsible party that manages all content displayed.

Removal of Existing Landscaping in Caltrans ROW (e.g. trees): While not yet planned, the revised landscaping project in Caltrans ROW that the City is responsible for maintaining may require the removal of invasive species of plants and trees. However, in exchange for removing any existing landscaping OUTFRONT will initiate a beautification project that will design, plant (with a focus on native and drought

tolerant plants) and construct irrigation that ties in with the landscaping plan at the Lemon Grove Avenue Realignment site.

Staff has reviewed, in detail, the benefits and drawbacks of this project and concluded that there is an overall greater benefit to the City and its residents by approving the relocation and lease agreement with OUTFRONT than to pass on this opportunity.

In conclusion, with the approval of the agreement the City will see an increase in its annual revenues that will support public safety and street repair, an immediate **beautification of the City's gateway entrance, a new tool to increase the City's ability to share special events and public service announcements, and provide a discount to Lemon Grove businesses should they choose to advertise with OUTFRONT.**

Environmental Review:

- Not subject to review Negative Declaration
 Categorical Exemption, Section 15303* Mitigated Negative Declaration

** The project is not subject to CEQA, though project scope meets requirements of exemption under 14 Cal. Code Regs § 15303*

Fiscal Impact: There is a minimum annual guarantee of \$325,000 with a 3% annual increase for a period of at least 20 years. **All revenue received will go into the City's General Fund.**

Public Notification: None.

Staff Recommendation: That the City Council adopts a resolution approving the relocation and lease agreement with Outfront Media, LLC to construct and manage a digital message board on City-owned real property.

Attachments:

- Attachment A – Resolution
- Attachment B – Two Billboards Scheduled to be Removed
- Attachment C – Rendering of Digital Message Board
- Attachment D – Letters in Support of the Partnership with OUTFRONT

RESOLUTION NO. 2019 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA, APPROVING A RELOCATION AND LEASE AGREEMENT WITH OUTFRONT MEDIA, LLC TO CONSTRUCT AND MANAGE A DIGITAL MESSAGE BOARD SIGN ON CITY OWNED REAL PROPERTY

WHEREAS, in June 2018, the City Council received a summary of revenue options that may be pursued that do not require voter approval. A digital message board sign was one of those options; and

WHEREAS, in September 2018, staff advertised a request for proposals to construct a digital message board sign on City owned real property; and

WHEREAS, two proposals were received and Outfront Media, LLC was selected as the most responsive and beneficial partner to construct a digital message board sign; and

WHEREAS, staff negotiated a relocation and lease agreement that provides multiple benefits to the City that include a consistent revenue stream for at least 20 years, the removal of two static billboards in the City, a modern landmark that will highlight a gateway entrance into the City, and an additional resources to promote City sponsored special events; and

WHEREAS, the benefits of partnering with Outfront Media, LLC to construct and manage a digital message board sign on City owned real property is in the best interest of the residents, businesses and guests of Lemon Grove.

WHEREAS, **the City's approval of a relocation agreement involves the exercise of discretion, but not in a manner involving environmental considerations (see *San Diego Navy Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924, 938-939); existing City policies and the City's request for proposal requirements adequately protect the environment, and adjudging compliance with these requirements is a ministerial process that does not trigger review under the California Environmental Quality Act**

(Public Resources Code section 21080(a), (b)(1); 14 Cal. Code Regs. sections 15268(a), 15352, 15357, 15369, 15378).

WHEREAS, in accordance with the above, the sign project proposed herein meets all applicable City standards, including those protecting the environment.

WHEREAS, even if CEQA review did apply, the City finds the proposed sign project would be exempt under a Class 3 CEQA exemption (14 Cal. Code Regs. section 15303, covering the construction of small structures), as substantial evidence in the administrative record demonstrates the project site is an urban, infill location, the sign is compatible with surrounding uses, the sign facings would be oriented toward the adjacent **highway, and the sign’s brightness levels and other operating parameters fully comply** with all local and state safety standards.

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

1. Approves the relocation and lease agreement with Outfront Media, LLC to construct and manage a digital message board sign; and
2. Directs the City Manager or her designee to allocate all revenues from the agreement to the General Fund; and
3. Authorizes the City Manager or her designee to sign and manage all documents related to this agreement.
4. Determines the project is not subject to CEQA under Public Resources Code section 21080(a), (b)(1) and 14 Cal. Code Regs. sections 15268(a), 15352, 15357, 15369, 15378, and would otherwise be exempt from CEQA because the project meets the requirements of a Class 3 Exemption (14 Cal. Code Regs. section 15303).

PASSED AND ADOPTED on _____, 2019, the City Council of the City of Lemon Grove, California, adopted Resolution No. _____, passed by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Racquel Vasquez, Mayor

Attest:

Shelley Chapel, MMC, City Clerk

Approved as to Form:

Kristen Steinke, City Attorney

BILLBOARD RELOCATION AGREEMENT BETWEEN
THE CITY OF LEMON GROVE AND OUTFRONT MEDIA LLC.

This Billboard Relocation Agreement (“AGREEMENT”) is made and entered into as of this [REDACTED], 2019, by and between the City of Lemon Grove, a municipal corporation (“CITY”), and Outfront Media LLC, a Delaware limited liability company (“OUTFRONT”) (collectively the “Parties”).

RECITALS

- A. WHEREAS, OUTFRONT has proposed to remove those certain billboards **located within the City of Lemon Grove on property described in Exhibit “A,”** attached hereto and incorporated herein by this reference (hereafter the **“REMOVED BILLBOARDS”**); **and**
- B. WHEREAS, the CITY is willing to allow OUTFRONT to construct, operate, repair and maintain a new, off-premise digital message center display including two Digital Displays (as defined below) arranged in a back-to-back-shape configuration, supporting structures, service ladders, underground utilities, fixture connections, electrical supply and connections, panels, signs, lights, electronics, copy and any additional equipment, appurtenances, and accessories necessary for the operation of the digital message center display (collectively, the **“DIGITAL BILLBOARD”**), **where the Digital Billboard’s digital message center displays have the following dimensions: a display face size of forty-eight feet (48’) wide and fourteen feet (14’) high (the “DIGITAL DISPLAYS”) with an elevation of sixty-five feet (65’) above the adjacent freeway grade. The exact specifications of the DIGITAL BILLBOARD are set forth in elevation and specifications attached hereto as Exhibits “B” and “C” and incorporated herein by this reference.**
- C. WHEREAS, the DIGITAL BILLBOARD will be constructed on City property located north and adjacent to the northern terminus of Olive Street, the legal **description of which is included in Exhibit “D”, and which is further depicted in Exhibit “E” (the “PROPERTY”), where the aforesaid exhibits are incorporated herein by this reference; and**
- D. WHEREAS, the DIGITAL BILLBOARD together with the removal of the REMOVED BILLBOARDS, and this AGREEMENT are collectively referred to **herein as the “DIGITAL BILLBOARD PROJECT;” and**
- E. WHEREAS, section 5412 of the California Outdoor Advertising Act (Bus. and Prof Code § 5200 et seq.) **provides that cities are “specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city,” where the terms of a relocation agreement generally entail a display owner removing outdoor advertising displays in consideration for the rights of the display owner to construct a substitute display; and**
- F. WHEREAS, under **Chapter 18.12 the Lemon Grove Municipal Code (the “SIGN**

ORDINANCE”) and Section 5412 of the Outdoor Advertising Act, new billboards may be constructed in the City so long as they are substitutes for removed billboards; and

- G. WHEREAS, in the absence of a relocation agreement, the CITY would have to institute an eminent domain or similar legal action to remove the REMOVED BILLBOARDS, requiring the payment of just compensation, whereas a relocation agreement allows the CITY to implement various beautification policies and **allows for “planned development without the expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication,” as contemplated in section 5412 of the California Outdoor Advertising Act;** and
- H. WHEREAS, per section 18.12.030(I) of the Lemon Grove Municipal Code, outdoor advertising displays are generally prohibited except where expressly provided for in the SIGN ORDINANCE; and
- I. WHEREAS, the SIGN ORDINANCE does not apply to signs constructed on City-owned property, as set forth in section 18.12.015 of the Lemon Grove Municipal Code, and the City may approve the DIGITAL BILLBOARD PROJECT **so long as it is consistent with policy set forth by the CITY’s City Council;** and
- J. WHEREAS, **the City Council’s policies concerning the construction and operation of digital billboards on City-owned property is set forth in a Request for Proposals the CITY issued on September 21, 2018, entitled “Request for Proposals for Digital Message Board Signs on City Owned Real Property” (“RFP”) incorporated herein by this reference;** and
- K. WHEREAS, OUTFRONT responded to the RFP on or about November 14, 2018 with a proposal that conformed to the RFP, and where OUTFRONT ultimately was selected to apply to move forward with an application for the DIGITAL BILLBOARD PROJECT; and
- L. WHEREAS, **in OUTFRONT’s response to the RFP,** and in its application for the DIGITAL BILLBOARD PROJECT, OUTFRONT has committed to operate the DIGITAL BILLBOARD consistent with its response to the RFP and according to the following parameters: (1) OUTFRONT will display advertising messages for a minimum of eight seconds; (2) with respect to the brightness of the DIGITAL BILLBOARD facings, will maintain brightness levels of 0.3 footcandle or less above ambient levels at a distance 250 feet; and (3) the DIGITAL BILLBOARD will be inoperative from midnight to 6 a.m., and where each of the foregoing operational parameters complies with, and is more conservative than what is required by, state standards (*e.g.*, Bus. & Profs. Code, § 5403; Vehicle Code, § 214466.5); and
- M. WHEREAS, for the reasons set forth in Recitals D through L, the DIGITAL BILLBOARD may be constructed in compliance with all applicable City law; and

- N. WHEREAS, based on the information set forth in Recitals D through L and substantial evidence in the administrative record of proceedings for the DIGITAL BILLBOARD PROJECT, the CITY finds under its police and regulatory powers regarding the DIGITAL BILLBOARD PROJECT that the construction, operation, repair, and maintenance of the DIGITAL BILLBOARD, as proposed and as more-fully described and depicted in Exhibits D and E, are in compliance with the SIGN ORDINANCE and all other CITY regulations, plans and codes; and
- O. WHEREAS, the DIGITAL BILLBOARD PROJECT is contingent upon approvals **from the California Department of Transportation (“CALTRANS”); and**
- P. WHEREAS, OUTFRONT shall take down the REMOVED BILLBOARDS prior to commencing live operations of the DIGITAL BILLBOARD PROJECT; and
- Q. WHEREAS, the CITY has ministerially determined, pursuant to the Public Resources Code and the California Code of Regulations, Title 14 (*See Pub. Res. Code, § 21080(a), (b)(1); 14 CCR, §§ 15268(a), 15352, 15357, 15369, 15378*), that the DIGITAL BILLBOARD PROJECT, a [REDACTED], 2019 lease agreement between the CITY and OUTFRONT for use of the PROPERTY to implement the DIGITAL BILLBOARD **PROJECT (the “LEASE AGREEMENT”); and this AGREEMENT** meet each of the criteria set forth in the RFP and its policies and that in addition, pursuant to the holdings of *San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924 and *Friends of the Juana Briones House v. City of Palo Alto* (2010) 190 Cal.App.4th 286, the CITY does not have the discretion to modify the DIGITAL BILLBOARD PROJECT in ways responsive to environmental concerns so as to trigger review under the California **Environmental Quality Act (“CEQA”), and so the DIGITAL BILLBOARD PROJECT** is not subject to and/or exempt from CEQA; and
- R. WHEREAS, in the alternative, the DIGITAL BILLBOARD PROJECT is exempt **from CEQA under the Class 3 Exemption, which encompasses the “construction and location of limited numbers of new, small facilities or structures ... and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure” (14 CCR, § 15303), and** where the language of the Class 3 Exemption contains a non-exclusive list of examples of qualifying small structures that include multi-family residential buildings with up to six units and four commercial structures encompassing 10,000 square feet collectively; and
- S. WHEREAS, the DIGITAL BILLBOARD PROJECT: (1) contemplates the relocation and modernization of billboard structures located in an urbanized area; (2) contemplates that the DIGITAL BILLBOARD would have a development footprint of less than 500 square feet, which is comparatively small in relation to the exemplars in the Class 3 Exemption (*e.g.*, smaller in scale compared to six-unit apartment buildings, 10,000-square-foot commercial stores), and thus qualifies as the construction or conversion of a small structure; (3) entails construction on the PROPERTY within an area that is less than 0.01 acres; (4) involves construction activity that would last less than five weeks; (5) involves

demolition activity at the REMOVED BILLBOARDS locations that would affect only a small portion (i.e., less than 500 square feet) of urban infill properties that contain paved surfaces and commercial uses; and (6) involves demolition activity, at the locations described immediately above, that consists of the use of hand tools and small crane rigs to remove the above-grade portion of the existing billboard structures, and where this demolition activity would last less than two weeks; and

- T. WHEREAS, the PROPERTY is located in an urban environment where signage, including off-site commercial signage, is common, and there are no unusual circumstances presenting a reasonable possibility of a significant environmental impact; and
- U. WHEREAS, **OUTFRONT's operational parameters for the DIGITAL BILLBOARD** and its design demonstrate the DIGITAL BILLBOARD will comply with all applicable law, which further evince that no unusual circumstances exist that would indicate the DIGITAL BILLBOARD PROJECT would have a reasonable possibility of having a significant environmental impact, and where these operational parameters again include the following: (1) OUTFRONT will display advertising messages for a minimum of eight seconds; (2) with respect to the brightness of the DIGITAL BILLBOARD facings, will maintain brightness levels of 0.3 footcandle or less above ambient levels at a distance 250 feet; and (3) the DIGITAL BILLBOARD will be inoperative from midnight to 6 a.m.; and
- V. WHEREAS, the CITY on [redacted] [date] approved OUTFRONT's application for the DIGITAL BILLBOARD PROJECT upon terms and conditions set forth in such approval; and
- W. WHEREAS, the City Council of the CITY has conducted a duly noticed public hearing on the DIGITAL BILLBOARD PROJECT; and
- X. WHEREAS, on [redacted] [date], after conducting duly noticed public hearings, the City Council of the CITY approved the DIGITAL BILLBOARD PROJECT as not subject to and/or exempt from CEQA, and otherwise approved the DIGITAL BILLBOARD PROJECT; and
- Y. WHEREAS, this AGREEMENT will serve the public interest by allowing the CITY to continue its development in a planned manner and promoting business and commerce within the CITY, and will result in an overall reduction of billboards along the surface streets in the CITY; and

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both Parties, the Parties hereto agree as follows:

SECTION 1. RECITALS AND EXHIBITS.

The foregoing recitals are true and correct, express the intent of the Parties, and are incorporated herein as contractual terms. All exhibits to this AGREEMENT are essential to this AGREEMENT and are hereby deemed a part hereof.

SECTION 2. OUTFRONT AND CITY AUTHORITY AND STATUS.

- A. OUTFRONT hereby represents and warrants for the benefit of CITY all of the following:
- i. That the information provided by OUTFRONT in this AGREEMENT is true and accurate to the best of OUTFRONT's knowledge after a diligent inquiry; and
 - ii. That OUTFRONT is a duly organized, validly existing corporation, and is in good standing under the laws of its place of incorporation and is in good standing in the State of California; and
 - iii. That OUTFRONT's signatory to this AGREEMENT is authorized by resolution, bylaws, constitution or other authorization of OUTFRONT, which resolution, bylaw, constitution or other authorization is currently in full force and effect, to execute this AGREEMENT on OUTFRONT's behalf and bind OUTFRONT thereby; and
 - iv. That OUTFRONT is duly authorized to perform or to cause to be performed all of the obligations of OUTFRONT, or OUTFRONT's contractors, subcontractors or other agents, under and in accordance with the terms and conditions of this AGREEMENT.
- B. CITY hereby represents and warrants for the benefit of OUTFRONT all of the following:
- i. That the information in this AGREEMENT is true and accurate to the best **of the CITY's knowledge after a diligent inquiry; and**
 - ii. **That the CITY's execution of this AGREEMENT is authorized by** resolution, which resolution, is currently in full force and effect, to execute **this AGREEMENT on the CITY'S behalf and bind** the CITY thereby;
 - iii. That the CITY has legal or equitable interest in the PROPERTY sufficient to authorize OUTFRONT to construct, operate and maintain the DIGITAL BILLBOARD at that location, and that no liens, easements, interests, covenants, conditions, restrictions, reservations, or encumbrances affect the PROPERTY that would impair the DIGITAL BILLBOARD PROJECT; and
 - iv. That the CITY is duly authorized to perform or to cause to be performed all of the obligations of the CITY under and in accordance with the terms and conditions of this AGREEMENT.

SECTION 3. EFFECTIVE DATE OF AGREEMENT.

The effective date of this AGREEMENT shall be later of the effective date of the resolution approving this AGREEMENT.

SECTION 4. TERM OF AGREEMENT/EARLY TERMINATION.

- A. The term of this AGREEMENT shall commence on the EFFECTIVE DATE and end on the date which is thirty (30) years after the COMMENCEMENT DATE (as hereinafter defined). **The “COMMENCEMENT DATE” shall be the first calendar day of the month following the date on which all of the following have occurred: (a) this Agreement is fully executed and effective; (b) OUTFRONT has obtained all local and state governmental permits and approvals and any other required approvals, permits, leases, licenses, environmental review determinations, and other entitlements necessary for the DIGITAL BILLBOARD PROJECT (“APPROVALS”); and (c) the DIGITAL BILLBOARD is fully OPERATIONAL with a permanent power supply. “OPERATIONAL” means the Digital Billboard is capable, legally and functionally, of displaying advertising on the digital displays. This AGREEMENT shall terminate twenty (20) years from the date of the COMMENCEMENT DATE.**
- B. This AGREEMENT may be terminated by OUTFRONT early in the following circumstances:
- i. OUTFRONT loses its legal or equitable right to use the PROPERTY;
 - ii. There is a legal challenge that is filed, challenging this AGREEMENT or any APPROVALS, and the legal challenge is sustained;
 - iii. **In OUTFRONT’s reasonable discretion, OUTFRONT is unable to obtain the APPROVALS within 365 days of the EFFECTIVE DATE;**
 - iv. **If OUTFRONT, in Outfront’s reasonable estimation, is prevented by law or government order or action from constructing, operating, or maintaining the DIGITAL BILLBOARD, or otherwise implementing the Project, including but not limited to by the failure of government agencies to issue all APPROVALS or a governmental agency’s decision to condemn the PROPERTY;**
 - v. There is a material diversion of traffic from, or a material reduction or change in the directional flow of traffic on, State Route 94 located near the PROPERTY; or
 - vi. a significant and substantial obstruction of the DIGITAL BILLBOARD **occurs due to a circumstance beyond OUTFRONT’s control and OUTFRONT’s reasonable due diligence cannot result in removal of the obstruction.**
- C. This AGREEMENT may be terminated by CITY early in the following circumstances:

- i. OUTFRONT fails to pay any sum due under this AGREEMENT, subject to default procedures set forth in the aforesaid agreements; or
 - ii. OUTFRONT fails to comply with any of its obligations pursuant to this AGREEMENT, subject to default procedures set forth in the aforesaid agreements; or
 - iii. If **OUTFRONT, in Outfront's reasonable estimation, is prevented by law or** government order or action from constructing, operating, or maintaining the DIGITAL BILLBOARD, or otherwise implementing the Project, including but not limited to by the failure of government agencies to issue **all APPROVALS or a governmental agency's decision to condemn the PROPERTY** in its entirety; or
 - iv. OUTFRONT is unable to obtain the APPROVALS within 365 days of the EFFECTIVE DATE, and so long as the City has undertaken good faith efforts to expeditiously process and consider any applications for APPROVALS submitted by OUTFRONT; or
 - v. There is a legal challenge that is filed, challenging this AGREEMENT or any APPROVALS, and the legal challenge is sustained.
- D. Notwithstanding the above, nothing in this Agreement shall operate as a waiver of any rights CITY or OUTFRONT might have to just compensation and other remedies provided by law.
- E. Upon the expiration or earlier termination of this AGREEMENT,
- i. All entitlements and obligations associated with the DIGITAL BILLBOARD PROJECT shall immediately terminate,
 - ii. OUTFRONT shall, at its sole cost and expense, remove the above-ground portions of the DIGITAL BILLBOARD within ninety (90) days, unless OUTFRONT and CITY have entered into a subsequent written agreement, upon terms mutually acceptable to both Parties, that allows the DIGITAL BILLBOARD to remain.
 - iii. In the event OUTFRONT terminates this AGREEMENT early under this Section 4 and the REMOVED BILLBOARDS have been removed, the CITY agrees that OUTFRONT may restore the REMOVED BILLBOARDS to the configuration in which they existed prior to removal, and shall issue permits for the same.

