



AGENDA
CITY COUNCIL/SUCCESSOR AGENCY/STANTON HOUSING AUTHORITY
JOINT REGULAR MEETING
STANTON CITY HALL, 7800 KATELLA AVENUE, STANTON, CA
TUESDAY, AUGUST 8, 2017 - 6:30 P.M.

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- 1. CLOSED SESSION (6:00 PM)**
- 2. ROLL CALL**
 - Council Member Donahue
 - Council Member Ethans
 - Council Member Ramirez
 - Mayor Pro Tem Shawver
 - Mayor Warren
- 3. PUBLIC COMMENT ON CLOSED SESSION ITEMS**

Closed Session may convene to consider matters of purchase / sale of real property (G.C. §54956.8), pending litigation (G.C. §54956.9(a)), potential litigation (G.C. §54956.9(b)) or personnel items (G.C. §54957.6). Records not available for public inspection.

4. CLOSED SESSION

4A. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code Section 54956.9(d) (2)

Number of Potential Cases: 3

4B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Existing litigation pursuant to Government Code section 54956.9(d)(1)
Number of cases: 1

City of Stanton vs. Green Tree Remedy et al, Orange County Superior Court Case Number: 30-2015-00813225-CU-JR-CJC

5. CALL TO ORDER / SUCCESSOR AGENCY / STANTON HOUSING AUTHORITY MEETING

6. ROLL CALL Agency/Authority Member Donahue
Agency/Authority Member Ethans
Agency/Authority Member Ramirez
Vice Chairman Shawver
Chairperson Warren

7. PLEDGE OF ALLEGIANCE

8. SPECIAL PRESENTATIONS AND AWARDS

- Monthly Spotlight – Orange County Sheriff's Department.

9. CONSENT CALENDAR

All items on the Consent Calendar may be acted on simultaneously, unless a Council/Board Member requests separate discussion and/or action.

CONSENT CALENDAR

9A. MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS. SAID ORDINANCES AND RESOLUTIONS THAT APPEAR ON THE PUBLIC AGENDA SHALL BE READ BY TITLE ONLY AND FURTHER READING WAIVED

RECOMMENDED ACTION:

City Council/Agency Board/Authority Board waive reading of Ordinances and Resolutions.

9B. APPROVAL OF WARRANTS

City Council approve demand warrants dated July 20, 2017 and July 27, 2017, in the amount of \$317,838.02.

9C. APPROVAL OF MINUTES

City Council/Agency/Authority Board approve Minutes of Regular Joint Meeting – July 25, 2017.

9D. ADOPTION OF RESOLUTION NO. 2017-33 UPHOLDING THE APPEAL TO MODIFY A CERTAIN CONDITION OF APPROVAL FOR CONDITIONAL USE PERMIT C17-02 ADOPTED BY THE PLANNING COMMISSION, TO ALLOW FOR THE SALE OF SINGLE SERVE BEER CONTAINERS IN CONJUNCTION WITH THE OPERATION OF A MINI-MART WITH THE SALE OF BEER, WINE AND SPIRITS FOR THE PROPERTY LOCATED AT 10480 BEACH BLVD. IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY AVTAR SINGH

At the July 25, 2017 City Council meeting, the City Council heard an appeal to modify a certain condition of approval for Conditional Use Permit C17-02 to allow for the sale of single serve beer containers in conjunction with the operation of a mini-mart with the sale of beer, wine and spirits for the property located at 10480 Beach Boulevard. After reviewing the staff report and hearing public testimony, the City Council approved the appeal and directed staff to draft a resolution to modify the condition of approval to allow for the sale of single serve beer containers.

RECOMMENDED ACTION:

1. City Council declare that the project is categorically exempt per the California Environmental Quality Act (CEQA), under Section 15301 (Existing Facilities); and
2. Adopt Resolution No. 2017-33 upholding the appeal to allow the sale of single serve beer containers, entitled:

“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA UPHOLDING the appeal TO MODIFY A CERTAIN CONDITION OF APPROVAL FOR CONDITIONAL USE PERMIT C17-02 ADOPTED BY THE PLANNING COMMISSION, TO ALLOW FOR THE SALE OF SINGLE SERVE BEER CONTAINERS IN CONJUNCTION WITH THE OPERATION OF A MINI-MART WITH THE SALE OF BEER, WINE AND SPIRITS FOR THE PROPERTY LOCATED AT 10480 BEACH BLVD. IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY AVTAR SINGH”.

9E. LANDSCAPE MAINTENANCE AGREEMENT WITH CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS ADJACENT TO 11382 BEACH BOULEVARD

The development of the property at the northeast corner of Beach Boulevard and Orangewood Avenue, the new Stanton Plaza, will include landscaping along Beach Boulevard. The California Department of Transportation owns the right of way where the landscaping will be placed. They are requiring that the City enter into an agreement to maintain this landscaping in the event it is not properly maintained by the adjacent property owner.

RECOMMENDED ACTION:

1. City Council declare that the project is categorically exempt under the California Environmental Quality Act, Class 1, Section 15301(h) as maintenance of existing landscaping; and
2. Approve an agreement with the California Department of Transportation to maintain the landscape improvements in the public right of way on Beach Boulevard; and
3. Authorize the Mayor and City Manager to bind the City of Stanton and the California Department of Transportation in said agreement.

9F. LICENSE AGREEMENT WITH UNION PACIFIC RAILROAD COMPANY FOR AUTHORIZATION TO PLACE CONDUITS AND WIRES UNDER RAILROAD RIGHT OF WAY

The Union Pacific Railroad Company (UPRR) owns the right of way where conduits and wires need to be placed for the Western Avenue and Thunderbird Lane Traffic Signal Project. UPRR requires that the City enter into an agreement to acquire a Licensee for this work. Upon execution of this agreement, the City shall pay a one-time License fee of \$13,100.00.

RECOMMENDED ACTION:

1. City Council declare that the project is exempt from the California Environmental Quality Act ("CEQA") under Section 15301(b) – Existing facilities of both investor and publicly-owned utilities to provide electric power, natural gas, sewerage, or other public utility services; and
2. Approve a license agreement with the Union Pacific Railroad Company allowing the City to work within their right of way; and
3. Authorize the Mayor and City Manager to bind the City of Stanton and the Union Pacific Railroad Company in said agreement; and
4. City Council to approve a one-time License Fee of \$13,100.00.

9G. REJECTION OF ALL BIDS FOR THE RUTLEDGE AVENUE AND PALAIS ROAD ALLEY IMPROVEMENT PROJECT BY THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA

Staff is requesting that the City Council reject all bids for the Rutledge Avenue and Palais Road Alley Improvement Project.

RECOMMENDED ACTION:

1. City Council determine that In accordance with the requirements of the California Environmental Quality Act, the action would not be deemed to be a project per Section 15378(b)(5) – Organizational or administrative activities of governments that will not result in direct or indirect physical change in the environment; and
2. Reject all bids for the Rutledge Avenue and Palais Road Alley Improvement Project.

9H. CHANGE ORDER FOR THE WESTERN AVENUE AND THUNDERBIRD LANE TRAFFIC SIGNAL PROJECT

The construction contract has been awarded for the Western Avenue and Thunderbird Lane Traffic Signal Project and the cost is \$179,849.00. Union Pacific Railroad has recently required additional design changes which will cost an additional \$81,165.01. The new costs for the mentioned work are in excess of the 10% authorization limit of the City Manager. Therefore, Staff requests that the Council authorize this Change Order 001 in the total additive amount of \$81,165.01 and authorize a 10% contingency based on the total project cost. The new project cost will be \$287,115.41, including the contingency.

RECOMMENDED ACTION:

1. City Council declare that the project is exempt from the California Environmental Quality Act (“CEQA”) under Section 15301(c) – Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities; and
2. Approve Change Order 001 in the total additive amount of \$81,165.01 to DBX, Inc. for the Western Avenue and Thunderbird Lane Traffic Signal Project; and
3. Authorize the Mayor to execute Change Order No. 001; and
4. Authorize the City Manager to approve contract changes, not to exceed 10-percent.

END OF CONSENT CALENDAR

10. PUBLIC HEARINGS

10A. A REPORT ON THE END OF THE INTERNET AND CYBER CAFÉ MORATORIUM AND AN ORDINANCE ADOPTING REGULATIONS FOR THE OPERATION OF INTERNET AND CYBER CAFES IN THE CITY OF STANTON

The report includes a summary of actions taken during the moratorium period and an Ordinance adopting regulations for the operation of internet and cyber cafes in the City of Stanton.

RECOMMENDED ACTION:

1. City Council conduct a public hearing; and
2. Declare that the project is not subject to CEQA in accordance with Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and
3. Receive and file report on summary of actions taken during the moratorium period; and
4. Introduce Ordinance No. 1069, entitled:

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA AMENDING CHAPTER 5.68 OF TITLE 5, TABLE 2-5 of SECTION 20.215.020, TABLE 2-7 of SECTION 20.220.020, TABLE 2-9 OF SECTION 20.225.020, TABLE 2-11 of SECTION 20.230.020, AND SECTION 20.400.090 OF TITLE 20 OF THE STANTON MUNICIPAL CODE REGARDING INTERNET CAFES, CYBER CAFES, AND COMMERCIAL RECREATION FACILITIES”; and
5. Set Ordinance for adoption at the September 12, 2017, regular City Council meeting.

10B. PUBLIC HEARING – SECOND READING OF ORDINANCE ESTABLISHING A SEWER USER FEE UNIT RATE FOR SEWER SERVICES

On March 1, 1988, the City of Stanton assumed operation and maintenance of sanitary sewer system improvements within its jurisdictional boundary under Orange County Reorganization No. 88. In order to provide sufficient revenue for the operation of the Stanton Sewer Department the City Council must annually adopt an ordinance to establish a user fee rate for sewer services for each fiscal year.

The City has recently completed an Annual Report sewer rate study which was preliminarily approved by the City Council at their meeting on June 13, 2017 which identifies the maximum annual sewer rates which may be charged annually for FY17/18 through FY21/22. Since the report included a change in the methodology used to calculate the Annual Sewer Service Charge for non-residential parcels, the City was required to comply with the requirements of Article XIID, Section 6 which requires that the City conduct a public hearing on the proposed rate structure not less than 45 days after mailing a notice of the proposed change to each parcel.

RECOMMENDED ACTION:

1. City Council conduct a public hearing to receive public comment regarding the revised Sewer User Fee rate, which maintains a two percent reduction from the fiscal year 2014-2015 Sewer User Fee unit rate for residential properties and adjusts the methodology used to calculate the Annual Sewer Charge for non-residential properties to be based on land use and building area rather than parcel size until such time as the sewer rates are otherwise revised by a subsequent ordinance of the City Council; and
2. Close the public hearing, and request for a tabulation of the protest that have been received by the City prior to the close of the public hearing. Declare that there is not a majority protest to the adoption of the revised Sewer User Fee schedule; and
3. Declare that the proposed ordinance is exempt from the California Environmental Quality Act ("CEQA") review under Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273; and
4. Approve the fiscal year 2017-2018 parcel list for levying of the annual Sewer User Fee unit rate (on file in the City Clerk's office); and
5. Perform the second reading of Ordinance No. 1068 entitled:

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, ESTABLISHING RATES FOR THE ANNUAL SEWER SERVICE CHARGE FOR SEWER SERVICES"; and
6. Direct staff to establish an Appeal process to be approved by City Council in the next two months.

11. UNFINISHED BUSINESS

11A. APPROVAL OF ORDINANCE NO. 1067

This Ordinance was introduced at the regular City Council meeting of July 25, 2017.

RECOMMENDED ACTION:

1. City Clerk read the title of Ordinance No. 1067, entitled:

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, AMENDING CHAPTERS 2.32 AND 2.36 OF TITLE 2 (ADMINISTRATION AND PERSONNEL) AND CHAPTER 12.36 OF TITLE 12 (STREETS AND SIDEWALKS) OF THE STANTON MUNICIPAL CODE TO CHANGE THE NAME OF THE STANTON PARKS AND RECREATION COMMISSION TO THE STANTON PARKS, RECREATION AND COMMUNITY SERVICES COMMISSION”; and

2. City Council finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and
3. Adopt Ordinance No. 1067.

ROLL CALL VOTE: Council Member Donahue
Council Member Ethans
Council Member Ramirez
Mayor Pro Tem Shawver
Mayor Warren

12. NEW BUSINESS

12A. APPROVAL OF FIFTH AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF STANTON AND THE COUNTY OF ORANGE FOR LAW ENFORCEMENT SERVICES

The current five-year agreement with the County of Orange for law enforcement services is for the period from July 1, 2017 to June 30, 2018. Due to new grant funding in the annual State's budget, Stanton has requested to add a new Community Enhancement Deputy effective September 1st. Other minor revisions to the contract are being made as well. The fifth amendment proposes the cost for services for FY 2017-2018 at \$10,417,166, with a decrease to the General Fund.

RECOMMENDED ACTION:

1. City Council declare that the project is exempt from California Environmental Quality Act ("CEQA") under Section 15378(b)(4) – The creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and
2. Approve the Fifth Amendment to the Five-Year Agreement for Law Enforcement Services between the City of Stanton and the County of Orange; and
3. Authorize the City Manager to execute the Operations Agreement; and
4. Approve Budget Adjustment No. 2018-03 in the amount of \$182,059 from the Public Safety Task Force Grant.

13. ORAL COMMUNICATIONS - PUBLIC

At this time members of the public may address the City Council/Successor Agency/Stanton Housing Authority regarding any items within the subject matter jurisdiction of the City Council/Successor Agency/Stanton Housing Authority, provided that NO action may be taken on non-agenda items.

- Members of the public wishing to address the Council/Agency/Authority during Oral Communications-Public or on a particular item are requested to fill out a REQUEST TO SPEAK form and submit it to the City Clerk. Request to speak forms must be turned in prior to Oral Communications-Public.
- When the Mayor/Chairman calls you to the microphone, please state your Name, slowly and clearly, for the record. A speaker's comments shall be limited to a three (3) minute aggregate time period on Oral Communications and Agenda Items. Speakers are then to return to their seats and no further comments will be permitted.
- Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak including Council/Agency/Authority and Staff need to be recognized by the Mayor/Chairman before speaking.

14. WRITTEN COMMUNICATIONS None.

15. MAYOR/CHAIRMAN COUNCIL/AGENCY/AUTHORITY INITIATED BUSINESS

15A. COMMITTEE REPORTS/ COUNCIL/AGENCY/AUTHORITY ANNOUNCEMENTS

At this time Council/Agency/Authority Members may report on items not specifically described on the agenda which are of interest to the community provided no discussion or action may be taken except to provide staff direction to report back or to place the item on a future agenda.

15B. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE MEETING

At this time Council/Agency/Authority Members may place an item on a future agenda.

15C. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE STUDY SESSION

At this time Council/Agency/Authority Members may place an item on a future study session agenda.

Currently Scheduled:

- **September 5, 2017 (5:30 p.m.)**
Joint Study Session Meeting with the City Council, Planning Commission, Parks, Recreation and Community Services Commission, Public Safety Committee, and Youth Committee.

15D. CITY COUNCIL INITIATED ITEM — DISCUSSION REGARDING LAND USE FOR THE BELL STREET PROPERTY

At the July 25, 2017 City Council meeting, Mayor Warren requested that this item be agendaized for discussion.

RECOMMENDED ACTION:

City Council provide direction to staff.

15E. CITY COUNCIL INITIATED ITEM — DISCUSSION REGARDING POTENTIAL AMENDMENTS TO THE ORANGE COUNTY FIRE AUTHORITY CONTRACT

At the July 25, 2017 City Council meeting, Mayor Pro Tem Shawver requested that this item be agendaized for discussion.

RECOMMENDED ACTION:

City Council provide direction to staff.

16. ITEMS FROM CITY ATTORNEY/AGENCY COUNSEL/AUTHORITY COUNSEL

17. ITEMS FROM CITY MANAGER/EXECUTIVE DIRECTOR

17A. ORANGE COUNTY FIRE AUTHORITY

At this time the Orange County Fire Authority will provide the City Council with an update on their current operations.

18. ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California, the foregoing agenda was posted at the Post Office, Stanton Community Services Center and City Hall, not less than 72 hours prior to the meeting. Dated this 3rd day of August, 2017.

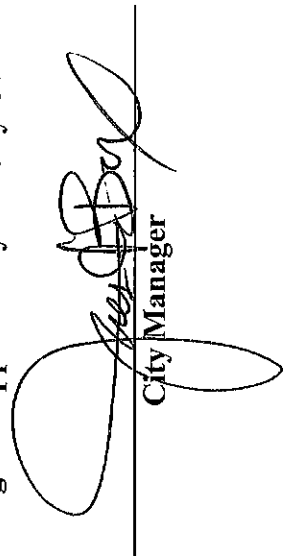
s/ Patricia A. Vazquez, City Clerk/Secretary

**CITY OF STANTON
ACCOUNTS PAYABLE REGISTER**

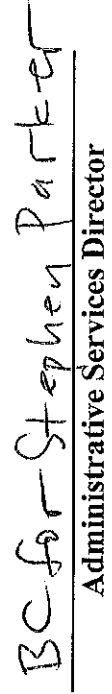
July 20, 2017	\$107,400.87
July 27, 2017	\$210,437.15

\$317,838.02

Demands listed on the attached registers conform to the City of Stanton Annual Budget as approved by the City Council.


City Manager

Demands listed on the attached registers are accurate and funds are available for payment thereof.


Administrative Services Director

DRAFT

MINUTES OF THE CITY COUNCIL / SUCCESSOR AGENCY / HOUSING AUTHORITY OF THE CITY OF STANTON JOINT REGULAR MEETING JULY 25, 2017

1. CALL TO ORDER / CLOSED SESSION

The City Council meeting was called to order at 5:00 p.m. by Mayor Warren.

2. ROLL CALL

Present: Council Member Ethans, Council Member Ramirez, Mayor Pro Tem Shawver, and Mayor Warren.

Absent: Council Member Donahue.

Excused: None.

3. PUBLIC COMMENT ON CLOSED SESSION ITEMS None.

4. CLOSED SESSION

The members of the Stanton City Council of the City of Stanton proceeded to closed session at 5:00 p.m. for discussion regarding:

Council Member Donahue arrived at 5:45 p.m.

4A. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Government Code Section 54956.9 (d) (2)

Number of Potential Cases: 5

4B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Existing litigation pursuant to Government Code section 54956.9(d)(1) Number of cases: 1

City of Stanton vs. Green Tree Remedy et al, Orange County Superior Court Case Number: 30-2015-00813225-CU-JR-CJC

5. CALL TO ORDER / SUCCESSOR AGENCY / STANTON HOUSING AUTHORITY MEETING

The meetings were called to order at 6:30 p.m. by Chairperson Warren.

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The City Attorney reported that the Stanton City Council met in closed session from 5:00 to 6:30 p.m.

The City Attorney reported that there was no reportable action.

6. ROLL CALL

Present: Agency/Authority Member Donahue, Agency/Authority Member Ethans, Agency/Authority Member Ramirez, Vice Chairman Shawver, and Chairperson Warren.

Absent: None.

Excused: None.

7. PLEDGE OF ALLEGIANCE

Led by Mr. Andrew Rigg.

8. SPECIAL PRESENTATIONS AND AWARDS None.

9. CONSENT CALENDAR

Council Member Ramirez requested to pull consent calendar items 9K, 9L, 9M, and 9N for separate discussion.

Motion/Second: Ethans/Shawver

Motion unanimously carried by the following vote:

AYES: 5 (Donahue, Ethans, Ramirez, Shawver, and Warren)

NOES: None

ABSTAIN: None

ABSENT: None

Council Member Donahue to abstain from Consent Calendar Item 9C, line item 1 and 3.

Council Member Ethans to abstain from Consent Calendar Item 9C, line item 1.

Council Member Ramirez to abstain from Consent Calendar Item 9C, line item 3.

Mayor Pro Tem Shawver to abstain from Consent Calendar Item 9C, line item 2.

The City Council/Agency Board/Authority Board approved the following Consent Calendar items:

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CONSENT CALENDAR

9A. MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS. SAID ORDINANCES AND RESOLUTIONS THAT APPEAR ON THE PUBLIC AGENDA SHALL BE READ BY TITLE ONLY AND FURTHER READING WAIVED

The City Council/Agency Board/Authority Board waived reading of Ordinances and Resolutions.

9B. APPROVAL OF WARRANTS

The City Council approved demand warrants dated July 6, 2017 and July 11, 2017, in the amount of \$339,214.26.

9C. APPROVAL OF MINUTES

1. The City Council/Agency/Authority Board approved Minutes of Regular Joint Meeting – May 9, 2017.
2. The City Council/Agency/Authority Board approved Minutes of Regular Joint Meeting – June 27, 2017.
3. The City Council/Agency/Authority Board approved Minutes of Regular Joint Meeting – July 11, 2017.

9D. JUNE 2017 INVESTMENT REPORT

The Investment Report as of June 30, 2017 has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

1. The City Council finds that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Received and filed the Investment Report for the month of June 2017.

DRAFT

9E. JUNE 2017 INVESTMENT REPORT (SUCCESSOR AGENCY)

The Investment Report as of June 30, 2017 has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

1. The Successor Agency finds that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Received and filed the Investment Report for the month of June 2017.

9F. JUNE 2017 INVESTMENT REPORT (HOUSING AUTHORITY)

The Investment Report as of June 30, 2017 has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

1. The Stanton Housing Authority finds that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Received and filed the Investment Report for the month of June 2017.

9G. FY 2017/18 BUDGET ADJUSTMENT REQUEST

This report requests a budget adjustment to fund the replacement of a part-time Facilities Maintenance Worker I position with a full-time Facilities Maintenance Worker II position (existing classification) for the remainder of the current fiscal year.

1. The City Council declared that this project is exempt from the California Environmental Quality Act ("CEQA") under Section 15378(b)(2) – continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, general policy or procedure making; and
2. Approved Budget Adjustment 2018-02.

DRAFT

9H. AWARD OF CONTRACT FOR PROFESSIONAL CONSTRUCTION ENGINEERING SERVICES FOR THE INSTALLATION OF THE TRAFFIC SIGNAL AT WESTERN AVENUE AND THUNDERBIRD LANE BY THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA

Hartzog and Crabill, Inc. have been chosen to provide professional construction engineering services for the installation of the traffic signal at Western Avenue and Thunderbird Lane. Since Hartzog and Crabill, Inc. designed the traffic signal for Western Avenue and Thunderbird Lane, staff found they have the complete knowledge and expertise required to complete this project.

1. The City Council declared this project to be categorically exempt under the California Environmental Quality Act, Class 1, Section 15301c; and
2. Awarded a contract for professional construction engineering services to Hartzog and Crabill, Inc. to provide traffic engineering services for a maximum contract amount of \$30,000; and
3. Authorized the City Manager to bind the City of Stanton and Hartzog and Crabill, Inc. in a contract to provide professional construction engineering services.

9I. AWARD OF CONTRACT FOR PROFESSIONAL CONSTRUCTION ENGINEERING SERVICES FOR THE INSTALLATION OF THE THUNDERBIRD LANE SEWER BY THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA

On February 24, 2015 a contract was awarded to AKM Consulting Engineers for construction engineering services for the installation of the Thunderbird Sewer. The construction of the project was put on hold and is now going forward. As such staff has asked for a new proposal for their services.

1. The City Council declared this project to be categorically exempt under the California Environmental Quality Act, Class 1, Section 15301 (c); and
2. Awarded a contract for professional construction engineering services to AKM Consulting Engineers to provide construction engineering services for a maximum contract amount of \$54,200; and
3. Authorized the City Manager to bind the City of Stanton and AKM Consulting Engineers, Inc. in a contract to provide professional construction engineering services.

DRAFT

9J. REQUEST FROM HORIZON AMBULANCE, INC., TO OPERATE AN AMBULANCE TRANSPORTATION – MEDICAL SERVICES LOCATED AT 1920 E. KATELLA AVENUE, SUITE K, ORANGE, CA 92867

Section 5.04.420 of the Stanton Municipal Code requires certain businesses, including Ambulance Service businesses, to obtain approval by the City Council prior to initiation of operations. Horizon Ambulance, Inc. is requesting City Council approval to provide ambulance services within the City of Stanton.

1. The City Council finds that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060 (c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
2. Approved the application of Horizon Ambulance, Inc., to provide ambulance services within the City of Stanton and authorized the issuance of a business license permit.

90. AUTHORIZATION FOR MAYOR PRO TEM DAVID J. SHAWVER TO ATTEND THE LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE IN SACRAMENTO

The League of California Cities Annual Conference is scheduled for September 13-15, 2017 in Sacramento. In order to vote at the Annual Conference / Annual Business Meeting, City Council must designate a voting delegate and/or voting delegate alternate. Additionally, pursuant to the City of Stanton Travel and Reimbursement policy, a Council Member must receive City Council approval prior to a trip, if the trip will exceed \$500.00.

1. The City Council finds that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5)(Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Approved Mayor Pro Tem David J. Shawver to attend the League of California Cities Annual Conference, scheduled for September 13-15, 2017 in Sacramento; and
3. Designated Mayor Pro Tem David J. Shawver as the voting delegate.

END OF CONSENT CALENDAR

DRAFT

Consent Calendar Items 9K, 9L, 9M, and 9N:

Staff report by Mr. Kelly Hart, Community and Economic Development Director.

The City Council questioned staff regarding the reduction in the number of massage business establishments from 34 to 19 in 2017, since the State released control back to City and clarified with the City Attorney that the City Council is not executing/issuing a conditional use permit.

Mr. Terry Shannon, Representative (of applicants for consent calendar items 9K, 9L, 9M, and 9N) reported that the City requirements are very strict, in terms of what is required and states that the applicants essentially need to be operating perfectly in terms of the tolling agreement, failure to do so, is means, essentially the death of their particular businesses to these individuals, who have placed a tremendous amount of investment in terms of creating the business, having a following, and that there isn't any "hanky panky" or any illegal activities and things of that nature. Mr. Shannon further stated that the applicants merely wanted a second opportunity to be able to show that the their business is going to be operated in a correct manner and that they understand completely and fully of the consequences, in terms of if they violate the terms of the tolling agreement.

Motion/Second: Donahue/Ramirez

Motion unanimously carried by the following vote:

AYES: 5 (Donahue, Ethans, Ramirez, Shawver, and Warren)

NOES: None

ABSTAIN: None

ABSENT: None

9K. TOLLING AGREEMENT FOR LOVELY MASSAGE (10450 BEACH BOULEVARD #115)

Consideration of a Tolling Agreement for Lovely Massage located at 10450 Beach Boulevard #115.

1. The City Council declared that the project is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and
2. Approved the Tolling Agreement for Lovely Massage; and
3. Authorized the City Manager to execute the necessary documents and take all actions reasonably necessary to ensure compliance with the Tolling Agreement.

DRAFT

9L. TOLLING AGREEMENT FOR TEMPTATION MASSAGE (11855 BEACH BOULEVARD)

Consideration of a Tolling Agreement for Temptation Massage located at 11855 Beach Boulevard.

1. The City Council declared that the project is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and
2. Approved the Tolling Agreement for Temptation Massage; and
3. Authorized the City Manager to execute the necessary documents and take all actions reasonably necessary to ensure compliance with the Tolling Agreement.

9M. TOLLING AGREEMENT FOR EDEN SPA (12108-12110 BEACH BOULEVARD)

Consideration of a Tolling Agreement for Eden Spa located at 12108-12110 Beach Boulevard.

1. The City Council declared that the project is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and
2. Approved the Tolling Agreement for Eden Spa; and
3. Authorized the City Manager to execute the necessary documents and take all actions reasonably necessary to ensure compliance with the Tolling Agreement.

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9N. TOLLING AGREEMENT FOR LUCKY MASSAGE (7013 KATELLA AVENUE #B)

Consideration of a Tolling Agreement for Lucky Massage located at 7013 Katella Avenue #B.

1. The City Council declared that the project is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and
2. Approved the Tolling Agreement for Lucky Massage; and
3. Authorized the City Manager to execute the necessary documents and take all actions reasonably necessary to ensure compliance with the Tolling Agreement.

10. PUBLIC HEARINGS

10A. APPEAL OF TO THE CITY COUNCIL TO MODIFY A CERTAIN CONDITION IN RESOLUTION NO. 2430 FOR CONDITIONAL USE PERMIT C17-02 ADOPTED BY THE PLANNING COMMISSION, TO ALLOW FOR THE SALE OF SINGLE SERVE BEER CONTAINERS IN CONJUNCTION WITH THE OPERATION OF A MINI-MART WITH THE SALE OF BEER, WINE AND SPIRITS FOR THE PROPERTY LOCATED AT 10480 BEACH BLVD. IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY AVTAR SINGH

This is an appeal of the Planning Commission decision to the City Council to modify a certain condition of approval for Conditional Use Permit C17-02 to allow for the sale of single serve beer containers in conjunction with the operation of a mini-mart with the sale of beer, wine and spirits for the property located at 10480 Beach Boulevard.

Staff report by Mr. Kelly Hart, Community and Economic Development Director.

The City Council questioned staff regarding the official Planning Commission vote, the exact location of the business being discussed, and the public noticing process.

The public hearing was opened.

Sandeep Singh, representative for the applicant, spoke in favor of approval for the conditional use permit appeal.

No one else appearing to speak, the public hearing was closed.

DRAFT

Motion/Second: Shawver/Donahue
Motion unanimously carried by the following vote:

AYES: 4 (Donahue, Ramirez, Shawver, and Warren)
NOES: 1 (Ethans)
ABSTAIN: None
ABSENT: None

1. The City Council conducted a public hearing; and
2. Declared that the project is categorically exempt per the California Environmental Quality Act (CEQA), under Section 15301 (Existing Facilities); and
3. Reversed the Planning Commission decision and allowed the sale of single serve beer containers and grant the appeal; and
4. Directed staff to draft a Resolution memorializing the City Council's decision.

11. UNFINISHED BUSINESS None.

12. NEW BUSINESS

12A. CONSIDERATION OF TRAFFIC CALMING MEASURES ON LOLA AVENUE

The City Council has asked staff to research the possibility of traffic calming measures on Lola Avenue. Staff has engaged our traffic engineering consultants to prepare a report on Lola Avenue and potential measures.

Staff report by Mr. Allan Rigg, Public Works Director / City Engineer.

The City Council questioned staff if the Orange County Sheriff's Department had been dispatched to Lola Avenue to monitor and cite offenders, how can the City reduce the amount of cars that travel down Lola Avenue, how the City can deter speeding down Lola Avenue, adding additional speed cushion, adding additional stop signs, and meeting with the Lola Avenue neighborhood and obtaining resident feedback on installation location of said speed cushion.

- Mr. Victor Barrios, resident, spoke in favor of the installation of speed cushion and stated that past speed reducing tactics have been inefficient and that stop signs have helped, however in a limited capacity.
- Mr. Robert Vega, resident, spoke in favor of the installation of speed cushion and expressed his concerns with safety issues relating to speeding within his neighborhood.

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- Mr. Robert Lewis, resident, spoke regarding utilizing the portable light and camera combination trailers, which were used on the fourth of July to monitor the discharge of illegal fireworks, to monitor speeding within the Lola Avenue neighborhood and questioned if the City possessed the ability to integrate a device to gauge speed traveled and to capture and cite offenders.

Motion/Second: Ramirez/Ethans

Motion unanimously carried by the following vote:

AYES: 5 (Donahue, Ethans, Ramirez, Shawver, and Warren)

NOES: None

ABSTAIN: None

ABSENT: None

1. The City Council declared that the project is not subject to the California Environmental Quality Act ("CEQA") under Section 15301(c) – consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination; and
2. Directed staff to pursue traffic calming measures on Lola Avenue:
 - Meet with the Lola Avenue neighborhood to solicit speed cushion placement feedback prior to installation; and
 - Research the spacing and maximum allowable installation of speed cushions on Lola Avenue; and
 - Include the MacDuff Street neighborhood; and
 - Report back to the City Council once staff and the City Council has met with the Lola Avenue and Macduff Street neighborhoods with a final rendition.

12B. PROPOSED ORDINANCE TO CHANGE THE NAME OF THE STANTON PARKS AND RECREATION COMMISSION TO THE STANTON COMMUNITY SERVICES COMMISSION AND PROPOSED RESOLUTION TO AMEND THE COMMISSIONS SCHEDULED MEETING DATES

This item proposes Ordinance No. 1067, which would change the name of the City's "Parks and Recreation Commission" to the "Community Services Commission". Also, this item proposes Resolution No. 2017-16, which would amend the Commission's scheduled meeting dates.

Staff report by Ms. Patricia A. Vazquez, City Clerk.

The City Council questioned why the Parks and Recreation Commission's name is being changed as well as why the Commission's meeting dates were being dropped down to six per year.

DRAFT

- Mr. Victor Barrios, Parks and Recreation Commissioner, spoke in favor of the modified meeting schedule.
- Mr. John Warren, Parks and Recreation Commissioner, spoke in opposition to the modified meeting schedule.

Motion/Second: Ramirez/Donahue

Motion unanimously carried by the following vote:

AYES: 5 (Donahue, Ethans, Ramirez, Shawver, and Warren)

NOES: None

ABSTAIN: None

ABSENT: None

1. The City Council declared that this project is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15062(c)(2) and 15060(c)(3); and
2. Introduced for its first reading Ordinance No. 1067 as amended to include the new title of the "Stanton Parks, Recreation and Community Services Commission" entitled:

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, AMENDING CHAPTERS 2.32 AND 2.36 OF TITLE 2 (ADMINISTRATION AND PERSONNEL) AND CHAPTER 12.36 OF TITLE 12 (STREETS AND SIDEWALKS) OF THE STANTON MUNICIPAL CODE TO CHANGE THE NAME OF THE STANTON PARKS AND RECREATION COMMISSION TO THE STANTON COMMUNITY SERVICES COMMISSION STANTON PARKS, RECREATION AND COMMUNITY SERVICES COMMISSION"; and

3. Set said ordinance for adoption at the regular City Council meeting of August 8, 2017.

- ~~4. Adopt Resolution No. 2017-16 entitled:~~

~~**"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, AMENDING THE STANTON COMMUNITY SERVICES COMMISSION'S SCHEDULED MEETING DATES".**~~

DRAFT

12C. CONSIDERATION OF OVERHEAD STREET BANNER PROGRAM

The City Council has asked staff to research the details of installing overhead street banners in the City. This staff report summarizes potential locations and costs for overhead street banners.

Staff report by Mr. Allan Rigg, Public Works Director / City Engineer.

1. The City Council received and filed the report; and
2. Determined that In accordance with the requirements of the California Environmental Quality Act, the action would not be deemed to be a project per Section 15378(b)(4): ["Project" does not include] The creation of a government funding mechanism or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and
3. Directed staff to pursue the installation of single street banners at Knott Avenue and Katella Avenue, as well as Beach Boulevard and Katella Avenue within the City; and
4. Directed staff to return to the City Council with a budget adjustment to pursue the installation of street banners.

13. ORAL COMMUNICATIONS – PUBLIC

- Mr. Raymond Macias, resident, spoke regarding safety concerns and issues in regards to the Motel 6 and the "sober living home" adjacent to the Motel 6 and urged the City Council to assist with the direct negative impact that these facilities are having on the surrounding neighborhoods.
- Ms. Kelly Hart, Community and Economic Development Director reported that the Motel 6 is in the process of installing perimeter fencing, as well as installing a "Sheppard's hook fencing" atop the adjoining condominium wall. Director Hart further reported that staff would research and investigate the validity of the "sober living home" adjacent to the Motel 6.
- Mr. Greg Witz, Stanton property owner, spoke regarding City parking issues and requested that the City research solutions for a more managed and balanced permit parking system.

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14. WRITTEN COMMUNICATIONS None.

15. MAYOR/CHAIRMAN/COUNCIL/AGENCY/AUTHORITY INITIATED BUSINESS

15A. COMMITTEE REPORTS/COUNCIL/AGENCY/AUTHORITY ANNOUNCEMENTS

- Mayor Pro Tem Shawver reported on the upcoming Concert in the Park and National Night Out, free community safety event, which is scheduled to be held on August 2, 2017 at Stanton Central Park.

15B. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE COUNCIL MEETING

- Mayor Warren requested to agendize discussion regarding land use for the Bell Street property.
- Mayor Pro Tem Shawver requested to agendize discussion regarding potential amendments to the Orange County Fire Authority contract.

15C. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE STUDY SESSION

- Mayor Warren requested to hold a joint study session with the City Council, Planning Commission, Parks, Recreation and Community Services Commission, Public Safety Committee, and Youth Committee to provide a brief update on the Council/Commissions/Committees activities and to create an open dialog on the various ways that the Council/Commissions/Committees can work even more efficiently together.

16. ITEMS FROM CITY ATTORNEY/AGENCY COUNSEL/AUTHORITY COUNSEL

None.

17. ITEMS FROM CITY MANAGER/EXECUTIVE DIRECTOR

- Mr. James A. Box, City Manager, reported on the upcoming Public Safety Committee meeting, which is scheduled to be held on July 26, 2017 and further reported that staff would be providing the committee with an update on the events of the fourth of July holiday.
- Mr. James A. Box, City Manager, reported on the upcoming Concert in the Park, which is scheduled to be held on August 2, 2017 at Stanton Central Park.

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17A. ORANGE COUNTY SHERIFF'S DEPARTMENT

At this time the Orange County Sheriff's Department will provide the City Council with an update on their current operations.

- Lieutenant Sean A. Howell provided the City Council with an update on their current operations.

18. ADJOURNMENT Motion/Second: Warren/ Motion carried at 8:41 p.m.

MAYOR/CHAIRPERSON

ATTEST:

CITY CLERK/SECRETARY

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: August 8, 2017

SUBJECT: ADOPTION OF RESOLUTION NO. 2017-33 UPHOLDING THE APPEAL TO MODIFY A CERTAIN CONDITION OF APPROVAL FOR CONDITIONAL USE PERMIT C17-02 ADOPTED BY THE PLANNING COMMISSION, TO ALLOW FOR THE SALE OF SINGLE SERVE BEER CONTAINERS IN CONJUNCTION WITH THE OPERATION OF A MINI-MART WITH THE SALE OF BEER, WINE AND SPIRITS FOR THE PROPERTY LOCATED AT 10480 BEACH BLVD. IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY AVTAR SINGH

REPORT IN BRIEF:

At the July 25, 2017 City Council meeting, the City Council heard an appeal to modify a certain condition of approval for Conditional Use Permit C17-02 to allow for the sale of single serve beer containers in conjunction with the operation of a mini-mart with the sale of beer, wine and spirits for the property located at 10480 Beach Boulevard. After reviewing the staff report and hearing public testimony, the City Council approved the appeal and directed staff to draft a resolution to modify the condition of approval to allow for the sale of single serve beer containers.

RECOMMENDED ACTION:

1. Declare that the project is categorically exempt per the California Environmental Quality Act (CEQA), under Section 15301 (Existing Facilities); and
2. Adopt Resolution No. 2017-33 upholding the appeal to allow the sale of single serve beer containers.

BACKGROUND:

On June 21, 2017, the Planning Commission approved Conditional Use Permit C17-02, which allowed for the upgrade of the existing Alcoholic Beverage Control (ABC) license to include the sale of beer, wine and distilled spirits for off-site consumption. During the hearing, the applicant requested modification to a condition of approval, which states, "The sale of single serve beer or hard liquor containers is prohibited." The applicant requested that the Planning Commission modify the condition to only prohibit the sale of single serve hard liquor containers. The motion to modify the condition failed and the Planning Commission approved the Conditional Use Permit as originally proposed. Within the ten-day appeal period, the operator of La Pico Mini Mart, Avtar Singh filed an appeal of the Planning Commission's decision and request the modification of the subject condition to allow for the sale of single serve beer containers.

On July 25, 2017 the City Council held a public hearing to consider the appeal to modify the subject condition. During the public hearing, Council identified the following considerations in support of the appeal:

1. The business was already selling single serve beer containers.
2. The Sheriff's Department indicated that there were no concerns with the sale of single serve beer containers.
3. The neighboring 7-Eleven that sells alcohol has the ability to sell single serve beer containers, and it would create unfair competition between the two businesses if it were denied for the subject business.

The public hearing concluded with the City Council voting to uphold the appeal. Council subsequently directed staff to draft a resolution to modify the condition to allow for the sale of single serve beer containers.

FISCAL IMPACT:

None.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of the California Environmental Quality Act (CEQA) this project has been determined to be categorically exempt under Section 15301(Existing Facilities).

PUBLIC NOTIFICATION:

Public notice for this item was made through the regular agenda process.

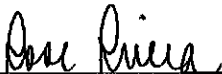
STRATEGIC PLAN:

- 2 – Promote a Strong Local Economy
- 5 – Provide a High Quality of Life

Prepared by,

Reviewed by,

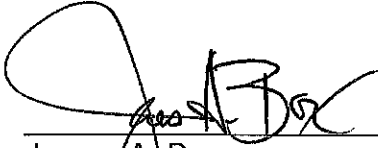
Approved by,



Rose Rivera
Associate Planner



Kelly Hart
Community & Economic
Development Director



James A. Box
City Manager

ATTACHMENTS

- A. City Council Resolution No. 2017-33 for the approval of the appeal

RESOLUTION NO. 2017-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA UPHOLDING THE APPEAL TO MODIFY A CERTAIN CONDITION OF APPROVAL FOR CONDITIONAL USE PERMIT C17-02 ADOPTED BY THE PLANNING COMMISSION, TO ALLOW FOR THE SALE OF SINGLE SERVE BEER CONTAINERS IN CONJUNCTION WITH THE OPERATION OF A MINI-MART WITH THE SALE OF BEER, WINE AND SPIRITS FOR THE PROPERTY LOCATED AT 10480 BEACH BLVD. IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY AVTAR SINGH

THE CITY COUNCIL OF THE CITY OF STANTON DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, in 1991, the Planning Commission approved Conditional Use Permit C91-1 which allowed for the sale of beer and wine for off-site consumption at an existing mini-mart located at 10480 Beach Boulevard; and

WHEREAS, on June 21, 2017, the Planning Commission of the City of Stanton conducted a duly noticed public hearing concerning the request to upgrade the existing Type 20 Alcoholic Beverage Control (ABC) license for the sale of beer and wine for off-site consumption to a Type 21 license to include the sale of distilled spirits for off-site consumption located at 10480 Beach Boulevard in the CG (Commercial General) zone; and

WHEREAS, during the Planning Commission hearing, the applicant requested modification to a certain condition of approval which prohibits the sale of single serve beer or hard liquor so that the applicant may continue to sell single serve beer; and

WHEREAS, the motion to modify the condition to allow for the sales of single serve beer containers failed and the Planning Commission approved Conditional Use Permit 17-02 with the original language, maintaining the prohibition of single serve beer containers; and

WHEREAS, on June 22, 2017, Avtar Singh, owner of La Pico Mini-Mart, submitted an appeal of the Planning Commission decision to the City Council, asking to modify the condition of approval to allow for the sale of single serve beer containers while prohibiting the sale of single serve hard liquor containers; and

WHEREAS, on July 25, 2017, the City Council held a duly-noticed public hearing, carefully considered all pertinent testimony and information contained in the staff report prepared for this appeal as presented at the public hearing and directed City staff to prepare a resolution to uphold the appeal; and

WHEREAS, Staff has reviewed the environmental form submitted by the Applicant in accordance with the City's procedures. Based upon the information received and Staff's assessment of the information, the Project has been determined to be categorically exempt pursuant to the California Environmental Quality Act (CEQA), Section 15301, Class 1(a) (Existing Facilities); and

WHEREAS, all legal prerequisites have occurred prior to adoption of this resolution.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON DOES HEREBY FIND:

SECTION 1: Recitals. The City Council hereby finds that all of the facts, findings and conclusions set forth above in this resolution are true and correct.

SECTION 2: CEQA. Based upon the environmental form, the City Council exercises its independent judgment and finds that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities).

SECTION 3: Findings. That in accordance with the findings as set forth in Sections 20.550.060 and 20.400.030 of the Stanton Municipal Code:

- A. The proposed application is consistent with the General Plan and any applicable specific plan. Strategy ED-4.1.1 of the General Plan is to assist existing businesses by facilitating the permitting process for those looking to expand their facilities. The approval of the conditional use permit will allow the existing mini mart to expand their business while providing the convenience to customers wanting to purchase a variety of merchandise, including food, beverages and household products.
- B. The proposed use is allowed within the applicable zone and complies with all other applicable provisions of the zoning code and the municipal code. The proposal to allow for the sale of distilled spirits is permitted per the City of Stanton Municipal Code contingent upon receiving a conditional use permit for the ABC license upgrade which would allow for the sale of distilled spirits for off-site consumption.
- C. The design, location, size and operating characteristics of the proposed activity will be compatible with the existing and future land uses in the vicinity. The proposal to allow for the upgrade in the existing ABC license to include the sale of distilled spirits shall have no adverse affect upon abutting properties. The proposed use is commercial in nature which is in compliance with the zoning and general plan designation of the site. In addition, staff has included conditions of approval to ensure that appropriate measures to ensure the use remains compatible with the surrounding area. In addition, the Sheriff's Department has reviewed the proposal and did not state a concern about the impact to the surrounding neighborhood with the addition of distilled spirits.
- D. The site is physically suitable in terms of its design, location, shape, size and operating characteristics of the proposed use; the provision of public and emergency vehicle access; public protection services; the provision of utilities; and served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate. The

proposed use has access from Beach Boulevard and Cerritos Avenue and would not affect the streets and public rights-of-way utilized by emergency service vehicles. Moreover, the subject property is already served by utilities and public protection services. The inclusion of the sale of distilled spirits for the existing mini mart would not be considered an intensification of use in terms of parking, occupancy of the building, or anticipated vehicle trips to and from the site. The use would be conducted within an existing building, would not increase the square footage or use of the building, or modify the ingress or egress on the site.

- E. The site's suitability ensures that the type, density, and intensity of use being proposed will not adversely affect the public convenience, health, interest, safety or general welfare, constitute a nuisance, or be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located. The existing use of the property is the operation of a mini mart. With the approval of the conditional use permit, the business would be permitted to sell distilled spirits for off-site consumption. The site is suitable for the proposed use and would serve the surrounding commercial and residential properties by providing the convenience to patrons to allow the ability to purchase distilled spirits in conjunction with a variety of merchandise. Conditions of approval are included in order to avoid the potential of an attractive nuisance being established.
- F. The subject application does not need to make a finding of public convenience and necessity since the number of licenses in the census tract is not increasing. The California State Department of Alcohol Beverage Control (ABC) established the number of on-sale and off-sale licenses within a given census tract and if the number of licenses exceeds the amount set by ABC, the Planning Commission would be required to make a finding of public convenience and necessity. In this case, the applicant has an existing Type 20 beer and wine license and is simply requesting to exchange the license for a Type 21 which would allow the sales of distilled spirits for off-site consumption.

SECTION 4: That based upon the above findings, the City Council hereby overturns the Planning Commission's denial to modify the Condition of Approval and allows for the sales of single serve beer containers for the property located at 10480 Beach Boulevard in the CG (Commercial General) zone, subject to the following conditions:

- A. **That all conditions of the Planning Division be met, including but not limited to the following:**
 - 1. The subject use will be used, operated and permanently maintained in accordance with the terms of the application, plans, drawings submitted and conditions imposed in the Resolution of Approval.
 - 2. All requirements of the City of Stanton Municipal Code as it pertains to this application shall be complied with and such requirements shall be made a condition of permit approval.

3. The applicant(s) and owner(s) shall acknowledge in writing within 30 days to the Conditions of Approval as adopted by the Planning Commission. In addition, the applicant shall record the Conditions of Approval in the Office of the County Records.
4. Approval for any form of modification of the subject use shall be obtained from the Planning Commission subject to a modification of the Conditional Use Permit.
5. The display of distilled spirits shall be limited to the area behind the sales counter as designated on the approved floor plan.
6. The distilled spirit containers with a volume of 750 ml or more shall be secured with a bottle cap anti-theft device that is removed upon sale of the product.
7. The Commission may set this permit for public hearing at any time to consider modification of any condition or revocation of the permit if non-compliance with the conditions of approval is found.
8. Alcoholic beverages shall not be sold between the hours of 2:00 a.m. and 6:00 a.m.
9. Hours of operation shall be limited to 6:00 a.m. to 2:00 a.m. daily.
10. A Type 21 Liquor License to include the sale of distilled spirits for consumption off the premises shall be obtained from the State Department of Alcoholic Beverage Control (ABC) and shall be permanently maintained. Sales of distilled spirits from the subject property may not commence until such time as the ABC license is obtained.
11. Based on increased service calls or input from the surrounding commercial and residential tenants, the Community Development Director or the Chief of Police may require the provision of a security guard at the subject business during certain business hours at their discretion, at the sole cost of the business owner, or a modification to the business hours of operation, or the hours available for the sale of alcoholic beverages.
12. Alcohol shall not be consumed anywhere on the subject property. The sale of alcoholic beverages is allowed only upon approval by the Department of Alcoholic Beverage Control (ABC) and shall be subject to ABC requirements. The applicant is responsible for supervising and controlling the activities of their customers within the subject property. The applicant shall ensure that no disorderly behavior occurs in these areas and that alcoholic drinks are not opened or consumed on-site. The inability of the applicants to perform in this manner shall be cause for review and revocation of this use permit as it pertains to the sale of alcoholic beverages.
13. The sale of single serve hard liquor containers is prohibited.
14. The permit may be presented to the Planning Commission for review six months after the initiation of the sale of alcoholic beverages. Upon review of the permit, the Planning Commission reserves the right to modify or add additional conditions of approval, or revoke the permit.
15. A height marker shall be placed at each exit to enable witnesses to a crime to estimate the height of the perpetrator.

16. A minimum of two signs shall be posted in prominent locations to inform patrons that no alcoholic beverages shall be consumed on the premises of any business that is subject to the regulations of this section.
17. Alcoholic beverage containers shall not be placed in opaque bags or boxes at or after the time of sale except where the volume of alcohol purchased is in excess of three liters.
18. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs that are clearly visible to the exterior shall constitute a violation of this condition.
19. Graffiti on the property shall be removed at the property owner's expense within 24 hours.
20. In accordance with policies adopted by the City, the Applicant/Owner shall be responsible for any cost incurred as a result of local law enforcement or code enforcement investigation/inspections that result in a finding of violation of any applicable laws and/or conditions of approval.
21. A City of Stanton business license shall be obtained and permanently maintained on a continuous basis by the proposed use.
22. A security surveillance camera system shall be installed for the interior of the mini mart. The surveillance tapes shall be maintained for a period not less than one month. The surveillance tapes shall be made available to the Sheriff's Department upon request.
23. Existing security lighting shall be reviewed. Additional security lighting may be required if it determined to be inadequate to the satisfaction of the Community Development Director or Chief of Police.
24. The applicant shall meet all the restrictions and regulations of the Department of Alcohol Beverage Control (ABC).
25. Termination: Upon approval and after commencement of the use, the permit shall become null and void 180 days after such time as the use at the approved location ceases to be operated as noted by lapse of City business license, lapse of State Board of Equalization permit, or date noted by city official with proper site verification of abandonment or discontinuance. This permit shall be deemed immediately terminated should the approved location be occupied by a use not in accord with this approval.
26. The applicant shall maintain **AT ALL TIMES** a copy of the Conditions of Approval set forth in Resolution No. 2017-33 at the place of business. Said Resolution shall be available for review by the City or any applicable agency when conducting routine inspections at the site.
27. As a condition of issuance of this approval, the applicant shall agree, at its sole cost and expense, to defend, indemnify, and hold harmless the City, its officers, employees, agents, and consultants, from any claim, action, or proceeding brought by a third-party against the City, its officers, agents, and employees,

which seeks to attack, set aside, challenge, void, or annul an approval of the City Council, Planning Agency, or other decision-making body, or staff action concerning this project. The City agrees to promptly notify the applicant of any such claim filed against the City and fully co-operate in the defense of any such action. The City may, at its sole cost and expense, elect to participate in the defense of any such action under this condition.

B. That all conditions of the Building Division be met.

C. That all requirements of the Orange County Fire Authority be met.

SECTION 5: Conditional Use Permit C91-1 is hereby revoked and shall be null and void.

SECTION 6: That based upon the above findings, the City Council hereby upholds the appeal to modify the Condition of Approval to allow for the sales of single serve beer containers.

ADOPTED, SIGNED AND APPROVED by the City Council of the City of Stanton at a regular meeting held on August 8, 2017 by the following vote, to wit:

CAROL WARREN, MAYOR

ATTEST:

PATRICIA A. VAZQUEZ, CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON, CITY ATTORNEY

ATTEST:

I, PATRICIA A. VAZQUEZ, City Clerk of the City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. 2017-33 has been duly signed by the Mayor and attested by the City Clerk, all at a regular meeting of the Stanton City Council, held on August 8, 2017, and that the same was adopted, signed and approved by the following vote to wit:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

PATRICIA A. VAZQUEZ, CITY CLERK

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: August 8, 2017

**SUBJECT: LANDSCAPE MAINTENANCE AGREEMENT WITH CALIFORNIA
DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS
ADJACENT TO 11382 BEACH BOULEVARD**

REPORT IN BRIEF:

The development of the property at the northeast corner of Beach Boulevard and Orangewood Avenue, the new Stanton Plaza, will include landscaping along Beach Boulevard. The California Department of Transportation owns the right of way where the landscaping will be placed. They are requiring that the City enter into an agreement to maintain this landscaping in the event it is not properly maintained by the adjacent property owner.

RECOMMENDED ACTION:

1. City Council declare that the project is categorically exempt under the California Environmental Quality Act, Class 1, Section 15301(h) as maintenance of existing landscaping; and
2. Approve an agreement with the California Department of Transportation to maintain the landscape improvements in the public right of way on Beach Boulevard; and
3. Authorize the Mayor and City Manager to bind the City of Stanton and the California Department of Transportation in said agreement.

BACKGROUND:

As part of the Beach Boulevard Livability Plan requirements, new developments on Beach Boulevard are required to beautify the street with new landscaping. The California Department of Transportation (Caltrans) requires that the City enter into an agreement to maintain said landscaping in the event that the property owner who has installed said landscaping does not maintain it to the Caltrans' standards.

ANALYSIS/JUSTIFICATION:

The agreement is a necessary step in the installation of the landscaping on Beach Boulevard. Staff has suggested to Caltrans that a master agreement be developed for all new landscaping on Beach Boulevard to avoid individual agreements for each property, which is time consuming.

FISCAL IMPACT:

None.

ENVIRONMENTAL IMPACT:

This project is categorically exempt under the California Environmental Quality Act, Class 1, Section 15301(h) as maintenance of existing landscaping.

LEGAL REVIEW:

The City Attorney's office has reviewed and approved the agreement. They have recommended that the developer of the property be required to enter into a separate agreement with the City guaranteeing their maintenance of the landscaping.

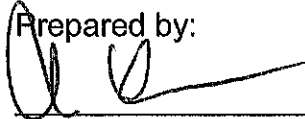
PUBLIC NOTIFICATION:

Notifications were performed through normal agenda process.

STRATEGIC PLAN OBJECTIVE ADDRESSED:

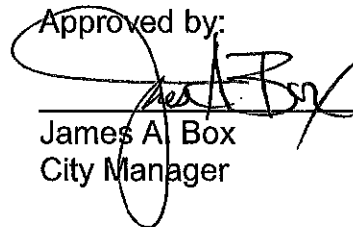
3 - Provide a quality infrastructure.

Prepared by:



Allan Rigg, PE AICP
Director of Public Works

Approved by:



James A. Box
City Manager

Attachment:

(1) Landscape Maintenance Agreement for Permit 1217-6MC-0210B

**LANDSCAPE MAINTENANCE AGREEMENT
WITHIN STATE HIGHWAY RIGHT OF WAY
ON ROUTE 39 WITHIN THE CITY OF STANTON**

THIS AGREEMENT is made effective this _____ day of _____, 2017, by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE" and the City of Stanton; hereinafter referred to as "CITY" and collectively referred to as "PARTIES".