SECTION 5. BILLBOARD REMOVAL.

The Parties hereto acknowledge and agree that OUTFRONT will remove the REMOVED **BILLBOARDS within 180 days of OUTFRONT's receipt of all required APPROVALS** and such APPROVALS becoming final, irrevocable, and unappealable. Consistent with the above, the Parties agree that OUTFRONT may toll the demolition and removal of the REMOVED BILLBOARDS in the event that there is a legal challenge to this AGREEMENT or to any APPROVAL. The tolling period shall last until the date upon which any legal challenge is resolved such that OUTFRONT may proceed with full implementation of the DIGITAL BILLBOARD PROJECT, unless this AGREEMENT is terminated as set forth in Section 4 of this AGREEMENT, in which case the obligation to

demolish and remove the REMOVED BILLBOARDS become null and void. Except as otherwise provided in this AGREEMENT, upon removal of the REMOVED BILLBOARDS, any right title and interest therein or right to place a billboard, whether by lease, license or other right, at the location of the REMOVED BILLBOARDS shall be forever terminated and shall not be or have been assigned, transferred or given to any other entity, affiliate, subsidiary, person or party by OUTFRONT.

Notwithstanding anything to the contrary, OUTFRONT understands and agrees that under no circumstances may OUTFRONT commence live operations of the DIGITAL BILLBOARD PROJECT until the REMOVED BILLBOARDS have been removed as contemplated in Section 5 of this AGREEMENT.

SECTION 6. BILLBOARD CONSTRUCTION.

The Parties hereto acknowledge and agree that OUTFRONT may construct, operate and maintain the DIGITAL BILLBOARD at the location described in Exhibits B and C, that the DIGITAL BILLBOARD shall be constructed substantially in conformance to the specifications outlined in Exhibits D and E, and that OUTFRONT will at all times operate and maintain the DIGITAL BILLBOARD in compliance with this AGREEMENT and all applicable state and local laws.

SECTION 7. COMMUNITY SERVICE MESSAGING

Outfront Media shall provide display time free of charge to the City on the Digital Billboard for City-sponsored event announcements and non-commercial public service **announcements to promote the civic interests of the CITY (“COMMUNITY SERVICE MESSAGING”)** on a space-available basis, as determined by Outfront Media in its sole and absolute **discretion. Consistent with OUTFRONT’s policies, when reasonably** necessary, OUTFRONT shall utilize the advertising space on the DIGITAL BILLBOARDS for regional emergency announcements and alerts, Amber Alerts, and wanted criminal postings from law enforcement, without charge and in accordance with applicable local, regional, and/or state protocols

SECTION 8. OUTFRONT'S RIGHTS AND OBLIGATIONS.

- A. OUTFRONT obligations under this AGREEMENT are contingent upon (i) OUTFRONT receiving all required APPROVALS, including but not limited to APPROVALS from CALTRANS and the CITY; and (ii) the foregoing APPROVALS being final, irrevocable, and unappealable.
- B. CITY agrees that it will reasonably assist OUTFRONT in connection with any APPROVALS required from the CITY and Caltrans, and any other governmental agencies, but OUTFRONT understands and agrees that the obligation and burden of obtaining said APPROVALS is solely an obligation and burden of OUTFRONT.
- C. Provided that OUTFRONT submits all necessary documentation satisfactory to the CITY, the CITY will use reasonable efforts to timely issue all APPROVALS

necessary for OUTFRONT's timely compliance with this AGREEMENT including, but not limited to, construction of the DIGITAL BILLBOARD and permanent removal of the REMOVED BILLBOARDS.

- D. OUTFRONT may replace a DIGITAL DISPLAY on the DIGITAL BILLBOARD **with a static billboard face from time to time in OUTFRONT's sole and absolute discretion.**

SECTION 9. RELATIONSHIP OF PARTIES.

Under no circumstances shall this AGREEMENT be construed as one of agency, partnership, joint venture or employment between OUTFRONT and the CITY. Each party acknowledges and agrees that it neither has, nor will it give the appearance or impression of having, any legal authority to bind or commit the other Party in any way, notwithstanding that this AGREEMENT is binding on and between the Parties.

SECTION 10. INSURANCE REQUIREMENTS.

OUTFRONT shall maintain insurance consistent with the coverage shown on the Certificate of Liability Insurance attached hereto as Exhibit F, attached hereto.

SECTION 11. INDEMNITY, HOLD HARMLESS, AND DEFEND OBLIGATIONS.

- A. OUTFRONT agrees to indemnify, defend, and hold harmless the CITY and its elected and appointed councils, boards, commissions, officers, agents, employees and **representatives (collectively, the "CITY INDEMNITEES") from any and all claims, costs (including reasonable legal fees and costs) and liability for any claims (collectively, "CLAIMS") which arise directly or indirectly as a result of any actions or inactions by OUTFRONT, or any actions or inactions of OUTFRONT's contractors, subcontractors, agents or employees, in connection with the construction, improvement, operation or maintenance of the DIGITAL BILLBOARD.**
- B. OUTFRONT agrees to indemnify, defend, and hold harmless the CITY INDEMNITEES from any and all claims, costs (including reasonable legal fees and costs) and liability for any legal or equitable action or proceeding to challenge the validity of any provision of this Agreement or the validity or implementation of the APPROVALS, including this AGREEMENT, by a person or entity that is not Party to this AGREEMENT. In the event an aforesaid challenge is filed, the CITY shall promptly notify OUTFRONT of such claim and CITY shall cooperate with the efforts of OUTFRONT to defend such action or proceeding.
- C. The City will not voluntarily assist the opposing party in any such claim or take any position adverse to OUTFRONT in connection with such claim.

Main Street
Lemon Grove, CA 91945

With copies to: Kristen S. Steinke
City Attorney, City of Lemon Grove
Lounsbery Ferguson Altona & Peak
960 Canterbury Place, Suite 300
Escondido, California 92025

TO OUTFRONT: Outfront Media LLC
Attention: Collin Smith
1731 Workman Street
Los Angeles, CA 90031

With copies to: Rich Sauer
EVP, General Counsel
Outfront Media
405 Lexington Avenue
New York, NY 10174

and

Miller Starr Regalia
Attention: Anthony Leones
1331 N. California Boulevard, Fifth Floor
Walnut Creek, CA 94596

Either of the Parties may change its address by sending notice of the new address to the other pursuant to this section.

SECTION 13. ENTIRE AGREEMENT.

This AGREEMENT and the LEASE AGREEMENT, including exhibits, represent the entire understanding of the Parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder.

SECTION 14. MISCELLANEOUS PROVISIONS.

- A. The parties agree that this AGREEMENT shall be governed and construed in accordance with the laws of the State of California. In the event that suit shall be brought by either party to this AGREEMENT, the parties agree that venue shall be vested exclusively in San Diego County Superior Court, or, where otherwise

appropriate, exclusively in the United States District Court, Southern District of California.

- B. The headings of the sections and subsections of this AGREEMENT are inserted for convenience only. They do not constitute a part of this AGREEMENT and shall not be used in its construction.
- C. No provision of this AGREEMENT will be deemed waived by either Party unless expressly waived in a writing signed by the waiving Party. No waiver shall be implied by delay or any other act or omission of either Party. The waiver by any party to this AGREEMENT of a breach or violation of any provision of this AGREEMENT shall not be deemed a continuing waiver, a waiver of any other term or condition contained herein, or a waiver of any subsequent breach or violation of that or any other provision of this AGREEMENT.
- D. Any and all exhibits that are referred to in this AGREEMENT are incorporated herein by reference and are deemed a part of this AGREEMENT.
- E. This AGREEMENT may be amended only by written agreement executed by both Parties.
- F. If a court of competent jurisdiction adjudges any provision of this AGREEMENT as void or unenforceable, the remaining provisions shall not be affected thereby and shall remain in full force and effect to the maximum possible extent. Notwithstanding, if any material term or condition of this Agreement is for any reason held by a final judgment of a court of competent jurisdiction to be invalid, and if the same constitutes a material change in the consideration for this Agreement, then either Party may elect in writing to invalidate this entire Agreement, and thereafter this entire Agreement shall be deemed null and void and of no further force or effect following such election
- G. No person other than the CITY, OUTFRONT, and their respective successors is intended to or shall have any right or claim under this AGREEMENT, this AGREEMENT being for the sole benefit and protection of the Parties and their respective successors. Similarly, no amendment or waiver of any provision of this AGREEMENT shall require the consent or acknowledgment of any person not a Party or successor to this AGREEMENT.
- H. Where this AGREEMENT refers to the CITY and no officer of the CITY is named, the City Manager of the CITY shall have the authority to act on behalf of the CITY.
- I. The provisions of this AGREEMENT shall be binding upon and inure to the benefit of the successors and assigns of each Party.
- J. If the DIGITAL BILLBOARD or the PROPERTY, or any part thereof, is condemned by proper authorities; taken without the exercise of eminent domain,

whether permanently or temporarily; or any right-of-way from which the DIGITAL BILLBOARD is visible is relocated, OUTFRONT shall have the option to terminate this Agreement consistent with the terms of Section 4. The Parties agree that the DIGITAL BILLBOARD is owned solely by OUTFRONT and that the underlying leasehold interest in the Property belongs solely to OUTFRONT, and the CITY shall assert no rights in such interests held by OUTFRONT, though the CITY shall not be prevented from asserting any rights against the condemning authority. Notwithstanding the above, nothing in this AGREEMENT shall operate as a waiver of any rights OUTFRONT might have to just compensation and other remedies provided by law in the event of an eminent domain or similar action.

- K. This AGREEMENT may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute a single instrument.
- L. In the event either Party is in default of any provision hereof, the non-defaulting Party, as a condition precedent to the exercise of its remedies, shall be required to give the defaulting Party written notice of the same pursuant to this AGREEMENT.
 - i. Unless otherwise specified herein, the defaulting Party shall have thirty (30) calendar days from the receipt of such notice to cure the default, or, if the default cannot be cured within thirty (30) calendar days, to commence and diligently pursue a cure; provided, however, that if such default is not capable of being cured within such thirty (30) business day period but a cure is commenced within such thirty (30) business day period, the defaulting Party shall have such additional time to complete the cure as is reasonably necessary. If the defaulting Party timely cures the default, then the default shall be deemed waived and this AGREEMENT shall continue in full force and effect.
 - ii. If OUTFRONT is in default of this AGREEMENT and/or is in default of any payment provision under the DEVELOPMENT AGREEMENT with respect to the DIGITAL BILLBOARD PROJECT and does not timely cure such payment default, the CITY shall be entitled to pursue all of its remedies available at law or equity, including, but not limited to, termination of this AGREEMENT and specific performance, and in the event the CITY elects to terminate this AGREEMENT, OUTFRONT shall remove the above-ground portions of the DIGITAL BILLBOARD as provided below.
- M. Except as otherwise expressly provided in this Agreement, if the performance of any act required by this AGREEMENT to be performed by either OUTFRONT or CITY is prevented or delayed because of a FORCE MAJEURE EVENT, as defined below, then the time for performance will be extended for a period equivalent to the period of delay, and performance of the act during the period of delay will be excused. An extension of time for any such FORCE MAJEURE EVENT will be for the

period of the enforced delay and will commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other Party within thirty (30) days of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by **the mutual agreement of CITY and OUTFRONT. "FORCE MAJEURE EVENT," for purposes of this Agreement, means a cause of delay that is not the fault of the Party who is required to perform under this Agreement and is beyond that Party's reasonable control, including the elements (including floods, earthquakes, windstorms, and unusually severe weather), acts of God, fire, explosions, energy shortages or rationing, riots, acts of terrorism, war or war-defense conditions, acts of any public enemy, failure of transportation due to no fault of the Parties, unavailability of equipment, supplies, materials or labor when such unavailability occurs despite the applicable Party's good faith efforts to obtain same (good faith includes the present and actual ability to pay market rates for said equipment, materials, supplies and labor), strikes of employees other than OUTFRONT's, freight embargoes, epidemics, litigation, and the actions or inactions of any governmental entity or that entity's agents.**

N. In the event of litigation, the prevailing Party in any action filed to enforce this Agreement will be entitled to recover costs, attorneys' fees, and all other expenses incurred or arising out of any effort to enforce this Agreement.

WITNESS THE EXECUTION HEREOF as of the date first hereinabove written.

CITY:

CITY OF LEMON GROVE

By: _____
Lydia Romero, City Manager

ATTEST:

Shelley Chapel, City Clerk

APPROVED AS TO FORM:

Kristen Steinke, City Attorney

OUTFRONT:

OUTFRONT OUTDOOR, LLC

By: _____

EXHIBIT A
REMOVED BILLBOARDS

REMOVED BILLBOARDS:

- Billboard (two faces) located on Broadway Street, 100 feet west of West Street. APN (479-052-14-00).
- Billboard (two faces) located on Broadway Street, 60 feet west of Citrus Street, APN (479-042-14-00).

EXHIBIT B
DIGITAL BILLBOARD ELEVATION



EXHIBIT C

DIGITAL BILLBOARD SPECIFICATIONS

CITY and OUTFRONT agree that the development of the DIGITAL BILLBOARD shall be undertaken substantially in accordance with the terms of the Agreement, which include the following:

1. Project. The DIGITAL BILLBOARD consists of one (1) approximately 65 feet tall, “bulletin” size freeway-oriented billboard with a total of two (2) digital displays (each display measuring 14’ x 48’) within the Site.

2. The DIGITAL BILLBOARD’s brightness shall be limited to the 0.3 foot- candles over ambient light levels at 250 feet, with automatic diming capabilities.

3. OUTFRONT shall provide the CITY’s Planning Manager or designee with a designated OUTFRONT employee’s phone number and/or email address for emergencies or complaints that will be monitored 24 hours a day/7 days per week.

4. The DIGITAL DISPLAY shall be placed in substantial conformance with the following illustration:

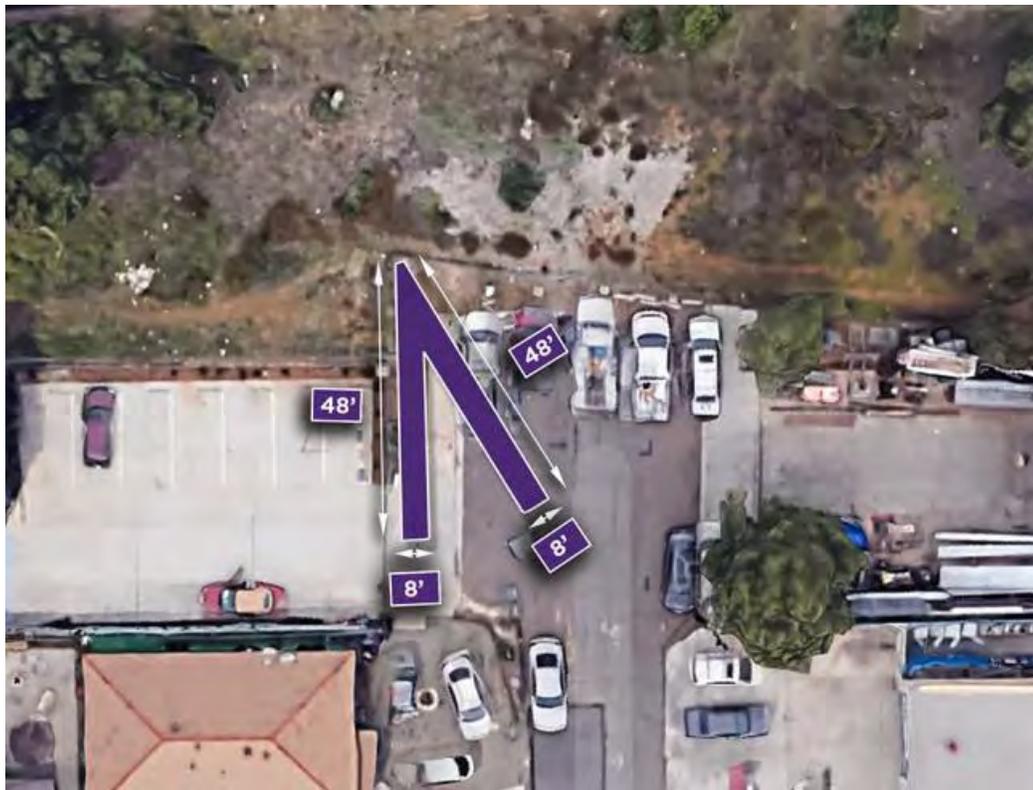


EXHIBIT D

PROPERTY LEGAL DESCRIPTION

J-18614

SIGNAGE EASEMENT
LEGAL DESCRIPTION

That portion of Olive Street, being a portion of Lot 10 in Subdivision No. 3 of Lot 12 of the Rancho Mission of San Diego in the City of Lemon Grove, County of San Diego, State of California, according to licensed Survey Map thereof No. 5, filed in the Office of the County Recorder of San Diego County March 23, 1852 described as follows:

BEGINNING at the Southeast corner of that real property described in deed recorded July 15, 2016 as Document No. 2016-0355920, Official Records filed in the Office of the County Recorder of San Diego County; thence along the southerly line of said deed South 89°04' West 16.00 feet to the westerly line of that deed to the City of Lemon Grove recorded January 15, 1992 as Document No. 1992-0022781, Official Records, said point being the TRUE POINT OF BEGINNING; thence along said westerly line and its prolongation North 00°38'00" East 52.36 feet to an angle point in the southerly right-of-way line of State Highway 94 as shown on State of California Transportation Agency Drawing No. 37541.1 dated June 1970; thence along said line 02°57'03" West 17.83 feet; thence continuing along said line South 82°06'45" East 83.94 feet to the northerly corner of that property described in deed recorded May 24, 2001 as Document No. 2001-0335523, Official Records; thence along the westerly line of said deed, South 37°38'02" West 30.03 feet to the northerly corner of that property described in deed recorded October 10, 2001 as Document No. 2001-0732697, Official Records; thence along the easterly line of said deed South 00°37'30" West 30.25 feet to the southeasterly corner of said deed; thence along the southerly line of said deed South 89°29'42" West 13.53 feet; thence leaving said southerly line of said deed South 82°42'17" West 34.81 feet to the TRUE POINT OF BEGINNING.