SECTION I

RECITALS

1. PARTIES desire to work together to allocate their respective obligations relative to newly constructed or revised improvements within STATE's right of way by Permit Number 17-6-MC-0210-Stanton-SR 39.
2. This Agreement addresses CITY responsibility for the landscaping, planting, separate irrigation, mulches, litter and weed removal (collectively the "LANDSCAPING") as well as CITY responsibility for the new driveway, sidewalk, curb and gutter (collectively the "IMPROVEMENTS") placed within State Highway right of way on State Route 39, as shown on Exhibit A, attached to and made a part of this Agreement.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

SECTION II

AGREEMENT

1. In consideration of the mutual covenants and promises herein contained, CITY and STATE agree as follows:
 - 1.1. PARTIES have agreed to an allocation of maintenance responsibilities that include, but are not limited to, inspection, providing emergency repair, replacement, and maintenance, (collectively hereinafter "MAINTAIN/MAINTENANCE") of LANDSCAPING and IMPROVEMENTS as shown on said Exhibit "A."
 - 1.2. When a planned future improvement is constructed and/or a minor revision has been effected with STATE's consent or initiation within the limits of the STATE's right of way herein described which affects PARTIES' division of maintenance responsibility as described herein, PARTIES will agree upon and execute a new dated and revised Exhibit "A" which will be made a part hereof and will thereafter supersede the attached original Exhibit "A" to thereafter become a part of this Agreement. The new exhibit can be executed only upon written consent of the PARTIES hereto acting by and through their authorized representatives. No formal amendment to this Agreement will be required.

2. CITY agrees, at CITY expense, to do the following:
 - 2.1. CITY may install, or contract, authorizing a licensed contractor with appropriate class of license in the State of California, to install and thereafter will MAINTAIN LANDSCAPING conforming to those plans and specifications (PS&E) pre-approved by STATE.
 - 2.2. The degree or extent of maintenance work to be performed, and the standards therefore, shall be in accordance with the provisions of Section 27 of the Streets and Highways Code and the then current edition of the State Maintenance Manual.
 - 2.3. CITY will submit the final form of the PS&E, prepared, stamped and signed by a licensed landscape architect, for LANDSCAPING to STATE's District Permit Engineer for review and approval and will obtain and have in place a valid necessary encroachment permit prior to the start of any work within STATE'S right of way. All proposed LANDSCAPING must meet STATE's applicable standards.
 - 2.4. CITY shall ensure that LANDSCAPED areas designated on Exhibit "A" are provided with adequate scheduled routine MAINTENANCE necessary to MAINTAIN a neat and attractive appearance.
 - 2.5. An Encroachment Permit rider may be required for any changes to the scope of work allowed by this Agreement prior to the start of any work within STATE's right of way.
 - 2.6. CITY contractors will be required to obtain an Encroachment Permit prior to the start of any work within STATE's right of way.
 - 2.7. To furnish electricity for irrigation system controls, water, and fertilizer necessary to sustain healthy plant growth during the entire life of this Agreement.
 - 2.8. To replace unhealthy or dead plantings when observed or within 30 days when notified in writing by STATE that plant replacement is required.
 - 2.9. To prune shrubs, tree plantings, and trees to control extraneous growth and ensure STATE standard lines of sight to signs and corner sight distances are always maintained for the safety of the public.
 - 2.10. To MAINTAIN, repair and operate the irrigation systems in a manner that prevents water from flooding or spraying onto STATE highway, spraying parked and moving automobiles, spraying pedestrians on public sidewalks/bike paths, or leaving surface water that becomes a hazard to vehicular or pedestrian/bicyclist travel.

- 2.11. CITY will prevent any flow from 11462 Beach Boulevard, 11430 Beach Boulevard, and 11382 Beach Boulevard to enter STATE right-of-way.
- 2.12. To control weeds at a level acceptable to the STATE. Any weed control performed by chemical weed sprays (herbicides) shall comply with all laws, rules, and regulations established by the California Department of Food and Agriculture. CITY shall report all chemical spray operations quarterly (using Form LA17) to the STATE at the address below:

Department of Transportation
District 12, Maintenance
Maintenance Manager
1750 East Fourth Street, Suite 100
Santa Ana, CA 92705

- 2.13. To remove LANDSCAPING, IMPROVEMENTS, and appurtenances and restore STATE owned areas to a safe and attractive condition acceptable to STATE in the event this Agreement is terminated as set forth herein.
- 2.14. To furnish electricity and MAINTAIN lighting system and controls for all street lighting systems installed by and for CITY.
- 2.15. To inspect LANDSCAPING and IMPROVEMENTS on a regular monthly or weekly basis to ensure the safe operation and condition of the LANDSCAPING.
- 2.16. To expeditiously MAINTAIN, replace, repair or remove from service any LANDSCAPING and IMPROVEMENTS system component that has become unsafe or unsightly.
- 2.17. To MAINTAIN all sidewalks/bike paths within the Agreement limits of the STATE highway right of way, as shown on Exhibit A, at CITY expense. MAINTENANCE includes, but is not limited to, concrete repair, replacement and to grind or patch vertical variations in elevation of sidewalks/bike paths for an acceptable walking and riding surface, and the removal of dirt, debris, graffiti, weeds, and any deleterious item or material on or about sidewalks/bike paths or the LANDSCAPING and IMPROVEMENTS in an expeditious manner.
- 2.18. To MAINTAIN all parking or use restrictions signs encompassed within the area of the LANDSCAPING and IMPROVEMENTS.
- 2.19. To allow random inspection of LANDSCAPING, IMPROVEMENTS, street lighting systems, sidewalks/bike paths and signs by a STATE representative.

2.20. To keep the entire landscaped area policed and free of litter and deleterious material. To avoid any trash or debris entering the State right-of-way.

2.21. All work by or on behalf of CITY will be done at no cost to STATE.

3. STATE agrees to do the following:

3.1. May provide CITY with timely written notice of unsatisfactory conditions that require correction by the CITY. However, the non-receipt of notice does not excuse CITY from maintenance responsibilities assumed under this Agreement.

3.2. Issue encroachment permits to CITY and CITY contractors at no cost to them.

4. LEGAL RELATIONS AND RESPONSIBILITIES:

4.1. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not party to this Agreement, or affect the legal liability of either PARTY to this Agreement by imposing any standard of care respecting the design, construction and maintenance of these STATE highway improvements or CITY facilities different from the standard of care imposed by law.

4.2. If during the term of this Agreement, CITY should cease to MAINTAIN the LANDSCAPING and IMPROVEMENTS to the satisfaction of STATE as provided by this Agreement, STATE may either undertake to perform that MAINTENANCE on behalf of CITY at CITY's expense or direct CITY to remove or itself remove LANDSCAPING and IMPROVEMENTS at CITY's sole expense and restore STATE's right of way to its prior or a safe operable condition. CITY hereby agrees to pay said STATE expenses, within thirty (30) days of receipt of billing by STATE. However, prior to STATE performing any MAINTENANCE or removing LANDSCAPING and IMPROVEMENTS, STATE will provide written notice to CITY to cure the default and CITY will have thirty (30) days within which to affect that cure.

4.3. Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE under or in connection with any work, authority or jurisdiction arising under this Agreement. It is understood and agreed that STATE shall fully defend, indemnify and save harmless CITY and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement with the exception of those actions of STATE necessary to cure a noticed default on the part of CITY.

4.4. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by

CITY under or in connection with any work, authority or jurisdiction arising under this Agreement. It is understood and agreed that CITY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CITY under this Agreement.

5. PREVAILING WAGES:

- 5.1. Labor Code Compliance- If the work performed on this Project is done under contract and falls within the Labor Code section 1720(a)(1) definition of a "public work" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code section 1771. CITY must conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, Articles 1-7. CITY agrees to include prevailing wage requirements in its contracts for public work. Work performed by CITY'S own forces is exempt from the Labor Code's Prevailing Wage requirements.
- 5.2. Requirements in Subcontracts - CITY shall require its contractors to include prevailing wage requirements in all subcontracts funded by this Agreement when the work to be performed by the subcontractor is a "public work" as defined in Labor Code Section 1720(a)(1) and Labor Code Section 1771. Subcontracts shall include all prevailing wage requirements set forth in CITY's contracts
- 5.3. SELF-INSURED - CITY is self-insured. CITY agrees to deliver evidence of self-insured coverage providing general liability insurance, coverage of bodily injury liability and property damage liability, naming the STATE, its officers, agents and employees as the additional insured in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE along with a signed copy of this Agreement.
- 5.4. SELF-INSURED using Contractor - If the work performed on this Project is done under contract CITY shall require its contractors to maintain in force, during the term of this agreement, a policy of general liability insurance, including coverage of bodily injury liability and property damage liability, naming the STATE, its officers, agents and employees as the additional insured in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE with a signed copy of this Agreement.
6. TERMINATION -This Agreement may be terminated by timely mutual written consent by PARTIES, and CITY's failure to comply with the provisions of this Agreement may be grounds for a Notice of Termination by STATE.

7. TERM OF AGREEMENT-This Agreement shall become effective on the date first shown on its face sheet and shall remain in full force and effect until amended or terminated at any time upon mutual consent of the PARTIES or until terminated by STATE for cause.

PARTIES are empowered by Streets and Highways Code Section 114 & 130 to enter into this Agreement and have delegated to the undersigned the authority to execute this Agreement on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this Agreement.

IN WITNESS WHEREOF, the PARTIES hereto have set their hands and seals the day and year first above written.

THE CITY OF STANTON

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
Carol Warren
Mayor

MALCOLM DOUGHERTY
Director of Transportation

Initiated and Approved

By: _____
James A. Box
City Manager

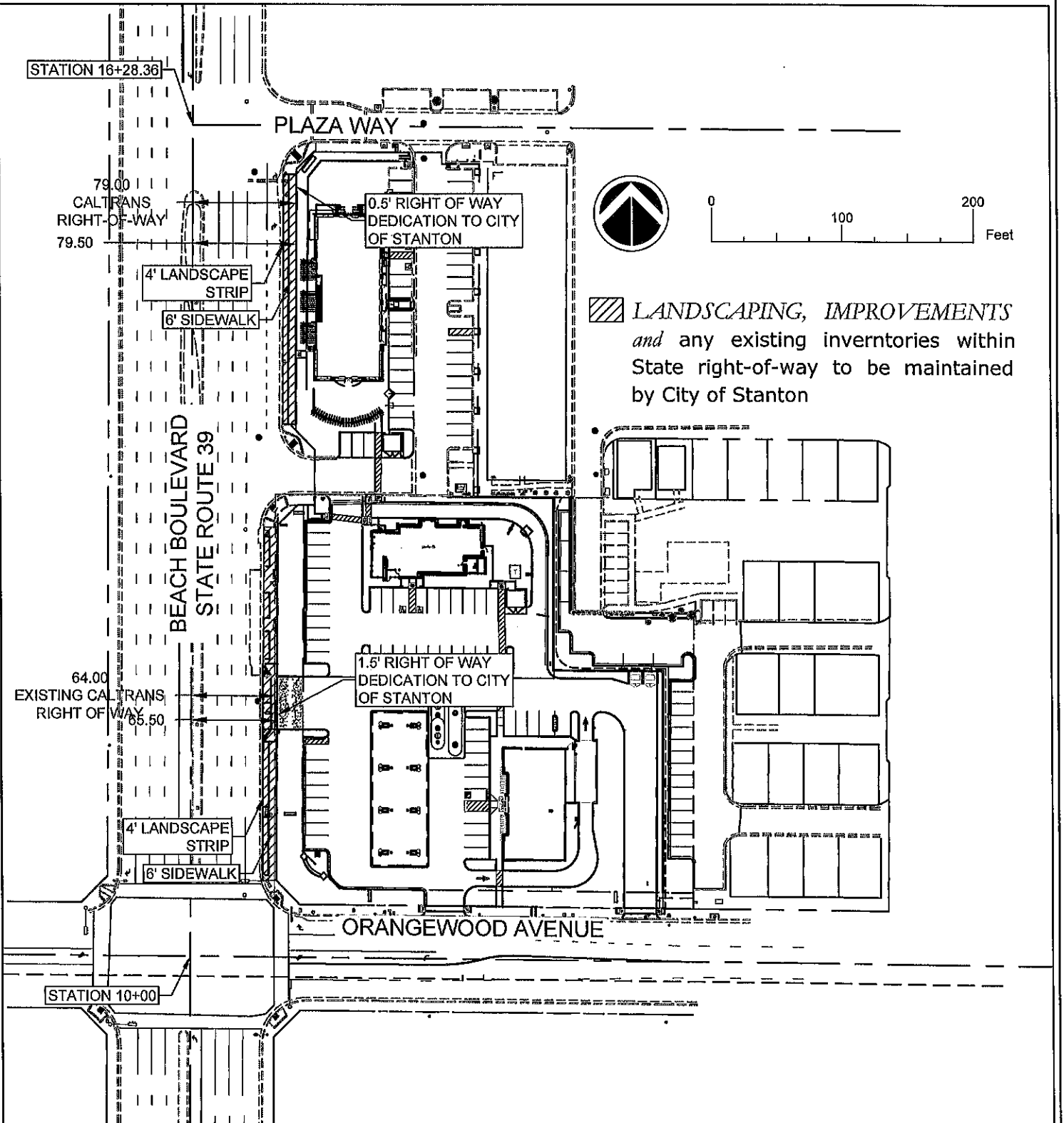
By: _____
James Pinheiro
Deputy District Director
Operations and Maintenance
District 12

ATTEST:

By: _____
Patricia A. Vazquez
City Clerk

As to Form and Procedure:

By: _____
Mathew E. Richardson
City Attorney



STANTON PLAZA
11382 BEACH BOULEVARD
STANTON, CA 90680

LANDSCAPE MAINTENANCE AGREEMENT
PERMIT NO. 1217 6MC 0210B (PM 10.186~10.296)

EXHIBIT-A

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: August 8, 2017

**SUBJECT: LICENSE AGREEMENT WITH UNION PACIFIC RAILROAD COMPANY
FOR AUTHORIZATION TO PLACE CONDUITS AND WIRES UNDER
RAILROAD RIGHT OF WAY**

REPORT IN BRIEF:

The Union Pacific Railroad Company (UPRR) owns the right of way where conduits and wires need to be placed for the Western Avenue and Thunderbird Lane Traffic Signal Project. UPRR requires that the City enter into an agreement to acquire a Licensee for this work. Upon execution of this agreement, the City shall pay a one-time License fee of \$13,100.00.

RECOMMENDED ACTION:

1. Declare that the project is exempt from the California Environmental Quality Act ("CEQA") under Section 15301(b) – Existing facilities of both investor and publicly-owned utilities to provide electric power, natural gas, sewerage, or other public utility services; and
2. City Council to approve a license agreement with the Union Pacific Railroad Company allowing the City to work within their right of way; and
3. Authorize the Mayor and City Manager to bind the City of Stanton and the Union Pacific Railroad Company in said agreement; and
4. City Council to approve a one-time License Fee of \$13,100.00.

BACKGROUND:

The City recently awarded a contract for the construction of the intersection at Western and Thunderbird. Part of this construction entails placing conduits and wires under the railroad right of way for interconnect and power purposes. The city submitted an application and received approval of the permit application on July 24, 2017 which will allow the City to operate within there right of way. A requirement of the permit is a license agreement.

ANALYSIS/JUSTIFICATION:

This license agreement is necessary to proceed with the construction of the Western Avenue and Thunderbird Lane Traffic Signal Project.

FISCAL IMPACT:

Funding for the License Fee is available from account: 220-3510-710106.

ENVIRONMENTAL IMPACT:

The project is exempt from the California Environmental Quality Act ("CEQA") under Section 15301(b) – Existing facilities of both investor and publicly-owned utilities to provide electric power, natural gas, sewerage, or other public utility services.

LEGAL REVIEW:

The City Attorney has reviewed the agreement.

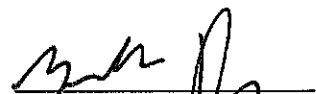
STRATEGIC PLAN OBJECTIVE ADDRESSED:

3 – Provide a quality infrastructure.

PUBLIC NOTIFICATION:

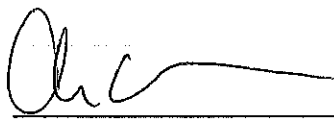
Notifications and advertisement were performed as prescribed by law.

Prepared by:



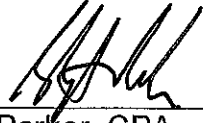
Guillermo Perez
Engineering Assistant

Reviewed by:



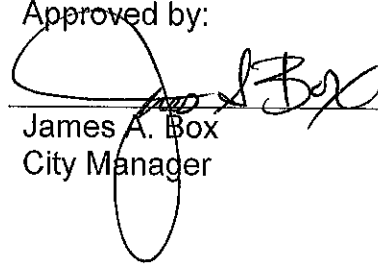
Allan Rigg, P.E. AICP
Director of Public Works/City Engineer

Concur:



Stephen Parker, CPA
Administrative Services Director

Approved by:



James A. Box
City Manager

Attachment:

(1) Agreement with Union Pacific Railroad Company

WIRELINE CROSSING AGREEMENT

Mile Post: 514.57, Stanton Subdivision/Branch
Location: Stanton, Orange County, California

THIS AGREEMENT ("Agreement") is made and entered into as of July 22, 2017, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **CITY OF STANTON**, to be addressed at 7800 Katella Avenue, Stanton, California 90680 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

In consideration of the covenants and agreements herein contained to be by the Licensee kept, observed and performed, the Licensor hereby grants to the Licensee the right to construct and thereafter, during the term hereof, to maintain and operate

Eight (8) underground 0.12kV wirelines

across Licensor's track(s) and property (the "Wireline") in the location shown and in conformity with the dimensions and specifications indicated on the attached prints dated July 20, 2017, marked Exhibit "A-1" and Exhibit "A-2" attached hereto and hereby made a part hereof. Under no circumstances shall Licensee modify the use of the Wireline for a purpose other than for the purpose set forth in this Article I, and the Wireline shall not be used for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement. Under no circumstances shall Licensee modify the Wireline or add additional wirelines to the conduit, or allow any third-parties to modify the Wireline or add additional wirelines to the conduit, without Licensor's prior review and approval, which may be withheld in Licensor's sole discretion. Any application to modify the Wireline or add additional wirelines to the conduit shall be made in accordance with Licensor's then-current wireline engineering standards.

For the purposes of Exhibit A, Licensee acknowledges that if it or its contractor provides to Railroad digital imagery depicting the Wireline crossing, Licensee authorizes Railroad to use the Digital Imagery in preparing the print attached as an exhibit hereto. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Railroad to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of **Thirteen Thousand One Hundred Dollars (\$13,100.00)**.

Article 3. CONSTRUCTION, MAINTENANCE AND OPERATION.

The grant of right herein made to the Licensee is subject to each and all of the terms, provisions, conditions, limitations and covenants set forth herein and in **Exhibit B**, attached hereto and hereby made a part hereof.

Article 4. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to the Licensee shall include the Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority. If a contractor is hired by the Licensee for any work performed on the Wireline (including initial construction and subsequent relocation or maintenance and repair work), then the Licensee shall provide a copy of this Agreement to its contractor and require its contractor to comply with all the terms and provisions hereof relating to the work to be performed. Any contractor or subcontractor shall be deemed an agent of Licensee for the purpose of this Agreement, and Licensee shall require such contractor or subcontractor to release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensor herein.

Article 5. INSURANCE.

A. During the life of this Agreement, Licensee shall fully comply with insurance requirements described in **Exhibit C**.

B. Failure to maintain insurance as required shall entitle, but not require, Licensor to terminate this License immediately.

C. If the Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this license, those statutes shall apply.

D. Licensee hereby acknowledges that it has reviewed the requirements of **Exhibit C**, including without limitation the requirement for Railroad Protective Liability Insurance during construction, maintenance, installation, repair or removal of the wireline which is the subject of this Agreement.

Article 6. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as herein provided.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

CITY OF STANTON

By: _____

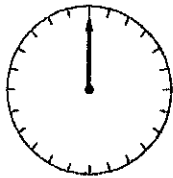
Renay J. Robison
Director – Real Estate

By: _____

Name Printed: _____

Title: _____

PLACE ARROW INDICATING NORTH
DIRECTION RELATIVE TO CROSSING



UNDERGROUND WIRELINE CROSSING

750 VOLTS OR LESS

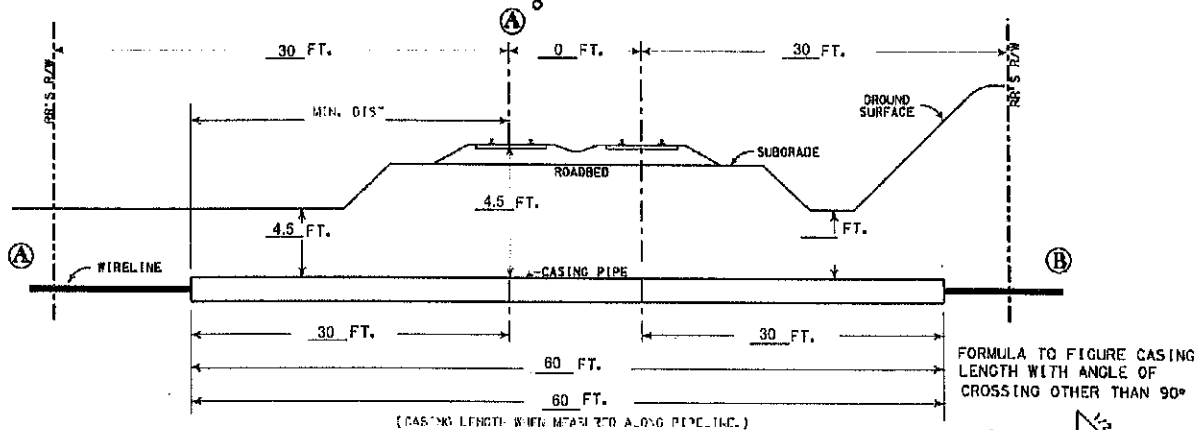
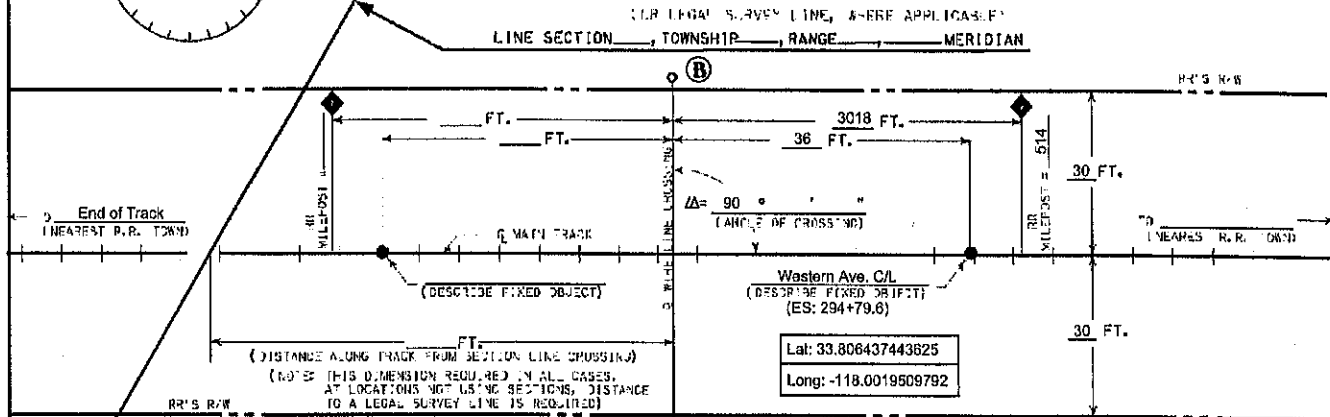
NOTE: ALL AVAILABLE DIMENSIONS MUST BE
FILLED IN TO PROCESS THIS APPLICATION.

FORM 10-26-2007

REV 10-26-2007

www.uprr.com

NO SCALE



NOTES :

- TYPE WIRELINE CROSSING: ELECTRICAL POWER SERVICE
- VOLTAGE TO BE CARRIED UNDER TRACK 120 NO. OF WIRES 3
- CASING TYPE TO BE INSTALLED 5" STEEL
- METHOD OF INSTALLING CASING PIPE UNDER TRACK(S):
(WET BORE NOT PERMITTED); DRY BORE AND JACK
- DISTANCE FROM CENTER LINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES TO TRACK 30
(30' MIN.)
- DISTANCE TO NEAREST ROAD CROSSING WITH SIGNAL LIGHTS OR GATES (IF LESS THAN ONE MILE) 0
- APPLICANT HAS CONTACTED 1-800-336-9193,
U. P. COMMUNICATION DEPARTMENT, AND HAS DETERMINED FIBER
OPTIC CABLE DOES NOT EXIST IN VICINITY OF
WORK TO BE PERFORMED. TICKET NO. 20170630030

EXHIBIT "A"-1

(FOR RAILROAD USE ONLY - DO NOT WRITE IN THIS BOX)

UNION PACIFIC RAILROAD CO.

Stanton Ind. Ld.

(3607/0513)

M. P. 514.57

E. S. 295+15.6

UNDERGROUND WIRELINE CROSSING

STANTON

ORANGE

CA

FOR

CITY OF STANTON

(APPLICANT)

RR FILE NO. 0304921

DATE 7/20/2017

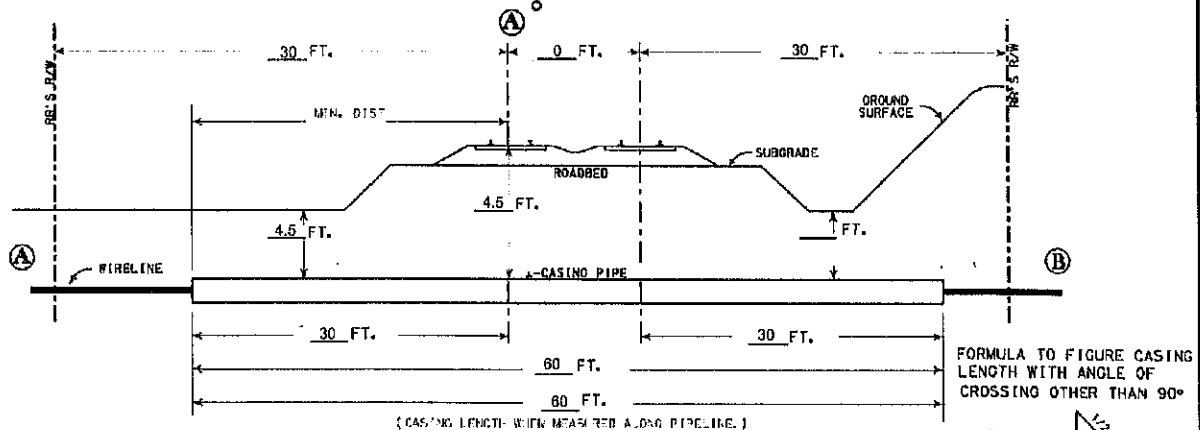
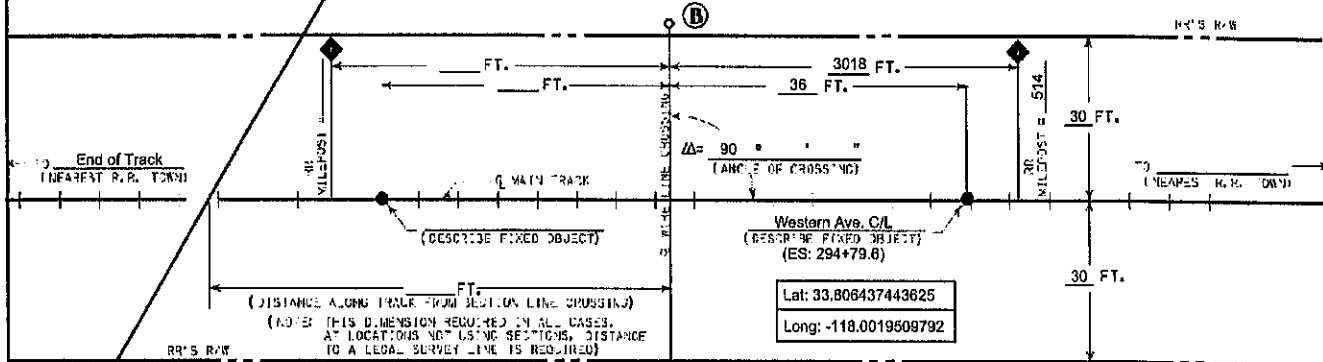
WARNING

IN ALL OCCASIONS, U. P. COMMUNICATIONS
DEPARTMENT MUST BE CONTACTED IN ADVANCE
OF ANY WORK TO DETERMINE EXISTENCE AND
LOCATION OF FIBER OPTIC CABLE.
PHONE : 1-800-336-9193

An analog clock face with a circular border and tick marks. The hour hand and minute hand both point to the 12 o'clock position.