The above description is based on record data and does not reflect a field survey by Rick Engineering Company. This description was prepared solely to facilitate the issuance of a title report.

 7/3/2019

Patrick A. McMichael, L.S. 6187

Date

PAM:SJS\M:\18614_outfront\Survey\Legals\18614_LegalDescription01



EXHIBIT E
PROPERTY MAP

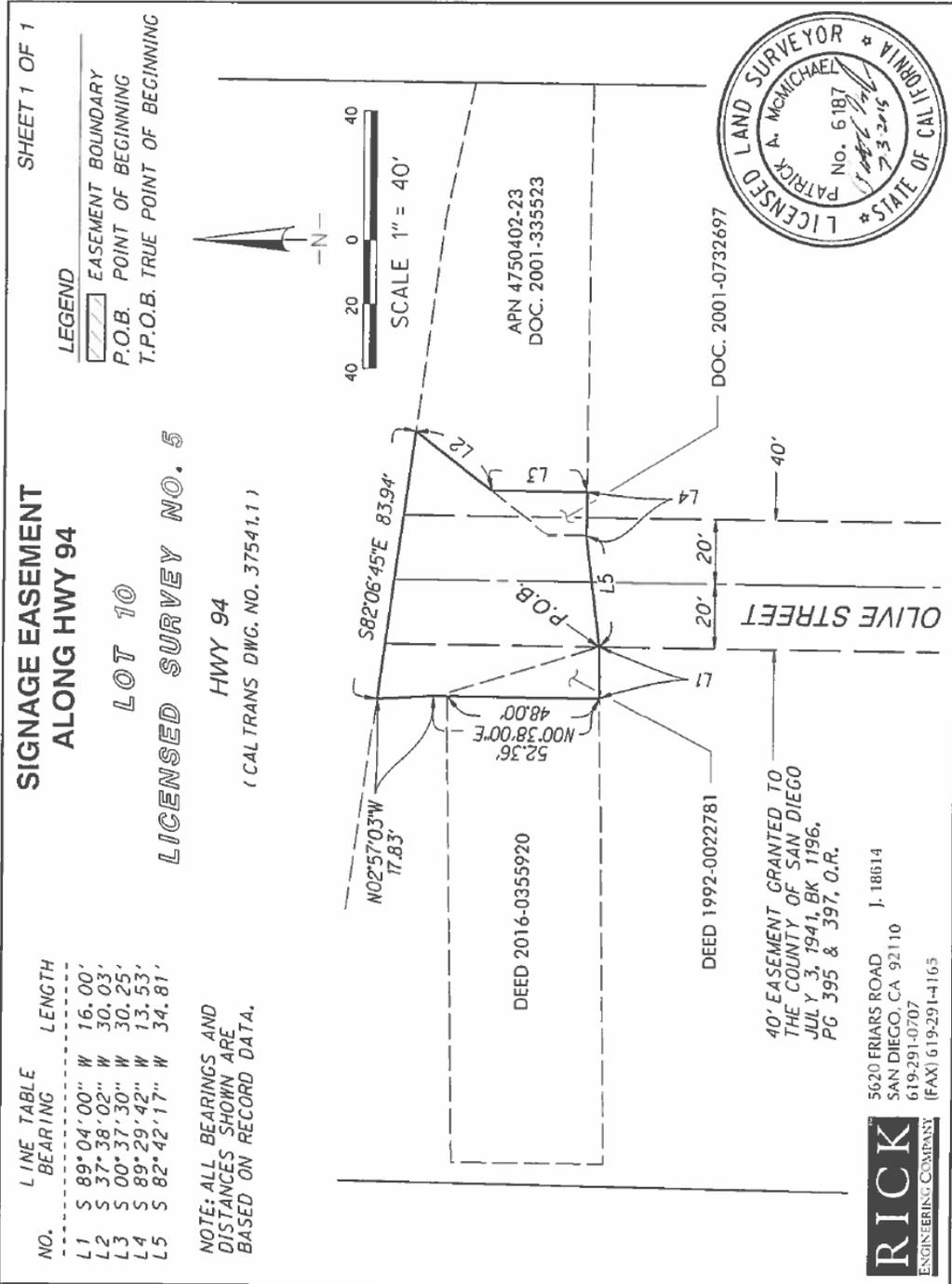


EXHIBIT F

CERTIFICATE OF LIABILITY INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/11/2018

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

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

PRODUCER Aon Risk Services Northeast, Inc. New York NY Office 199 Water Street New York NY 10038-3551 USA	CONTACT NAME PHONE (888) 283-7122 FAX (800) 363-0105 (LIC. No. Exp.) (LIC. No.) E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
INSURED Outfront Media LLC 405 Lexington Avenue 17th Floor New York NY 10174 USA	INSURER A: Illinois National Insurance Co	NAIC # 25817
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

Holder Identifier :

COVERAGES CERTIFICATE NUMBER: 570071623017 REVISION NUMBER:

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

INSR. LTR.	TYPE OF INSURANCE	ACC. SUBR. (INSO. WVD)	POLICY NUMBER	POLICY EFF. (MM/DD/YYYY)	POLICY EXP. (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR DENY AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER					EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea. occ/term) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED <input type="checkbox"/> AUTOS ONLY HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea. accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION					EACH OCCURRENCE AGGREGATE
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NY) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A			<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT E.L. DISEASE-BA EMPLOYEE E.L. DISEASE-POLICY LIMIT
A	E&O-NPL-Primary		014570416 Claims-Made SIR applies per policy terms & conditions	06/01/2018	06/01/2019	E&O incl Cyber Liab \$10,000,000

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

CERTIFICATE HOLDER OUTFRONT Media LLC	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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Certificate No : XXXXXXXXXX

BILLBOARD LEASE

between

CITY OF LEMON GROVE,
a California Municipal corporation
(“City”)

and

OUTFRONT MEDIA LLC,
a Delaware limited liability company
(“Tenant”)

Billboard Lease

This Billboard Lease (“Lease”), is effective as of _____, 2019 (the “Effective Date”), and is between the City of Lemon Grove, a California municipal corporation (“City”), and Outfront Media LLC, a Delaware limited liability company (“Tenant”).

RECITALS

A. City owns that certain real property (the “Premises”) legally described in Exhibit A and depicted on Exhibit B, and located in the City of Lemon Grove, County of San Diego, State of California, in proximity to State Route 94.

B. State Route 94 is a heavily traveled route for commuters, tourists, and commercial vehicles traveling through the community daily to reach various destinations in Southern California and the State of California.

C. The City has determined that advertising on the Digital Billboard (as defined below) is in the City’s best interest and Tenant is willing to make an effort to obtain Permits for the construction and operation of the Billboard Project (as defined below). “Digital Billboard” means that certain two-sided LED electronic sign panel, as shown on the attached Exhibit C, which is to be attached, subject to the terms and conditions of this Lease, to the Sign Structure (as defined below). “Sign Structure” means the portion of the Billboard Project other than the Digital Billboard, and it includes all ancillary equipment and utilities installed on the Premises by Tenant in connection with the construction and operation of the Billboard Project. The Sign Structure is more particularly described in Exhibit C. “Billboard Project” means, collectively, the Digital Billboard and Sign Structure that Tenant will construct on the Premises in accordance with the plans attached as Exhibit C and criteria set forth in this Lease.

D. The Lemon Grove City Council has determined that it is in the best interests of City, and for the common benefit of the citizens residing in the City, to enter into this Lease with Tenant for the construction, operation, and maintenance of the Billboard Project on the Premises.

E. City desires to lease to Tenant, and Tenant desires to lease from City, the Premises, all as further set forth in this Lease.

F. City and Tenant have entered into that certain Billboard Relocation Agreement dated _____ (the “Relocation Agreement”). The recitals set forth in the Relocation Agreement are hereby incorporated into this Lease by reference.

AGREEMENT

ARTICLE 1 REPRESENTATIONS AND WARRANTIES OF PARTIES

The representations and warranties set forth in this Article 1 are made as of the Effective Date.

1.1 Each party represents and warrants to the other that it has the power and authority to enter into this Lease, and that this Lease is the valid and binding obligation of such party and is enforceable against it in accordance with its terms.

1.2 City and Tenant represent and warrant to each other that neither has dealt with any broker in connection with this Lease. City and Tenant shall indemnify the other against, and hold each other harmless from, any claim of, or liability to, any other broker or any party with whom City or Tenant shall have dealt in connection with this Lease.

1.3 City represents that it is fee simple owner of the Premises and that the Premises is not subject to any monetary lien or encumbrance, other than (a) such easements, covenants, conditions, restrictions, reservations and other matters of record; (b) all matters discoverable by physical inspection of the Premises or that would be discovered by an accurate survey of the Premises; and (c) the presence and location of utilities on the Premises, including, but not limited to subsurface water and gas lines. Notwithstanding the foregoing, City represents and warrants to Tenant that, as of the Effective Date, no lien or encumbrance affects the Premises that **would impair Tenant's ability to construct and operate the Billboard Project on the Premises, as contemplated by this Lease.** City shall indemnify, protect, defend and hold harmless Tenant from any and all claims, liabilities, judgments, causes of action, damages, costs and expenses (including **reasonable attorneys' and experts' fees**), **caused by or arising in connection with any inaccuracies and/or misrepresentations (intentional or negligent) set forth in this Section 1.3,** and the foregoing indemnification shall survive any such termination of this Lease. With respect to the foregoing obligation to indemnify and defend, the Parties agree that Tenant may appoint its own independent counsel subject to the approval of City (not to be unreasonably withheld, conditioned or delayed).

1.4 **Without limiting City's other representations and warranties set forth in this Lease, City represents and warrants to Tenant that: (i) to City's current knowledge there are no pending or threatened actions, suits or proceedings before any court or administrative agency against City which could, in the aggregate, adversely affect the Premises or any part thereof, or the ability of City to perform its obligations under this Lease, and City is not aware of any facts which might result in any such actions, suits or proceedings; (ii) City has no knowledge of any security interest encumbering the Premises; (iii) the information in this Lease is true and accurate to the best of City's knowledge after a diligent inquiry; (iv) City's execution of this Lease is authorized by ordinance, which ordinance is currently in full force and effect; and (v) City is duly authorized to perform or to cause to be performed all of the obligations of the City under and in accordance with the terms and conditions of this Lease.**

ARTICLE 2 LEASE OF PREMISES.

2.1 Leasing of the Premises. City hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from City, for the Permitted Uses (as defined below), upon the covenants, terms, and conditions set forth in this Lease.

2.2 Permitting.

2.2.1 **City agrees that Tenant's ability (and obligations hereunder) to develop and operate the Billboard Project is dependent upon Tenant obtaining all Permits (as defined below). City agrees to cooperate with Tenant with respect to Tenant pursuing the issuance of the Permits. Upon any termination, all rights and obligations of City and Tenant will be of no further force or effect except for obligations expressly stated as surviving termination of this Lease. "Permit" shall mean all local and state governmental permits and approvals and any other required permits and approvals necessary for the development and operation of the Billboard Project; provided, no Permit shall be deemed to be received by, or issued to, Tenant if (A) there exists any unexpired appeal, contest, challenge or review periods for the issuance of such Permit, (B) an appeal, contest, challenge (including, without limitation, a Project Approval Challenge (as defined below)) or review has been filed with respect to such Permit and the same has not been resolved on terms satisfactory to Tenant in its good faith business judgment, or (C) such Permit is only available with conditions unacceptable to Tenant in its good faith business judgment. "Project Approval Challenge" shall mean the initiation by any individual person or entity of any legal or equitable action or proceeding to challenge the validity of any provision of this Lease, or the validity or implementation of any Permit.**

2.2.2 Tenant shall prepare complete plans and specifications for the Billboard Project as set forth in Exhibit C, working closely with City to develop plans and specifications that are mutually acceptable to the City and Tenant (the "Plans"). **Tenant shall submit the Plans to City for final approval ("City Initial Concept Approval"), which approval by City shall not be unreasonably denied, conditioned or delayed.** The Billboard Project shall be designed to comply with all applicable laws.

2.2.3 **Within thirty (30) days after Tenant's receipt of the City Initial Concept Approval, Tenant must apply for and diligently pursue all necessary planning, building, electrical and other Permits for the Billboard Project that are required by the City (the "City Permits"). The date upon which Tenant first submits its application for the City Permits shall be referred to herein as the "City Permit Submittal Date." City will diligently process Tenant's applications for all City Permits. If Tenant does not obtain the City Permits on or before the first-year anniversary of the City Permit Submittal Date, then Tenant shall have the right to terminate this Lease.**

2.2.4 **Within thirty (30) days after Tenant's receipt of the City Permits, Tenant must initiate the application process for, and thereafter diligently pursue, Permits for the Billboard Project (the "Caltrans Permits") that are required by the California Department of Transportation ("Caltrans"). The date upon which**

Tenant first submits its application for the Caltrans Permits shall be referred to **herein as the “Caltrans Permit Submittal Date.”** **During the Term, Tenant** shall perform all obligations under the Caltrans Permits at no cost to City. If Tenant does not obtain the Caltrans Permits on or before the first-year anniversary of the Caltrans Permit Submittal Date, then Tenant and/or City shall have the right to terminate this Lease; provided, if Tenant has been pursuing the Caltrans Permits with commercially reasonable and diligent efforts, then Tenant shall have the right to extend such period to obtain the Caltrans Permits by two (2) additional six (6) month periods, by providing notice to City prior to the expiration of the applicable period.

2.2.5 Tenant shall begin the work of design, construction and improvement of the Billboard Project as soon as practicable after the Effective Date and Tenant shall diligently pursue such work to completion without unnecessary interruption so that the Digital Billboard is operational by the one hundred eightieth (180th) day after the date on which all Permits are obtained. Tenant will be excused, however, for any delays in beginning or completing such work that are caused by a Force Majeure Event (as defined below). Tenant must use reasonable diligence to avoid such delays and to resume work as promptly as possible after such a delay.

2.3 Permitted Access. Notwithstanding anything herein to the contrary, from the Effective Date through the expiration, or earlier termination, of this Lease, Tenant will be permitted to access and use the Premises for (a) any and all purposes in connection with the design and construction of the Billboard Project and any other work in order to make the Digital Billboard Operational (as defined below), and (b) any other legally **permitted use consistent with this Lease.** “Operational” means the Digital Billboard is capable, legally and functionally, of displaying advertising content in the manner intended by Tenant under this Lease.

ARTICLE 3 TERM.

3.1 Term. **The term of this Lease (the “Term”) will begin on the Operational** Date (as defined below) and, unless Tenant exercises one or both of its Options to extend the Term for the Option Term(s), will expire on the twentieth (20th) anniversary thereof. Notwithstanding anything herein to the contrary, for the period beginning on the Effective Date through the Operational Date, City shall permit Tenant and its employees, agents, consultants and representatives to enter the Premises for the purpose of commencing any site investigations and inquiries that Tenant reasonably deems appropriate or necessary in connection with the design and construction of the Billboard Project and any other work in order to make the Digital Billboard Operational. City and **Tenant acknowledge and agree that “Term”, as used in this Lease, shall include any** Option Term.

3.2 Option Term. City hereby grants to Tenant **the right (each, an “Option”) to** extend the Term for two (2) additional successive extension periods of five (5) years each **(each such extension period referred to as an “Option Term”). Each Option shall be** exercised by written notice to City at least six (6) months prior to the end of the initial

Term, or any prior Option Term, stating that Tenant elects to exercise an Option. **Notwithstanding the foregoing, Tenant’s right to exercise any Option to extend the Term for any Option Term will not lapse because of Tenant’s failure to exercise any Option to extend unless City first has given Tenant notice that Tenant has failed to exercise such Option to extend prior to the period provided above, and Tenant fails to exercise such Option to extend within fifteen (15) days following Tenant’s receipt of City’s notice. Each Option Term shall be upon the same terms of this Lease.**

3.3 Expiration of Lease; Holding Over. This Lease will expire at the end of the Term. If Tenant holds over on the Premises after the expiration of the Term with the consent of City, such holding over will be construed to be only a tenancy from month to month, subject to all the covenants, conditions and obligations contained in this Lease that applied immediately prior to the expiration of the Term. If Tenant does hold over on the Premises after the Term, then Tenant agrees to pay City as monthly rental an amount which is equal to 1/12th of the annual Rent paid by Tenant to City during the last year of the Term. As used in this Lease, “Rent” means, collectively, the MAG and, as applicable, Percentage Rent described in Article 4.

ARTICLE 4 RENT.

4.1 Rent

4.1.1 Minimum Annual Guarantee (MAG). Each year during the Term, and commencing on the first day that the Digital Billboard is Operational (the “Operational Date”), **and on a monthly basis, Tenant shall pay City the amounts set forth below (the “MAG”), and in accordance with the terms set forth in this Section 4.1.**

Term	Monthly MAG	Annual MAG
1st Lease Year	\$27,083.33	\$325,000.00
2nd Lease Year	\$27,895.83	\$334,750.00
3rd Lease Year	\$28,732.75	\$344,793.00
4th Lease Year	\$29,594.67	\$355,136.00
5th Lease Year	\$30,482.50	\$365,790.00
6th Lease Year	\$31,397.00	\$376,764.00
7th Lease Year	\$32,338.92	\$388,067.00
8th Lease Year	\$33,309.08	\$399,709.00
9th Lease Year	\$34,308.33	\$411,700.00

10th Lease Year	\$35,337.58	\$424,051.00
11th Lease Year	\$36,397.71	\$436,772.53
12th Lease Year	\$37,489.64	\$449,875.71
13th Lease Year	\$38,614.33	\$463,371.98
14th Lease Year	\$39,772.76	\$477,273.14
15th Lease Year	\$40,965.94	\$491,591.33
16th Lease Year	\$42,194.92	\$506,339.07
17th Lease Year	\$43,460.77	\$521,529.24
18th Lease Year	\$44,764.59	\$537,175.12
19th Lease Year	\$46,107.53	\$553,290.37
20th Lease Year	\$47,490.76	\$569,889.08
21st Lease Year*	\$48,915.48	\$586,985.75
22nd Lease Year*	\$50,382.94	\$604,595.33
23rd Lease Year*	\$51,894.43	\$622,733.19
24th Lease Year*	\$53,451.27	\$641,415.18
25th Lease Year*	\$55,054.80	\$660,657.64
26th Lease Year*	\$56,706.45	\$680,477.37
27th Lease Year*	\$58,407.64	\$700,891.69
28th Lease Year*	\$60,159.87	\$721,918.44
29th Lease Year*	\$61,964.67	\$743,575.99
30th Lease Year*	\$63,823.61	\$765,883.27

* Payable only if Tenant exercises its Option(s) to extend the Term for the applicable Option Term.

4.1.2 Manner of Payment. An annual prorated share of the MAG is due and payable on a monthly basis, within ten (10) days following the beginning of each calendar month occurring thereafter without notice, demand, offset or deduction (except as set forth in this Lease). Tenant shall remit the MAG to City

at the address designated in Section 12.2 below, or at such other address as City may designate from time to time in writing to Tenant for the payment of Rent. For any portion of the Term that is less than a full calendar month, the MAG shall be prorated based on the number of days in the Term occurring during such calendar month and actual number of days in such calendar month.

4.1.3 Late Charge. If Tenant fails to pay any installment of MAG within ten (10) calendar days after the same is due and payable, such unpaid amount will be subject to a late payment charge equal to two percent (2%) of the unpaid amount in each instance; provided, however, Tenant shall not be assessed with the foregoing late payment charge with respect to the first (1st) late payment in any consecutive twelve (12) month period unless and until Tenant fails to make such payment to City within seven (7) business days after written notice from City that it failed to receive such amounts within the time period set forth above. Following the first (1st) late payment in any calendar year, no notice by City shall be required for purposes of collecting a late payment charge. The late payment charge has been agreed upon by City and Tenant, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that City will incur as a result of any such failure by Tenant, the actual costs thereof being extremely difficult—if not impossible—to determine. The late payment charge constitutes liquidated damages to compensate City for its damages resulting from such failure to pay, and Tenant shall promptly pay such charge to City together with any unpaid interest.

4.1.4 Default Interest. If any MAG is not paid within ten (10) calendar days following the due date, such unpaid amount will bear simple interest at the rate of 10% per year or the maximum permitted by law, whichever is lower (“Default Rate”) **from the due date until paid. However, interest will not be payable on late charges incurred by Tenant, nor on any amounts on which late charges are paid by Tenant to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge.** Payment of interest will not excuse or cure any default by Tenant.

4.2 Additional Consideration

4.2.1 Percentage Rent. If fifty percent (50%) of the Annual Net Revenue (as defined below) for a completed Lease Year (as defined below) exceeds the **MAG for such Lease Year (the difference being referred to herein as “Percentage Rent”), then Tenant shall pay to City, in addition to the MAG, within thirty (30) days after the end of the relevant Lease Year, and to the extent applicable, the Percentage Rent.** “Lease Year” **means the consecutive 12-month period commencing on the Operational Date, and each consecutive 12-month period occurring thereafter during the Term.** “Annual Net Revenue” **means all income actually received by Tenant in connection with the sale of advertising space on the Digital Billboard (less any commissions paid by Tenant to advertising agencies in connection with advertising on the Digital Billboard, not to exceed 16-**

2/3%), provided the foregoing income shall not include the value of any in-kind usage of the Digital Billboard by the City pursuant to this Lease.

4.2.2 Reports. Tenant shall furnish to City an annual statement of Annual Net Revenue within thirty (30) days after the end of each Lease Year.

4.2.3 Inspection. City, at its sole option, will be entitled, from time to time during the Term (but not more than once during any Lease Year) and during normal business hours and with prior written notice to Tenant, to inspect, examine, copy and audit Tenant's books, records and cash receipts as related to Annual Net Revenue. Tenant shall cooperate fully with City and City's agents in making the examination. If such inspection shows that there is a deficiency in the payment of any Percentage Rent, then Tenant shall promptly upon notice pay the deficiency to City which payment will not require any penalty or other late fee. City will pay the costs of the inspection unless the inspection shows that Tenant understated Annual Net Revenue by more than five (5%) percent in which case Tenant will pay all reasonable out-of-pocket costs paid to third party consultants and incurred by City in connection with the inspection.

4.2.4 City Usage. To the extent that commercial advertising time on the Digital Billboard is unsold and available, City shall have the right to use up to eleven percent (11%) of the total advertising time for the Digital Billboard (such usage "City Usage"). **Content displayed on the Digital Billboard in connection with City Usage shall be displayed (subject to the terms of this Lease) during the operation of the Digital Billboard in increments, at the times of day and otherwise in the same manner as the commercial advertising displayed by Tenant on the Digital Billboard. Subject to the terms of this Lease, City may use such time to promote any purpose that City, in its sole discretion, determines best serves the needs of the City and residents, including but not limited to advertising City events and programs. City will submit "camera ready" artwork to Tenant, at no cost to Tenant, for display purposes. City agrees that for any City Usage pursuant to this Section 4.2.4:** (x) City will provide Tenant with prior written notice of its desire for City Usage, (y) City will provide Tenant with the copy or text of such messages not less than ten (10) business days prior to the date such messages are to appear on the Digital Billboard, and (z) City Usage shall be limited to messages for the civic and public purposes described in this Section 4.2.4 and will not be used directly or indirectly for any types of messaging or advertising which Tenant would otherwise be able to **sell to third parties in the ordinary course of Tenant's** business. City represents and warrants that all advertising materials and content supplied by City to Tenant for display in connection with City Usage, (i) are owned or duly licensed by City and do not infringe or misappropriate the rights of any other person or entity, (ii) comply with all applicable federal, state, and local laws, rules and regulations and any industry codes or rules by which the parties may be bound and do not contain any obscene, libelous, slanderous or otherwise defamatory materials or refer in an offensive manner to the gender, race or ethnicity of any individual or group; (iii) are not false; and (iv) do not infringe upon any copyright, trademark or other intellectual property or privacy right of

any third party. City hereby agrees to indemnify, defend and save harmless Tenant against any and all claims, liabilities, losses, damages, fees and expenses arising out of or in connection with the City Usage, including but not limited to any claim for defamation, or infringement of any copyright, trademark, or other intellectual **property or privacy right and reasonable attorneys' fees and expenses incurred in** defending any such claims.

4.2.5 Emergency Notifications. Without any offset in the City Usage described above and at no cost to the City and as further consideration for the use and occupancy of Premises, Tenant shall make the Digital Billboard available to **Caltrans and the California Highway Patrol for purposes of "Amber Alerts" and** for emergency or disaster notifications by local, state or federal agencies.

ARTICLE 5 USE OF PREMISES.

5.1 Condition of Premises. The Premises and all improvements thereon, are **being leased to Tenant in its current, existing, "AS IS" condition. City makes no** representations or warranties of any kind, express or implied, written or oral, about any **of the following: the physical condition of the Premises; the costs of conducting Tenant's** business on the Premises; the condition of the soils or ground waters of the Premises; or the condition or location of any improvements, such as utilities, on, above or below the Premises.

5.2 Permitted Uses. Subject to any City Usage, Tenant has the exclusive right to display Off-site Outdoor Advertising (as defined below) on the Premises. City will not authorize any other Off-**site Outdoor Advertising on the Premises. Tenant's right to** conduct Off-site Outdoor Advertising on the Premises includes the following uses **(collectively, the "Permitted Uses"):**

(a) Constructing, operating, maintaining, repairing, improving, the Digital Billboard, the Sign Structure, and any utilities installed in connection with the Billboard Project.

(b) Installing and maintaining utility wires, poles, cables, conduits, and pipes over or under the Premises from the nearest accessible public right-of-way that support the permitted operations of the Billboard Project.

(c) All rights of ingress and egress over the Premises that Tenant needs to access the Billboard Project.

(d) The use of the Billboard Project or any portion thereof, for any lawful purpose related to outdoor advertising.

(e) Tenant may sublease the Premises for telecommunications facilities on the Sign Structure with the written approval of the City and with any such revenue considered part of Annual Net Revenues. Such telecommunications facilities shall be **"stealth" and shall not affect the aesthetic or structural integrity of the Billboard Project.**

“Off-site Outdoor Advertising” means advertising content that directs attention to a business, profession, commodity, service or entertainment which is conducted, sold or offered at a location other than on the same lot or parcel as the Digital Billboard.

5.3 Prohibited Uses.

5.3.1 Hazardous Substances. Neither Tenant nor any of Tenant’s representatives or agents may use, handle, store, transport, treat, generate, release or dispose of any Hazardous Materials (as defined below) anywhere in, on, under or about the Premises or any improvements thereon. Notwithstanding the foregoing, Tenant may use, handle, store, transport, treat, generate, release or dispose of any Hazardous Materials in such limited amounts as are customarily used to renovate, operate, maintain, repair, improve, or remove outdoor advertising billboards, and so long as Tenant is at all times in full compliance with all applicable laws. Tenant shall cause any and all Hazardous Materials brought onto, used, generated, handled, treated, stored, released or discharged by Tenant or its authorized representatives on or under the Billboard Project, the Premises, or any improvements thereon to be removed therefrom and transported for disposal in accordance with applicable laws, including Hazardous Materials Laws (as defined below). Tenant shall promptly notify City in writing upon its actual knowledge of: (a) any release or discharge of any Hazardous Material by Tenant or its authorized representatives; (b) any voluntary clean-up or removal action instituted or proposed by Tenant, (c) any enforcement, clean-up, removal or other governmental or regulatory action instituted or threatened against Tenant, or (d) any claim made or threatened by any person against Tenant, the Billboard Project, the Premises, or any improvements thereon relating to Hazardous Materials or Hazardous Materials Laws. Tenant shall also supply to City as promptly as possible, and in any event within five (5) business days after Tenant receives or sends same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Billboard Project, the Premises, any portion thereof, or any improvements thereon or Tenant’s use thereof and concerning Hazardous Materials or Hazardous Materials Laws. In the event Tenant institutes a cleanup or removal action, Tenant shall provide copies of all work plans and subsequent reports submitted to the governmental agency with jurisdiction to **City in a timely manner.** “Hazardous Materials” means any and all pollutants, wastes, flammables, explosives, radioactive materials, hazardous or toxic materials, hazardous or toxic wastes, hazardous or toxic substances, carcinogenic materials or contaminants and all other materials governed, monitored, or regulated by any Federal, State or local Law or regulation, including the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Substances Account Act, and/or the Resources Conservation and Recovery Act, together with asbestos, asbestos-containing materials, **hydrocarbons, polychlorinated biphenyl (“PCB”) or PCB-containing materials,** petroleum, gasoline, petroleum products, crude oil or any fraction, product or by **product thereof.** “Hazardous Materials Laws” means all laws, codes, rules, orders, ordinances, directives, regulations, permits, or other requirements of federal, state, county, municipal or governmental authorities having jurisdiction, now in force or which may hereafter be in force concerning the management, use,

generation, storage, transportation, presence, discharge or disposal of Hazardous Materials.

5.3.2 Unlawful Activities. Tenant may not use or permit the Premises to be used in any way that violates this Lease or any applicable law.

5.4 Unobstructed Use

5.4.1 City shall maintain all landscaping located on property owned by City that is adjacent to the Premises and on property adjacent to the Premises that the City has rights and/or obligations to maintain, and such maintenance shall be conducted to prevent an Obstruction (as defined below) by such landscaping. If Tenant notifies City in writing that any obstruction exists which obstruction impedes or reduces the view of the Digital Billboard from State Route 94 and which did not exist as of the Effective Date (each such obstruction, an "Obstruction"), **Tenant will have the right, in addition to all other remedies granted under this Lease to (a) equitably reduce the MAG, or (b) terminate this Lease.** Notwithstanding the foregoing, if an Obstruction is located on property owned by City or on property for which the City has rights and/or obligations to maintain, then, prior to having the rights set forth in the foregoing sentence, Tenant shall provide notice to City identifying such Obstruction, in which event, Tenant shall have the rights in the foregoing sentence if City fails to remove such **Obstruction within five (5) days of City's receipt of such notice from Tenant.**

5.4.2 **Tenant's exercise of its rights under this Section 5.4** are in addition to any other remedies it may have under this Lease.

ARTICLE 6 CONSTRUCTION AND OPERATION OF BILLBOARD PROJECT

Subject to Section 2.2 above, Tenant shall design, construct, maintain and operate the Billboard Project on the Premises in accordance with the provisions of this Lease.

6.1 Plans and Specifications. At no cost to City, Tenant shall prepare complete plans and specifications for the construction of the Billboard Project consistent with the terms of this Lease.

6.2 Maintenance. Tenant shall be responsible for all the on-going repair, maintenance, installation, and operation costs of the Digital Billboard, the Sign Structure, and related improvements on the Premises at no cost to the City. **As part of Tenant's construction of the Billboard Project, Tenant shall cause the removal of the vegetation on the Premises that exists as of the Effective Date, and cause new vegetation to be planted thereon, all at Tenant's sole cost; provided, however, from and after the completion of such planting, City shall, at City's sole cost, maintain the landscaping in neat order and repair.**

6.3 Damage or Destruction to the Billboard Project

6.3.1 Unsubstantial Construction. Tenant shall promptly repair and restore those portions of the Billboard Project that are damaged or destroyed and

that have not incurred Substantial Destruction. The term “Substantial Destruction” means damage or destruction (a) to the Billboard Project in an amount equal to twenty percent (20%) or more of their replacement cost, as determined by Tenant and subject to confirmation by City or (b) that results in an adverse impact on the operation of the business of Tenant on the Premises, as determined by Tenant and subject to confirmation by City. Notwithstanding the foregoing, with respect to any damage or destruction to Billboard Project, if (i) applicable laws then in effect do not permit restoration in accordance with the plans of Tenant, (ii) Tenant determines the repair and restoration cannot be completed within one hundred twenty days (120) days subsequent to the date of the damage or destruction, or (iii) there is less than five (5) years remaining in the Term, Tenant shall have the right to terminate this Lease upon notice to City.

6.3.2 Substantial Destruction. Within ninety (90) days after Substantial Destruction, Tenant shall elect to either: (a) repair and restore the Billboard Project; or (b) terminate this Lease upon notice to City.

6.3.3 Insurance Proceeds; Repair and Restoration Procedures. In the event of any damage or destruction to the Billboard Project, all insurance proceeds shall be paid to Tenant. During the course of any repairs or restoration and until the Billboard Project is capable, legally and functionally, of displaying advertising content in the manner intended by Tenant under this Lease, payment of Rent shall be tolled to the date upon which the Billboard Project is functional.

6.4 Utilities. At no cost to City, Tenant shall provide and pay for all utility connections, utility equipment, and utility service required to construct, operate, maintain, repair, improve, or reposition the Billboard Project throughout the Term. Tenant shall coordinate with City and the applicable utility companies for utility tie-ins and electrical power sources that Tenant may need to construct and operate the Billboard Project.

6.5 Advertising

6.5.1 The Billboard Project is not intended to provide a general public forum for purposes of communication, but rather to make use of property held by the City in a proprietary capacity in order to generate revenue.

6.5.2 Except for any advertising or messages displayed on the Digital Billboard at the request of the City (subject to the terms of this Lease), all advertising to be displayed on the Digital Billboard shall be strictly “**commercial advertising.**” As used in this Lease, “**commercial advertising**” means advertising for a commercial or industry business, product, good, service, or other commercial or industrial activity for a commercial or industrial purpose. Tenant may not display any message on the Digital Billboard that:

- a) is inherently false, misleading, or libelous (*i.e.*, speech that is incapable of being presented in a manner that is not misleading);

- b) promotes the sale or use of firearms or tobacco products, whether directly or indirectly;
- c) contains advertising for any cannabis dispensary not licensed to operate within the City of Lemon Grove;
- d) promotes the sale or use of alcoholic beverages unless approved in writing by the City Manager and not directed to minors in any manner;
- e) promotes adult entertainment, products, conventions, events, or websites;
- f) **contains “obscene matter,” as that term is defined in local, California** or federal law, including but not limited to any statements or words of an obscene, indecent or immoral character, or any picture or illustration of any human figure in such detail as to offend public morals or decency or any other matter or thing of an obscene, indecent or immoral character;
- g) **contains any “political advertising,” which means advertising that** promotes or opposes any candidate for public office or promotes or opposes a ballot measure, referendum, bond issue, or any federal, state or local legislation, regulation, or other discretionary action;
- h) contains language that presents a clear-and-present danger of causing riot, disorder, or other imminent threat to public safety, peace, or order.

6.5.3 Tenant shall, within forty-eight (48) hours after written demand from City, at Tenant’s risk and expense, remove any advertising material or message that does not comply with the advertising criteria set forth in this section, and which is not being disputed by Tenant.

6.6 Removal of the Billboard Project

6.6.1 Tenant shall be responsible for the removal of the Billboard Project (and other improvements installed by, or at the direction of, Tenant) from the Premises and restore the Premises to its condition immediately prior to the date that City delivered control of the Premises to Tenant (reasonable wear and tear, damage or destruction by acts of God beyond the control of Tenant, and damage caused by parties other than Tenant (and its employees and contractors) excepted), at the expiration of the Term of this Lease or upon termination of this Lease, unless the City waives Tenant’s removal obligation in writing. In the event this Lease is otherwise terminated or cancelled prior to the expiration of the Term, Tenant shall remove the Billboard Project and other improvements installed by Tenant from the Premises and restore the Premises to its condition immediately prior to the date that City delivered control of the Premises to Tenant (reasonable

wear and tear, damage or destruction by the acts of God beyond the control of Tenant, and damage caused by parties other than Tenant (and its employees and contractors) excepted), **unless the City waives Tenant's removal obligation in writing.** Tenant shall cause the removal as required under this Section 6.6 within thirty (30) days after the expiration of the Term or thirty (30) days after the date of early termination, whichever the case may be. Notwithstanding anything to the contrary set forth in this Lease, Tenant shall have no obligation to remove the footings of the Billboard Project from the Premises below the then current grade level of the Premises immediately adjacent to the footings.

6.6.2 If Tenant does not timely remove the Billboard Project and other improvements as required by this Section, City may, but shall not be required to, remove or cause the removal of the Billboard Project, and other improvements on the Premises as required by this Section, at Tenant's expense. Tenant shall reimburse City within thirty (30) days of receipt of an itemized accounting of the cost for such removal.

6.6.3 City and Tenant acknowledge and agree that Tenant shall be the exclusive owner and operator of the Billboard Project, and that all equipment comprising the Billboard Project shall remain the personal property of Tenant and shall not become fixtures of the Premises and City shall have no right, title or interest in the Billboard Project or any component of the Billboard Project, notwithstanding the manner in which the Billboard Project is or may be physically attached, mounted or adhered to the Premises.

6.7 Compliance with Law. During the Term and while removing the Billboard Project after the Term in accordance with Section 6.6 above, and subject to Section 7.6 below, Tenant, at no cost to City, shall comply with all valid and applicable statutes, **ordinances, regulations, rules, and orders that concern Tenant's use and occupancy of the Premises** and the Billboard Project and are enacted or issued by any federal, state, or local governmental entity with jurisdiction over the Premises or the Billboard Project (including City) whether enacted or issued before, on, or after the Effective Date.