NOTE: ALL AVAILABLE DIMENSIONS MUST BE
FILLED IN ON PROCESS THIS APPLICATION.

FOR LEGAL SERVICE LINE, WHERE APPLICABLE:
LINE SECTION____, TOWNSHIP____, RANGE____,____ MERIDIAN



FORMULA TO FIGURE CASING
LENGTH WITH ANGLE OF
CROSSING OTHER THAN 90°

$\frac{3}{514 \Delta}$ H
 MIN. DIST.

72 CASING LENGTH
 TRACK Δ

- A) TYPE WIRELINE CROSSING: ELECTRICAL POWER SERVICE
- B) VOLTAGE TO BE CARRIED UNDER TRACK 120 NO. OF WIRES 5
- C) CASING TYPE TO BE INSTALLED 6" STEEL
- D) METHOD OF INSTALLING CASING PIPE UNDER TRACK(S):
(WET BORE NOT PERMITTED); DRY BORE AND JACK
- E) DISTANCE FROM CENTER LINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES TO TRACK 30
(30' MIN.)
- F) DISTANCE TO NEAREST ROAD CROSSING WITH SIGNAL LIGHTS OR GATES (IF LESS THAN ONE MILE) 0
- G) APPLICANT HAS CONTACTED 1-800-336-9193,
U. P. COMMUNICATION DEPARTMENT, AND HAS DETERMINED FIBER OPTIC CABLE DOES NOT EXIST IN VICINITY OF
WORK TO BE PERFORMED. TICKET NO. 20170630030

: FDR RAILROAD USE ONLY - DO NOT WRITE IN THIS BOX

Stanton Ind. Ltd.

(3LE0:V:36)4)

M. P. 514.57 F. S. 295+15.6

STANTON	ORANGE	CA
(JENNIE) 4' STATION	(COUNTRY)	(STATE)

FOR CITY OF STANTON

1499. 1528. 1557.

RR. FILE NO. 0304921 DATE 7/20/2017

W A R N I N G

IN ALL OCCASIONS, U. P. COMMUNICATIONS
DEPARTMENT MUST BE CONTACTED IN ADVANCE
OF ANY WORK TO DETERMINE EXISTENCE AND
LOCATION OF FIBER OPTIC CABLE.
PHONE : 1-800-336-9193

Exact name of corporation CITY OF STANTON
to be shown on document :

State of Incorporation : CA

Address of Licensee

Contact Name : Allan Rigg
Contact Phone : 714-890-4203
Address 1: 7800 Katella Avenue
Address 2:
City : Stanton
State, Zip : CA,90680

Address to whom the agreement is to be mailed

Name : Allan Rigg
Address 1 : 7800 Katella Avenue
Address 2 :
City : Stanton
State, Zip : CA,90680

Billing Address

Address 1: 7800 Katella Avenue
Address 2:
City : Stanton
State, Zip : CA,90680

Contact Information

Contact during the permitting process

Name : GUILLERMO PEREZ
Phone : 714-890-4204
Email : GPEREZ@CI.STANTON.CA.US

Contact after Contruction

Name : GUILLERMO PEREZ
Phone : 714-890-4204
Email : GPEREZ@CI.STANTON.CA.US

Do you have eminent No
domain authority?

Permanent or Temporary Permanent
Installation?

If Temporary, then From: To:
Estimated Term Date :

Type of Installation: NEW - Underground Wireline Crossing 750V Or Less

Do you have an existing No
agreement at this location?

Additional Information: Two wire line crossings underneath the tracks. One for electrical power for a new signal and second for traffic signal interconnect and communications.

Payment Information

Application Fee (Crossing):	\$505.00
Total:	\$505.00
Payment Mode:	Check

Exact name of corporation CITY OF STANTON
to be shown on document :

State of Incorporation : CA

Address of Licensee

Contact Name : Allan Rigg
Contact Phone : 714-890-4203
Address 1: 7800 Katella Avenue
Address 2:
City : Stanton
State, Zip : CA,90680

Address to whom the agreement is to be mailed

Name : Allan Rigg
Address 1 : 7800 Katella Avenue
Address 2 :
City : Stanton
State, Zip : CA,90680

Billing Address

Address 1: 7800 Katella Avenue
Address 2:
City : Stanton
State, Zip : CA,90680

Contact Information

Contact during the permitting process

Name : GUILLERMO PEREZ
Phone : 714-890-4204
Email : GPerez@CI.STANTON.CA.US

Contact after Contruction

Name : GUILLERMO PEREZ
Phone : 714-890-4204
Email : GPerez@CI.STANTON.CA.US

Do you have eminent No
domain authority?

Permanent or Temporary Permanent
Installation?

If Temporary, then From: To:
Estimated Term Date :

Type of Installation: NEW - Underground Wireline Crossing 750V Or Less

Do you have an existing No
agreement at this location?

Additional Information: Two wire line crossings underneath the tracks. One for electrical power for a new signal and second for traffic signal interconnect and communications.

Payment Information

Application Fee (Crossing): \$505.00

Total: **\$505.00**

Payment Mode: **Check**

EXHIBIT B

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Licensor to use and maintain its entire property including the right and power of the Licensor to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by the Licensor without liability to the Licensee or to any other party for compensation or damages.

The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of the Licensor's property, and others) and the right of the Licensor to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 2. CONSTRUCTION, MAINTENANCE AND OPERATION.

A. The Wireline shall be designed, constructed, operated, maintained, repaired, renewed, modified and/or reconstructed by the Licensee in strict conformity with (i) Licensor's current standards and specifications ("UP Specifications"), except for variances approved in advance in writing by the Licensor's Assistant Vice President Engineering - Design, or his authorized representative; (ii) such other additional safety standards as the Licensor, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"), and (iii) all applicable laws, rules and regulations ("Laws"). If there is any conflict between the requirements of any Law and the UP Specifications or the UP Additional Requirements, the most restrictive will apply.

All work performed on property of the Licensor in connection with the design, construction, maintenance, repair, renewal, modification or reconstruction of the Wireline shall be done to the satisfaction of the Licensor.

B. If the Wireline is an existing one not conforming in its construction to the above provisions of this Section 2, the Licensee shall, within ninety (90) days after the date hereof, reconstruct it so as to conform therewith.

C. The Wireline shall be designed, constructed, maintained and operated by the Licensee in such manner as not to be or constitute a hazard to aviation. With respect to the Wireline the Licensee, without expense to the Licensor, will comply with all requirements of law and of public authority, whether federal, state or local, including but not limited to aviation authorities.

D. In the operation of the Wireline, the Licensee shall not transmit electric current at a difference of potential in excess of the voltage indicated on **Exhibit A**. If the voltage indicated is in excess of seven hundred fifty (750) volts, and the Wireline is, or is to be, buried at any location on the property of the Licensor outside track ballast sections or roadbed, the Licensee shall install metallic conduit, or non-metallic conduit encased in a minimum of three (3) inches of concrete with a minimum of four (4) feet of ground cover the entire length of the Wireline on the property of the Licensor. A Wireline buried by removal of the soil shall have, at a depth of one (1) foot beneath the surface of the ground

directly above the Wireline, a six (6) inch wide warning tape bearing the warning, "Danger-High Voltage", or equivalent wording. A Wireline encased in conduit, jacked or bored under the property of the Licensor, must be identified by placing warning signs, to be installed and properly maintained at the expense of the Licensee, at each edge of the Licensor's property. The Licensee shall not utilize the signs in lieu of the warning tape where portions of the casing are installed by direct burial.

E. Prior to the commencement of any work in connection with the design, construction, maintenance, repair, renewal, modification, relocation, reconstruction or removal of the Wireline, the Licensee shall submit to the Licensor plans setting out the method and manner of handling the work, including the shoring and cribbing, if any, required to protect the Licensor's operations, and shall not proceed with the work until such plans have been approved by the Licensor's Assistant Vice President Engineering Design, or his authorized representative, and then the work shall be done to the satisfaction of the Licensor's Assistant Vice President Engineering Design or his authorized representative. The Licensor shall have the right, if it so elects, to provide such support as it may deem necessary for the safety of its track or tracks during the time of construction, maintenance, repair, renewal, modification, relocation, reconstruction or removal of the Wireline, and, in the event the Licensor provides such support, the Licensee shall pay to the Licensor, within fifteen (15) days after bills shall have been rendered therefore, all expenses incurred by the Licensor in connection therewith, which expenses shall include all assignable costs.

F. The Licensee shall keep and maintain the soil over the Wireline thoroughly compacted and the grade even with the adjacent surface of the ground.

G. Licensee shall install aerial cable markers on all Wireline crossings. Aerial cable markers shall be in the color and design as customarily required by Wireline industry standards or as required by Licensor.

H. In the prosecution of any work covered by this Agreement, Licensee shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

Section 3. NOTICE OF COMMENCEMENT OF WORK / LICENSOR REPRESENTATIVE / SUPERVISION / FLAGGING / SAFETY.

A. If an emergency should arise requiring immediate attention, the Licensee shall provide as much notice as practicable to Licensor before commencing any work by calling the Response Management Communication Center (RMCC) at 888-877-7267. In all other situations, the Licensee shall notify the Licensor at least ten (10) days (or such other time as the Licensor may allow) in advance of the commencement of any work upon property of the Licensor in connection with the construction, maintenance, repair, renewal, modification, reconstruction, relocation or removal of the Wireline. All such work shall be prosecuted diligently to completion. The Licensee will coordinate its initial, and any subsequent work with the following employee of Licensor or his or her duly authorized representative (hereinafter "Licensor Representative" or "Railroad Representative"):

JUAN C. MORENO
MANAGER OF TRACK MAINTENANCE

RUBIO, Jose A.
MANAGER OF SIGNAL MAINTENANCE

626 536-1233
jcmoreno@up.com
11406 LOS NIETOS RD
Santa Fe Springs, CA 90670

626 935-7681
jarubio@up.com
11406 LOS NIETOS RD
Santa Fe Springs, CA 90670

B. Licensee, at its own expense, shall adequately police and supervise all work to be performed. The responsibility of Licensee for safe conduct and adequate policing and supervision of work shall not be lessened or otherwise affected by Licensor's approval of plans and specifications involving the work, or by Licensor's collaboration in performance of any work, or by the presence at the work site of a Licensor Representative, or by compliance by Licensee with any requests or recommendations made by the Licensor Representative.

C. At the request of Licensor, Licensee shall remove from Licensor's property any employee who fails to conform to the instructions of the Licensor Representative in connection with the work on Licensor's property. Licensee shall indemnify Licensor against any claims arising from the removal of any such employee from Licensor's property.

D. Licensee shall notify the Licensor Representative at least ten (10) working days in advance of proposed performance of any work in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Licensor's track(s) at any time, for any reason, unless and until a railroad flagman is provided to watch for trains. Upon receipt of such ten (10) day notice, the Licensor Representative will determine and inform Licensee whether a flagman need be present and whether any special protective or safety measures need to be implemented. If flagging or other special protective or safety measures are performed by Licensor, Licensor will bill Licensee for such expenses incurred by Licensor, unless Licensor and a federal, state or local governmental entity have agreed that Licensor is to bill such expenses to the federal, state or local governmental entity. If Licensor will be sending the bills to Licensee, Licensee shall pay such bills within thirty (30) days of receipt of billing. If Licensor performs any flagging, or other special protective or safety measures are performed by Licensor, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

E. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensor and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

F. Reimbursement to Licensor will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other railroad work during a portion of

such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Licensor is required to pay the flagman and which could not reasonably be avoided by Licensor by assignment of such flagman to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensor to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensor a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional ten (10) days notice must then be given to Licensor if flagging services are needed again after such five day cessation notice has been given to Licensor.

G. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by Licensee or its contractor. Licensee shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Licensee and its contractor shall at a minimum comply with Licensor's safety standards listed in **Exhibit D**, hereto attached, to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's safety standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of **Exhibit D** to each of its employees before they enter the job site.

H. Without limitation of the provisions of paragraph G above, Licensee shall keep the job site free from safety and health hazards and ensure that their employees and contractors and subcontractors are competent and adequately trained in all safety and health aspects of the job.

I. Licensee shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Prompt notification shall be given to Licensor of any U.S. Occupational Safety and Health Administration reportable injuries. Licensee shall have a non-delegable duty to control its employees while they are on the job site or any other property of Licensor, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

J. If and when requested by Licensor, Licensee shall deliver to Licensor a copy of its safety plan for conducting the work (the "Safety Plan"). Licensor shall have the right, but not the obligation, to require Licensee to correct any deficiencies in the Safety Plan. The terms of this Agreement shall control if there are any inconsistencies between this Agreement and the Safety Plan.

Section 4. LICENSEE TO BEAR ENTIRE EXPENSE.

The Licensee shall bear the entire cost and expense incurred in connection with the design, construction, maintenance, repair and renewal and any and all modification, revision, relocation, removal or reconstruction of the Wireline, including any and all expense which may be incurred by the Licensor in connection therewith for supervision, inspection, flagging, or otherwise.

Section 5. REINFORCEMENT, RELOCATION OR REMOVAL OF WIRELINE.

A. The license herein granted is subject to the needs and requirements of the Licensor in the safe and efficient operation of its railroad and in the improvement and use of its property. The Licensee shall, at the sole expense of the Licensee, reinforce or otherwise modify the Wireline, or move all or any

portion of the Wireline to such new location, or remove the Wireline from the Licensor's property, as the Licensor may designate, whenever, in the furtherance of its needs and requirements, the Licensor, at its sole election, finds such action necessary or desirable.

B. All the terms, conditions and stipulations herein expressed with reference to the Wireline on property of the Licensor in the location hereinbefore described shall, so far as the Wireline remains on the property, apply to the Wireline as modified, changed or relocated within the contemplation of this section.

Section 6. NO INTERFERENCE WITH LICENSOR'S OPERATION.

A. The Wireline and all parts thereof within and outside of the limits of the property of the Licensor shall be designed, constructed and, at all times, maintained, repaired, renewed and operated in such manner as to cause no interference whatsoever with the constant, continuous and uninterrupted use of the tracks, property and facilities of the Licensor (including without limitation, its tracks, pole lines, communication lines, radio equipment, wayside and/or cab based train signal systems, advanced train control systems, positive train separation systems, and grade crossing systems), and nothing shall be done or suffered to be done by the Licensee at any time that would in any manner impair the safety thereof.

B. In the operation and maintenance of the Wireline the Licensee shall take all suitable precaution to prevent any interference (by induction, leakage of electricity, or otherwise) with the operation of the signal, communication lines or other installations or facilities of the Licensor or of its tenants; and if, at any time, the operation or maintenance of the Wireline results in any electrostatic effects which the Licensor deems undesirable or harmful, or causes interference with the operation of the signal, communication lines or other installations or facilities, as now existing or which may hereafter be provided by the Licensor and/or its tenants, the Licensee shall, at the sole expense of the Licensee, immediately make such modifications or take such action as may be necessary to eliminate such interference. Licensee agrees to pay for any reasonable modifications, design changes, or increased costs that may be necessary now or in the future to ensure safe and reliable maintenance and operation of the facilities of Licensor and/or its tenants because of interference from the Wireline.

C. Explosives or other highly flammable substances shall not be stored on Licensor's property without the prior written approval of Licensor.

D. No additional vehicular crossings (including temporary Licensee haul roads) or pedestrian crossings over Licensor's trackage shall be installed or used by Licensee or its contractors without the prior written permission of Licensor.

E. When not in use, any machinery and materials of Licensee or its contractors shall be kept at least fifty (50) feet from the centerline of Licensor's nearest track.

F. Operations of Licensor and work performed by Licensor's personnel may cause delays in the work to be performed by Licensee. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee shall coordinate its activities with those of Licensor and third parties so as to avoid interference with railroad operations. The safe operation of Licensor's train movements and other activities by Licensor take precedence over any work to be performed by Licensee.

Section 7. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

A. Fiber optic cable systems may be buried on the Licensor's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting

in business interruption and loss of revenue and profits. Licensee shall telephone the Licensors during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except for holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Licensors' premises to be used by the Licensee. If it is, Licensee will telephone the telecommunications company(ies) involved, arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will commence no work on the Licensors' property until all such protection or relocation has been accomplished. Licensee shall indemnify and hold the Licensors harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of or caused in any way by Licensee's failure to comply with the provisions of this paragraph.

B. IN ADDITION TO OTHER INDEMNITY PROVISIONS IN THIS AGREEMENT, THE LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD THE LICENSOR HARMLESS FROM AND AGAINST ALL COSTS, LIABILITY AND EXPENSE WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS AND EXPENSES) CAUSED BY THE NEGLIGENCE OF THE LICENSEE, ITS CONTRACTORS, AGENTS AND/OR EMPLOYEES, RESULTING IN (1) ANY DAMAGE TO OR DESTRUCTION OF ANY TELECOMMUNICATIONS SYSTEM ON LICENSOR'S PROPERTY, AND/OR (2) ANY INJURY TO OR DEATH OF ANY PERSON EMPLOYED BY OR ON BEHALF OF ANY TELECOMMUNICATIONS COMPANY, AND/OR ITS CONTRACTOR, AGENTS AND/OR EMPLOYEES, ON LICENSOR'S PROPERTY, EXCEPT IF SUCH COSTS, LIABILITY OR EXPENSES ARE CAUSED SOLELY BY THE DIRECT ACTIVE NEGLIGENCE OF THE LICENSOR. LICENSEE FURTHER AGREES THAT IT SHALL NOT HAVE OR SEEK RECOURSE AGAINST LICENSOR FOR ANY CLAIM OR CAUSE OF ACTION FOR ALLEGED LOSS OF PROFITS OR REVENUE OR LOSS OF SERVICE OR OTHER CONSEQUENTIAL DAMAGE TO A TELECOMMUNICATION COMPANY USING LICENSOR'S PROPERTY OR A CUSTOMER OR USER OF SERVICES OF THE FIBER OPTIC CABLE ON LICENSOR'S PROPERTY.

Section 8. CLAIMS AND LIENS FOR LABOR AND MATERIAL; TAXES.

A. The Licensee shall fully pay for all materials joined or affixed to and labor performed upon property of the Licensors in connection with the construction, maintenance, repair, renewal, modification or reconstruction of the Wireline, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of the Licensee. The Licensee shall indemnify and hold harmless the Licensors against and from any and all liens, claims, demands, costs and expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished.

B. The Licensee shall promptly pay or discharge all taxes, charges and assessments levied upon, in respect to, or on account of the Wireline, to prevent the same from becoming a charge or lien upon property of the Licensors, and so that the taxes, charges and assessments levied upon or in respect to such property shall not be increased because of the location, construction or maintenance of the Wireline or any improvement, appliance or fixture connected therewith placed upon such property, or on account of the Licensee's interest therein. Where such tax, charge or assessment may not be separately made or assessed to the Licensee but shall be included in the assessment of the property of the Licensors, then the Licensee shall pay to the Licensors an equitable proportion of such taxes determined by the value of the Licensee's property upon property of the Licensors as compared with the entire value of such property.

Section 9. RESTORATION OF LICENSOR'S PROPERTY.

In the event the Licensee in any manner moves or disturbs any of the property of the Licensor in connection with the construction, maintenance, repair, renewal, modification, reconstruction, relocation or removal of the Wireline, then in that event the Licensee shall, as soon as possible and at Licensee's sole expense, restore property to the same condition as the same were in before such property was moved or disturbed, and the Licensee shall indemnify and hold harmless the Licensor, its officers, agents and employees, against and from any and all liability, loss, damages, claims, demands, costs and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from injury to or death of persons whomsoever, or damage to or loss or destruction of property whatsoever, when such injury, death, damage, loss or destruction grows out of or arises from the moving or disturbance of any property of the Licensor.

Section 10. INDEMNITY.

A. As used in this Section, "Licensor" includes other railroad companies using the Licensor's property at or near the location of the Licensee's installation and their officers, agents, and employees; "Loss" includes loss, damage, claims, demands, actions, causes of action, penalties, costs, and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from: (a) injury to or death of persons whomsoever (including the Licensor's officers, agents, and employees, the Licensee's officers, agents, and employees, as well as any other person); and/or (b) damage to or loss or destruction of property whatsoever (including Licensee's property, damage to the roadbed, tracks, equipment, or other property of the Licensor, or property in its care or custody).

B. AS A MAJOR INDUCEMENT AND IN CONSIDERATION OF THE LICENSE AND PERMISSION HEREIN GRANTED, TO THE FULLEST EXTENT PERMITTED BY LAW, THE LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE LICENSOR FROM ANY LOSS OF ANY KIND, NATURE OR DESCRIPTION ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):

1. **THE PROSECUTION OF ANY WORK CONTEMPLATED BY THIS AGREEMENT INCLUDING THE INSTALLATION, CONSTRUCTION, MAINTENANCE, REPAIR, RENEWAL, MODIFICATION, RECONSTRUCTION, RELOCATION, OR REMOVAL OF THE WIRELINE OR ANY PART THEREOF;**
2. **ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LICENSE;**
3. **THE PRESENCE, OPERATION, OR USE OF THE WIRELINE OR ELECTRICAL INTERFERENCE OR OTHER TYPES OF INTERFERENCE CREATED OR CAUSED BY THE WIRELINE OR ESCAPING FROM THE WIRELINE;**
4. **THE ENVIRONMENTAL STATUS OF THE PROPERTY CAUSED BY OR CONTRIBUTED BY LICENSEE;**
5. **ANY ACT OR OMISSION OF LICENSEE OR LICENSEE'S OFFICERS, AGENTS, INVITEES, EMPLOYEES, OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER; OR**

6. LICENSEE'S BREACH OF THIS AGREEMENT,

EXCEPT WHERE THE LOSS IS CAUSED BY THE SOLE DIRECT AND ACTIVE NEGLIGENCE OF THE LICENSOR, AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION, IT BEING THE INTENTION OF THE PARTIES THAT THE ABOVE INDEMNITY WILL OTHERWISE APPLY TO LOSSES CAUSED BY OR ARISING FROM, IN WHOLE OR IN PART, LICENSOR'S NEGLIGENCE.

C. Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit of proceeding brought against any indemnitee by any entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or save and hold harmless any indemnitee. Licensee shall pay all costs incident to such defense, including, but not limited to, reasonable attorney's fees, investigators' fees, litigation and appeal expenses, settlement payments and amounts paid in satisfaction of judgments.

Section 11. REMOVAL OF WIRELINE UPON TERMINATION OF AGREEMENT.

Prior to the termination of this Agreement howsoever, the Licensee shall, at Licensee's sole expense, remove the Wireline from those portions of the property not occupied by the roadbed and track or tracks of the Licensor and shall restore, to the satisfaction of the Licensor, such portions of such property to as good a condition as they were in at the time of the construction of the Wireline. If the Licensee fails to do the foregoing, the Licensor may, but is not obligated, perform such work of removal and restoration at the cost and expense of the Licensee. In the event of the removal by the Licensor of the property of the Licensee and of the restoration of the roadbed and property as herein provided, the Licensor shall in no manner be liable to the Licensee for any damage sustained by the Licensee for or on account thereof, and such removal and restoration shall in no manner prejudice or impair any right of action for damages, or otherwise, that the Licensor may have against the Licensee.

Section 12. WAIVER OF BREACH.

The waiver by the Licensor of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by the Licensee shall in no way impair the right of the Licensor to avail itself of any remedy for any subsequent breach thereof.

Section 13. TERMINATION.

A. If the Licensee does not use the right herein granted or the Wireline for one (1) year, or if the Licensee continues in default in the performance of any covenant or agreement herein contained for a period of thirty (30) days after written notice from the Licensor to the Licensee specifying such default, the Licensor may, at its option, forthwith immediately terminate this Agreement by written notice.

B. In addition to the provisions of subparagraph (a) above, this Agreement may be terminated by written notice given by either party hereto to the other on any date in such notice stated, not less, however, than thirty (30) days subsequent to the date upon which such notice shall be given.

C. Notice of default and notice of termination may be served personally upon the Licensee or by mailing to the last known address of the Licensee. Termination of this Agreement for any reason shall not affect any of the rights or obligations of the parties hereto which may have accrued, or liabilities, accrued or otherwise, which may have arisen prior thereto.

Section 14. AGREEMENT NOT TO BE ASSIGNED.

The Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of the Licensor, and it is agreed that any transfer or assignment or attempted transfer or assignment of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without such consent in writing, shall be absolutely void and, at the option of the Licensor, shall terminate this Agreement.

Section 15. SUCCESSORS AND ASSIGNS.

Subject to the provisions of Section 14 hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

Section 16. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

EXHIBIT C

Union Pacific Railroad Company Contract Insurance Requirements

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement (except as otherwise provided in this Agreement) the following insurance coverage:

- A. **Commercial General Liability** insurance. Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE: "Contractual Liability Railroads" ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

- B. **Business Automobile Coverage** insurance. Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less than \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE: "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.

- C. **Workers Compensation and Employers Liability** insurance. Coverage must include but not be limited to:

Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.

Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

- D. **Railroad Protective Liability** insurance. Licensee must maintain "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000.

The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall

refer to this Agreement and shall describe all WORK or OPERATIONS performed under this agreement

- E. **Umbrella or Excess** insurance. If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

- F. All policy(ies) required above (except worker's compensation and employers liability) must include Railroad as "Additional Insured" using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad's negligence whether sole or partial, active or passive, and shall not be limited by Licensee's liability under the indemnity provisions of this Agreement.
- G. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this agreement, or (b) all punitive damages are prohibited by all states in which this agreement will be performed.
- H. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees for damages covered by the workers compensation and employers liability or commercial umbrella or excess liability obtained by Licensee required in this agreement, where permitted by law. This waiver must be stated on the certificate of insurance.
- I. All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.
- J. The fact that insurance is obtained by Licensee or by Railroad on behalf of Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Licensee or any third party will not be limited by the amount of the required insurance coverage.

EXHIBIT D **SAFETY STANDARDS**

MINIMUM SAFETY REQUIREMENTS

The term "employees" as used herein refer to all employees of Licensee or its contractors, subcontractors, or agent of Licensee.

I. Clothing

- A. All employees of Licensee will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, Licensee's employees must wear:

- (i) Waist-length shirts with sleeves.
- (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
- (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.

- B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.

- C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

II. Personal Protective Equipment

Licensee shall require its employee to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with Licensee's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:

100 feet of a locomotive or roadway/work equipment

15 feet of power operated tools
150 feet of jet blowers or pile drivers
150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)

Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

III. On Track Safety

Licensee and its contractor are responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a minimum distance of at least twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized work wear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Licensee must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. Licensee will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

IV. Equipment

- A. It is the responsibility of Licensee to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of Licensee's equipment is unsafe for use, Licensee shall remove such equipment from Railroad's property. In addition, Licensee must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:

Familiar and comply with Railroad's rules on lockout/tagout of equipment.

Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.

Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other rail bound equipment.

- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

V. General Safety Requirements

- A. Licensee shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. Licensee shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as conditions, work procedures, or personnel change.
- C. All track work performed by Licensee meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.
- D. All employees comply with the following safety procedures when working around any railroad track:
 - (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
 - (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
 - (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment if the opening is less than one car length (50 feet).
 - (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
 - (v) Before stepping over or crossing tracks, look in both directions first.
 - (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.
- E. All employees must comply with all federal and state regulations concerning workplace safety.

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: August 8, 2017

SUBJECT: REJECTION OF ALL BIDS FOR THE RUTLEDGE AVENUE AND PALAIS ROAD ALLEY IMPROVEMENT PROJECT BY THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA

REPORT IN BRIEF:

Staff is requesting that the City Council reject all bids for the Rutledge Avenue and Palais Road Alley Improvement Project.

RECOMMENDED ACTION:

1. City Council determine that In accordance with the requirements of the California Environmental Quality Act, the action would not be deemed to be a project per Section 15378(b)(5) – Organizational or administrative activities of governments that will not result in direct or indirect physical change in the environment; and
2. Reject all bids for the Rutledge Avenue and Palais Road Alley Improvement Project.

BACKGROUND:

The project was advertised for bids on June 29, 2017. Notices announcing the solicitation of bids for this project were posted in the local newspaper and the F.W. Dodge publication known as the "Green Sheets."