ARTICLE 7 EVENTS OF DEFAULT; EARLY TERMINATION.

7.1 Defaults by Tenant

Tenant will be in default under this Lease upon occurrence of any of the following:

7.1.1 Tenant is at any time in default in the payment of Rent or any other monetary sum called for by this Lease for more than thirty (30) days following **Tenant's receipt of written notice from City; or**

7.1.2 Tenant is at any time in default in the keeping and performing of any of its other covenants or agreements herein contained, and should such other default continue for thirty (30) days after written notice thereof from City to Tenant specifying the particulars of such default, or if such other default is of a nature that curing such default will take more than thirty (30) days Tenant has

failed to commence such cure within such thirty (30) day period and to thereafter diligently pursue completion of such cure.

7.2 **City's Remedies for Default by Tenant**

7.2.1 Upon the occurrence and during the continuance of any such default, in addition to any and all other rights or remedies of City hereunder, or by law or in equity provided, City may terminate this Lease, at any time and in its sole discretion, effective thirty (30) days after City gives Tenant written notice of termination.

7.2.2 Anything in this Lease to the contrary notwithstanding, neither City nor Tenant shall be liable to the other under or in connection with this Lease for any consequential or punitive damages and each party waives, to the full extent permitted by applicable laws, any claim for consequential or punitive damages, and any claim for loss of business or profits.

7.3 **City Remedies Cumulative.** Each right and remedy of City provided for herein or now or hereafter existing at law or in equity, by statute or otherwise will be cumulative and will not preclude City from exercising any other rights or remedies provided for in this Lease or now or hereafter existing at Law or in equity, by statute or otherwise. No payment by Tenant of a lesser amount than the Rent nor any endorsement on any check or letter accompanying any check or payment of Rent will be deemed an accord and satisfaction of full payment of Rent; and City may accept such payment without prejudice **to City's right to recover the balance of such Rent or to pursue other remedies.**

7.4 **Default by City.** City will not be in default under this Lease unless City fails to perform obligations required of City within thirty (30) days after written notice is delivered by Tenant to City specifying the obligation which City has failed to perform; provided, however, that if the nature of City's obligation is such that more than thirty (30) days are required for performance, then City will not be in default if City commences performance within such 30-day period and thereafter diligently prosecutes the same to completion. All obligations of City hereunder will be construed as covenants, not conditions.

7.5 **Tenant's Remedies for Default by City.** If the City is in default under this Lease beyond any applicable cure period, during the continuance of any such default, in addition to any and all other rights or remedies of Tenant hereunder, or by law or in equity provided, Tenant may terminate this Lease, at any time and in its sole discretion, effective thirty (30) days after Tenant gives City written notice of termination.

7.6 **Tenant's Early Termination Rights**

Tenant may terminate this Lease effective 30 days after Tenant gives the City written notice of termination, if any of the following circumstances occur:

7.6.1 **The view of the Digital Billboard's display area from the portion of State Route 94 adjacent to the Premises is materially obstructed, and Tenant did not cause the obstruction.**

7.6.2 Tenant cannot safely use the Premises to renovate, operate, maintain, repair, or improve the Billboard Project because of a non-remediable condition, and Tenant did not cause the condition.

7.6.3 There is a material diversion of traffic from, or a material reduction or change in the directional flow of traffic on, the portion of State Route 94 adjacent to the Premises, and the diversion or disruption continues uninterrupted for at least six (6) consecutive months.

7.6.4 Through no fault of its own, Tenant cannot obtain or maintain the Permits required to construct, operate, maintain, repair, or improve the Billboard Project, including the Caltrans Permits and the City Permits, or there is a legal challenge (including, without limitation, a Project Approval Challenge) to such permits and approvals, including, but not limited to, any challenges under the California Environmental Quality Act, and Tenant elects, in its sole discretion, not to oppose such challenges, Tenant may withdraw its applications for approval and terminate this Lease.

7.6.5 Use of the Billboard Project for its intended purpose is prevented or limited by law, or Tenant is required by any court or other governmental entity, for reasons other than eminent domain, to remove any part of the Billboard Project from the Premises.

7.6.6 Tenant is unable to obtain or maintain any utilities required to operate the Billboard Project through no fault of its own.

7.6.7 The City is in default under this Lease.

7.7 **Tenant's Right To Renegotiation.** If any of the circumstances identified in Section 7.6 above occurs, then, at its discretion and in lieu of termination, Tenant may request that the City negotiate a reduction in the Rent to an amount that reasonably reflects the diminished value of the Billboard Project to Tenant, and on receiving the request the City will negotiate in good faith with Tenant. The City is not required, however, to agree on a reduction in Rent.

ARTICLE 8 TAXES

Tenant shall pay without abatement, deduction, or offset any income taxes or possessory interest taxes levied on or assessed against the Billboard Project located on the Premises, **Tenant's equipment, fixtures, and personal property located on or in the Premises, which are directly attributable to this Lease or Tenant's use of the Premises, whether belonging,** owned, or chargeable against the City. Tenant shall make all such payments directly to the charging authority prior to delinquency and before any fine, interest, or penalty becomes **due or is imposed for Tenant's non-payment.** Following prior request by City, Tenant shall provide City with proof of payment of such tax.

ARTICLE 9 EMINENT DOMAIN

9.1 Condemnation. **The term “Condemnation” means any impairment of Tenant’s use of the Premises as a result of any act or omission of any governmental authority, including, without limitation, a change in the law, a public or private exercise of the power of eminent domain or the exercise of other government authority, such as alteration of a public street directly serving the Premises.** The proceeds, including any judgment and interest, arising from any Condemnation are referred to herein as the “Award”. **Whether this Lease is terminated or not terminated upon a Condemnation,** the rights of City and Tenant shall be governed by this Article 9, which shall survive the termination of this Lease. The parties waive the right to seek a judicial termination of this Lease.

9.2 Allocation of Award. Any Award attributable to the Premises shall be allocated and paid to City, except Tenant shall receive the portion of the Award attributable to **Tenant’s expenses for improvements at the Premises resulting from the Condemnation,** the value of the leasehold estate of Tenant pursuant to this Lease and the fee estate of Tenant in and to the improvements at the Premises, and the cost to Tenant of removal and relocation of any improvements at the Premises. In addition to the foregoing, Tenant **may separately pursue any claims for loss of good will to Tenant’s business,** re-establishment benefits and moving expenses, business interruption, and/or any other claim or right of recovery to which Tenant is entitled by applicable law.

9.3 Effect of Condemnation. Tenant may terminate this Lease on notice to City if Tenant determines the Condemnation will result in an adverse impact on the operation of the business of Tenant on the Premises. If Tenant fails to terminate this Lease upon a Condemnation, an equitable adjustment in Rent and any other charges owed under this Lease shall be made, commencing on the date of the Condemnation, to reflect any diminution in the revenues of Tenant.

ARTICLE 10 INDEMNIFICATION

10.1 Indemnification of City. Subject to the waiver of subrogation contained in Article 11 below, Tenant shall defend City against and indemnify and hold City harmless from all claims, losses, liabilities and expenses, , including, without limitation, reasonable **attorneys’ fees and costs, asserted against or incurred by City in connection with: (a) any injury to or death of any person or the loss of or damage to any property occurring on the Premises; (b) the failure of Tenant to perform any obligation of Tenant pursuant to this Lease; (c) the inaccuracy or falsity of any representation or warranty of Tenant in this Lease; and (d) the acts or omissions of Tenant and the agents, customers and invitees of Tenant; provided, however, that Tenant shall have no responsibility to City for the acts or omissions of City.**

10.2 Indemnification of Tenant. Subject to the waiver of subrogation contained in Article 11 below, City shall defend Tenant against, indemnify and hold Tenant harmless from all claims, losses, liabilities and expenses, including, without limitation, reasonable **attorneys’ fees and costs, asserted against or incurred by Tenant in connection with: (a) the failure of City to perform any obligation of City pursuant to this Lease; (b) the**

inaccuracy or falsity of any representation or warranty of City in this Lease; and (c) the acts or omissions of City and the agents, customers and invitees of City.

10.3 Hazardous Materials. City shall be solely responsible for all Hazardous Materials existing on, under or about the Premises and not caused or released by Tenant **or any agent, employee, or contractor thereof (collectively, “Tenant Party”).** City shall defend Tenant, its directors, officers, employees, agents, invitees, licensees, successors **and assigns (collectively, the “Tenant Indemnitees”)** against, indemnify and hold Tenant and the Tenant Indemnitees harmless from, all claims asserted against Tenant or any Tenant Indemnitee and any losses, liabilities or expenses incurred by Tenant or any **Tenant Indemnitee, including, without limitation, reasonable attorneys’ fees and costs,** in connection with any Hazardous Material on, under or about the Premises and not caused or released by any Tenant Party, which obligation shall survive the cancellation or termination of this Lease. City shall be responsible for remediating in compliance with all applicable laws any contamination not caused or released by Tenant or any Tenant Party, which is located on, under or about the Premises without expense to Tenant. Tenant shall not cause or permit any Hazardous Materials to be brought upon, kept or used in or about the Premises by Tenant or any Tenant Party, except to the extent that **such Hazardous Materials are necessary or useful to Tenant’s business (in which case such Hazardous Materials shall be used, kept and stored in a manner that complies with all applicable laws).** Tenant shall defend City, its officers, employees, agents, licensees, **successors and assigns (collectively, the “City Indemnitees”)** against, indemnify and hold City and the City Indemnitees harmless from, all claims asserted against City and the City Indemnitees and any losses, liabilities or expenses incurred by City and the City **Indemnitees, including, without limitation, reasonable attorneys’ fees and costs,** as a direct result of a breach by Tenant of its obligations set forth in this Section 10.3, which obligation shall survive the cancellation or termination of this Lease; provided, however, **that Tenant’s indemnity obligations pursuant to this Section shall not apply to any Hazardous Materials used, generated, transported, stored or disposed of by City or any City Indemnitee or any liability incurred or suffered as a result thereof.**

ARTICLE 11 INSURANCE

11.1 Types of Policies

During the Term and, if Tenant is removing the Billboard Project pursuant to Section 6.6, **during Tenant’s removal of the Billboard Project in accordance with Section 6.6,** at no cost to City except as otherwise contemplated by this Lease, Tenant shall procure and **maintain the forms and amounts of insurance covering Tenant’s possession and use of the Premises set forth in Section 11.1(a) and (b) below (“Tenant’s Insurance”).**

(a) Commercial General Liability Insurance. A policy of commercial general liability insurance (occurrence form) having a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate, providing coverage for blanket contractual liability **(including Tenant’s indemnification obligations under this Lease), premises liability,** products and completed operations liability, broad form property damage, and bodily injury (including wrongful death) and advertising injury coverage. Such insurance shall

be primary to and not contributing with any other insurance, self-insurance or joint self-insurance maintained by City, and shall name the City as an additional insured.

(b) Workers' Compensation and Employer's Liability Insurance. **Workers' compensation insurance, if required by law, which complies with all applicable state statutes and regulatory requirements, and employer's liability insurance coverage in statutory amounts.** Tenant shall also require any contractor utilized to perform any **services or work at the Premises pursuant to this Lease to maintain such workers' compensation insurance and provide proof of such insurance prior to commencing any services or work at the Premises.**

11.2 Insurer Qualifications. **Tenant's Insurance shall be written by companies licensed to do business in California and having a "General Policyholders Rating" of at least A-/ VII (or such higher rating as may be required by a lender having a lien on the Tenant's leasehold interest) as set forth in the most current issue of "Best's Insurance Guide."**

11.3 Certificates of Insurance. Tenant shall deliver to City certificates of insurance **for Tenant's Insurance, in the form of the ACORD standard certificate of insurance, with the execution of the Lease.** Prior to expiration of the policy, Tenant will furnish City with certificates of renewal. Each certificate shall, if standard insurance industry practice, **expressly provide that such casualty policies must not be cancelable except after 30 days' prior written notice to the parties named as additional insureds as required in this Lease.** If Tenant fails to maintain any insurance required in this Lease, Tenant shall be liable for all losses and costs resulting from such failure.

11.4 Notice. Each of the policies shall endeavor to require the insurer to give City at **least 30 days' advance written notice before the policy is cancelled.**

11.5 Waiver of Subrogation. To the full extent permitted by law, City and Tenant each waive all rights of recovery against the other for, and agree to release the other from liability for, loss or damage to the extent such loss or damage is covered by valid and collectible insurance in effect at the time of such loss or damage or would be covered by the insurance required to be maintained under this Lease by the party seeking to recover.

ARTICLE 12 MISCELLANEOUS

12.1 CASP. Tenant acknowledges that the Premises has not undergone inspection by a Certified Access Specialist (CASP), as defined in California Civil Code Section 55.52, and City is not providing any representations or warranties regarding whether the Premises meets all applicable construction-related accessibility standards. City hereby notifies **Tenant pursuant to California Civil Code Section 1938 that: "A Certified Access Specialist (CASP) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASP inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASP inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on**

the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the **premises.**”

12.2 Notices. Any notice or other communication to be given under this Lease shall be in writing and will be considered properly given and effective only when addressed to the persons identified below and (i) mailed postage prepaid by certified or registered mail, return receipt requested, or (ii) delivered by personal or courier delivery, or (iii) sent by facsimile (immediately followed by one of the preceding methods). Notices or communications will be deemed served upon the earlier of receipt or three (3) days after the date of mailing. A party may change its address for these purposes by giving written notice of the change to the other party in the manner provided in this Section 12.2.

If to City:

City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945
Attn: City Manager
Telephone: 619-825-3800

If to Tenant:

OUTFRONT MEDIA LLC
1731 Workman Street
Los Angeles, CA 90031
Attn: Collin Smith
Email: collin.smith@outfrontmedia.com
Telephone: 323-276-7308

with a copy to:

Anthony Leones

Miller Starr Regalia
1331 N. California Blvd., 5th Floor
Walnut Creek, CA 94596
Telephone: 925-935-9400
Facsimile: 925-933-4126

12.3 Assignments and Subleases. Except as set forth in this Lease, Tenant may not assign or otherwise transfer this Lease or any interest herein, and this Lease is not assignable by operation of law (except as set forth in this Section 12.3), **without the City's** prior written consent. City shall respond in writing within thirty (30) days of receipt of any request by Tenant for an assignment of this Lease. An assignment or transfer of this Lease does not occur, for purposes of this Section 12.3, if Tenant merges with another company, reorganizes its stock, or undergoes a similar corporate restructuring, or if Tenant sells all or substantially all of its assets or if Tenant changes its name. Tenant may assign this Lease, without the prior written consent of City, to any entity controlled by, controlling, or under common control with Tenant. Tenant shall provide notice to City thirty (30) days in advance of such assignment. Upon the assignment of this Lease in accordance with this Section 12.3, Tenant will be forever released of all obligations accruing after the date of the transfer. Any assignment, transfer, or sublease made contrary to this section will be null and void.

12.4 Successors and Assigns. Subject to the restrictions set forth herein, each of the terms, covenants and conditions of this Lease will extend to and be binding on and will inure to the benefit of not only City and Tenant, but to each of their respective heirs, administrators, executors, successors and assigns. Whenever in this Lease reference is made to either City or Tenant, the reference will be deemed to include, wherever applicable, the heirs, administrators, executors, successors and assigns of such parties, the same as if in every case expressed.

12.5 **City's Right to Enter and Inspect the Premises.** City and its authorized representatives will have the right to enter upon and inspect the Premises at reasonable times (and on no less than **forty-eight (48) hours notice**) to **determine Tenant's** compliance with this Lease.

12.6 Force Majeure

12.6.1 "Force Majeure Event" **means a cause of** delay that is not the fault of the party who is required to perform under this Lease and is beyond that **party's reasonable control, including the elements (including floods, earthquakes, windstorms, and unusually severe weather), fire, energy shortages or rationing, riots, acts of terrorism, war or war-defense conditions, acts of any public enemy, epidemics, the actions or inactions of any governmental entity (excluding City) or that entity's agents, litigation, labor shortages (including shortages caused by strikes or walkouts), and materials shortages.**

12.6.2 Except as otherwise expressly provided in this Lease, if the performance of any act required by this Lease to be performed by either City or Tenant is prevented or delayed because of a Force Majeure Event, then the time for performance will be extended for a period equivalent to the period of delay, and performance of the act during the period of delay will be excused. An extension of time for any such Force Majeure Event will be for the period of the enforced delay and will commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Lease may also be extended in writing by the mutual agreement of City and Tenant.

12.6.3 This Section 12.6 **does not excuse (A) Tenant's obligation to pay Rent when due and payable; or (B) either party's obligation to perform an act** when performance is rendered difficult **or impossible solely because of that party's** financial condition. Tenant expressly agrees that adverse changes in economic conditions, either of Tenant specifically or the economy generally, changes in **market conditions or demand, and/or Tenant's inability** to sell advertising time on the Digital Billboard or other lack of funding, or to complete the construction of the Billboard Project will not constitute grounds of enforced delay pursuant to this Section 12.6. Tenant expressly assumes the risk of such adverse economic or market changes and/or financial inability, whether or not foreseeable as of the Effective Date.

12.7 **Waiver of Breach. A party's failure to insist on strict performance of this Lease or to exercise any right or remedy upon the other party's breach of this Lease will not constitute a waiver of the performance, right, or remedy. A party's waiver of the other party's breach of any provision in this Lease will not constitute a continuing waiver or a** waiver of any subsequent breach of the same or any other provision. A waiver is binding only if set forth in writing and signed by the waiving party.

12.8 **Relationship of the Parties; Not Third-Party Beneficiaries.** This Lease does not create any relationship or association between City and Tenant other than that of landlord and tenant, and it is expressly understood and agreed that City does not in any way nor for any purpose become a partner of Tenant or a joint venturer with Tenant in **the conduct of Tenant's business or otherwise; nor does this Lease create** between City and Tenant the relationship of principal and agent. The parties do not intend to create any third-party beneficiaries to the Lease.

12.9 **Attorney's Fees.** In the event that any action is brought by either party as against the other party for the enforcement or declaration of any right or remedy in or under this Lease or for the breach of any covenant or condition of this Lease, the prevailing party will be entitled to recover, and the other party agrees to pay, all fees and costs to be fixed by **the court including, but not limited to, reasonable attorneys' fees.**

12.10 **Severability.** If any term, provision, condition or covenant of this Lease or its application to any party or circumstances is held, to any extent, invalid or unenforceable, the remainder of this Lease, or the application of the term, provision, condition or

covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, will not be affected, and will be valid and enforceable to the fullest extent permitted by Law.

12.11 Memorandum of Lease. **City will record with the County Recorder's Office** a memorandum of this Lease in the form attached as Exhibit D promptly after the execution of this Lease.

12.12 Further Assurances. Each party will execute all additional documents or instruments and take all necessary action that either party reasonably considers necessary to carry out the proper purposes of this Lease.