On July 24, 2017, eleven (11) proposals were received. The lowest bidders made a significant error which increased the bid price by \$31,000. They asked to be able to lower their bid to correct the mistake.

Staff consulted our City Attorney regarding their ability to lower their bid. Per Public Code Section 5100 et seq govern mistakes in bids. The City cannot allow the bidder to correct the mistake because doing so would permit after the fact negotiations. As such the City should be able to save \$31,000 by rebidding the project.

ANALYSIS/JUSTIFICATION:

Staff will rebid this project on August 9, 2017 and will bring forward a request to award a construction contract on the first Council Meeting of September 2017.

FISCAL IMPACT:

A savings of at least \$31,000 should be gained.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of the CEQA, this project has been determined to be exempt under Section 15378(b) (5).

LEGAL REVIEW:

The City Attorney has been consulted on the process.

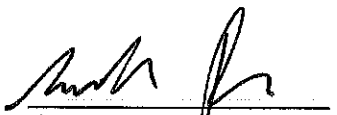
STRATEGIC PLAN OBJECTIVE ADDRESSED:

3 – Provide a quality infrastructure.

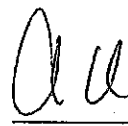
PUBLIC NOTIFICATION:

Notifications and advertisement were performed as prescribed by law.

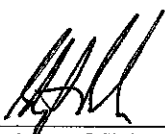
Prepared by:


Guillermo Perez
Engineering Assistant

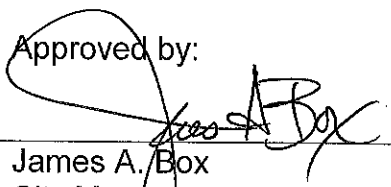
Reviewed by:


Allan Rigg, P.E. AICP
Director of Public Works/City Engineer

Concur:


Stephen Parker, CPA
Administrative Services Director

Approved by:


James A. Box
City Manager

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: August 8, 2017

SUBJECT: CHANGE ORDER FOR THE WESTERN AVENUE AND THUNDERBIRD LANE TRAFFIC SIGNAL PROJECT

REPORT IN BRIEF:

The construction contract has been awarded for the Western Avenue and Thunderbird Lane Traffic Signal Project and the cost is \$179,849.00. Union Pacific Railroad has recently required additional design changes which will cost an additional \$81,165.01. The new costs for the mentioned work are in excess of the 10% authorization limit of the City Manager. Therefore, Staff requests that the Council authorize this Change Order 001 in the total additive amount of \$81,165.01 and authorize a 10% contingency based on the total project cost. The new project cost will be \$287,115.41, including the contingency.

RECOMMENDED ACTION:

1. City Council declare that the project is exempt from the California Environmental Quality Act ("CEQA") under Section 15301(c) – Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities; and
2. Approve Change Order 001 in the total additive amount of \$81,165.01 to DBX, Inc. for the Western Avenue and Thunderbird Lane Traffic Signal Project; and
3. Authorize the Mayor to execute Change Order No. 001; and
4. Authorize the City Manager to approve contract changes, not to exceed 10-percent.

BACKGROUND:

In 2014 a traffic signal was designed at the intersection of Thunderbird Lane and Western Avenue to serve the entrance to Stanton Central Park. After the design was completed, Union Pacific Railroad became aware of the proximity of the design to a railroad-crossing at Western Avenue and indicated that there would need to be significant revisions and additional costs to the intersection design. These costs were estimated to be in excess of \$500,000.

Staff subsequently met with representatives of Union Pacific Railroad and the California PUC to determine if there were other options, such as taking the railroad spur out of service. After a two-year review the railroad concluded that the crossing was minimally active and that modifications to the intersection were not warranted. It was also determined that the railroad would modify their crossing. Staff continued to work with Mr. Daniel Moreno, a railroad representative, and in January of 2017 he was able to come up with a solution that would be for the railroad to install a manual control for the railroad crossing.

Due to the resolution of the issues with the railroad, staff put the project out to bid and the construction contract was awarded in April of 2017. Poles and cabinets were ordered separately before the award of the contract to expedite the construction.

On June 26, 2017 staff received a 34 page report from the railroad's consultant identifying additional work that needs to be done to the railroad crossing. Staff was unaware that additional review of the project was being performed.

Staff sent the information to our Traffic Engineer who revised the plans to include the additional work. The revised design plan was sent to the contractor for the change order which is before the City Council for their approval.

ANALYSIS/JUSTIFICATION:

Change order 001 is for additional changes in the design that the railroad's consultant requested to be done to the proximity of the railroad crossing. The change order also includes an additional crossing under the crossing for Southern California Edison power lines that will power our traffic signal.

The contract increase will be \$81,165.01. This amount is very close to the design engineer's estimate of the additional costs.

FISCAL IMPACT:

Funding for this project is available from account: 220-3510-710106 in Fiscal Year 2017/18.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of the CEQA, this project has been determined to be exempt under Section 15301(c).

LEGAL REVIEW:

None.

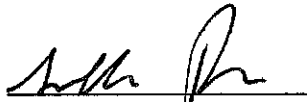
PUBLIC NOTIFICATION:

Notifications and advertisement were performed as prescribed by law.

STRATEGIC PLAN OBJECTIVE ADDRESSED:

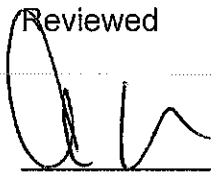
3 - Provide a quality infrastructure.

Prepared by:



Guillermo Perez
Engineering Assistant

Reviewed



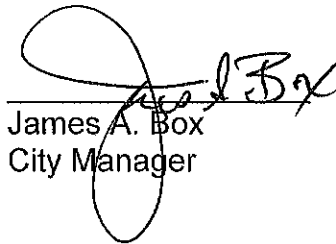
Allan Rigg, P.E. AICP
Director of Public Works/City Engineer

Concur:



Stephen Parker, CPA
Administrative Services Director

Approved by:



James A. Box
City Manager

ATTACHMENTS:

- 1) Change Order No. 001



PROJECT NAME: Western Avenue and Thunderbird Ln Traffic Signal
CONTRACTOR : DBX, Inc.
ENCUMBRANCE NO.: N/A
ORIGINAL CONTRACT: \$179,849.00

CHANGE ORDER : 1
CCO COST: \$ 81,165.01
CCO TOTAL IN % 45%
CCO COST TO DATE: \$ 81,165.01
CCO TOTAL TO DATE IN % 45%
DATE: 7/26/17

CHANGE REQUESTED BY : City
DESCRIPTION : Design change in the plans by Union Pacific Rail Road

CO. TYPE: LS

The following changes are hereby incorporated into the project plans and specifications :

	QTY.	TYPE	COST	INCREASE	DECREASE
1. Additional construction cost for unforeseen design changes.	1	LS	\$81,165.01	\$ 81,165.01	
CHANGE IN CONTRACT TIME			TBD - CALENDAR DAYS	NET CHANGE	\$ 81,165.01

We, the undersigned contractor, have given careful consideration to the change proposed and hereby agree, if this is approved, that we will provide all equipment, furnish all material, except as may otherwise be noted above, and perform all services necessary for the above specified work, including field and home office expense and will accept as full payment therefore the prices shown above.

ACCEPTED, DATE: _____

CONTRACTOR: _____

BY: _____

TITLE: _____

APPROVAL RECOMMENDED :


CONSTRUCTION MANAGER

DATE: 7/26/17


PUBLIC WORKS DIRECTOR/CITY ENGINEER

DATE: 7/26/17

APPROVED :

CITY MANAGER

DATE: _____

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and City Council

DATE: August 8, 2017

SUBJECT: A REPORT ON THE END OF THE INTERNET AND CYBER CAFÉ MORATORIUM AND AN ORDINANCE ADOPTING REGULATIONS FOR THE OPERATION OF INTERNET AND CYBER CAFES IN THE CITY OF STANTON

REPORT IN BRIEF:

The report includes a summary of actions taken during the moratorium period and an Ordinance adopting regulations for the operation of internet and cyber cafes in the City of Stanton.

RECOMMENDED ACTION:

1. City Council conduct a public hearing; and
2. Declare that the project is not subject to CEQA in accordance with Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and
3. Receive and file report on summary of actions taken during the moratorium period; and
4. Introduce Ordinance No. 1069, entitled:

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA AMENDING CHAPTER 5.68 OF TITLE 5, TABLE 2-5 OF SECTION 20.215.020, TABLE 2-7 OF SECTION 20.220.020, TABLE 2-9 OF SECTION 20.225.020, TABLE 2-11 OF SECTION 20.230.020, AND SECTION 20.400.090 OF TITLE 20 OF THE STANTON MUNICIPAL CODE REGARDING INTERNET CAFES, CYBER CAFES, AND COMMERCIAL RECREATION FACILITIES”; and

5. Set Ordinance for adoption at the September 12, 2017, regular City Council meeting.

Council

Agenda Item No. 10A

BACKGROUND:

On September 8, 2015, the City Council adopted Urgency Ordinance No. 1040, a moratorium to temporarily prohibiting new internet and cyber cafes from establishing in the City. Subsequently, Urgency Ordinance No. 1041 was passed which extended the moratorium. Urgency Ordinance No. 1041 is set to expire on September 8, 2016.

The moratorium was prompted, in part, by reports throughout the State and in the City that internet and cyber cafes are allowing illegal gambling operations at their businesses. The gambling often takes the form of "promotional sweepstakes," in which a business allows customers to play gambling-themed games on computers to win cash prizes.

Media reports have chronicled police raids on internet cafes throughout the State in which local law enforcement have seized electronic gaming machines and thousands of dollars in alleged profits from illegal gambling. (See "Hesperia Internet Cafes Raided in Illegal Gambling Probe," *LA Times*, Mar. 20, 2013; "States Battle Illegal Gambling at Internet Cafes," *USA Today*, Mar. 24, 2014; "Police Raid Milpitas Internet Cafe for 'Unlawful Gambling,'" NBC (Online), May 8, 2014; "Evidence at Internet Cafe Reveals Gambling Operation," *The Reporter*, Aug. 26, 2015.)

Due to these statewide issues, the Governor signed Assembly Bill 1439 ("AB 1439") into law in late 2014, which became effective 2015. AB 1439 prohibits, in part, gambling at internet and cyber cafes. Moreover, the California Supreme Court has also ruled that sweepstakes games at internet cafes are unlawful gambling operations. (*People ex rel. v. Grewal* (2015) 61 Cal.4th 544.)

The moratorium was established to study issues related to these establishments, and develop regulations to ensure the lawful operation of internet and cyber cafes. The proposed Ordinance would establish new regulations and permitting requirements for any future operations of internet and cyber cafes in the City.

ANALYSIS AND JUSTIFICATION:

The proposed amendments to the zoning code would be within Title 20 (Zoning) and Title 5 (Business Licensing). Within Title 20, the amendments would include modifications to the land use tables, and to Section 20.400.090 to remove the existing regulations on internet and cyber cafes. Chapter 5.68 (Internet Cafes) would be amended to modify the definition of internet cafes and provide the permitting regulations.

Prior to the initiation of the moratorium, the City defined an internet café to include facilities with more than six computers available to the public. In order to operate an internet café, the business would need to apply for an Internet Café Permit, which was an administrative permit, not subject to discretionary approval.

A major component of the proposed amendment is to modify the definition of internet or cyber cafes. The modified definition would identify an internet café as a business with two or more computers and/or electronic devices available to the public for access to the internet, video games, computer software, and where the business seeks compensation in any form to access to the devices. This would lower the threshold to be considered an internet or cyber café.

The proposed permit requirements would be maintained as a non-discretionary administrative permit as the use is considered protected speech under the first amendment as identified through case law. Additional regulations have been added to the original permit requirements to ensure the devices are arranged so that the amusement devices, computers or other electronic devices and public spaces can be viewed from a single supervisory or cashier station.

If businesses are found in violation of the proposed ordinance, abatement of nuisance language has been included to provide the City the opportunity to commence action to abate the nuisance. These actions could include citation, fines, or legal proceedings.

FISCAL IMPACT:

None.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of the CEQA, this project has been determined to be exempt under Section 15061(b)(3).

LEGAL REVIEW:

The City Attorney has reviewed this report and the attached resolution on behalf of the City.

PUBLIC NOTIFICATION:

Through the regular agenda posting process.

STRATEGIC PLAN OBJECTIVE ADDRESSED:

1 - Provide a safe community.

Prepared by:

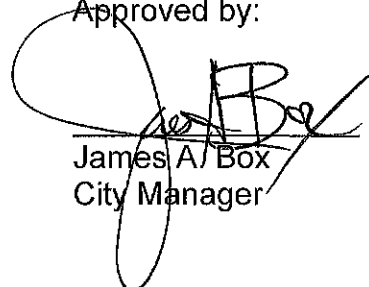


Kelly Hart
Community & Economic
Development Director

Reviewed by:

Matthew E. Richardson
City Attorney

Approved by:



James A. Box
City Manager

Attachments:

1. Report of summary of actions taken during moratorium period
2. Ordinance No. 1069



City of Stanton
COMMUNITY DEVELOPMENT

To: James A. Box, City Manager
From: Kelly Hart, Community Development Director
Re: REPORT ON MEASURES TAKEN TO ALLEVIATE THE CONDITIONS WHICH LED TO THE ADOPTION OF INTERIM URGENCY ORDINANCE NO. 1040 AND ORDINANCE NO. 1041 ESTABLISHING A MORATORIUM ON THE ESTABLISHMENT OF INTERNET AND CYBER CAFES
Date: August 8, 2017

On September 8, 2015, the City Council adopted Urgency Ordinance No. 1040 ("Urgency Ordinance"), enacting a forty-five (45) day moratorium on the establishment of internet and cyber cafes. Subsequently, the City Council adopted Urgency Ordinance No. 1041 extending the moratorium ten (10) months and fifteen (15) days, and then adopted Urgency Ordinance No. 1057, that extended the moratorium an additional 12 months.

Government Code Section 65858 requires that at least ten (10) days prior to the expiration of an interim ordinance or any extension, the City Council must issue a written report describing the measures taken to alleviate the condition(s) which led to the adoption of the initial moratorium in the interim ordinance.

Since the enactment of the Urgency Ordinance, the following actions have been taken:

- (1) The City's Community Development Department continued to research municipal codes of surrounding cities relating to internet and cyber cafes.
- (2) The City's Community Development Department continued to research the best practices utilized by local jurisdictions throughout the State relating to internet and cyber cafes.
- (3) The City's Community Development Department continued to review the City's Zoning Code and identifying which zones, if any, may be appropriate for internet and cyber cafes.
- (4) The City's Police Services continued to investigate allegations of unlawful internet and cyber cafes in the City.
- (5) The City Attorney's Office continued to research relevant case law and newly enacted statutes regarding the regulation of internet and cyber cafes in the City.
- (6) The City's Community Development Department and the City Attorney's Office prepared amendments to the City's Municipal Code and Zoning Code to expressly prohibit the operation of sweepstakes-type of gambling at internet cafes. Additionally, City staff revised the City's internet café ordinances in order to comply with case law.

ORDINANCE NO. 1069

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA AMENDING CHAPTER 5.68 OF TITLE 5, TABLE 2-5 OF SECTION 20.215.020, TABLE 2-7 OF SECTION 20.220.020, TABLE 2-9 OF SECTION 20.225.020, TABLE 2-11 OF SECTION 20.230.020, AND SECTION 20.400.090 OF TITLE 20 OF THE STANTON MUNICIPAL CODE REGARDING INTERNET CAFES, CYBER CAFES, AND COMMERCIAL RECREATION FACILITIES

WHEREAS, Article 11, Section 7 of the California Constitution authorizes the City of Stanton ("City") to make and enforce within its limits all ordinances and regulations not in conflict with general laws; and

WHEREAS, the City has adopted a zoning code regulating the uses of land within the City, as codified in Chapter 20 of the Stanton Municipal Code ("SMC"); and

WHEREAS, the SMC also includes regulations on Internet Cafes and Cyber Cafes, which are included under the category of "Indoor Commercial Recreation Facilities" for zoning purposes (see SMC §§ 5.68, *et seq.*; 20.700.050; 20.400.090); and

WHEREAS, the City is aware that internet and cyber cafes throughout the State have been connected to illegal gambling. Some of the illicit operations are in the form of "promotional sweepstakes," in which the business allows customers to play gambling-themed games on computers to win cash prizes; and

WHEREAS, according to media reports, localities across the State have battled to shut down illegal gambling operations that occur at internet and cyber cafes (see "Hesperia Internet Cafes Raided in Illegal Gambling Probe," *LA Times*, Mar. 20, 2013; "States Battle Illegal Gambling at Internet Cafes," *USA Today*, Mar. 24, 2014; "Police Raid Milpitas Internet Cafe for 'Unlawful Gambling,'" NBC (Online), May 8, 2014; "Evidence at Internet Cafe Reveals Gambling Operation," *The Reporter*, Aug. 26, 2015; "Gambling Establishments Disguised as Internet Cafes Shut Down" Fox40.com, July 15, 2016; "Fairfield Police Shut Down Casinos Masquerading as Internet Cafes," *Napa Valley Register* (Online), July 18, 2016; "Selma Police Shut Down Illegal Gambling Operation," *The Selma Enterprise*, February 17, 2017; "Man Shot Outside 'Internet Casino' on Baker Street," *Bakersfieldnow.com*, March 14, 2017;); and

WHEREAS, according to the National Council on Problem Gambling, up to eight million U.S. adults have problems with gambling, which may compromise, disrupt, or damage personal, family, or vocational pursuits; and

WHEREAS, in response to public agencies' and local law enforcement requests, the Assembly Bill 1439 ("AB 1439") was passed by the State in September 2014,

Ordinance No. 1069

Page 1 of 10

to prohibit, in part, online gambling that often occurs at internet cafes. AB 1439 became effective on January 1, 2015; and

WHEREAS, the California Supreme Court has also ruled that sweepstakes type of games provided at internet and cyber cafes are illegal gambling (*People ex rel. v. Grewal* (2015) 61 Cal.4th 544); and

WHEREAS, the City has also investigated complaints that some local internet and cyber cafes have allowed illegal gambling at their establishments in the City. The City has litigated one such case in which the establishment was alleged to be an illegal internet cafe that allowed customers to play slot machine-like games at the establishment; and

WHEREAS, in response to illegal gambling activities at internet cafes that harm the public health, safety, and welfare, the City Council desires to amend its internet café regulations to expressly prohibit the sweepstakes-type of games that the State and California Supreme Court have deemed illegal gambling; and

WHEREAS, on July 19, 2017, the Planning Commission of the City of Stanton held a duly-noticed public hearing at which the Commission considered oral and written testimony and the entirety of the record, and recommended that the City Council adopt Ordinance No. 1069; and

WHEREAS, on August 8, 2017, the City Council of the City of Stanton held a duly-noticed public hearing at which the Council considered oral and written testimony and the entirety of the record.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON DOES ORDAIN AS FOLLOWS:

SECTION 1: CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 2: Findings for Zoning Code Amendments. The City Council of the City of Stanton hereby makes the following findings in support of the Zoning Code Amendments proposed herein:

A. The proposed amendment is consistent with the General Plan and any applicable Specific Plan. The proposed Zoning Code Amendments is consistent with the goals, policies and general land uses and programs specified in the General Plan, specifically: Goal CHS 4.3 to "provide and maintain a high level of police protection services necessary to adequately serve the community and

provide a sense of safety to residents” and Strategy LU 1.1.2, “ensure adjacent land uses are compatible with one another.” Regulating illegal gambling at Internet Cafés is meant to minimize nuisance conditions, such as municipal code violations, illicit activities, and decrease law enforcement calls related to those nuisances.

B. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City. Rather, this Ordinance is recommended to reduce the nuisance issues and decrease the burden on public safety services related to internet cafes that allow illegal gambling to be conducted on the premises. The proposed Ordinance expressly prohibits such illegal conduct.

C. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code. The proposed Ordinance updates the Stanton Municipal Code to clarify that Internet Café uses do not need to be established with a conditional use permit, but need only be established through an Internet Café License. Moreover, this Ordinance is being processed in accordance with Stanton Municipal Code Chapter 20.610.

SECTION 3: Amendments to Internet Café Ordinance. Chapter 5.68 of Title 5 of the Stanton Municipal Code is hereby amended in its entirety as provided in Attachment “A” to this Ordinance, which is incorporated herein by reference.

SECTION 4: Amendments to Table 2-5 of Section 20.215.020. Table 2-5 of Section 20.215.020 of Title 20 of the Stanton Municipal Code is hereby amended to revise the “Commercial Recreation Facility” land use designation as follows:

"Table 2-5	P=Zoning Clearance (20.560)			
Allowed Land Uses and Permit	CUP=Conditional Use Permit (20.550)	T=Temporary Use Permit (20.540)		
Requirements	MUP=Minor Use Permit (20.550)	—=Prohibited (20.205.040)		
Commercial Zones				
	See Chapter 20.205 (General Permit Requirements)			
Land Use				
See Article 7 (Definitions)	CN	CG	Specific Use Regulations	
See Section 20.205.040 for unlisted uses and exempt uses				
Education, Recreation, and				

Assembly Uses			
Amusement Devices, Accessory (up to 4 devices)	P	P	20.400.090
Adult-Oriented Business	P	P	MC 5.54, 5.58, 5.62; 20.460
Assembly/Meeting Facility	CUP	CUP	20.400.060
Bingo Game Operations (non-profit orgs. only)	CUP	CUP	MC 5.36
Commercial Recreation Facility (4)			MC 5.20, 5.68, 9.90; 20.400.090
Family	MUP	MUP	
Commercial - Indoor/Outdoor	CUP	CUP	20.400.090

.....

Notes:

(1) Restaurant gardens are permitted as an accessory use to an eating and drinking establishment. Food grown may only be used on-site for the eating and drinking establishment. Excess food grown may be sold from an agricultural stand, subject to a Special Event Permit.

(2) Outdoor dining with four (4) seats or less is permitted. Outdoor dining with five (5) to twenty (20) seats requires a Minor Use Permit. Outdoor dining with more than twenty (20) seats requires a Conditional Use Permit.

(3) Donation collection boxes are permitted with an administrative site review permit obtained pursuant to Chapter 20.435.

(4) A Conditional Use Permit shall not be required for the establishment of Internet cafes; only an Internet Café license is required to establish an Internet Café."

SECTION 4: Amendments to Table 2-7 of Section 20.220.020. Table 2-7 of Section 20.220.020 of Title 20 of the Stanton Municipal Code is hereby amended to revise the "Commercial Recreation" land use designation as follows:

"Table 2-7 Allowed Uses and Permit Requirements Industrial Zones	P = Zoning Clearance (20.560)		T = Temporary Use Permit (20.540) — = Prohibited (20.205.040)
	CUP= Conditional Use Permit (20.550)		
	MUP = Minor Use Permit (20.550)		
	See Chapter 20.205 (General Permit Requirements)		
Land Use			
Article 7 (Definitions)	BP	IG	Specific Use Regulations
Section 20.205.040 - unlisted uses and exempt uses			
<i>Agricultural and Open Space Uses</i>			
Market Farm	—	T	
Hydroponics	P	P	
<i>Education, Recreation, and Assembly Uses</i>			
Adult-Oriented Business	P	P	MC 5.54, 5.58, 5.62, 5.65; 20.460
Assembly/Meeting Facilities	CUP	CUP	20.400.060
<i>Commercial Recreation</i> (3)			
Indoor	MUP	MUP	MC 5.20, 5.68; 20.400.090
Outdoor	CUP	CUP	MC 5.20, 5.68

Notes:

(1) Retail sales uses, service uses, and office are allowed above the 15 percent limitation on gross floor area for general industrial/manufacturing uses, in the following circumstances:

a. For industrial parks less than 50 acres in area, up to 35 percent of the total proposed development area, exclusive of parking area, may be retail sales, uses, service uses, and office uses.

b. Retail sales uses, service uses, and office uses in excess of the 35 percent limitation shall require approval of a Conditional Use Permit in compliance with Chapter 20.550 (Use Permits - Minor and Conditional).

(2) Donation collection boxes are permitted with an administrative site review permit obtained pursuant to Chapter 20.435.

(3) A Conditional Use Permit shall not be required for the establishment of Internet cafes; only an Internet Café license is required to establish an Internet Café."

SECTION 5: Amendments to Table 2-9 of Section 20.225.020. Table 2-9 of Section 20.225.020 of Title 20 of the Stanton Municipal Code is hereby amended to revise the "Commercial Recreation Facility" land use designation as follows:

"Table 2-9 Allowed Land Uses and Permit Requirements Special Purpose Zones	P=Zoning Clearance (20.560) C=Conditional Use Permit (20.550) MUP=Minor Use Permit (20.550)					T=Temporary Use Permit (20.540) —=Prohibited (20.205.040)
	See Chapter 20.205 (General Permit Requirements)					
Land Use See Article 7 (Definitions) See Section 20.205.040 for unlisted uses and exempt uses.	OS	PR	PI	SW	SP*	Specific Use Regulations
Agricultural and Resource- Related Uses						
Market Farm	T	—	—	—		20.540
Produce Stands	T	—	—	—		20.540
Education, Recreation, and Assembly Uses						
Assembly/Meeting Facility	CUP	CUP	CUP	—		20.400.060
Commercial Recreation Facility**	CUP	CUP	—	—		20.400.090, MC 5.68
Schools	—	—	CUP	—		
Historic Landmark	—	—	CUP	—		

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****A Conditional Use Permit shall not be required for the establishment of Internet cafes; only an Internet Café license is required to establish an Internet Café.**

SECTION 6: Amendments to Table 2-11 of Section 20.230.020. Table 2-11 of Section 20.230.040 of Title 20 of the Stanton Municipal Code is hereby amended to revise the "Commercial Recreation Facility" land use designation as follows:

"Table 2-11 Allowed Land Uses and Permit Requirements Mixed-Use Overlay Zones"	P = Zoning Clearance (20.560) CUP = Conditional Use Permit (20.550) MUP = Minor Use Permit (20.550)			T = Temporary Use Permit and Special Event Permit (20.540) — = Prohibited
	See Chapter 20.205 (General Permit Requirements)			
Land Use See Article 7 (Definitions) See § 20.205.040 for unlisted uses and exempt uses.	GLMX	NGMX (3)	SGMX	Specific Use Regulations
Education, Recreation, and Assembly Uses				
Amusement Devices Accessory (up to 4 devices)	P	P	P	20.400.090
Assembly/Meeting Facilities	CUP	CUP	CUP	20.400.060
Commercial Recreation Facility (7)	CUP	CUP	CUP	MC 5.20, 5.68, 9.90; 20.400.090

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Notes:

(1) In the GLMX zone, commercial uses (a) are required on the ground floor of buildings at the intersections of Beach and Katella, Beach and Orangewood, and Beach and Chapman and within 150 feet in any direction from these street intersections, as measured from the corner formed by the lots' property lines at the street intersection(s), and (b) are allowed on the ground floor, but are not required on the ground floor, on other lots. Stand-alone multi-family residential or stand-alone commercial development is allowed anywhere over 150 feet in any direction from these intersections.

(2) In the NGMX zone, commercial uses or live-work uses are encouraged on the ground floor of buildings that front Beach Boulevard.

(3) In the NGMX zone, only residential uses shall be allowed to face Fern Street.

(4) A Conditional Use Permit shall be required if all persons engaging in the practice of massage therapy at the establishment do not have a valid MTO (Massage Therapy Organization) Certificate or the State law regulating massage establishments terminates under its sunset review provision (Business and Professions Code Section 4600 et seq.).

(5) In the GLMX and SGMX zones, single-family detached dwellings are permitted with a CUP if the residential use is located in the rear of a property behind single-family attached dwellings, or a commercial use.

(6) Outdoor dining with four (4) seats or less is permitted. Outdoor dining with five (5) to twenty (20) seats requires a Minor Use Permit. Outdoor dining with more than twenty (20) seats requires a Conditional Use Permit.

(7) A Conditional Use Permit shall not be required for the establishment of Internet cafes; only an Internet Café license is required to establish an Internet Café."

SECTION 7: Amendments to Table 2-9 of Section 20.225.020. The land use designation of "Commercial Recreation Facility" found in Table 2-9 of Section 20.225.020 is hereby amended as provided in Attachment "A" to this Ordinance, which is incorporated herein by reference.

SECTION 8: Amendments to Cyber Café Ordinance. Section 20.400.090 of Chapter 20.400 of Title 20 of the Stanton Municipal Code is hereby amended in its entirety as provided in Attachment "A" to this Ordinance, which is incorporated herein by reference.

SECTION 9: Location and Custodian of Records. The documents and materials associated with this Ordinance that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave., Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 10: Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Stanton hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases may be declared invalid or unconstitutional.

SECTION 11: Effective Date. This Ordinance No. 1069 shall be effective 30 days after its adoption.

SECTION 12: Publication. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a Certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, and ADOPTED this 12th day of September, 2017.

CAROL WARREN, MAYOR

ATTEST:

PATRICIA A. VAZQUEZ, CITY CLERK

APPROVED AS TO FORM

MATTHEW E. RICHARDSON, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF STANTON)

I, PATRICIA A. VAZQUEZ, City Clerk of the City of Stanton, California, do hereby certify that the foregoing Ordinance No. 1069 was introduced at a regular meeting of the City Council of the City of Stanton, California, held on the 8th day of August, 2017 and was duly adopted at a regular meeting of the City Council held on the 12th day of September, 2017, by the following roll-call vote, to wit:

AYES: COUNCILMEMBERS: _____

NOES: COUNCILMEMBERS: _____

ABSENT: COUNCILMEMBERS: _____

ABSTAIN: COUNCILMEMBERS: _____

CITY CLERK, CITY OF STANTON

Attachment "A"

Chapter 5.68 INTERNET CAFÉS

5.68.010 Purpose.

It is the purpose and intent of this chapter to regulate Internet cafés to promote the protection of the public from the dangers of fire and hazards to health, to insure the full protection of minors, and for the general preservation of the peace and welfare of the community. It is the intent of the city to establish minimally intrusive protocols to provide reasonable accountability for internet access and use at Internet cafés. The city finds such accountability to be reasonably necessary to minimize the risk of use of the internet by persons at Internet cafés for criminal purposes and to increase the opportunities for the safe apprehension of such persons patronizing Internet cafés for criminal purposes, while recognizing rights of individuals to use the internet and Internet cafés for legitimate purposes.

5.68.020 Definitions.

A. "Internet cafe" shall mean an establishment that provides more than two computers and/or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users or otherwise provides public access to the Internet. Internet café is synonymous with a personal computer ("PC") cafe, cyber café and Internet center, but does not include an Internet learning center as defined herein.

B. "Internet learning center" shall mean an establishment that provides computer access which is operated by the city of Stanton, a school district, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

5.68.030 Internet café—License required.

It is unlawful for any person to engage in, conduct or carry on, in or upon any premises or real property located within the city, the activities of an Internet café, unless such person has been granted a valid license pursuant to the provisions of this chapter. A separate license shall be required for each location within the city where an Internet café is to be established. Internet learning centers shall be exempt from the license requirements herein. An Internet café use shall not require any discretionary permit to operate, including, without limitation, a use permit.

5.68.040 Term of license.

The term of an Internet café license, unless sooner suspended or revoked, shall be one year.

5.68.050 Renewal of license.

An Internet café license, issued pursuant to the provisions of this chapter, that has not been suspended or revoked, may be renewed, upon payment of the renewal application fee, for a period not to exceed one year upon written application to the

community development director made at least sixty days prior to the expiration date of the current valid license. This application for renewal of a license shall contain all of the information required by Section 5.68.060 of this chapter and shall be processed in accordance with the provisions of this chapter.

5.68.060 License application and issuance.

A. Any person desiring to obtain a license or to renew an existing license to operate an Internet café shall file a written application with the community development director. The application shall be signed under the penalty of perjury. Prior to submitting the application, a nonrefundable fee, in an amount established by resolution of the city council, shall be paid to the city to defray the cost of the investigation and issuance required by this chapter. The license issuance or renewal fee required under this chapter shall be in addition to any other license or fee required under this code.

B. Neither the filing of an application for a license or renewal thereof nor payment of an application or renewal fee shall authorize the operation of a Internet café until such license has been granted or renewed.

C. Each applicant for an Internet café license or renewal thereof shall furnish the following information:

1. The present or proposed address where the business is to be conducted;
2. The full and true name under which the business will be conducted;
3. The full and true name and any other names used by the applicant and owner, if the owner is not the applicant;
4. The applicant and owner's present residential and business addresses and telephone numbers;
5. Each residential and business address of the applicant and the owner for the five-year period immediately preceding the date of filing the application and the inclusive dates of each address;
6. The California driver's license or identification number of the applicant and owner;
7. Acceptable written proof that the applicant is at least eighteen years of age;
8. A precise description of the activities and/or services to be provided;
9. A detailed site and floor plan of the proposed business, depicting the building and unit proposed and including interior dimensions and off-street parking spaces required by the city's zoning code;
10. A detailed description of the food and beverage service, if any, that will be offered to patrons;
11. The dates and hours during which the Internet café is desired to be conducted and a list of the fees to be charged patrons;
12. The name(s) of the person(s) responsible for the operation, management, and supervision of the Internet café;
13. A statement as to whether the applicant, owner, or any person to be responsible for the operation, management, and supervision of the Internet café has, within the past five years, had any permit or license issued in conjunction with an Internet café, and whether during that period the license was suspended or revoked. If

so, then the application shall provide the name of the issuing agency and an explanation of the suspension or revocation; and,

14. Such other information as the community development director may require to discover the truth of the matters required to be set forth in the application.

D. The applicant shall present proof to the community development director that the required application or application renewal fee has been paid, and shall present the application containing the information and supporting documentation required by subsection C of this section. A copy of the application shall be distributed to the city's planning and building departments, the Orange County sheriff's department and the Orange County fire authority for review.

E. When any change occurs regarding the written information required by subsection C of this section to be included in the application, the applicant or license holder, as the case may be, shall give written notification of such change to the community development director within five business days of such change.

F. The community development director shall have a reasonable time, not to exceed thirty days to investigate the facts set forth in the application and to receive comments from the city's planning and building departments, the Orange County sheriff's department and the Orange County fire authority. The community development director shall, within forty-five days after the date of the filing of the application, grant the license or renewal thereof only if it is found that all of the following requirements have been met:

1. The required fees have been paid;
2. The application and all information contained therein conform in all respects to the provisions of this chapter;
3. The applicant has not knowingly made a material misrepresentation of fact in the application;
4. The proposed Internet café would comply with this chapter and all other applicable city, county and state laws including, but not limited to, health, zoning, fire and safety requirements and standards.;
5. The applicant is at least eighteen years of age;
6. The Internet café site and floor plan have been reviewed by the city's planning and building departments and the Orange County fire authority, which have approved the same as well as all fire and panic safety equipment required to be installed; all requirements of the Americans with Disabilities Act have been satisfied; and that the maximum occupancy has been established, will be posted and will not likely be exceeded based on the floor plan; and,
7. The community development director has not received evidence that the applicant has, within the previous five years, had any license or entitlement to operate a Internet café revoked due to the applicant's commission of a crime or violation of conditions of approval applicable to an Internet café; provided, however, an Internet café license may be granted subject to additional conditions designed to preclude a recurrence of the events or activities causing the prior license revocation.

G. If the community development director does not find that all of the requirements of subsection F of this section have been met, the application shall be denied.

1. In the event that an application for a license or renewal thereof is denied, written notice of the denial shall be given to the applicant within ten business days, specifying the ground(s) of the denial and a description of the hearing rights provided by Section 5.68.060(G)(2), below. Notice of denial of the application may be personally served or served by first-class postage prepaid and addressed to the applicant at the address set forth in the application. Mailed notice shall be deemed received three days after mailing.

2. The decision of the community development director may be appealed to the city manager by filing a written notice requesting a hearing within ten days of the decision of the community development director. The city manager may hear the appeal or assign it to a hearing officer (for purposes of this section, the term hearing officer shall mean the city manager or a hearing officer appointed by the city manager).

a. The hearing shall be conducted within forty-five days of the request.

b. The hearing officer shall conduct the hearing under such rules of procedure as are appropriate to quasi-judicial proceedings, provided that the applicant and the city shall be entitled to present relevant evidence, testify under oath, and call witnesses who shall testify under oath. The hearing officer shall not be bound by the statutory rules of evidence in the hearing, except that hearsay evidence may not be the sole basis for the determination of the hearing officer. The city shall have the initial burden of proof. The hearing officer shall cause a transcript of the hearing to be prepared.

c. At the conclusion of the hearing, the hearing officer shall decide whether the grounds for denial, revocation or non-renewal exist. Within ten days after the conclusion of the hearing, the hearing officer shall file with the city clerk, together with the transcript of the hearing, a written decision supported by written findings based on the evidence submitted and a statement of his/her order. A copy of the decision shall be forwarded by certified mail, postage prepaid, to the applicant on the day it is filed with the city clerk. The decision of the hearing officer shall become effective three days after its mailing to the applicant unless timely appealed as provided in Section 5.68.070.

H. The decision of the hearing officer may be appealed to the city council by the filing of a written appeal with the city clerk within fifteen days following the day of mailing of the hearing officer's decision and paying the fee for appeal as set by resolution of the city council. All such appeals shall be filed with the city clerk and shall be public records. The city council shall, at a duly noticed meeting within thirty days from the date the written appeal was filed, independently review the entire record, including the transcript of the hearing and any oral or written arguments which may be offered to the city council by the appellant. At the conclusion of the review, a majority of the city council members present may decide to sustain the decision, modify the decision, or order the decision stricken and issue such order as the city council finds is supported by the entire record. The action of the city council shall be final and conclusive, shall be rendered in writing within ten days, and shall be immediately mailed or delivered to the appellant(s).

I. Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided or may request a continuance regarding any decision or consideration by the city of the pending appeal. Extensions of time sought by applicants

shall not be considered delay on the part of the city or constitute failure by the city to provide for prompt decisions on applications.

J. The time for a court challenge to a decision of the city council is governed by California Code of Civil Procedure Section 1094.8 and notice of the city council's decision and its findings shall include citation to California Code of Civil Procedure Section 1094.8.

5.68.070 Transfer of license.

Unless prior application is made, thereafter approved, and a license issued thereon, upon the sale or transfer of any interest in an Internet café, the license shall immediately become null and void. A new application must be made and a new fee paid by any person desiring to own or operate the Internet café. Any application involving the sale or transfer of any interest in an existing Internet café, as well as any license which may thereafter be granted, shall be subject to the provisions of this chapter.

5.68.080 Alterations to Internet café.

A. A holder of a valid Internet café license shall notify the community development director, in writing, of any proposed change in the business location, floor plan or business name at least thirty days prior to such change.

B. Nothing in this section shall excuse the owner of a Internet café from obtaining all other approvals necessary to change a location, floor plan or business name.

5.68.090 License revocation.

A. If the city manager finds that any person holding an Internet café license has violated or allowed the violation of any of the provisions of this chapter or has conducted business in a manner that could have been grounds for license denial, the license may be revoked following notice and a hearing.

B. No revocation shall become effective until the license holder has been notified in writing of the right to a hearing pursuant to the provisions of Section 5.68.060(H) of this chapter. Notice of the pending revocation and right to appeal shall be given to the license holder either by personal delivery or registered mail, addressed to the license holder at the address set forth in the license application. Mailed notice shall be deemed received three days after mailing.

C. If a request for hearing is filed within fifteen days from the notice provided in subsection B above, the city council shall conduct an appeal hearing as provided in Section 5.68.060(H), (I) and (J), above. The revocation shall be stayed pending the decision of the city council, unless, in the determination of the city manager, immediate revocation pending the hearing is necessary due to an immediate threat to the public health, safety or welfare. Otherwise, the revocation shall become effective upon expiration of the appeal period. The decision of the city council shall be the final.

5.68.100 Operational standards and regulations.

A. Minors (under eighteen years of age) shall not be permitted to enter or remain in an Internet café during the following stated hours unless accompanied by a parent or legal guardian:

1. Between eight a.m. and three p.m., or after ten p.m. on Monday through Thursday of each week;

2. Friday between eight a.m. and two p.m., or after ten p.m.

3. Saturday after ten p.m.

4. Sunday after ten p.m.

5. The above weekday hours of restriction shall not apply to vacation days or school holidays as established by any public school district or private school, kindergarten through twelfth grade, operating within the city.

6. Notice of these hours of restriction for minors shall be posted at the entrance in lettering of at least two inches in size.

B. The Internet café shall not be open to customers, patrons or any member of the public between the hours of twelve a.m. and eight a.m. on Saturday and Sunday or between the hours of ten p.m. and eight a.m. Monday through Friday.

C. A waiting area with not less than eight seats shall be provided for customers waiting to use a computer. No outside waiting or seating area is permitted.

D. No person shall be permitted to smoke or consume alcoholic beverages on the inside of the premises. The sale of cigarettes and alcohol on the premises is prohibited. No intoxicated or disorderly person shall be allowed to remain on the premises.

E. Employees shall be at least eighteen years of age. There shall be a minimum of one employee managing the Internet café during all working hours. The ratio of employees to computers and/or other electronic devices that access the internet shall be one to thirty. During each employee's working hours, the employee shall wear a badge identifying the business and the employee's full name.

F. Occupancy shall not exceed that required under the Uniform Building Code and Uniform Fire Code. The maximum occupancy load shall be posted at the main entrance.

G. The establishment shall maintain and operate a camera/video surveillance system during all business hours. The system shall cover the entire interior of the premises and all entrances to and exits from the establishment. Tapes/disks shall be kept a minimum of seventy-two hours. The owner shall permit the city to inspect the tapes/disks during business hours. A sign shall be posted inside and at the entrances to the establishment indicating that the premises are under camera/video surveillance.

H. The owner shall submit and receive approval of a fire exit plan from the Orange County fire authority. The plan shall address all existing requirements of the Uniform Building Code and Uniform Fire Code. This includes, but is not limited to, providing an exit plan showing equipment location, aisle locations and dimensioned widths, and having approved exit doors and panic hardware.

I. Window areas shall not be covered or made opaque in any way, excepting during daylight hours when blinds or other equivalent window coverings may be used.

J. The chief of police may require a specific Internet café operator to provide a security guard(s) on the premises in the event there are repeated calls for police services relating to the premises including, but not limited to, assaults, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

K. Lighting levels within sixty feet of the business and in all required parking areas shall be maintained at a minimum of one foot-candle of light. Interior lighting shall be maintained at a minimum of thirty foot-candles of light.

L. Any access to adult-oriented web sites, as adult-oriented is defined in Section 20.460.040 of this code, is prohibited unless specifically licensed under Chapter 5.54 and Section 20.460.040 of this code.

M. No pool tables or other amusement devices not directly related to the Internet and similar computer devices shall be permitted in the business.

N. No gaming tournaments for cash prizes shall be permitted.

O. No electronic game machine, computer or other type of station shall be located in any private area, room or booth.

P. User rates and other fees must be conspicuously posted on the premises.

Q. Under no circumstances shall electronic game machines, which includes computers and other amusement devices, be used for illegal gaming or gambling. Illegal gaming or gambling includes, without limitation, computer contests or sweepstakes games deemed to be gambling under statute or case law. The applicant shall be responsible for ensuring customers do not use any electronic game machine for illegal gaming or gambling.

R. The applicant shall provide adequate trash receptacles both inside and outside of the building. The applicant shall keep the outside of the business, including the parking lot, free of litter, trash and debris.

S. A minimum of one bicycle rack space shall be provided for every three electronic game machines. The racks shall be located in an area approved by the city's planning department.

T. The applicant shall require all customers to wear head phones and shall ensure that soundproofing is installed to prevent sound from being audible outside of the business in excess of that authorized pursuant to the city's noise ordinance.

U. There shall be a minimum of one lavatory facility accessible to customers and employees.

V. Any booth or individual computer use area within the business shall be visible from a continuous and accessible main aisle in a public portion of the Internet café, and shall not be obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing the entire interior of the booth/individual viewing area from the main aisle. Further, no one shall maintain any booth/individual viewing area in any configuration unless the entire interior wherein the computer that is being used is visible from one main aisle.

No doors are permitted on a booth/individual viewing area. No partially or fully enclosed booth/individual viewing areas or partially or fully concealed booth/individual viewing areas shall be maintained.

W. An internet café shall be arranged so that amusement devices, computers, or other electronic devices and public spaces can be viewed from a single supervisory or cashier station.

5.68.110 Abatement of nuisance.

Any Internet café operated, conducted or maintained contrary to the provisions of this chapter shall be and hereby is declared to be unlawful and a public nuisance, and

the city may, in addition to or in lieu of any other remedy, commence an action or proceeding for the abatement, removal or enjoyment thereof, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief to abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining an Internet café contrary to the provisions of this chapter.

5.68.120 Penalty.

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating, permitting or causing the violation of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in Chapter 1.10 of this code, or any successor provision thereto. Each person shall be deemed guilty of a separate offense for each and every day, or any portion thereof, during which any violation of any provision of this chapter is committed, continued or permitted by such person and shall be deemed punishable therefor as provided in this section.

5.68.130 License fees.

The city council shall, by resolution, set a fee for application for an Internet café license. Until such fee is set, the application fee shall be the minimum fee currently established for any land use certificate application.

Chapter 20.220

20.220.020 Industrial Zone Land Uses and Permit Requirements.

Table 2-7

Table 2-7 Allowed Uses and Permit Requirements Industrial Zones	P = Zoning Clearance (20.560)		T = Temporary Use Permit (20.540) — = Prohibited (20.205.040)
	CUP= Conditional Use Permit (20.550)		
	MUP = Minor Use Permit (20.550)		
	See Chapter 20.205 (General Permit Requirements)		
Land Use			
Article 7 (Definitions)	BP	IG	Specific Use Regulations
Section 20.205.040 - unlisted uses and exempt uses			
<i>Agricultural and Open Space Uses</i>			
Market Farm	—	T	
Hydroponics	P	P	

Education, Recreation, and Assembly Uses			
Adult-Oriented Business	P	P	MC 5.54, 5.58, 5.62, 5.65; 20.460
Assembly/Meeting Facilities	CUP	CUP	20.400.060
Commercial Recreation			
Indoor (3)	MUP	MUP	MC 5.20, 5.68; 20.400.090
Outdoor	CUP	CUP	MC 5.20, 5.68

....

Notes:

(1) Retail sales uses, service uses, and office are allowed above the 15 percent limitation on gross floor area for general industrial/manufacturing uses, in the following circumstances:

a. For industrial parks less than 50 acres in area, up to 35 percent of the total proposed development area, exclusive of parking area, may be retail sales, uses, service uses, and office uses.

b. Retail sales uses, service uses, and office uses in excess of the 35 percent limitation shall require approval of a Conditional Use Permit in compliance with Chapter 20.550 (Use Permits - Minor and Conditional).

(2) Donation collection boxes are permitted with an administrative site review permit obtained pursuant to Chapter 20.435.

(3) A Conditional Use Permit shall not be required for the establishment of Internet cafes; only an Internet Café license is required to establish an Internet Café.

Chapter 20.225

20.225.020 Special Purpose Land Uses and Permit Requirements.

Table 2-9

Table 2-9 Allowed Land Uses and Permit Requirements Special Purpose Zones	P=Zoning Clearance (20.560) C=Conditional Use Permit (20.550) MUP=Minor Use Permit (20.550)	T=Temporary Use Permit (20.540) —=Prohibited (20.205.040)
	See Chapter 20.205 (General Permit Requirements)	

Land Use See Article 7 (Definitions) See Section 20.205.040 for unlisted uses and exempt uses.	OS	PR	PI	SW	SP*	Specific Use Regulations
<i>Agricultural and Resource-Related Uses</i>						
Market Farm	T	—	—	—		20.540
Produce Stands	T	—	—	—		20.540
<i>Education, Recreation, and Assembly Uses</i>						
Assembly/Meeting Facility	CUP	CUP	CUP	—		20.400.060
Commercial Recreation Facility**	CUP	CUP	—	—		20.400.090, MC 5.68
Schools	—	—	CUP	—		
Historic Landmark	—	—	CUP	—		

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**A Conditional Use Permit shall not be required for the establishment of Internet cafes; only an Internet Café license is required to establish an Internet Café.

Chapter 20.230

20.230.040 Mixed-Use Overlay Zone Land Uses and Permit Requirements.

Table 2-11 Allowed Land Uses and Permit Requirements Mixed-Use Overlay Zones	P = Zoning Clearance (20.560) CUP = Conditional Use Permit (20.550) MUP = Minor Use Permit (20.550)		T = Temporary Use Permit and Special Event Permit (20.540) — = Prohibited	
	See Chapter 20.205 (General Permit Requirements)			
	Land Use See Article 7 (Definitions) See § 20.205.040 for unlisted uses and exempt uses.	GLMX	NGMX (3)	SGMX
Education, Recreation, and Assembly Uses				
Amusement Devices Accessory (up to 4 devices)	P	P	P	20.400.090
Assembly/Meeting Facilities	CUP	CUP	CUP	20.400.060
Commercial Recreation Facility (7)	CUP	CUP	CUP	MC 5.20, 5.68, 9.90; 20.400.090

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Notes:

(1) In the GLMX zone, commercial uses (a) are required on the ground floor of buildings at the intersections of Beach and Katella, Beach and Orangetown, and Beach and Chapman and within 150 feet in any direction from these street intersections, as measured from the corner formed by the lots' property lines at the street intersection(s), and (b) are allowed on the ground floor, but are not required on the ground floor, on other lots. Stand-alone multi-family residential or stand-alone commercial development is allowed anywhere over 150 feet in any direction from these intersections.

(2) In the NGMX zone, commercial uses or live-work uses are encouraged on the ground floor of buildings that front Beach Boulevard.

(3) In the NGMX zone, only residential uses shall be allowed to face Fern Street.

(4) A Conditional Use Permit shall be required if all persons engaging in the practice of massage therapy at the establishment do not have a valid MTO (Massage Therapy Organization) Certificate or the State law regulating massage establishments terminates under its sunset review provision (Business and Professions Code Section 4600 et seq.).

(5) In the GLMX and SGMX zones, single-family detached dwellings are permitted with a CUP if the residential use is located in the rear of a property behind single-family attached dwellings, or a commercial use.

(6) Outdoor dining with four (4) seats or less is permitted. Outdoor dining with five (5) to twenty (20) seats requires a Minor Use Permit. Outdoor dining with more than twenty (20) seats requires a Conditional Use Permit.

(7) A Conditional Use Permit shall not be required for the establishment of Internet cafes; only an Internet Café license is required to establish an Internet Café.

Chapter 20.400

20.400.090 Commercial Recreation.

This Section establishes standards for various particular types of commercial recreation establishments where they are allowed in compliance with Article 2 (Zones, Allowed Uses, and Zone-Specific Standards).

A. Arcades.

1. Location.

a. No arcade establishment shall be located within 700 feet of another arcade establishment, as measured by the shortest distance without regard to intervening buildings from the nearest point of the perimeter of the lot upon which the proposed use is to be located to the nearest point of the perimeter of the lot from which the proposed land use is separated.

b. No arcade establishment shall be located within 500 feet of any place of worship, school, park, playground or residentially zoned property.

2. Supervision and surveillance.

a. At least one individual at least twenty-one (21) years of age shall be on the premises during the time the arcade is open to the public.

b. The arcade shall be arranged so that amusement devices, computers, or other electronic devices and public spaces can be viewed from a single supervisory or cashier station.

c. In compliance with Municipal Code Section 5.68.100.G. (Notice of video surveillance), a sign shall be posted at the entrances to the establishment indicating that the premises are under camera/video surveillance.

3. Hours of operation. No game center owner, manager or employees shall allow a minor less than 18 years of age to play a mechanical or electronic game machine during the hours the public schools in the zone where the center is located are in session, or after 9:00 p.m. on nights preceding school days, or after 10:00 p.m. on any other night. It is the responsibility of the owner or manager of the game center to obtain a current schedule of school hours and days.

4. License. All arcade establishments shall obtain a license to operate arcade devices upon the expiration of one (1) year of operation pursuant to a valid Conditional Use Permit or December 31st of the same year in which the Conditional Use Permit was issued, whichever comes first. This requirement is in addition to any conditions imposed under a conditional use permit. The license shall be obtained in compliance with Municipal Code Chapter 5.02 (Licenses). An application for a license may be denied, or any license may be suspended or revoked by the City Manager where it is found that the applicant has violated any of the conditions set forth in the Conditional Use Permit, or where the operation of arcade devices has become a nuisance or detrimental to the health, safety and welfare of the adjacent neighborhood.

5. Conditions of permit approval. The review authority shall consider the need for adult supervision, hours of operation, proximity to schools and other community uses, compatibility with the surrounding neighborhood and businesses, noise attenuation, bicycle facilities, and interior waiting areas, and any other similar relevant factors. A game machine arcade shall not be allowed in a location that would tend to produce a hazard or nuisance to other allowed uses or activities in the area.

B. Family amusement centers. Family amusement centers shall be designed with the intention to promote family involvement. Family amusement centers shall provide recreational activities suitable for all family members. The typical hours of operation should not coincide with normal school hours. An application for a family amusement center that does not meet all of the following requirements shall be processed and subject to all of the arcade regulations of Paragraph A (Arcades) above.

1. A family amusement center shall have a minimum net floor area of 5,000 square feet;

2. The family amusement center shall provide birthday party rooms, a prize redemption booth, and seating areas;

3. The family amusement center shall provide a kitchen facility to supply the food for the guests using the birthday party rooms or establish an agreement with a bona fide restaurant, bona fide eating establishment or a City-approved catering service to provide food service for the birthday party rooms;

4. Alcoholic beverages shall not be sold or consumed on the premises;

5. The facility and all electronic game machines shall be visible and supervised by at least one adult employee 21 years or older and an adult manager 21 years or older. The manager shall be present at all times during the business hours and shall ensure that supervision of the patrons is adequate;

6. No person under 18 years of age shall be allowed on the premises from 8:00 a.m. to 3:00 p.m. Monday through Friday and after 10:00 p.m. seven days a week unless accompanied by a parent or legal guardian at least 21 years of age;

7. The family amusement center shall not be located within 1,000 feet of another family amusement center or amusement arcade;

8. At least 30 percent of all the game machines and recreational devices shall operate on a redemption program whereby each results in dispensing a collectable voucher for prize redemption;

9. No electronic video games or software shall be available to patrons that have the following ratings:

a. Life-Like Violence Strong. Contains selected scenes involving humanlike characters engaged in combative activity that may result in pain, injury and/or death to the depicted;

b. Sexual Content Mild. Contains sexually suggestive references or material;

c. Sexual Content Strong. Contains graphic depictions of sexual behavior and/or the human body;

d. Language Mild. Contains commonly used four-letter words;

e. Language Strong. Contains strong four-letter expletives.

10. The purpose of the software rating system is to ensure that contents and graphics provided as part of the electronic games are suitable for all family members. Although the rating system may change over time, the intent of this Subsection shall be preserved and complied with at all times.

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: August 8, 2017

**SUBJECT: PUBLIC HEARING – SECOND READING OF ORDINANCE
ESTABLISHING A SEWER USER FEE UNIT RATE FOR SEWER
SERVICES**

REPORT IN BRIEF:

On March 1, 1988, the City of Stanton assumed operation and maintenance of sanitary sewer system improvements within its jurisdictional boundary under Orange County Reorganization No. 88. In order to provide sufficient revenue for the operation of the Stanton Sewer Department the City Council must annually adopt an ordinance to establish a user fee rate for sewer services for each fiscal year.

The City has recently completed an Annual Report sewer rate study which was preliminarily approved by the City Council at their meeting on June 13, 2017 which identifies the maximum annual sewer rates which may be charged annually for FY17/18 through FY21/22. Since the report included a change in the methodology used to calculate the Annual Sewer Service Charge for non-residential parcels, the City was required to comply with the requirements of Article XIID, Section 6 which requires that the City conduct a public hearing on the proposed rate structure not less than 45 days after mailing a notice of the proposed change to each parcel.