12.13 Estoppel Certificates. Either party shall, from time to time during the Term upon not less than 20 days' prior written notice from the other party, execute, acknowledge and deliver to the other party, or such persons or entities designated by such other party, a statement in writing certifying: (a) the Effective Date and Expiration Date of this Lease as well as the Operational Date of the Digital Billboard, (b) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), (c) that there are no defaults under this Lease (or if so, specifying the same), (d) the dates, if any, to which the Monthly Rent has been paid, and (e) any other information that may be reasonably required by any such persons or entities. Any such certificate delivered pursuant to the provisions hereof may be relied upon by the other party or any prospective purchaser or encumbrancer of its estate. The City Manager will be authorized to execute, acknowledge and deliver any such certificate on behalf of City.

12.14 Time of Essence. Time is expressly made of the essence with respect to the performance by the parties of each and every obligation and condition of this Lease.

12.15 Interpretation. This Lease will be interpreted as though prepared jointly by both parties.

12.16 Integration and Modification. Exhibits A, B, C and D are expressly incorporated into and form a part of this Lease. This Lease constitutes the entire agreement between the parties and there are no conditions, representations or agreements regarding the matters covered by this Lease which are not expressed herein. It supersedes all prior or contemporaneous agreements, representations, and negotiations (written, oral, express, or implied) and may be modified only by another written agreement signed by both parties. City and Tenant agree to mutually consider reasonable requests for amendments to this Lease that may be made by either of them, provided such requests are consistent with this Lease and would not materially alter the basic business terms included in this Lease. No amendment will be effective unless in writing and signed by both parties.

12.17 Quiet Possession. So long as Tenant is not in default under this Lease and is paying the Rent and performing all of the covenants and conditions of this Lease, Tenant

shall quietly have, hold and enjoy the Premises during the Term without interruption or disturbance from City or any other persons claiming by, through or under City.

12.18 Nonliability. No member, official or employee of either party will be personally liable to the other, or any successor in interest, in the event of any default or breach by a party or for any amount which may become due to a party or its successors, or on any obligations under the terms of this Lease. Each hereby waives and releases any claim it may have against the members, officials or employees of the other party with respect to any default or breach by such party or for any amount which may become due to the non-defaulting party or its successors, or on any obligations under the terms of this Lease.

12.19 Applicable Law; Venue. The laws of the State of California, without regard to conflict of law principles, will govern the interpretation and enforcement of this Lease. Any action to enforce or interpret this Lease must be filed in the Superior Court for the County of San Diego, California.

12.20 Commission. Each party represents to the other that it has not been represented **by any broker in connection with this Lease, and that no real estate broker's commission, finder's fee or other compensation (individually and collectively, "Commission") is due or payable.** Each party agrees to indemnify and hold the other harmless from any claims or liability, including reasonable attorneys' fees, in connection with a claim by any person for a Commission based upon any statement, representation or agreement of the other party.

12.21 Counterparts. The parties agree that this Lease may be executed in counterparts, each of which will be deemed an original, and said counterparts will together constitute one and the same agreement, binding all of the parties, notwithstanding all of the parties are not signatory to the original or the same counterparts. In order to expedite the transaction contemplated herein, facsimile or .pdf signatures may be used in place of original signatures on this Lease. City and Tenant intend to be bound by the signatures on the facsimile or .pdf document, are aware that the other party will rely on the facsimile or .pdf signatures, and hereby waive any defenses to the enforcement of the terms of this Lease based on the form of signature.

—THIS SPACE INTENTIONALLY LEFT BLANK—
—SIGNATURES BEGIN ON NEXT PAGE—

IN WITNESS WHEREOF, the parties have executed this Lease as of the Effective Date.

CITY:

CITY OF LEMON GROVE, a California municipal corporation

By: _____

Name:

Its:

ATTEST:

APPROVED AS TO FORM:

TENANT:

OUTFRONT MEDIA LLC,
a Delaware limited liability company

By: _____

Name:

Its:

Exhibit A

Legal Description of the Premises

That portion of Olive Street, being a portion of Lot 10 in Subdivision No. 3 of Lot 12 of the Rancho Mission of San Diego in the City of Lemon Grove, County of San Diego, State of California, according to licensed Survey Map thereof No. 5, filed in the Office of the County Recorder of San Diego County March 23, 1852 described as follows:

BEGINNING at the Southwest corner of that real property granted to the City of Lemon Grove recorded January 15, 1992 as Document No. 1992-0022781, Official Records; thence along the westerly line of said deed and its prolongation North 00°38'00" East 52.36 feet to an angle point in the southerly right-of-way line of State Highway 94 as shown on State of California Transportation Agency Drawing No. 37541.1 dated June 1970; thence along said line South 02°57'03" West 17.83 feet; thence continuing along said line South 82°06'45" East 52.02 feet; thence parallel with the center line of Olive Street as granted to the County of San Diego July 3, 1941 in Book 1196, Page 395 of Official Records, thence along said parallel line South 00°38'00" East 58.35 feet to the southwesterly corner of that property described in deed recorded October 10, 2001 as Document No. 2001-0732697, Official Records; thence leaving said southerly line of said deed South 82°42'17" West 34.81 feet to the southeasterly corner of that real property described in deed recorded January 15, 1992 as document No. 1992-0022781, Official Records; thence along the southerly line of said deed South 89°04'00" West 16.00 feet to the **POINT OF BEGINNING** containing 0.075 acres more or less.

The above description is based on record data and does not reflect a field survey by Rick Engineering Company.

Exhibit B

Depiction of the Premises

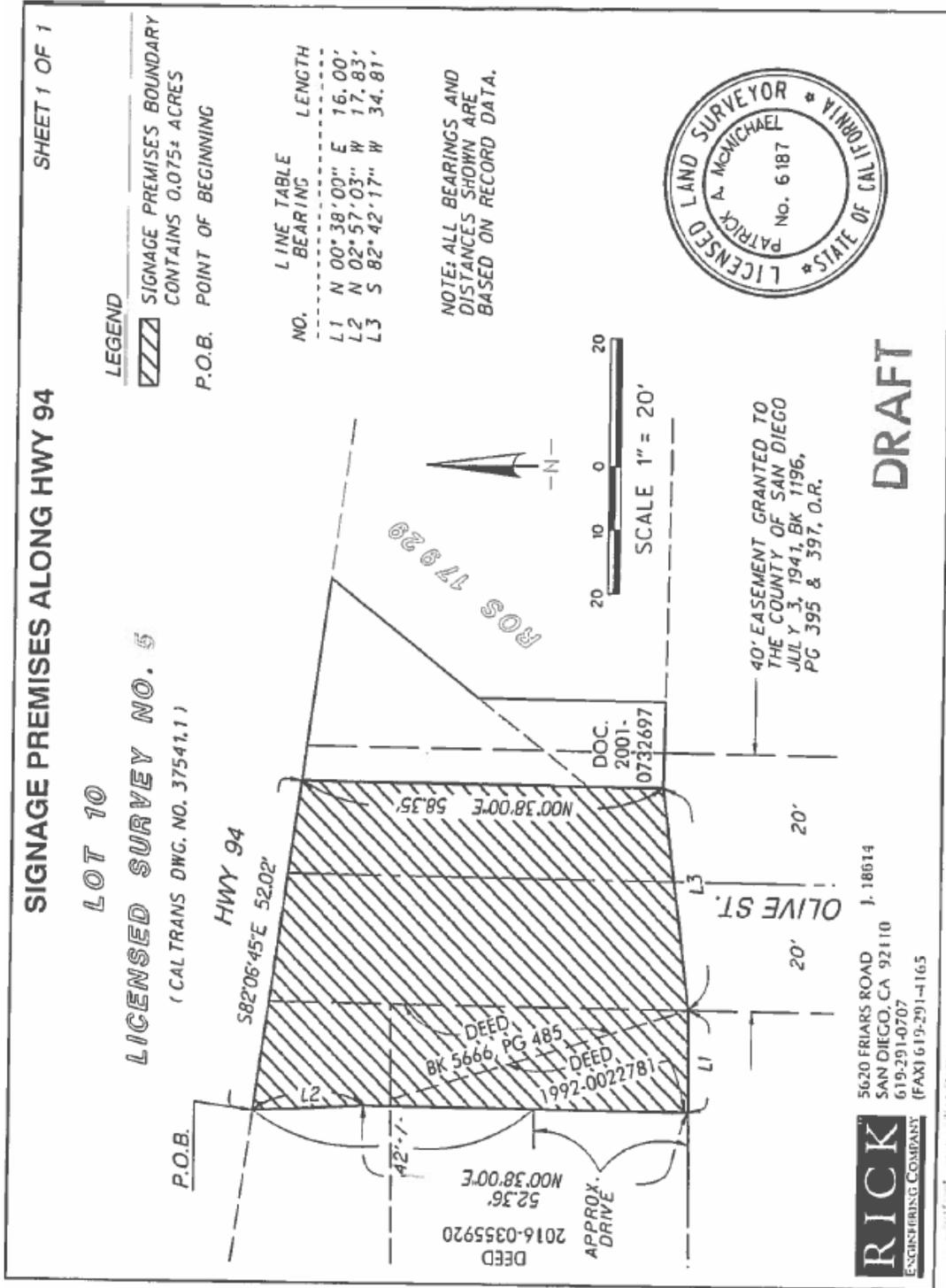


Exhibit C

Digital Billboard and Sign Structure

[2 pages]



Digital Billboard Specifications:

- 1. **one (1) approximately 65 feet tall, “bulletin” size freeway-oriented billboard with a total of two (2) digital displays (each display measuring 14’ x 48’)**
- 2. brightness limited to the 0.3 foot- candles over ambient light levels at 250 feet, with automatic diming capabilities
- 3. placed in substantial conformance with the following illustration:

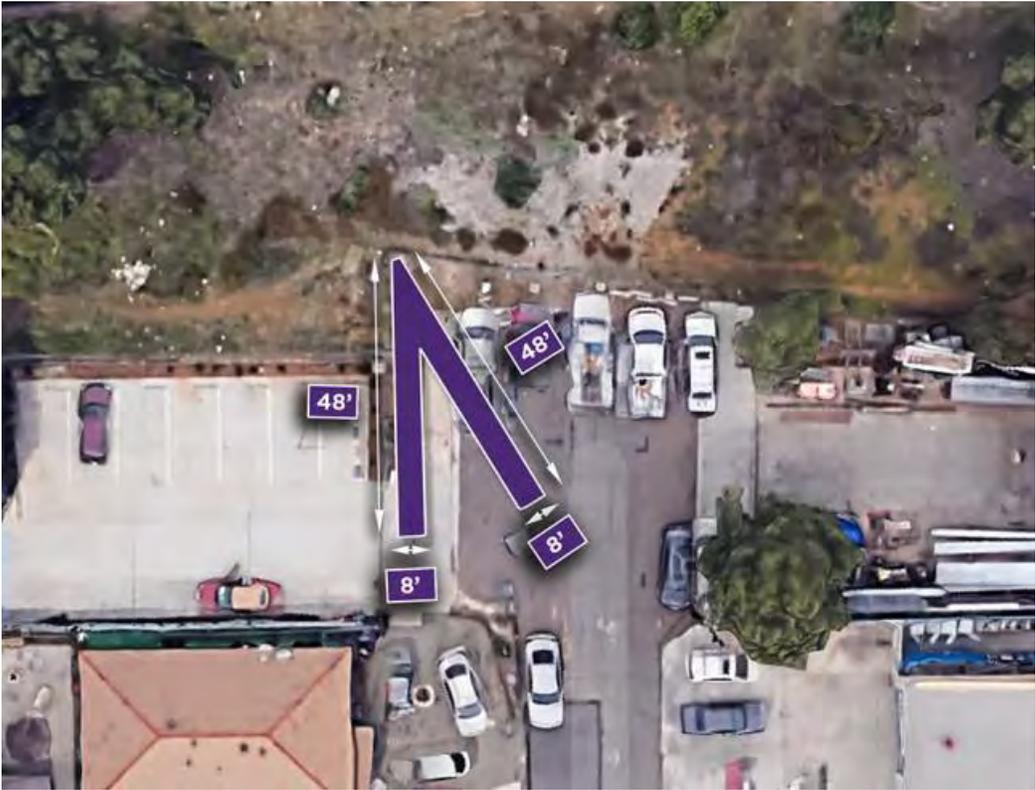


Exhibit D
Memorandum of Lease
[Attached]

RECORDING REQUESTED BY:

Outfront Media LLC
1731 Workman Street
Los Angeles, CA 90031
Attention: Collin Smith

AND WHEN RECORDED MAIL
TO:

Outfront Media LLC
1731 Workman Street
Los Angeles, CA 90031
Attention: Collin Smith

SPACE ABOVE THIS LINE FOR RECORDER'S
USE

EXEMPT FROM RECORDING FEES PURSUANT TO GOVERNMENT CODE
SECTION 27383 AND DOCUMENTARY TRANSFER TAXES PURSUANT TO
REVENUE AND TAXATION CODE SECTION 11922.

MEMORANDUM OF LEASE

This MEMORANDUM OF LEASE (“Memorandum”) is made effective as of this ____ day of _____, 20____, by and between the CITY OF LEMON GROVE, a municipal corporation (“City”), and OUTFRONT MEDIA LLC, a Delaware limited liability company (“Tenant”), with respect to the following:

In connection with the construction and operation of an electronic billboard on real property (the “Premises”) owned by the City located in the City of Lemon Grove, County of San Diego, State of California, near State Route 94, the City and Tenant entered into that certain **Billboard Lease, dated _____, 201_ (the “Lease”). Pursuant to the Lease, Tenant and the City agreed (among other things) that Tenant would lease and construct and operate an electronic billboard for general advertising on the Premises. The Premises is legally described on Exhibit A attached hereto, and depicted on Exhibit B attached hereto. The term of the Lease is twenty (20) years, commencing from the**

operational date of the electronic billboard, and may be extended as provided in the Lease. This Memorandum is recorded to provide record notice of the Lease. Nothing in this Memorandum shall modify or amend the Lease, and in the event of any conflicts between this Memorandum and the Lease, the provisions of the Lease shall prevail.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have entered into this Memorandum effective as of the date first written above.

City:

CITY OF LEMON GROVE,
a municipal corporation

By: _____

Name:

Its:

Tenant:

OUTFRONT MEDIA LLC, a Delaware limited liability company

By: _____

Name: _____

Its: _____

[Signatures to Be Notarized]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

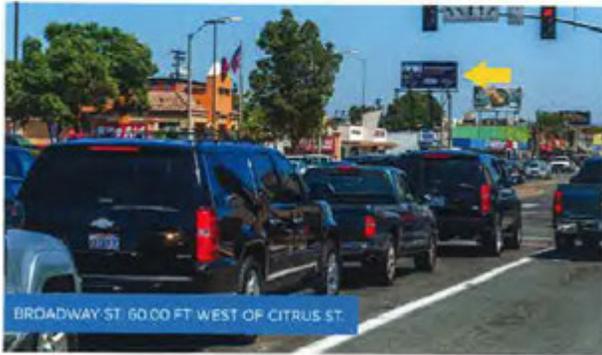
EXHIBIT A TO MEMORANDUM OF LEASE

LEGAL DESCRIPTION OF THE PREMISES

EXHIBIT B TO MEMORANDUM OF LEASE

DEPICTION OF THE PREMISES

Attachment B – Two Billboards Scheduled for Removal



Attachment C – Rendering of Digital Message Board

Photograph 1: Foundation View



Photograph 2: SR94 Eastbound View



Photograph 3: SR94 Westbound View





John Boal
Managing Director, Western Region

Wednesday, October 2, 2019

**City Council
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945**

To Whom It May Concern:

**Re: Outfront Media's Support for San Diego's "Project Yellowlight" Winner
for national Billboard Competition for Texting & Driving Prevention**

Since 2011, the Ad Council --- the nation's larger producer of Public Service Announcements -- has partnered with "Project Yellowlight" and the National Highway Traffic & Safety Administration (NHTSA) for a national Scholarship competition for the best High School and College student submissions for TV PSAs, Radio PSAs and and Billboard PSAs to help drive down distracted driving.

In the spring of 2019, Syndi Silverstone who attended Scripps Ranch High School won the \$2,000 scholarship for the best Billboard design for Texting & Driving Prevention for a High School Student. Here is the national Press Release where Syndi is mentioned.

Press Release on National Winners of "Project Yellowlight" Scholarships

<https://www.multivu.com/players/English/8557751-ad-council-project-yellow-light-stop-texts-stop-wrecks/>

In September, 2019, the national Campaign Manager for Texting & Driving Prevention in our DC office provided funding so we could print and ship Bulletins and Eco-posters of Syndi's winning design titled "Suspense Won't Kill You" for the San Diego market.

When I approached Scott Smith, GM of Outfront Media in San Diego, he immediately requested 20 Eco-posters and 2 Bulletins for posting on a donated basis, as he saw it as a much-needed community message for all of San Diego. (In addition to the donated space they also donate the considerable labor costs for posting and taking down these 22 PSAs.)

Links to some of the photos that Outfront Media has posted of Syndi's "Suspense Won't Kill You" design are attached within this package.

The proposed Digital Billboard on the ST 94 Freeway could easily include our Digital PSAs on not only Texting & Driving Prevention but also Buzzed Driving Prevention, Drug-impaired Driving Prevention and many other community messages on over 30+ issues.

We applaud Outfront Media in San Diego as a vital conduit to messaging that can create awareness and raise the quality of life for all citizens of San Diego.

Sincerely,

The Advertising Council
150 S. Glenoaks Blvd.
Burbank, CA 91502

818.848.2376
jboal@adcouncil.org
www.adcouncil.org



September 30, 2019

City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

RE: Digital Billboard Development

To whom it may concern,

The Century Club of San Diego is the nonprofit host of San Diego's PGA Tour event, the Farmers Insurance Open. Outfront Media has been a strong community partner in creating opportunities to promote our Champions for Youth charitable program and annual PGA Tour event.

Please let this letter serve as written support for the City of Lemon Grove and its plans to develop a digital Billboard on the ST 94 freeway. Many small businesses and non-profit charities like the Century Club of San Diego with smaller advertising budgets depend on billboard advertising to build awareness and reach our goals. The Century Club would look to remind residents in and around the Lemon Grove area about our charity organization and PGA Tour event through the use of the proposed digital billboard.

Sincerely,

Marty Gorsich
CEO

9404 GENESEE AVE., SUITE 310 • LA JOLLA, CALIFORNIA 92037
P: (858) 886-4653 • F: (858) 886-4612 • FarmersInsuranceOpen.com



October 10, 2019

City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

RE: Digital Billboard Development

To whom it may concern,

Climate Action Campaign is a watchdog organization dedicated to stopping climate change and protecting our region's quality of life. OUTFRONT Media has been a strong community partner of ours in creating opportunities for us to promote awareness about our organization and our mission.

Please let this letter serve as written support for the City of Lemon Grove and its plans to implement a digital Billboard on the ST 94 freeway. This digital billboard will help our partnership with OUTFRONT Media by allowing us to gain additional awareness with audiences passing by about our initiatives within the region. Many non-profit organizations like Climate Action Campaign, with smaller advertising budgets, depend on billboard advertising to build awareness and reach our goals.

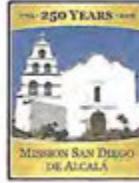
Thank you for your consideration and we hope the City of Lemon Grove is successful at seeing through its prospective project for a digital sign on the ST 94 freeway.

Sincerely,

Nicole Capretz
Founder and Executive Director

Climate Action Campaign, 4452 Park Blvd., Suite 209 San Diego, CA 92116
www.climateactioncampaign.org

Mission San Diego
de Alcalá



California's First Mission

September 30, 2019

City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

RE: Digital Billboard Development

To whom it may concern,

Mission San Diego de Alcalá was founded in 1769, and currently serves as an active parish church and cultural center for people of all faiths who are welcome to visit and relive the grandeur and excitement of more than two centuries of California history and tradition. OUTFRONT Media has been a strong community partner in creating opportunities to commemorate our 250th year in San Diego County.

Please let this letter serve as written support for the City of Lemon Grove and its plans to develop a digital Billboard along the ST 94 freeway. Many small businesses and non-profit organizations like Mission San Diego de Alcalá, with smaller marketing budgets, depend on billboard advertising to build awareness and reach our goals. Mission San Diego de Alcalá would look to remind residents in and around the Lemon Grove area about our organization and history through the use of the proposed digital billboard.

Sincerely,

Reverend Peter M. Escalante
Pastor

Celebrating
250 Years

Mission San Diego de Alcalá + 10818 San Diego Mission Road + San Diego, CA 92108-2429
Tel: 619.283.7319 + Fax: 619.283.7762 + www.missionsandiego.org



CITY OF LEMON GROVE

CITY COUNCIL STAFF REPORT

Item No. 4

Meeting Date: October 15, 2019

Submitted to: Honorable Mayor and Members of the City Council

Department: City Attorney's Office

Staff Contact: Kristen Steinke, City Attorney

KSS@LFAP.COM

Item Title: Ordinance No. 2019-453 to repeal and replace Chapter 9.08 of the Lemon Grove Municipal Code regarding Election Campaign Regulations

Recommended Action: Conduct second reading by title only and adopt Ordinance No. 453 (Attachment A) repealing and replacing Chapter 9.08 of the Lemon Grove Municipal Code regarding Election Campaign Regulations.

Summary: On October 1, 2019, the City Council introduced Ordinance No. 453 (Attachment A), and ordinance repealing and replacing Chapter 9.08 of the Lemon Grove Municipal Code regarding Election Campaign Regulations.

Environmental Review:

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

Fiscal Impact: None.

Public Notification: None.

Attachments:

Attachment A – Ordinance No. 453 – Redline

Attachment B – Ordinance No. 453 - Final

Ordinance 453 Draft - Redline

Title 9 PUBLIC WELFARE AND ELECTIONS

- Chapter 9.08 Election Campaign Regulations**
- Chapter 9.12 Cardrooms and Gambling**
- Chapter 9.16 Urination or Defecation in Public**
- Chapter 9.20 Public Nudity**
- Chapter 9.24 Noise Abatement and Control**
- Chapter 9.26 Police Services at Parties, Gatherings or Events**
- Chapter 9.28 Obstructing Passage**
- Chapter 9.32 Prohibition of Application of Graffiti to Private or Public Property, and the Defacement of Private or Public Property**
- Chapter 9.36 Obstructing Free Movement, Soliciting, Camping and Storage of Personal Property**
- Chapter 9.40 Curfew—Minors**
- Chapter 9.44 Firearms**
- Chapter 9.48 Consumption of Alcohol**
- Chapter 9.49 Police and Fire Services at Parties and Events and Social Host Responsibilities Concerning the Consumption of Alcohol and Controlled Substances by Minors or Juveniles**
- Chapter 9.50 Spectators Prohibited at Illegal Speed Contests or Exhibitions of Speed**
- Chapter 9.70 Forfeiture of Nuisance Vehicles Engaged in Illegal Motor Vehicle Speed Contest or Exhibition of Speed**

Title 9 PUBLIC WELFARE AND ELECTIONS

Chapter 9.08 ELECTION CAMPAIGN REGULATIONS

Sections:

- 9.08.010 Purpose and intent.**
- 9.08.020 Definitions.**
- 9.08.030 Campaign statements and filing fees.**
- 9.08.040 Campaign contributions—Limitations and disclosures.**
- 9.08.050 Identification of expenditures by independent committees.**
- 9.08.060 Election campaign accounts.**
- 9.08.070 Enforcement authority.**
- 9.08.080 Violation—Penalty.**
- 9.08.090 Rules of construction.**
- 9.08.100 Election signs.**
- 9.08.110 Electioneering.**

9.08.010 Purpose and intent.

This Chapter is enacted pursuant to Article XI, Section 7 of the California Constitution, Section 22808 of the California Elections Code, and Section 81013 of the California Government Code. It is the intent of the City Council of the City of Lemon Grove in enacting this Chapter to supplement the provisions of the Political Reform Act of 1974 (California Government Code Sections 81000 et seq.), as amended, and the regulations adopted by the Fair Political Practices Commission (California Code of Regulations, Title 2, Division 6, Sections 18110 through 18997) with regard to making and reporting of campaign Contributions and Expenditures. In the event of a conflict between the provisions of the Political Reform Act or the Fair Political Practices Commission regulations and the provisions of this Chapter, the provisions of the Political Reform Act and/or the Fair Political Practices Commission regulations shall prevail.

In enacting this Chapter, the City Council finds and declares the following:

A. Monetary Contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of Candidates. Candidates should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.

B. Limiting Campaign Contributions and Expenditures in municipal elections helps ensure equal opportunities for all Candidates, promotes diversity among Candidates, and strengthens the community's trust that their government is representative.

C. Lemon Grove can best preserve its sense of community, safeguard its local democracy, and effectuate its commitment to fair public process by limiting all campaign Contributions and Expenditures and requiring appropriate reporting requirements to ensure these limitations are enforced.

D. By enacting this Chapter, the City Council seeks to: (1) ensure that individuals have a fair and equal opportunity to participate in the municipal elective and governmental processes; (2) reduce the influence of large Campaign contributors with a specific financial stake in matters before City governmental bodies; (3) curtail overall Expenditures in Campaigns; (4) reduce potential for the fundraising advantage of incumbents and thus encourage competition for elective office; (5) improve the disclosure of Contribution sources in reasonable and effective ways; and (6) help maintain public trust in governmental and electoral institutions, and protect the integrity of the City Election process.

E. This Chapter shall not apply to Contributions given to a Committee organized solely for the purpose of supporting or opposing the qualifications for the ballot or the adoption of one or more City measures.

9.08.020 Definitions.

The capitalized terms used in this Chapter shall have the same definitions as specified in the Political Reform Act of 1974 (Government Code Sections 81000 et seq.) and the Fair Political Practices Commission regulations (California Code of Regulations, Title 2, Division 6, Sections 18110 et seq.), unless otherwise specified in this Chapter. When used in this Chapter, the following words and terms shall be interpreted as follows, unless the text indicates a different meaning:

A. "Candidate," as referred to in this Chapter, only applies to Persons seeking an Elective City Office.

B. "City Election" means any primary, general, or special election, including recall election, held within the City of Lemon Grove for Elective City Office. Each general or special election is a separate City Election for purposes of this Chapter.

C. "Committee" shall only mean a Candidate's Controlled Committee or a Committee formed or primarily to support or oppose a Candidate, or a City general purpose Committee active only in the City, for purposes of all filing requirements in this Chapter.

D. "Electioneering" means the visible display or audible dissemination of information that advocates for or against any Candidate or measure on the ballot.

E. "Elective City Office" means member of the City Council, including the Mayor.

F. "Enforcement Authority" shall mean the special counsel, officer, agent or organization designated by action of the City Council to enforce the provisions of this Article. Nothing in this Article shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this Article under any circumstances where such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

G. "Independent Committee" shall mean a Committee that receives Contributions or makes Expenditures for the purpose of influencing or attempting to influence a City Election, which is not made with the cooperation, consultation or in concern with, or at the request or suggestion of, any Candidate or his or her Committee, or any of their agents.

9.08.030 Campaign statements and filing fees.

A. Campaign Statements. Each Candidate and each Committee shall be required to file those campaign statements required by the Political Reform Act of 1974 in the manner required by the Act. Campaign statements filed with the City Clerk shall be a matter of public record. The City Clerk shall, within three (3) City business days of the date of filing, post copies of campaign statements online at the City's website.

B. Late Filing of Campaign Statements. If any Person files a campaign statement after any deadline imposed, he/she shall, in addition to any other penalties or remedies established by this Chapter, be liable to the City Clerk in the amounts as set forth by State guidelines per calendar day until the statement is filed. The City Clerk shall deposit any funds received under this Section into the general fund of the City to defray the cost of City Elections.

C. Filing Fees. A filing fee of twenty-five dollars (\$25.00) is established for a Candidate's nomination papers for City Elective Office. The filing fee shall be paid to the City Clerk by each Candidate for a City Elective Office at the time the Candidate's nomination paper is filed with the City Clerk, in addition to the Candidate statement fees determined in February of each odd numbered year. The City Clerk shall deposit all fees received into the general fund. All filing fees and Candidate statement fees are non-refundable. (Government Code Section 10228).

9.08.040 Campaign contributions—Limitations and disclosures.

A. Contributions by Persons to Candidates or Controlled Committees. No Person shall make any Contribution to a Candidate and/or the Candidate's Controlled Committee, with respect to any single City Election, which will cause the total amount contributed by such Person to the Candidate and the Candidate's Controlled Committee, when combined, to exceed one thousand dollars (\$1,000.00) in a calendar year.

B. Acceptance or Solicitation by Candidates or Controlled Committees. No Candidate or Controlled Committee, including the Candidate's campaign treasurer, shall solicit or accept any Contribution from any Person, with respect to any single City Election, which will cause the total amount contributed by such Person to the Candidate and the Candidate's Controlled Committee, when combined, to exceed one thousand dollars (\$1,000.00) in a calendar year.

C. Contributions by Candidates. The provisions of Subsections (A) and (B) of this Section shall not apply to contributions from a Candidate to his or her Controlled Committee nor to the expenditure, by the Candidate, of his or her personal funds on behalf of his or her candidacy.

D. Contributions to Committees. Contributions made to any Person or a Committee, and not to a Candidate or Controlled Committee, shall not be considered as Contributions to the Candidate or Controlled Committee, notwithstanding the fact that such Person or Committee supports the Candidate or uses the Contribution to bring about the nomination or election of the Candidate.

E. Anonymous Contributions. No Candidate or Controlled Committee, including the Candidate's campaign treasurer, shall accept anonymous Contributions of one hundred dollars (\$100.00) or more. No Person shall make a Contribution or loan for any other Person under an assumed name or under the name of any other Person.

F. Extensions of Credit. Extensions of credit for a period of more than thirty (30) days are prohibited. Extensions of credit of more than one thousand dollars annually are prohibited. Provided, however, a Candidate may personally borrow an unlimited amount and such funds shall be considered a Contribution by the Candidate to himself or herself; provided, further, that such transaction is fully disclosed and documented in accordance with applicable law.

G. Candidate Loan to Campaign. If a Candidate is loaning the campaign money, such loan is required to be reported on Fair Political Practices Commission (FPPC) campaign filing forms in accordance with the applicable State law.

H. Cash Contributions. No Candidate or Controlled Committee, including the Candidate's campaign treasurer, shall solicit or accept any cash Contribution from any Person totaling one-hundred dollars (\$100.00) or more. A cash Contribution shall not be deemed received if it is not negotiated or deposited, and is returned to the contributor before the closing date of the campaign statement on which the Contribution would otherwise be reported. If a cash Contribution, other than a late Contribution, as defined by Section 82036 of the Political Reform Act, is negotiated or deposited, it shall not be deemed received if it is refunded within seventy-two (72) hours of receipt. In the case of a late Contribution, as defined by Section 82036 of the Political Reform Act, it shall not be deemed received if it is returned to the Contributor within forty-eight (48) hours of receipt.

I. Contributions of One Hundred Dollars (\$100.00) or More. All Contributions totaling one hundred dollars (\$100.00) or more must be made by check, web portal, or electronic application which accepts Payments that are recordable. Contributions totaling one hundred dollars (\$100.00) or more made by money order, cashier's check, or traveler's cheque are prohibited and must be returned to the contributor.

J. Identification of Contributors. No Contribution shall be deposited into a Candidate or Committee's City Election campaign account totaling Twenty-Five Dollars (\$25.00) or more unless the full name, street address including zip code, are on file with the Candidate or Committee receiving the Contribution. For Contributions totaling One Hundred Dollars (\$100.00) or more, the contributor's occupation and employer's name, or if self-employed, the name of the business of the Person making the Contribution, must also be recorded.

K. Family Contributions. Contributions by spouses shall be treated as separate contributions and shall not be aggregated. Contributions by children under eighteen (18) years of age shall be treated as contributions attributed equally to each parent or guardian.

L. Applicability of Section to Candidate and Committees. The terms of this Section are applicable to any Contributions made to a Candidate or Committee hereunder, whether used by such Candidate or Committee to finance a current campaign, to pay deficits incurred in prior campaigns or otherwise.

M. Adjustment for Cost of Living. The Campaign Contribution limits and Contribution acceptance and solicitation limits specified in Subsections (A) and (B) of this Section, shall be adjusted in February of each odd numbered year commencing in 2013 for changes in the Consumer Price Index (CPI) over the previous two (2) year period. The City Clerk shall use the annual percent change in the CPI for All Urban Consumers (CPI-U) for the San Diego Metropolitan Area to determine the appropriate rate of increase or decrease. Adjustments made pursuant to this Subsection shall be rounded to the nearest

five dollars (\$5.00) or other comparable cost of living index chosen by the City Council. (Ord. 406 § 3, 2011)

9.08.050 Identification of expenditures by independent committees.

Independent Committees which make Expenditures for or against a Candidate shall indicate clearly on any Independent Expenditure material published, displayed, or broadcast the name of the Independent Committee and the fact that the material was paid for by an Independent Committee, and the true name of any Person on whose behalf the Independent Expenditure is made, if made as the agent or intermediary of another.

9.08.060 Election campaign accounts.

A. City Election Campaign Account. Each Candidates' campaign treasurer and every Committee, whether composed of the Candidate alone, another single individual, or otherwise, that receives or expends more than two thousand dollars (\$2,000.00), shall open only one (1) checking account at a State or Federally chartered bank, credit union, or savings and loan association. The account shall be identified as the City Election campaign account. The account number shall be provided to the City Clerk in writing within ten (10) days of the opening of such account. Any Committee that receives or expends more than two thousand dollars (\$2,000.00) shall file with the City Clerk a Statement of Organization Form (FPPC Form 410) not later than ten (10) days following the opening of the City Election campaign account.

B. Deposits of Contributions. All campaign Contributions accepted by a campaign treasurer or Committee shall be deposited within five (5) days of receipt into the election campaign account by the campaign treasurer, Committee or authorized agent.

C. Funds in the election campaign account shall not be considered for any purpose to be personal funds of a Candidate, campaign treasurer, or any other Person.

D. Surplus Funds shall be disbursed according to the guidelines provided by the Political Reform Act and reported accurately.

E. Retention of Records. The Candidate, Committee or authorized agent thereof shall retain all campaign records for a period of five (5) years, if unsuccessful, and indefinitely, if successful, after the election. This includes all receipts, and bank records.

9.08.070 Enforcement authority.

A. The Enforcement Authority appointed by the City Council shall enforce the provisions of this Chapter.

B. Any Person who believes that a violation of any portion of this Chapter has occurred may file a complaint with the Enforcement Authority by depositing such complaint in the Office of the City Clerk. The City Clerk shall forward the complaint to the Enforcement Authority within three (3) working days. If the Enforcement Authority determines that there is reason to believe a violation of this Chapter has occurred, it shall make an investigation. Whenever the Enforcement Authority has reason to believe a willful violation of this Chapter has occurred or is about to occur, it may institute such legal action at such time as it deems necessary to prevent further violations.

C. The Enforcement Authority shall have such investigative powers as are necessary for the performance of the duties prescribed in this Chapter and may demand records of campaign Contributions and Expenditures at any time.

D. The Enforcement Authority shall determine whether required statements and declarations have been filed as required, and, if so, whether they conform with the requirements of this Chapter.

E. The Enforcement Authority may enforce this Chapter using civil, administrative, or criminal remedies in its discretion. The Enforcement Authority may seek administrative remedies pursuant to Chapter 1.24 of the Lemon Grove Municipal Code. (Ord. 406 § 3, 2011)

9.08.080 Violation—Penalty.

A. Any Person who knowingly violates any provision of this Chapter may be prosecuted, either as an infraction or as a misdemeanor, at the discretion of the prosecutor. For purposes of this Chapter, the district attorney of the County is the civil and criminal prosecutor. In addition to any other penalty provided by law, any willful or knowing violation of this Chapter, done with intent to mislead or deceive, shall be punishable by a fine of not less than one-thousand (\$1,000) dollars per occurrence payable to the City Clerk, who will deposit any funds received under this Section into the General Fund of the City to defray the costs of City Elections. The Chairperson and/or Treasurer of any Committee shall be both civil and criminally responsible for any violation of this Committee. These violations and penalties are in addition to any pursued by the State. (Ord. 406 § 3, 2011)

B. Any Person who violates any provision of this chapter shall be liable for civil and criminal actions brought by the Enforcement Authority, and shall be liable for the reasonable attorneys' fees and costs incurred by the Special Counsel in any civil proceeding filed to enforce these provisions.

C. All fines shall be deposited into the general fund of the City to defray the cost of City Elections.^{8.060}

9.08.090 Rules of construction.

This Chapter shall be construed liberally in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this Chapter which does not directly affect the jurisdiction of the City to control campaign Contributions and Expenditures shall avoid the effect of this Chapter. This Chapter shall be interpreted in a manner consistent with the Federal Constitution, State Constitution, and the California Political Reform Act (Government Code Section 81000 et seq.) including its implementing regulations, as amended. (Ord. 406 § 3, 2011)

9.08.100 Election signs.

In conjunction with Chapter 18.12 (Signs) of the Lemon Grove Municipal Code, this Section is specific to election signs.

A. All Candidates and Committees are required to obtain a sign permit at no cost to place signs of any kind within the City boundaries. The sign permit will provide the City with a list of approved signs and approved locations to place signs, and a City staff contact and phone number.

B. All signs will follow the State guidelines on reporting "Paid for by Committee Name" at minimum and Committee Number issued by the Secretary of State will be included on all signs and mailing materials by all Candidates and Committees within the City boundaries.

C. Timing, Removal. Placement of signs shall be made no earlier than thirty (30) days prior to the election. All signs shall be removed within five (5) days after the election. If any sign is not removed within the specified time period, the City may remove and destroy or otherwise dispose of the sign without liability whatsoever to the City.