RECOMMENDED ACTION:

1. City Council conduct a public hearing to receive public comment regarding the revised Sewer User Fee rate, which maintains a two percent reduction from the fiscal year 2014-2015 Sewer User Fee unit rate for residential properties and adjusts the methodology used to calculate the Annual Sewer Charge for non-residential properties to be based on land use and building area rather than parcel size until such time as the sewer rates are otherwise revised by a subsequent ordinance of the City Council; and
2. Close the public hearing, and request for a tabulation of the protest that have been received by the City prior to the close of the public hearing. Declare that there is not a majority protest to the adoption of the revised Sewer User Fee schedule; and

3. Declare that the proposed ordinance is exempt from the California Environmental Quality Act ("CEQA") review under Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273; and
4. Approve the fiscal year 2017-2018 parcel list for levying of the annual Sewer User Fee unit rate (on file in the City Clerk's office); and
5. Perform the second reading of Ordinance No. 1068 entitled:

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, ESTABLISHING RATES FOR THE ANNUAL SEWER SERVICE CHARGE FOR SEWER SERVICES"; and

6. Direct staff to establish an Appeal process to be approved by City Council in the next two months.

BACKGROUND:

The City of Stanton currently operates and maintains a sewer collection system that serves customers within the City. This network of sanitary sewers serves approximately 40,000 residents and is comprised of 55.4 miles of mains with approximately 550 Manholes and 5,000 sewer laterals.

The City charges Annual Sewer Service Charges to operate the City's Sewer System. The City's Sewer System is managed with an enterprise account. Revenue collected from the Annual Sewer Service Charges can only be spent on the City's Sewer System.

On June 23, 2009, the City Council adopted the City Sanitary Sewer Master Plan. This plan inventoried, mapped the system and identified necessary improvements to the system in three areas. These areas are: structural deficiencies, current capacity deficiencies, and capacity deficiencies if and when the City is developed to match the housing density approved within the City's General Plan. The adopted Annual Sewer Service Charges enable the City to proceed with the recommendations outlined in the City Sanitary Sewer Master Plan.

On May 11, 2010, the City approved the AKM Consulting Engineer's Sewer System Financial Evaluation and Rate Study dated April 1, 2010, which created a rate structure to address the proper operation and maintenance of the City's Sewer System.

On June 13, 2017, the City approved Harris & Associates' Annual Report for the Sewer Service Charge Fiscal Year 2017-18 which proposed the revision of the rate structure for non-residential properties to determine the discharge of wastewater into the City's Sewer System utilizing the typical wastewater discharge rates as determined by the Orange County Sanitation District, which are based on building area and land use.

ANALYSIS/JUSTIFICATION:

Earlier this year, the City consulted with Harris & Associates to review and revise the rate structure for the City's Annual Sewer Service Charges for the proper operation and maintenance of the City's Sewer System. This Annual Report was approved by the City Council on June 13, 2017. The proposed rate structure provides for the Annual Sewer Service Charges for each fiscal year from 2017-2018 through 2021-2022, and would be effective July 1, 2017. It should be noted that the proposed residential rates are not being increased, and will be lower in each fiscal year proposed than the rates approved in 2010 for fiscal year 2014-2015. In addition, the proposed rates above will not take effect unless City Council determines they are necessary in their annual review of current and projected sewer costs. The table below shows the proposed rates for residential customers:

Residential Land Uses	Fiscal Year					
	Current	2017/18	2018/19	2019/20	2020/21	2021/22
Detached Single Family Residential	\$ 62.96	\$ 62.96	\$ 65.16	\$ 67.44	\$ 69.80	\$ 72.25
MFR/Condo	\$ 50.37	\$ 50.37	\$ 52.13	\$ 53.96	\$ 55.84	\$ 57.80
Mobile Home/ MHP (Park)	\$ 31.48	\$ 31.48	\$ 32.58	\$ 33.72	\$ 34.90	\$ 36.12

If adopted, effective July 1, 2017, the Annual Sewer Service Charge for non-residential properties will be based on each parcel's land use and building area which will be used to estimate the amount of wastewater discharged into the City's Sewer System. This is the same methodology used by the Orange County Sanitation District (Ordinance No. OCSD -41) to determine wastewater discharge volumes for non-residential parcels. Parcels with non-residential land uses which typically discharge a higher amount of wastewater into the City's Sewer System per 1,000 sq. ft. of building area compared to a single family residence (such as restaurants, medical offices, hotels/motels) may see an increase in their Annual Sewer Service Charge compared to prior years, while parcels with land uses that typically discharge a lower amount of wastewater (such as warehouse, office, retail) may see a reduction. The Annual Sewer Service Charge for non-residential parcels will be calculated by multiplying the estimated waste discharge as a percentage of a single family residence times \$62.96 per 1,000 sq. ft. of building area for FY 17/18.

Since the proposed rates for the Annual Sewer Service Charge changes the method used to calculate the Annual Sewer Service Charge for non-residential parcels, the City complied with requirements under Article XIII D, section 6 of the California Constitution, which include mailing a notice of the proposed change to each parcel not less than 45 days prior to conducting a public hearing on the proposed rate structure. That notice is attached as Attachment A. Should a majority protest be filed by property owners to the proposed rate structure, the City will continue to levy the charge using the current methodology.

As such, the City Council must hold a public hearing on adoption of the rates for the Annual Sewer Service Charge prior to adopting the ordinance pursuant to this action. If

the no majority protest from property owners exists, the City Council may adopt the rates. To date, no letters of opposition have been provided to the City.

FISCAL IMPACT:

For fiscal year 2017-2018, the sewer user fees will generate approximately \$799,373.84

ENVIRONMENTAL IMPACT:

None with this action. The proposed Ordinance is exempt from California Environmental Quality Act (CEQA) review under Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273. All individual sewer projects will comply with CEQA and the City's NPDES program.

LEGAL REVIEW:

None.

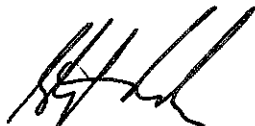
PUBLIC NOTIFICATION:

Public notification provided through the normal agenda process and per Health and Safety Code Section 5473.1.

STRATEGIC PLAN OBJECTIVE ADDRESSED:

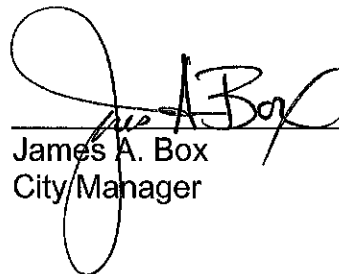
4. Ensure Fiscal Stability and Efficiency in Governance

Prepared by:



Stephen M. Parker, CPA
Director of Administrative Services

Approved by:



James A. Box
City Manager

Attachment:

- A. Proposition 218 Notice
- B. Ordinance No. 1068

City Clerk
City of Stanton
7800 Katella Avenue
Stanton, CA 90680

**NOTICE OF
PUBLIC HEARING
FOR PROPOSED SEWER SERVICE
CHARGE RATE INCREASE
for the
CITY OF STANTON**

THE CITY OF STANTON GIVES NOTICE that:

The City is proposing to revise the methodology used to calculate the Annual Sewer Service Charge for non-residential properties effective July 1, 2017 which may result in an increase in the Annual Sewer Service Charge for some non-residential parcels and a decrease in the Annual Sewer Service Charge for other non-residential parcels based upon their estimated wastewater discharge. No change in the rate for residential parcels is proposed for Fiscal Year 2017/18. Beginning July 1, 2018, the rate for residential parcels will be adjusted annually pursuant to the schedule on page 2. The maximum rates for residential parcels will remain below the maximum rates approved for such parcels for Fiscal Year 2014/15. We have mailed you this notice, as required by Article XIII D of the California Constitution (Proposition 218), because you are the record owner of real property that receives sewer service from the City and is subject to the Annual Sewer Service Charge.

The proposed Annual Sewer Service Charge rates do not exceed the revenues required for the continued operation and maintenance of the City's sewer collection system, including the completion of the improvements described in the Sewer Master Plan adopted by the City Council in June, 2009. In addition, the proposed change in the methodology used to calculate the Annual Service Charge for non-residential parcels will more closely align the Annual Sewer Service Charge to the proportionate cost of providing service based on the actual burden on and use of the City's sewer collection system. The change in methodology will not increase the total revenue collected for FY 2017/18 compared to last year, but will allocate costs between land uses based upon their estimated discharge of wastewater into the City's sewer system.

A description of how the rates are calculated for non-residential properties and the proposed schedule of rate increases are shown on the back of this notice. If the rate increases are approved, it is proposed that they will commence to be collected with the property taxes beginning with Fiscal Year 2017-18 and will continue to be collected until otherwise modified by the City. The sewer rates may not exceed the maximum amounts shown without another written notice to the property owners.

Before taking final action on the proposed rate increase, the City Council will hold a PUBLIC HEARING on Tuesday, August 8, 2017, at 6:30 p.m. at the City Council Chambers, 7800 Katella Avenue, Stanton. The public hearing will be for hearing public testimony and receiving written protests on the proposed sewer rate increase. The Council may continue the hearing from time to time without further written notice.

Any property owner who receives sewer service from the City may file a written protest against the proposed rate adjustment with the City Clerk. The protest must identify the property address, the APN, the property owner, and also must be signed by the owner of the property. Your Assessor's Parcel Number (APN) is shown on the first line of the address on the envelope this notice came in. Written protests may be hand delivered or mailed to the City Clerk at the City's address shown above, or faxed to the City Clerk at (714) 890-1443. To be counted, the City Clerk must receive a written protest either by mail or fax not later than 4:00 p.m. on August 8, 2017, or if delivered in person, not later than the closing of the public hearing specified above. A majority protest exists if, upon the close of the public hearing, there are valid written protests submitted by owners of a majority of the properties subject to the proposed rate increase. A majority protest will result in the rate increase not being imposed. Note that no more than one protest per parcel may be submitted.

To get additional information about the proposed rate increase, contact:

City of Stanton Administrative Services Department
Telephone: (714) 890-4226
E-mail: sparker@ci.stanton.ca.us

City of Stanton
Proposed Increase in the Annual Sewer Service Charge

The proposed rates for residential parcels are shown in the table below. The proposed rates will be charged as an annual fee, and collected with property taxes. The rates for residential parcels have not been changed over the last four years and no change in the rates for residential parcels is proposed for Fiscal Year 2017/18. The rates shown for Fiscal Years 2017/18-2021/22 are less than the prior maximum rate approved in 2010 for Fiscal Year 2014/15.

Residential Land Uses	Existing Maximum Rate	Fiscal Year				
		2017/18	2018/19	2019/20	2020/21	2021/22
Detached Single Family Residential	\$ 73.25	\$ 62.96	\$ 65.16	\$ 67.44	\$ 69.80	\$ 72.25
MFR/Condo	\$ 58.60	\$ 50.37	\$ 52.13	\$ 53.96	\$ 55.84	\$ 57.80
Mobile Home/ MHP (Park)	\$ 36.63	\$ 31.48	\$ 32.58	\$ 33.72	\$ 34.90	\$ 36.12

In addition, the methodology used to calculate the Annual Sewer Service Charge for non-residential properties will also be modified. Effective July 1, 2017 the Annual Sewer Service Charge for non-residential properties will be based on each parcel's land use and building area which will be used to estimate the amount of wastewater discharged into the City's sanitary sewer system. This is the same methodology used by the Orange County Sanitation District (Ordinance No. OCSD-41) to determine wastewater discharge volumes for non-residential parcels. Parcels with non-residential land uses which typically discharge a higher amount of wastewater into the City's sewer collection system per 1,000 sq. ft. of building area compared to a single family residence (such as restaurants, medical offices, hotels/motels) may see an increase in their annual sewer charge compared to prior years, while parcels with land uses that typically discharge a lower amount of wastewater (such as warehouse, office, retail) may see a reduction in their annual sewer charge. The Annual Sewer Service Charge for non-residential parcels will be calculated by multiplying the estimated waste discharge as a percentage of a single family residence times \$62.96 per 1,000 sq. ft. of building area for FY 17/18. A report showing the Annual Sewer Service Charge for each parcel and additional information is on file in the Office of the City Clerk and may be viewed at <http://www.ci.stanton.ca.us/Public-Notices>.

APN: <APN>
<Owner>
<Careof>
<Mail Address>
<Mail City St> <Zipcode> <Country>

**NOTICE OF PUBLIC HEARING
FOR PROPOSED SEWER SERVICE
CHARGE RATE INCREASE
FOR THE CITY OF STANTON**

City of Stanton
7800 Katella Avenue
Stanton, CA 90680

ORDINANCE NO. 1068

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, ESTABLISHING RATES FOR THE ANNUAL SEWER SERVICE CHARGE FOR SEWER SERVICES

WHEREAS, the City of Stanton ("City") is successor agency of the Stanton County Water District under Reorganization No. 88; and

WHEREAS, the City currently operates and maintains a sewer collection system that serves the City. The network of sanitary sewers serves approximately 40,000 residents and is comprised of 55.4 miles of mains with approximately 550 manholes and 5,000 sewer laterals; and

WHEREAS, the City charges fees to operate the citywide sewer collection system, and the sewer system is managed with an enterprise account. The rates customers pay may only be spent on the sewer system; and

WHEREAS, on May 11, 2010 the City approved the AKM Consulting Engineers' Sewer System Financial Evaluation and Rate Study dated April 1, 2010, which created a rate structure to address the proper operation and maintenance of the City's sewer system. A copy of the sewer rate study is on file with the City Clerk; and

WHEREAS, on June 13, 2017 the City approved Harris & Associates' Annual Report for the Sewer Service Charge Fiscal Year 2017-18 which proposed the revision of the rate structure for nonresidential properties to be based on the discharge of wastewater into the City's sewer collection system utilizing the typical wastewater discharge rates as determined by Orange County Sanitation District; and

WHEREAS, the City has received a letter from AKM Consulting Engineers that affirms the assessment of the City's sewer collection system completed by AKM in April 2010 is still valid and there maybe additional needs due to the passage of time; and

WHEREAS, the maximum rates for residential parcels in each Fiscal Year for which they are proposed are less than the maximum rates approved in 2010 for Fiscal Year 2014-15, and are not being "increased" for the purposes of Article XIII D, section 6 of the California Constitution, and

WHEREAS, the sewer charges for residential parcels are determined based on estimated discharge of wastewater into the City's sewer system based on land use, and includes rates per dwelling unit for detached residential, multi-family residential/condo, and mobile homes/mobile home parks, determined as a percentage of the cost per single family residence per unit, all as more specifically set forth in Exhibit A hereto; and

WHEREAS, the sewer charges for non-residential customers are calculated as a percentage of single family residences per 1,000 square feet or unit, all as more specifically set forth in Exhibit A hereto; and

WHEREAS, the total revenue collected for the sewer collection system under the proposed rates for Fiscal Year 2021-22 are lower than the total revenue approved to collect in 2010 for Fiscal Year 2014-15; and

WHEREAS, pursuant to the authority of Section 5473 of the Health and Safety Code, the City Council of the City of Stanton elects to have such sewer charges for the forthcoming years collected on the tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, its general taxes; and

WHEREAS, Harris & Associates has, in accordance with Section 5473 of the Health and Safety Code, prepared and filed with the City Clerk the Sewer User Fee Assessment Roll report containing a description of each parcel of real property receiving such services and facilities and the amount of charge for each parcel; and

WHEREAS, in accordance with Section 5473.1 of the Health and Safety Code, the City has published notice of the filing of the Sewer User Fee Assessment Roll report and of the time and place of the public hearing on the report; and

WHEREAS, the revenues derived from the proposed sewer charges will not exceed the funds required to provide the sewer services and shall be used exclusively for the provision of sewer services; and

WHEREAS, the amount of the proposed sewer charges will not exceed the proportional cost of the services attributable to each parcel upon which they are proposed for imposition; and

WHEREAS, the proposed sewer charges will not be imposed on a parcel unless such services are actually used by, or immediately available to, the owner of the parcel or any tenant directly liable for the payment of such sewer charges; and

WHEREAS, pursuant to California Constitution article XIII D, section 6 ("Article XIII D"), the City provided written notice (the "Notice") by mail of: (1) the proposed increases to the rates for the sewer charges to the record owner of each parcel upon which the rate increases to the sewer charges are proposed for imposition; (2) the amount of the rates for the sewer charges proposed to be imposed on each parcel; (3) the basis upon which the rates for the sewer charges were calculated; (4) the reason for the rate increases to the sewer charges; and (5) the date time and location of a public hearing (the "Hearing") on the proposed rate increases to the sewer service fees; and

WHEREAS, the City provided such Notice not less than forty-five days prior to the Hearing on the proposed rate increases to the sewer service fees in compliance with Article XIII D; and

WHEREAS, the Hearing was held on this day, August 8, 2017; and

WHEREAS, at the Hearing the City Council heard and considered all oral testimony, written

materials, and written protests concerning the establishment and imposition of the proposed rates to the sewer charges, and at the close of the Hearing the City did not receive written protests against the establishment and imposition of the proposed rate increases to the sewer charges from a majority of the affected property owners; and

WHEREAS, the City is the lead agency under the California Environmental Quality Act (CEQA). The City has determined that this Ordinance is exempt from CEQA review under Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273 because the sewer service fees are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the sewer systems and will not result in the expansion of the sewer system; and

WHEREAS, this Ordinance shall supersede all other previous resolutions and ordinances that may conflict with, or be contrary to, this Ordinance with respect to the rates for sewer service fees described more particularly herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON DOES ORDAIN AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and the City Council so finds and determines. All protests and objections are hereby overruled by the affirmative vote of the members of the City Council voting in favor of the adoption of this Ordinance.

SECTION 2. The sewer charges established by this Ordinance are exempt from CEQA review under Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273 because the sewer charges are necessary and reasonable to fund the administration, operation, maintenance, and improvements of sewer system and will not result in the expansion of the sewer system. The documents and materials that constitute the record of proceedings on which these findings have been based are located at 7800 Katella Ave., Stanton, California 90680. The custodian for these records is the City Clerk.

SECTION 3. RATES FOR SEWER SERVICE FEES

3.1 The City Council has been presented with data showing the estimated reasonable costs of providing sewer service and data showing the revenue sources available to recover the costs of providing sewer service.

3.2 The City Council reviewed the proposed rates for sewer charges at the June 13th City Council meeting.

3.3 The City Council introduced this Ordinance at the June 27, 2017 meeting.

3.4 The City Council held a duly noticed Hearing on August 8, 2017, at which the City Council did not receive a protest from a majority of property owners subject to the sewer charges.

3.5 The City Council hereby adopts the sewer charges set forth in Exhibit A hereto. The City of Stanton hereby imposes and levies a sewer charges for each sanitation unit within the City of Stanton until such time as the sewer charges are otherwise revised by a subsequent ordinance of the City Council.

SECTION 4. The Annual Sewer Service Charge report, copies of which are on file in the office of the City Clerk, is hereby confirmed.

SECTION 5. Passage of this ordinance shall constitute a levy of an annual sewer charge on each parcel connected to the City's sanitary sewer system until such time as the rates for the sewer charge are otherwise revised by a subsequent ordinance of the City Council.

SECTION 6. Pursuant to the authority of Section 5473 of the Health and Safety Code, the City Clerk shall file the Sewer User Fee Assessment Roll with the County Auditor of the County of Orange.

SECTION 7. In the event the City cannot, or does not complete the actions required to collect the sewer service charge against a parcel for a fiscal year on the property tax roll, the City may collect such sewer charge for that year with respect to that parcel by mailing a bill to the owner of the parcel. Any sewer charge billed in this manner shall be due and payable upon presentation, but no earlier than December 1 of the fiscal year for which the sewer charge is imposed. If a sewer charge billed in this manner is not paid within thirty (30) days of the due date, then on the first day of each calendar month thereafter a late fee of two (2) percent of the amount of the delinquent sewer charge shall be added and become due. If any such sewer charge remains outstanding at the time the report is prepared for a subsequent fiscal year, the delinquent sewer charge (and accrued late fees) may be included on such report and collected on the tax roll along with the charges for that fiscal year.

SECTION 8. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The Board of Directors hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 9. The City Clerk shall certify as to the adoption of this Ordinance.

PASSED, APPROVED, AND ADOPTED this 27th day of June, 2017.

CAROL WARREN, MAYOR

ATTEST:

PATRICIA A. VAZQUEZ, CITY CLERK

APPROVED AS TO FORM

MATTHEW E. RICHARDSON, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF STANTON)

I, PATRICIA A. VAZQUEZ, City Clerk of the City of Stanton, California, do hereby certify that the foregoing Ordinance No. 1068 was introduced at a regular meeting of the City Council of the City of Stanton, California, held on the 27th day of June, 2017, and was duly adopted at a regular meeting of the City Council held on the 8th day of August, 2017, by the following roll-call vote, to wit:

AYES: COUNCILMEMBERS: _____

NOES: COUNCILMEMBERS: _____

ABSENT: COUNCILMEMBERS: _____

ABSTAIN: COUNCILMEMBERS: _____

PATRICIA A. VAZQUEZ, CITY CLERK

Exhibit A

Sewer Charges

Residential Sewer Charges

Residential Land Uses	Fiscal Year					
	Current	2017/18	2018/19	2019/20	2020/21	2021/22
Detached Single Family Residential	\$ 62.96	\$ 62.96	\$ 65.16	\$ 67.44	\$ 69.80	\$ 72.25
MFR/Condo	\$ 50.37	\$ 50.37	\$ 52.13	\$ 53.96	\$ 55.84	\$ 57.80
Mobile Home/ MHP (Park)	\$ 31.48	\$ 31.48	\$ 32.58	\$ 33.72	\$ 34.90	\$ 36.12

Non-Residential Sewer Charges

The table below shows the annual Charge for non-residential parcels per 1,000 square feet of building area as a percentage of the detached residential unit rate (Single Family Residence or "SFR") based upon the typical wastewater discharge rates determined by the Orange County Sanitation District for parcels within the District. The annual Charge for non-residential parcels is calculated by multiplying the applicable percentage shown in Table 2 based upon the Assessor's Use Code times the Detached Residential Charge to determine the rate to be charged per building square footage divided by 1,000.

Use Code	Description	Percentage of SFR Per 1,000 SF or Unit
001	Vacant Land	0%
005	Common Area	0%
006	"Hold" Parcel	0%
008	Equivalent to Vacant	0%
121	Minimal or no Value	0%
122	Subsurface Parcel	0%
124	Oil/Mineral Rights	0%
125	Mineral Rights Equip	0%
126	Vacant Common Area-Imp Alloc.	0%
201	Homeowners Exemption Addtl	0%
666	Unassigned Vacant	0%
777	Septic Tank Property	0%
112	Steel Building	7%
113	Mini-Warehouse	7%
058	Nurseries (Plants)	10%
100	Drive-In Theater	10%
044	Lumber/Constr. Material Yard	17%
071	Parking Garage	17%
072	Paved Parking Lot	17%
110	Warehouse - Single Tenant	17%

111	Warehouse-Multi Tenant	17%
115	Recreational Vehicle Storage	17%
116	Truck Terminal	17%
033	Church Buildings	20%
094	Department Store	23%
095	Discount Store	23%
096	Unattached Single Store	23%
097	Strip Store	23%
074	Recreational Vehicle Park	27%
036	Financial Buildings	27%
040	Health Club	29%
068	High Rise Office	30%
225	US Post Office	35%
021	Auto Dealership	41%
022	Auto Repair Shop	41%
023	Auto Service	41%
024	Used Car Lot	41%
039	Golf Course	41%
057	Motorcycle/Small Vehicle Bldg.	41%
083	Auto Service Station	41%
084	Marine Service Station	41%
086	Combo - Svc Station/Convenience	41%
065	Single Office Bldgs to 3 Stories	41%
066	Small Office Center	41%
067	Office Complex	41%
069	Converted Residence to Office	41%
007	Mobile Home	50%
055	Mobile Home Park	50%
107	Light Industrial - Single Tenant	50%
108	Light Industrial - Multi Tenant	50%
109	Research & Development	50%
114	Industrial Park	50%
037	Fraternal Buildings	51%
101	Unattached Theater	51%
026	Airport and Related Buildings	53%
045	Marinas	53%
088	Low Flow Center	53%
003	Two or more Residences	70%
010	Duplex Only	70%
011	Triplex Only	70%
012	04-Units Only	70%
013	5 to 16 Units	70%
014	17 to 25 Units	70%

015	26 to 40 Units	70%
016	41-99 Units Only	70%
017	100 or more Units	70%
018	Developed with Mix of Forms	70%
063	Low Rise Retirement Building	70%
064	High Rise Retirement Building	70%
056	Low Demand Hotel/Motel	70%
081	Pre-Schools, Nursery or Care	82%
082	Private Schools	82%
098	Store with Offices or Living Quarter	82%
099	Store with Office Upstairs	82%
118	Governmental Use Vac/Dev	82%
019	SFR with 1 or 2 Rental Units	85%
034	Dormitory	97%
042	Hospital	97%
043	High Demand Hotel/Motel	97%
000	Conversion-C/1, Rural PC	100%
002	One Residence	100%
004	Miscellaneous Improvement	100%
085	Combo Serv. Station/Restaurant	100%
103	Chemical Tank and Bulk Storage	100%
104	Food Processing Plant	100%
105	Cold Storage Plant	100%
106	Factory	100%
119	Public Utility	100%
120	Water Mutual or Company	100%
888	Conversion-Composite Prop.	100%
032	Cemetery & Related Bldgs.	101%
038	Funeral Home	101%
060	Nursing Home	102%
061	Convalescent Hospitals	102%
062	Converted Res. Used as Nursing	102%
028	Bowling Alleys	112%
092	Skating Rinks	112%
050	Single Medical Bldgs to 3 Stories	124%
051	Small Medical Center	124%
052	Medical Center Complex	124%
053	High Rise Medical	124%
054	Converted Residence to Medical	124%
089	Average Flow Center	139%
020	Amusement Parks	144%
035	Entertainment Center	144%
073	Recreation	144%

030	Coin Operated Car Wash	151%
047	Supermarket	151%
048	Convenience Market	151%
224	Nightclub	200%
090	High Flow Center	226%
076	Restaurant-Low Demand	300%
077	Restaurant-Coffee Shop	600%
078	Restaurant-Dinner House	600%
079	Restaurant-Conversion from SF	600%
029	Conventional Car Wash	796%
223	Laundromat	800%

NOTE: Multiply the Table 2 Residential Unit Rate by the percentage figure above in order to determine the rate per 1,000 square feet for the commercial or industrial user. The minimum Annual Sewer Charge any non-residential parcel which is connected to the City's sewer's system shall pay shall be equal to the Charge for a Detached Residential unit. No Charge shall be levied on parcels not connected to the City's sanitary sewer collection system.

ORDINANCE NO. 1067

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, AMENDING CHAPTERS 2.32 AND 2.36 OF TITLE 2 (ADMINISTRATION AND PERSONNEL) AND CHAPTER 12.36 OF TITLE 12 (STREETS AND SIDEWALKS) OF THE STANTON MUNICIPAL CODE TO CHANGE THE NAME OF THE STANTON PARKS AND RECREATION COMMISSION TO THE STANTON PARKS, RECREATION AND COMMUNITY SERVICES COMMISSION

WHEREAS, Article XI, Section 7 of the California Constitution authorizes the City to enact and enforce ordinances that promote social, recreational, or aesthetic considerations; and

WHEREAS, the City of Stanton re-established the Stanton Parks and Recreation Commission ("Parks and Recreation Commission") pursuant to Ordinance No. 1023; and

WHEREAS, the City wishes to change the name of the "Parks and Recreation Commission" to the "Parks, Recreation and Community Services Commission".

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2. The City Council finds that this project is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15062(c)(2) and 15060(c)(3).

SECTION 3. Chapters 2.32 and 2.36 of Title 2 and Chapter 12.36 of Title 12 of the Stanton Municipal Code are hereby amended to change the name of and any references to the "Parks and Recreation Commission" to the "Parks, Recreation and Community Services Commission", as provided in Attachment "A", which is incorporated herein by reference.

SECTION 4. This Ordinance shall take effect and be in full force thirty (30) days from and after its passage. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted in the three (3) designated posting places within the City of Stanton within fifteen (15) days after its passage.

[Signatures on following page]

SIGNATURE PAGE TO ORDINANCE NO. 1067

PASSED, APPROVED, and ADOPTED this 8th day of August, 2017.