~~D. Fines. Those not in compliance with the sign requirements can be fined up to ten dollars (\$10.00) per calendar day.~~

9.08.110 Electioneering.

It is unlawful for any Person to participate in Electioneering as a Candidate, for a Candidate, Committee or any other election campaign on City-owned property or at a City-hosted or City-sponsored event. This includes but is not limited to, any of the following:

- A. A display of a Candidate's name, likeness, or logo.
- B. A display of a ballot measure's number, title, subject, or logo.
- C. Buttons, hats, pencils, pens, shirts, signs, or stickers containing Electioneering information.
- D. Dissemination of audible Electioneering information.
- E. At vote by mail ballot drop boxes, loitering near or disseminating visible or audible Electioneering information.

Attachment B

ORDINANCE NO. 453

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA, REPEALING AND REPLACING CHAPTER 9.08 (ELECTION CAMPAIGN REGULATIONS) OF THE LEMON GROVE MUNICIPAL CODE

WHEREAS, this Chapter is enacted pursuant to Article XI, Section 7 of the California Constitution, Section 22808 of the California Elections Code, and Section 81013 of the California Government Code; and

WHEREAS, it is the intent of the City Council of the City of Lemon Grove in enacting this Chapter to supplement the provisions of the Political Reform Act of 1974 (California Government Code Sections 81000 et seq.), as amended, and the regulations adopted by the Fair Political Practices Commission (California Code of Regulations, Title 2, Division 6, Sections 18110 through 18997) with regard to making and reporting of campaign Contributions and Expenditures. In the event of a conflict between the provisions of the Political Reform Act or the Fair Political Practices Commission regulations and the provisions of this Chapter, the provisions of the Political Reform Act and/or the Fair Political Practices Commission regulations shall prevail; and

WHEREAS, monetary contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates. Candidates should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them; and

WHEREAS, limiting campaign contributions and expenditures in municipal elections helps ensure equal opportunities for all candidates, promotes diversity among candidates, and strengthens the community's trust that their government is representative; and

WHEREAS, Lemon Grove can best preserve its sense of community, safeguard its local democracy, and effectuate its commitment to fair public process by limiting all

campaign contributions and expenditures and requiring appropriate reporting requirements to ensure these limitations are enforced; and

WHEREAS, by enacting this Chapter, the City Council seeks to: (1) ensure that individuals have a fair and equal opportunity to participate in the municipal elective and governmental processes; (2) reduce the influence of large campaign contributors with a specific financial stake in matters before City governmental bodies; (3) curtail overall expenditures in campaigns; (4) reduce potential for the fundraising advantage of incumbents and thus encourage competition for elective office; (5) improve the disclosure of contribution sources in reasonable and effective ways; and (6) help maintain public trust in governmental and electoral institutions, and protect the integrity of the City election process; and

WHEREAS, this Chapter shall not apply to contributions given to a committee organized solely for the purpose of supporting or opposing the qualifications for the ballot or the adoption of one or more City measures.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California, does ordain as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. Chapter 9.08 (Election Campaign Regulations) of the Lemon Grove Municipal Code is hereby repealed and replaced and shall read as shown in Exhibit A.

Section 3. This Ordinance shall be effective thirty (30) days following its adoption. Within fifteen (15) days following its adoption, the City Clerk shall publish the title thereof as a summary as required by State Law.

Section 4. The City Clerk is hereby directed to submit a copy of this Ordinance to the Fair Political Practices Commission following its adoption.

INTRODUCED by the City Council of the City of Lemon Grove on October 1, 2019.

PASSED AND ADOPTED on _____, 2019, the City Council of the City of Lemon Grove, California, adopted Ordinance No. 453, passed by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Racquel Vasquez, Mayor

Attest:

Shelley Chapel, MMC, City Clerk

Approved as to Form:

Kristen Steinke, City Attorney

Exhibit A

Title 9 PUBLIC WELFARE AND ELECTIONS

- Chapter 9.08 Election Campaign Regulations**
- Chapter 9.12 Cardrooms and Gambling**
- Chapter 9.16 Urination or Defecation in Public**
- Chapter 9.20 Public Nudity**
- Chapter 9.24 Noise Abatement and Control**
- Chapter 9.26 Police Services at Parties, Gatherings or Events**
- Chapter 9.28 Obstructing Passage**
- Chapter 9.32 Prohibition of Application of Graffiti to Private or Public Property, and the Defacement of Private or Public Property**
- Chapter 9.36 Obstructing Free Movement, Soliciting, Camping and Storage of Personal Property**
- Chapter 9.40 Curfew—Minors**
- Chapter 9.44 Firearms**
- Chapter 9.48 Consumption of Alcohol**
- Chapter 9.49 Police and Fire Services at Parties and Events and Social Host Responsibilities Concerning the Consumption of Alcohol and Controlled Substances by Minors or Juveniles**
- Chapter 9.50 Spectators Prohibited at Illegal Speed Contests or Exhibitions of Speed**
- Chapter 9.70 Forfeiture of Nuisance Vehicles Engaged in Illegal Motor Vehicle Speed Contest or Exhibition of Speed**

Title 9 PUBLIC WELFARE AND ELECTIONS

Chapter 9.08 ELECTION CAMPAIGN REGULATIONS

Sections:

- 9.08.010 Purpose and intent.**
- 9.08.020 Definitions.**
- 9.08.030 Campaign statements and filing fees.**
- 9.08.040 Campaign contributions—Limitations and disclosures.**
- 9.08.050 Identification of expenditures by independent committees.**
- 9.08.060 Election campaign accounts.**
- 9.08.070 Enforcement authority.**
- 9.08.080 Violation—Penalty.**
- 9.08.090 Rules of construction.**
- 9.08.100 Election signs.**
- 9.08.110 Electioneering.**

9.08.010 Purpose and intent.

This Chapter is enacted pursuant to Article XI, Section 7 of the California Constitution, Section 22808 of the California Elections Code, and Section 81013 of the California Government Code. It is the intent of the City Council of the City of Lemon Grove in enacting this Chapter to supplement the provisions of the Political Reform Act of 1974 (California Government Code Sections 81000 et seq.), as amended, and the regulations adopted by the Fair Political Practices Commission (California Code of Regulations, Title 2, Division 6, Sections 18110 through 18997) with regard to making and reporting of campaign Contributions and Expenditures. In the event of a conflict between the provisions of the Political Reform Act or the Fair Political Practices Commission regulations and the provisions of this Chapter, the provisions of the Political Reform Act and/or the Fair Political Practices Commission regulations shall prevail.

In enacting this Chapter, the City Council finds and declares the following:

A. Monetary Contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of Candidates. Candidates should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.

B. Limiting Campaign Contributions and Expenditures in municipal elections helps ensure equal opportunities for all Candidates, promotes diversity among Candidates, and strengthens the community's trust that their government is representative.

C. Lemon Grove can best preserve its sense of community, safeguard its local democracy, and effectuate its commitment to fair public process by limiting all campaign Contributions and Expenditures and requiring appropriate reporting requirements to ensure these limitations are enforced.

D. By enacting this Chapter, the City Council seeks to: (1) ensure that individuals have a fair and equal opportunity to participate in the municipal elective and governmental processes; (2) reduce the influence of large Campaign contributors with a specific financial stake in matters before City governmental bodies; (3) curtail overall Expenditures in Campaigns; (4) reduce potential for the fundraising advantage of incumbents and thus encourage competition for elective office; (5) improve the disclosure of Contribution

sources in reasonable and effective ways; and (6) help maintain public trust in governmental and electoral institutions, and protect the integrity of the City Election process.

E. This Chapter shall not apply to Contributions given to a Committee organized solely for the purpose of supporting or opposing the qualifications for the ballot or the adoption of one or more City measures.

9.08.020 Definitions.

The capitalized terms used in this Chapter shall have the same definitions as specified in the Political Reform Act of 1974 (Government Code Sections 81000 et seq.) and the Fair Political Practices Commission regulations (California Code of Regulations, Title 2, Division 6, Sections 18110 et seq.), unless otherwise specified in this Chapter. When used in this Chapter, the following words and terms shall be interpreted as follows, unless the text indicates a different meaning:

A. “Candidate,” as referred to in this Chapter, only applies to Persons seeking an Elective City Office.

B. “City Election” means any primary, general, or special election, including recall election, held within the City of Lemon Grove for Elective City Office. Each general or special election is a separate City Election for purposes of this Chapter.

C. “Committee” shall only mean a Candidate’s Controlled Committee or a Committee formed or primarily to support or oppose a Candidate, or a City general purpose Committee active only in the City, for purposes of all filing requirements in this Chapter.

D. “Electioneering” means the visible display or audible dissemination of information that advocates for or against any Candidate or measure on the ballot.

E. “Elective City Office” means member of the City Council, including the Mayor.

F. “Enforcement Authority” shall mean the special counsel, officer, agent or organization designated by action of the City Council to enforce the provisions of this Article. Nothing in this Article shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this Article under any circumstances where such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

G. “Independent Committee” shall mean a Committee that receives Contributions or makes Expenditures for the purpose of influencing or attempting to influence a City Election, which is not made with the cooperation, consultation or in concern with, or at the request or suggestion of, any Candidate or his or her Committee, or any of their agents.

9.08.030 Campaign statements and filing fees.

A. Campaign Statements. Each Candidate and each Committee shall be required to file those campaign statements required by the Political Reform Act of 1974 in the manner required by the Act. Campaign statements filed with the City Clerk shall be a matter of public record. The City Clerk shall, within three (3) City business days of the date of filing, post copies of campaign statements online at the City’s website.

B. Late Filing of Campaign Statements. If any Person files a Campaign Statement after any deadline imposed, he/she shall, in addition to any other penalties or remedies established by this Chapter, be liable to the City Clerk in the amounts as set forth by State guidelines per calendar day until the statement

is filed. The City Clerk shall deposit any funds received under this Section into the general fund of the City to defray the cost of City Elections.

C. Filing Fees. A filing fee of twenty-five dollars (\$25.00) is established for a Candidate's nomination papers for City Elective Office. The filing fee shall be paid to the City Clerk by each Candidate for a City Elective Office at the time the Candidate's nomination paper is filed with the City Clerk, in addition to the Candidate statement fees determined in February of each odd numbered year. The City Clerk shall deposit all fees received into the general fund. All filing fees and Candidate statement fees are non-refundable. (Government Code Section 10228).

9.08.040 Campaign contributions—Limitations and disclosures.

A. Contributions by Persons to Candidates or Controlled Committees. No Person shall make any Contribution to a Candidate and/or the Candidate's Controlled Committee, with respect to any single City Election, which will cause the total amount contributed by such Person to the Candidate and the Candidate's Controlled Committee, when combined, to exceed one thousand dollars (\$1,000.00) in a calendar year.

B. Acceptance or Solicitation by Candidates or Controlled Committees. No Candidate or Controlled Committee, including the Candidate's campaign treasurer, shall solicit or accept any Contribution from any Person, with respect to any single City Election, which will cause the total amount contributed by such Person to the Candidate and the Candidate's Controlled Committee, when combined, to exceed one thousand dollars (\$1,000.00) in a calendar year.

C. Contributions by Candidates. The provisions of Subsections (A) and (B) of this Section shall not apply to contributions from a Candidate to his or her Controlled Committee nor to the expenditure, by the Candidate, of his or her personal funds on behalf of his or her candidacy.

D. Contributions to Committees. Contributions made to any Person or a Committee, and not to a Candidate or Controlled Committee, shall not be considered as Contributions to the Candidate or Controlled Committee, notwithstanding the fact that such Person or Committee supports the Candidate or uses the Contribution to bring about the nomination or election of the Candidate.

E. Anonymous Contributions. No Candidate or Controlled Committee, including the Candidate's campaign treasurer, shall accept anonymous Contributions of one hundred dollars (\$100.00) or more. No Person shall make a Contribution or loan for any other Person under an assumed name or under the name of any other Person.

F. Extensions of Credit. Extensions of credit for a period of more than thirty (30) days are prohibited. Extensions of credit of more than one thousand dollars (\$1,000.00) annually are prohibited. Provided, however, a Candidate may personally borrow an unlimited amount and such funds shall be considered a Contribution by the Candidate to himself or herself; provided, further, that such transaction is fully disclosed and documented in accordance with applicable law.

G. Candidate Loan to Campaign. If a Candidate is loaning the campaign money, such loan is required to be reported on Fair Political Practices Commission (FPPC) campaign filing forms in accordance with the applicable State law.

H. Cash Contributions. No Candidate or Controlled Committee, including the Candidate's campaign treasurer, shall solicit or accept any cash Contribution from any Person totaling one-hundred dollars (\$100.00) or more. A cash Contribution shall not be deemed received if it is not negotiated or deposited, and is returned to the contributor before the closing date of the campaign statement on which the Contribution would otherwise be reported. If a cash Contribution, other than a late Contribution, as defined

by Section 82036 of the Political Reform Act, is negotiated or deposited, it shall not be deemed received if it is refunded within seventy-two (72) hours of receipt. In the case of a late Contribution, as defined by Section 82036 of the Political Reform Act, it shall not be deemed received if it is returned to the Contributor within forty-eight (48) hours of receipt.

I. Contributions of One Hundred Dollars (\$100.00) or More. All Contributions totaling one hundred dollars (\$100.00) or more must be made by check, web portal, or electronic application which accepts Payments that are recordable. Contributions totaling one hundred dollars (\$100.00) or more made by money order, cashier's check, or traveler's cheque are prohibited and must be returned to the contributor.

J. Identification of Contributors. No Contribution shall be deposited into a Candidate or Committee's City Election campaign account totaling Twenty-Five Dollars (\$25.00) or more unless the full name, street address including zip code, are on file with the Candidate or Committee receiving the Contribution. For Contributions totaling One Hundred Dollars (\$100.00) or more, the contributor's occupation and employer's name, or if self-employed, the name of the business of the Person making the Contribution, must also be recorded.

K. Family Contributions. Contributions by spouses shall be treated as separate contributions and shall not be aggregated. Contributions by children under eighteen (18) years of age shall be treated as contributions attributed equally to each parent or guardian.

L. Applicability of Section to Candidate and Committees. The terms of this Section are applicable to any Contributions made to a Candidate or Committee hereunder, whether used by such Candidate or Committee to finance a current campaign, to pay deficits incurred in prior campaigns or otherwise.

M. Adjustment for Cost of Living. The Campaign Contribution limits and Contribution acceptance and solicitation limits specified in Subsections (A) and (B) of this Section, shall be adjusted in February of each odd numbered year commencing in 2013 for changes in the Consumer Price Index (CPI) over the previous two (2) year period. The City Clerk shall use the annual percent change in the CPI for All Urban Consumers (CPI-U) for the San Diego Metropolitan Area to determine the appropriate rate of increase or decrease. Adjustments made pursuant to this Subsection shall be rounded to the nearest five dollars (\$5.00) or other comparable cost of living index chosen by the City Council. (Ord. 406 § 3, 2011)

9.08.050 Identification of expenditures by independent committees.

Independent Committees which make Expenditures for or against a Candidate shall indicate clearly on any Independent Expenditure material published, displayed, or broadcast the name of the Independent Committee and the fact that the material was paid for by an Independent Committee, and the true name of any Person on whose behalf the Independent Expenditure is made, if made as the agent or intermediary of another.

9.08.060 Election campaign accounts.

A. City Election Campaign Account. Each Candidates' campaign treasurer and every Committee, whether composed of the Candidate alone, another single individual, or otherwise, that receives or expends more than two thousand dollars (\$2,000.00), shall open only one (1) checking account at a State or Federally chartered bank, credit union, or savings and loan association. The account shall be identified as the City Election campaign account. The account number shall be provided to the City Clerk in writing within ten (10) days of the opening of such account. Any Committee that receives or expends more than two thousand dollars (\$2,000.00) shall file with the City Clerk a Statement of Organization Form (FPPC Form 410) not later than ten (10) days following the opening of the City Election campaign account.

B. Deposits of Contributions. All campaign Contributions accepted by a campaign treasurer or Committee shall be deposited within five (5) days of receipt into the election campaign account by the campaign treasurer, Committee or authorized agent.

C. Funds in the election campaign account shall not be considered for any purpose to be personal funds of a Candidate, campaign treasurer, or any other Person.

D. Surplus Funds shall be disbursed according to the guidelines provided by the Political Reform Act and reported accurately.

E. Retention of Records. The Candidate, Committee or authorized agent thereof shall retain all campaign records for a period of five (5) years, if unsuccessful, and indefinitely, if successful, after the election. This includes all receipts, and bank records.

9.08.070 Enforcement authority.

A. The Enforcement Authority appointed by the City Council shall enforce the provisions of this Chapter.

B. Any Person who believes that a violation of any portion of this Chapter has occurred may file a complaint with the Enforcement Authority by depositing such complaint in the Office of the City Clerk. The City Clerk shall forward the complaint to the Enforcement Authority within three (3) working days. If the Enforcement Authority determines that there is reason to believe a violation of this Chapter has occurred, it shall make an investigation. Whenever the Enforcement Authority has reason to believe a willful violation of this Chapter has occurred or is about to occur, it may institute such legal action at such time as it deems necessary to prevent further violations.

C. The Enforcement Authority shall have such investigative powers as are necessary for the performance of the duties prescribed in this Chapter and may demand records of campaign Contributions and Expenditures at any time.

D. The Enforcement Authority shall determine whether required statements and declarations have been filed as required, and, if so, whether they conform with the requirements of this Chapter.

E. The Enforcement Authority may enforce this Chapter using civil, administrative, or criminal remedies in its discretion. The Enforcement Authority may seek administrative remedies pursuant to Chapter 1.24 of the Lemon Grove Municipal Code. (Ord. 406 § 3, 2011)

9.08.080 Violation—Penalty.

A. Any Person who knowingly violates any provision of this Chapter may be prosecuted, either as an infraction or as a misdemeanor, at the discretion of the prosecutor. For purposes of this Chapter, the district attorney of the County is the civil and criminal prosecutor. In addition to any other penalty provided by law, any willful or knowing violation of this Chapter, done with intent to mislead or deceive, shall be punishable by a fine of not less than one-thousand (\$1,000) dollars per occurrence payable to the City Clerk, who will deposit any funds received under this Section into the General Fund of the City to defray the costs of City Elections. The Chairperson and/or Treasurer of any Committee shall be both civil and criminally responsible for any violation of this Committee. These violations and penalties are in addition to any pursued by the State. (Ord. 406 § 3, 2011)

B. Any Person who violates any provision of this chapter shall be liable for civil and criminal actions brought by the Enforcement Authority, and shall be liable for the reasonable attorneys' fees and costs incurred by the Special Counsel in any civil proceeding filed to enforce these provisions.

C. All fines shall be deposited into the general fund of the City to defray the cost of City Elections.8.060

9.08.090 Rules of construction.

This Chapter shall be construed liberally in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this Chapter which does not directly affect the jurisdiction of the City to control campaign Contributions and Expenditures shall avoid the effect of this Chapter. This Chapter shall be interpreted in a manner consistent with the Federal Constitution, State Constitution, and the California Political Reform Act (Government Code Section 81000 et seq.) including its implementing regulations, as amended. (Ord. 406 § 3, 2011)

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