CAROL WARREN, MAYOR

ATTEST:

PATRICIA A. VAZQUEZ, CITY CLERK

APPROVED AS TO FORM

MATTHEW E. RICHARDSON, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF STANTON)

I, PATRICIA A. VAZQUEZ, City Clerk of the City of Stanton, California, do hereby certify that the foregoing Ordinance No. 1067 was introduced at a regular meeting of the City Council of the City of Stanton, California, held on the 25th day of July, 2017, and was duly adopted at a regular meeting of the City Council held on the 8th day of August, 2017, by the following roll-call vote, to wit:

AYES:	COUNCILMEMBERS:	_____

NOES:	COUNCILMEMBERS:	_____
ABSENT:	COUNCILMEMBERS:	_____
ABSTAIN:	COUNCILMEMBERS:	_____

CITY CLERK, CITY OF STANTON

Attachment "A"

Redline to Chapter 2.32 PARKS AND RECREATION COMMISSION

Chapter 2.32 of Title 2 of the Stanton Municipal Code is hereby amended to read as follows:

2.32.010 Established.

A parks, recreation and community services commission in and for the city is hereby established. (Ord. 1023 § 2, 2014)

2.32.020 Membership.

The parks, recreation and community services commission shall consist of seven members serving in a non-paid, voluntary and advisory capacity to the city council. Each councilmember shall appoint one parks, recreation and community services commission who shall be a qualified elector of the city. In addition, the mayor shall appoint two commissioners. No appointment shall be effective until approved by majority vote of the city council. (Ord. 1023 § 2, 2014)

2.32.030 Term.

The terms of office for each of the seven parks, recreation and community services commission shall coincide with the term of office of the councilmember who made the appointment; provided, however, each commissioner shall continue to serve until his or her successor is appointed; and provided further, that any commissioner may be removed at any time by majority vote of the entire council. The terms of seats six and seven shall coincide with the council term of the mayor.

The city council, by majority vote, may remove any commissioner at any time prior to the expiration of the designated term.

Vacancies occurring on the parks, recreation and community services commission within the term of any member of the commission shall be filled in the same manner as provided for in the initial appointment. The appointee is to serve only for the unexpired term of office of the retiring member whom he or she replaces. (Ord. 1023 § 2, 2014)

2.32.040 Organization, purpose, powers, and duties.

The parks, recreation and community services commission's meeting schedule, purpose, powers, and duties shall be established via city council resolution. (Ord. 1023 § 2, 2014)

Redline to Chapter 2.36 DEPARTMENT OF PARKS AND RECREATION

Chapter 2.36 of Title 2 of the Stanton Municipal Code is hereby amended to read as follows:

2.36.010 Established.

There is created a department of community services for the city. (Ord. 878 § 2, 2003: Ord. 789 § 3, 1997: added during 1980 recodification: prior code § 2.29.010)

2.36.020 Chief official.

The chief official of the department shall be the community services director. The city manager shall appoint the director. Upon appointment of the director, the level of compensation, severance and other miscellaneous benefits shall be established by contract between the director and the city manager. (Ord. 878 § 2, 2003: Ord. 761 § 3, 1994: Ord. 734 § 3, 1992: added during 1980 recodification: prior code § 2.29.020)

2.36.030 Duties of director.

In addition to such other duties as may be required by law or assigned by the city manager, the director of community services shall:

A. Formulate and recommend to the city manager policies and procedures for the planning, organization, direction and coordination of all recreational facilities owned or operated by the city and administer such policies and procedures when approved by the city manager;

B. Provide certain technical assistance to other departments as applicable to recreation and leisure services;

C. Direct and analyze leisure time needs and desires, availability of resources, existing programs and other factors in developing departmental programs;

D. Coordinate activities of the department with those of school districts, sports associations and other agencies;

E. Participate in and recommend applicable park designs as necessary or beneficial to the growing needs of the community;

F. Coordinate with community leaders and groups, the review of policies of the department and promote involvement and assistance in conducting programs beneficial to the community and the department;

G. Conduct a continuing review of departmental activities and direct the correction of noted deficiencies;

H. Act as advisor to the parks, recreation and community services commission on related matters;

I. Study and periodically report to the city manager all community services problems;

J. Operate and obtain necessary recreation park equipment;

K. Recommend to the city manager and commission a schedule of fees to be charged, where applicable, for services of the department and the city;

L. Direct and be accountable for the efficiency of departmental personnel, quality of services directed and effective administration of the recreation and leisure services program. (Ord. 878 § 2, 2003; Ord. 789 § 3, 1997; added during 1980 recodification: prior code § 2.29.030)

Redline to Chapter 12.36 UNLAWFUL CAMPING AND ABANDONED PROPERTY

Chapter 12.36 of Title 12 of the Stanton Municipal Code is hereby amended to read as follows:

12.36.010 Purpose.

The public streets, public areas and parks within the city of Stanton should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use the areas for which they were intended. The purpose of this chapter is to maintain public streets and areas within the city of Stanton in a clean and accessible condition. (Ord. 990 § 2, 2011)

12.36.020 Definitions.

Unless the particular provisions or the context otherwise requires, the definitions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter:

“Camp” means to pitch or occupy camp facilities; to live temporarily in a camp facility or outdoors; to use camp paraphernalia.

“Camp facilities” include, but are not limited to, tents, huts, or temporary shelters, including recreational vehicles not parked in designated RV campgrounds or mobile home parks.

“Camp paraphernalia” includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks, or non-city designated cooking facilities and similar equipment. Non-city designated cooking facilities means any cooking implement or cooking equipment that is not owned, controlled or permitted by the city, including, but not limited to, personal barbeques, hot-plates and fire pits.

“Park” means any owned, leased, operated or maintained land before or after the effective date of this chapter by the city of Stanton or Stanton redevelopment agency held as a harbor, beach, park or recreation area.

“Parks, Recreation and Community Services Commission” means the city of Stanton parks, recreation and community services commission, pursuant to Chapter 2.32 of the Stanton Municipal Code.

“Community Services Director” means the city of Stanton’s community services director or designee, pursuant to Section 2.36.020 of the Stanton Municipal Code.

“Public area, improved or unimproved” means and includes, but is not limited to, public place, including, but not limited to, public streets and alleyways; public parking lots, whether publicly owned or privately owned; public sidewalks; public parks; public playgrounds; public landscaped areas; and other publicly owned property. “Public area” shall not include any area designated as a public campground pursuant to federal, state or local statute, ordinance or resolution.

“Recreational vehicle” means any travel trailer, boat, camper, motor home, van, travel and utility trailer or converted bus.

“Street” means the same as defined in Section 590 of the California Vehicle Code. (Ord. 990 § 2, 2011)

12.36.030 Unlawful camping.

A. It is unlawful for any person to camp, occupy camp facilities, or use camp paraphernalia in any public area, except as otherwise designated by the parks, recreation and community services commission, and as permitted by the community services director.

B. It is unlawful for any person to sleep in the following public areas:

1. In any public park during the period from one-half hour after sunset to five a.m. of the following day;

2. On the grounds of city, redevelopment agency-owned or maintained, or housing authority-owned or maintained buildings, facilities or other improved city property, except as may be designated otherwise by the city council.

C. Nothing in this section shall be construed to affect, supersede or otherwise prevent private causes of action for trespass or other public civil, penal or administrative prosecution for trespass or maintaining a nuisance under state or local statute or ordinance. (Ord. 990 § 2, 2011)

12.36.040 Penalties.

Any violation of or failure to comply with the provisions of this chapter shall be deemed to be a misdemeanor, and punishable pursuant to Chapter 1.10 of the Stanton Municipal Code, notwithstanding the fact that at the discretion of the city attorney, the violation of any section of this chapter may be prosecuted as an infraction. Each day a violation of any provision of this chapter continues shall be a new and separate violation. (Ord. 990 § 2, 2011)

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: August 8, 2017

SUBJECT: APPROVAL OF FIFTH AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF STANTON AND THE COUNTY OF ORANGE FOR LAW ENFORCEMENT SERVICES

REPORT IN BRIEF:

The current five-year agreement with the County of Orange for law enforcement services is for the period from July 1, 2017 to June 30, 2018. Due to new grant funding in the annual State's budget, Stanton has requested to add a new Community Enhancement Deputy effective September 1st. Other minor revisions to the contract are being made as well. The fifth amendment proposes the cost for services for FY 2017-2018 at \$10,417,166, with a decrease to the General Fund.

RECOMMENDED ACTION:

1. City Council declare that the project is exempt from California Environmental Quality Act ("CEQA") under Section 15378(b)(4) – The creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and
2. Approve the Fifth Amendment to the Five-Year Agreement for Law Enforcement Services between the City of Stanton and the County of Orange; and
3. Authorize the City Manager to execute the Operations Agreement; and
4. Approve Budget Adjustment No. 2018-03 in the amount of \$182,059 from the Public Safety Task Force Grant.

BACKGROUND:

The City of Stanton has contracted with the Orange County Sheriff Department (OCSd) since 1988. Each fiscal year, the City has the opportunity to establish service levels.

There were significant budget reductions in 2011 and 2012 to Orange County Sheriff Department staffing consistent with budget reductions in every department in the City.

With new voter-approved funding in November 2014, City Council approved the increase in OCSD service levels by two deputies in FY 15/16. One of those two deputies is referred to as a Community Enhancement Deputy, who can devote time to specific issues in the City like transients without having to respond to calls for service. The service level increase was maintained in the current fiscal year.

ANALYSIS:

In the FY 2017-18 California state budget, an appropriation was set aside for six Orange County cities including Stanton. The grant created what is being referred to as the North Orange County Public Safety Task Force, and the City will be referring to the grant by the name Public Safety Task Force Grant. The grant results in approximately \$500,000 a year the City can direct to community based organizations and \$310,000 a year that the City can use directly to pay for addressing transient issues, youth at risk, and reentry services. Stanton will be utilizing the majority of the funds under our control to add an additional Community Enhancement Deputy (a Deputy Sheriff II).

In addition to adding a Community Enhancement Deputy, our Lieutenant has proposed eliminating a Utility Driver and replacing that position with the addition of two part-time Cadets to provide flexibility with duties at the Sheriff station. Those recommended adjustments result in a net savings to the contract and reduction to the General Fund.

FISCAL IMPACT:

The amended agreement will result in a total expenditure of \$10,417,166 for FY 17/18, an increase of \$182,059 from the previously approved fourth amendment. However, the replacement of the Utility Driver position with two Cadets will result in a savings of \$28,877 for the General Fund. The new Community Enhancement Deputy, a Deputy Sheriff II position which takes effect on September 1, 2017, will result in an increase of \$210,936. With the approval of Budget Adjustment No. 2018-04, funds will be appropriated for the \$210,936 from the Public Safety Task Force Grant.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of CEQA, this project has been determined to be exempt under Section 15378(b)(4).

LEGAL REVIEW:

None.

PUBLIC NOTIFICATION:

Through the regular agenda process.

STRATEGIC PLAN OBJECTIVE ADDRESSED:

1. Provide a Safe Community

Prepared by:

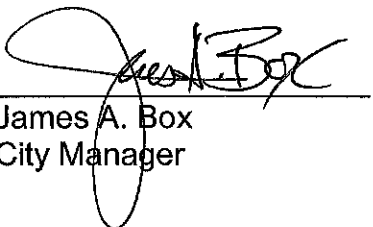
James J. Wren
Public Safety Services Director

Concurred by:



Stephen M. Parker
Administrative Services Director

Approved by:



James A. Box
City Manager

Reviewed by:

Matthew E. Richardson
City Attorney

Attachments:

- A. Fifth Amendment to Agreement Between the City of Stanton and the County of Orange
- B. Budget Adjustment No. 2018-03

1 **FIFTH AMENDMENT TO AGREEMENT**
2 **BETWEEN THE**
3 **CITY OF STANTON**
4 **AND THE**
5 **COUNTY OF ORANGE**
6

7 **THIS FIFTH AMENDMENT TO AGREEMENT** is entered into this Twenty-Sixth
8 day of July 2017, which date is enumerated for purposes of reference only, by and
9 between the CITY OF STANTON, hereinafter referred to as "CITY", and the COUNTY
10 OF ORANGE, a political subdivision of the State of California, hereinafter referred to
11 as "COUNTY", to amend, effective September 1, 2017, that certain Agreement
12 between the parties commencing July 1, 2013, hereinafter referred to as the
13 "Agreement".

14 1. Effective September 1, 2017, Attachment F to the Agreement is amended to add
15 One (1) Deputy Sheriff II, Two (2) Cadets and to eliminate One (1) Utility Driver
16 position. Attachment F, as amended and attached hereto, is incorporated in the
17 Agreement by this reference.

18 2. Effective September 1, 2017 PAYMENT, Subsection F-2 of the Agreement is
19 amended to read as follows:

20 "F-2. Unless the level of service as set forth in Attachment F is decreased or
21 increased in accordance with Subsections C-9 or C-11, the Maximum
22 Obligation of CITY for services, other than licensing services, set forth in
23 Attachment F of this Amendment, to be provided by the COUNTY for the
24 period July 1, 2017 through June 30, 2018, shall be \$10,206,230 as set forth
25 in Attachment G.

26 The overtime costs included in the Agreement are only an estimate.
27 SHERIFF shall notify CITY of actual overtime worked during each fiscal
28 year. If actual overtime worked is above or below budgeted amounts,

1 billings will be adjusted accordingly at the end of the fiscal year. Actual
2 overtime costs may exceed CITY's Maximum Obligation.
3 COUNTY will also provide additional services for a Community
4 Enhancement Deputy Sheriff II in support of Homeless Outreach & Gang
5 Prevention Special Enforcement in the amount of \$210,936. CITY's
6 maximum cumulative payment obligation for these additional services for the
7 period from July 1, 2017 through June 30, 2018 shall be \$210,936. With
8 these additional services, the Firm, Fixed Total Cost shall be \$10,417,166 as
9 set forth in Attachment G."

10 3. All other provisions of the Agreement, to the extent that they are not in conflict with
11 this FIFTH AMENDMENT TO AGREEMENT, remain unchanged.

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IN WITNESS WHEREOF, the parties have executed the FIFTH AMENDMENT TO AGREEMENT in the County of Orange, State of California.

DATED: _____

CITY OF STANTON

ATTEST: _____
City Clerk

BY: _____
Mayor

APPROVED AS TO FORM:

BY: _____
City Attorney

DATED: _____

COUNTY OF ORANGE

BY: _____
Chairwoman of the Board of Supervisors
County of Orange, California

SIGNED AND CERTIFIED THAT A COPY OF THIS AGREEMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD PER G.C. Sec. 25103, Reso 79-1535
Attest:

BY: _____
Robin Stieler
Clerk of the Board
County of Orange, California

APPROVED AS TO FORM:
Office of the County Counsel
County of Orange, California

BY: Nicole Adams
Deputy

DATED: 7/28/17

**ORANGE COUNTY SHERIFF-CORONER
FY 2017-18 LAW ENFORCEMENT CONTRACT
CITY OF STANTON**

**"REGULAR SERVICES BY COUNTY"
(Subsection C-4)**

LEVEL OF SERVICE PROVIDED BY SHERIFF:

Title	Detail	Quantity	Frequency
MANAGEMENT:			
Lieutenant		1.00	
SUPERVISION:			
Sergeant	Investigative	1.00	80 hrs./ per two wk. pay period
Sergeant	Patrol	4.00	each, 80 hrs./ per two wk. pay period
INVESTIGATION SERVICES:			
Investigator		2.00	each, 80 hrs./ per two wk. pay period
Investigative Assistant		2.00	each, 80 hrs./ per two wk. pay period
PATROL AND TRAFFIC SERVICES*:			
Deputy Sheriff II -Patrol	Patrol	21.00	each, 80 hrs./ per two wk. pay period
Deputy Sheriff II -Motor	Motorcycle	1.00	80 hrs./ per two wk. pay period
CLERICAL SERVICES:			
Office Specialist	Office support	2.00	each, 80 hrs./ per two wk. pay period
ADDITIONAL SERVICES:			
Cadets (part-time)		2.00	864 hours each
SUB-TOTAL - DIRECT POSITIONS		36.00	
SPECIAL SERVICES:			
Deputy Sheriff II	Community Enhancement	1.00	80 hrs./ per two wk. pay period
TOTAL POSITIONS:		37.00	

* Deployment to be determined by SHERIFF in cooperation with CITY Manager

REGIONAL / SHARED STAFF:

Title	Regional Team	Quantity	% Allocation
TRAFFIC:			
Sergeant	Traffic	0.60	6.67%
Deputy Sheriff II	Traffic	4.00	6.67%
Investigative Assistant	Traffic	2.00	6.67%
Office Specialist	Traffic	1.00	6.67%
AUTO THEFT:			
Sergeant	Auto Theft	0.30	14.82%
Investigator	Auto Theft	2.00	14.82%
Investigative Assistant	Auto Theft	1.00	14.82%
Office Specialist	Auto Theft	1.00	14.82%
MOTORCYCLE (shared Supervision):			
Sergeant	Motorcycle Supervision	1.00	3.45%
TOTAL		12.90	

**ORANGE COUNTY SHERIFF-CORONER
FY 2017-18 LAW ENFORCEMENT CONTRACT
CITY OF STANTON
"PAYMENT"
(Subsection F-2)**

COST OF SERVICES PROVIDED BY SHERIFF (Subsection F-2):

Title	Detail	Quantity	Cost of Service (each)	Cost of Service Total
MANAGEMENT:				
Lieutenant		1.00	\$ 358,950	\$ 358,950
SUPERVISION:				
Sergeant	Investigative	1.00	\$ 289,686	\$ 289,686
Sergeant	Patrol	4.00	\$ 300,369	\$ 1,201,476
INVESTIGATION SERVICES:				
Investigator		2.00	\$ 256,008	\$ 512,016
Investigative Assistant		2.00	\$ 116,928	\$ 233,855
PATROL AND TRAFFIC SERVICES:				
Deputy Sheriff II -Patrol	Patrol	21.00	\$ 245,528	\$ 5,156,088
Deputy Sheriff II -Motor	Motorcycle	1.00	\$ 250,870	\$ 250,870
CLERICAL SERVICES:				
Office Specialist	Office support	2.00	\$ 89,264	\$ 178,528
ADDITIONAL SERVICES:				
Cadet (part-time)		2.00	\$ 25,794	\$ 42,819
TOTAL POSITIONS		36.00		\$ 8,224,288

REGIONAL / SHARED STAFF:

Title	Regional Team	Quantity	% Allocation	Cost \$
TRAFFIC:				
Sergeant	Traffic	0.60	6.67%	\$ 14,151
Deputy Sheriff II	Traffic	4.00	6.67%	\$ 68,604
Investigative Assistant	Traffic	2.00	6.67%	\$ 16,719
Office Specialist	Traffic	1.00	6.67%	\$ 6,646
AUTO THEFT:				
Sergeant	Auto Theft	0.30	14.82%	\$ 15,725
Investigator	Auto Theft	2.00	14.82%	\$ 86,819
Investigative Assistant	Auto Theft	1.00	14.82%	\$ 18,707
Office Specialist	Auto Theft	1.00	14.82%	\$ 15,114
MOTORCYCLE (shared Supervision):				
Sergeant	Motorcycle Supervision	1.00	3.45%	\$ 11,485
TOTAL REGIONAL/SHARED		12.90		\$ 253,970

OTHER CHARGES AND CREDITS (Subsection F-2):**OTHER CHARGES:**

Other Charges Include: Annual leave paydowns and apportionment of cost of leave balances paid at end of employment; premium pay for bilingual staff; contract administration; data line charges; direct services and supplies; enhanced helicopter response services; E-Citation recurring costs for six (6) units; holiday pay; Integrated Law & Justice of Orange County fees; Mobile Data Computer (MDC) recurring cost for twenty-three (23) units; on-call pay; overtime; patrol training cost allocation; Patrol Video System (PVS) recurring cost for sixteen (16) units; and transportation charges.

CREDITS:

Credits Include: Deployment savings; estimated vacancy credits; false alarm fees; reimbursement for training and miscellaneous programs; and retirement rate discount for FY 2017-18.

TOTAL OTHER CHARGES AND CREDITS	\$ 1,727,972
TOTAL MAX OBLIGATIONS (Subsection F-2)	\$ 10,206,230

SPECIAL SERVICES:		
Deputy Sheriff II	Community Enhancement	\$ 203,788
Additional DSII associated costs	ILJAOC, Patrol Training, Enhanced Helicopter Svcs.	7,148
Subtotal for Special Services		\$ 210,936
FY 2017-18 (FINAL) FIRM, FIXED TOTAL COST		\$ 10,417,166

CITY OF STANTON

FISCAL YEAR 2017 - 2018
YEAR 5 OF 5 YEAR TERM

FIFTH AMENDMENT - FINAL (effective, September 1, 2017)

Fifth Amendment:

Add: One (1) Deputy Sheriff II
(Community Enhancement- exp. 6/30/21)
Two (2) EH Cadets (part-time)

Eliminate: One (1) Utility Driver

Fourth Amendment

Add: FY 2017-18 Vacancy Credits (estimate)
One (1) Mobile Data Computer (MDC) - Motor
Reinstate Utility Driver and credit (previously deleted in 2nd Est.)

Share: Reallocation of Shared Motorcycle Sergeant with MDC

			SALARIES & EMPLOYEE BENEFITS				INDIRECT COSTS								TOTAL
NO	DIRECT PURCHASE POSITIONS		REGULAR SALARY	OVERTIME	BENEFITS	POST PAY	SERVICES & SUPPLIES	TRANSP.	DEPT. OH	DIV. OH	TRAINING	COUNTY OH	OTHER	SAVINGS/ REVENUE	
1	Lieutenant		170,221	0	160,074	0	3,989	0	6,008	12,500	2,634	3,524	0	0	358,950
4	Sergeant/Patrol		515,508	0	514,664	48,284	15,956	0	24,032	60,824	10,536	11,672	0	0	1,201,476
1	Sergeant/Investigative		128,877	0	128,666	12,071	3,989	0	6,008	4,523	2,634	2,918	0	0	289,686
2	Investigator		226,804	0	227,992	17,848	7,978	0	12,016	9,046	5,268	5,064	0	0	512,016
21	DS II Patrol		2,181,375	0	2,200,653	141,393	83,769	0	126,168	319,326	55,314	48,090	0	0	5,156,088
1	DS II Motorcycle		106,875	0	107,073	6,733	3,989	0	6,008	15,206	2,634	2,352	0	0	250,870
							0								
30	Subtotal Safety		\$3,329,660	\$0	\$3,339,122	\$226,329	\$119,670	\$0	\$180,240	\$421,425	\$79,020	\$73,620	\$0	\$0	\$7,769,086
2	Investigative Assistant		120,432	0	82,024	0	7,978	0	12,016	8,913	0	2,492	0	0	233,855
2	Office Specialist		98,342	0	54,654	0	7,978	0	12,016	3,502	0	2,036	0	0	178,528
2	Cadets (864 hours each)		31,696	0	717	0	3,310	0	4,987	1,453	0	656	0	0	42,819
0	Utility Driver		0	0	0	0	0	0	0	0	0	0	0	0	0
6	Subtotal Professional		\$250,470	\$0	\$137,395	\$0	\$19,266	\$0	\$29,019	\$13,868	\$0	\$5,184	\$0	\$0	\$455,202
36	TOTAL STAFF														8,224,288
	REGIONAL / SHARED STAFF														
0.6	Traffic - Sergeant	6.67%	5,401	1,482	5,259	483	243	277	240	496	105	165	0	0	14,151
4	Traffic - Deputy Sheriff II	6.67%	28,680	1,243	27,690	1,796	1,623	1,249	1,603	3,306	703	711	0	0	68,604
2	Traffic - Investigative Assistant	6.67%	8,192	20	5,426	0	812	0	802	1,283	0	184	0	0	16,719
1	Traffic - Office Specialist	6.67%	3,326	5	1,791	0	406	0	401	642	0	75	0	0	6,646
0.3	Auto Theft - Sergeant	14.82%	5,997	1,645	5,840	536	281	308	267	551	117	183	0	0	15,725
2	Auto Theft - Investigator	14.82%	34,436	2,359	33,254	2,644	1,872	5,138	1,780	3,672	780	884	0	0	86,819
1	Auto Theft - Investigative Assistant	14.82%	9,128	93	6,027	0	936	0	890	1,426	0	207	0	0	18,707
1	Auto Theft - Office Specialist	14.82%	7,525	173	3,992	0	936	0	890	1,426	0	172	0	0	15,114
1	Motorcycle Sergeant + MDC	3.45%	4,547	524	4,442	416	210	498	207	427	91	123	0	0	11,485
12.90	Subtotal		\$107,232	\$7,544	\$93,721	\$5,875	\$7,319	\$7,470	\$7,080	\$13,229	\$1,796	\$2,704	\$0	\$0	\$253,970

CITY OF STANTON

**FISCAL YEAR 2017 - 2018
YEAR 5 OF 5 YEAR TERM**

FIFTH AMENDMENT - FINAL **(effective, September 1, 2017)**

Fifth Amendment:

Add: One (1) Deputy Sheriff II
(Community Enhancement- exp. 6/30/21)
Two (2) EH Cadets (part-time)

Eliminate: One (1) Utility Driver

Fourth Amendment

Add: FY 2017-18 Vacancy Credits (estimate)
One (1) Mobile Data Computer (MDC) - Motor
Reinstate Utility Driver and credit (previously deleted in 2nd Est.)

Share: Reallocation of Shared Motorcycle Sergeant with MDC

NO	ADDITIONAL COSTS/REVENUE	SALARIES & EMPLOYEE BENEFITS				INDIRECT COSTS							SAVINGS/ REVENUE	TOTAL
		REGULAR SALARY	OVERTIME	BENEFITS	POST PAY	SERVICES & SUPPLIES	TRANSP.	DEPT. OH	DIV. OH	TRAINING	COUNTY OH	OTHER		
	Overtime		834,249	60,125							17,269			911,643
	Estimate: Vacancy Credit (FY 2017-18)											(25,231)		(25,231)
	Annual Leave (Pay Downs & Termination Pay)											47,985		47,985
	Bilingual Pay											31,871		31,871
	Class BB Standard CSO Vehicle (one-time)											0		0
	Contract Administration											34,229		34,229
	Data Line					2,447								2,447
	Direct S & S					69,424								69,424
0	E-Citation - Acquisition Costs											0		0
6	E-Citation - Recurring Costs											6,422		6,422
	Enhanced Helicopter Response Services						25,387							25,387
	Holiday Pay: Comp & Straight Time											151,892		151,892
	Integrated Law & Justice Agency of Orange County											3,409		3,409
0	MDC- Acquisition											0		0
23	MDC - Recurring Costs											78,562		78,562
	On-Call Pay											38,873		38,873
	Patrol Training Cost Allocation (FTB)									161,579				161,579
0	Patrol Video System (PVS) - Acquisition Costs											0		0
16	Patrol Video System (PVS) - Recurring Costs											34,893		34,893
	Retirement Rate Discount, FY 2017-18 (Gross)			(89,920)										(89,920)
	Retirement Rate Discount (Expenses for Interest and Issuance)			18,642										18,642
	Revenue/False Alarms												(12,495)	(12,495)
	Revenue/Training Reimbursement												(3,878)	(3,878)
	Savings Related to Unincorp. Deployment from Stanton												(53,046)	(53,046)
	Transportation - Vehicle Fuel, Mileage Interest and Maint., etc.						295,284							295,284
	Subtotal	\$0	\$834,249	(\$11,153)	\$0	\$71,871	\$320,671	\$0	\$0	\$161,579	\$17,269	\$402,905	(\$69,419)	\$1,727,972
	FY 2017-18 - FINAL CONTRACT SERVICES MAXIMUM OBLIGATION TOTAL	\$3,687,362	\$841,793	\$3,559,086	\$232,204	\$218,126	\$328,141	\$216,339	\$448,522	\$242,395	\$98,777	\$402,905	(\$69,419)	\$10,206,230
	FY 2017-18 - FINAL CONTRACT SERVICES MAXIMUM OBLIGATION TOTAL	\$3,696,226	\$841,793	\$3,589,291	\$232,204	\$218,805	\$328,141	\$217,360	\$448,820	\$242,395	\$98,961	\$402,905	(\$81,794)	\$10,235,106
		-0.24%	0.00%	-0.84%	0.00%	-0.31%	0.00%	-0.47%	-0.07%	0.00%	-0.19%	0.00%	-15.13%	-0.28%
		(\$8,864)	\$0	(\$30,206)	\$0	(\$679)	\$0	(\$1,021)	(\$298)	\$0	(\$184)	\$0	\$12,375	(\$28,877)

CITY OF STANTON

FISCAL YEAR 2017 - 2018
YEAR 5 OF 5 YEAR TERM

FIFTH AMENDMENT - FINAL (effective, September 1, 2017)

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Share: Reallocation of Shared Motorcycle Sergeant with MDC

		SALARIES & EMPLOYEE BENEFITS				INDIRECT COSTS								
NO	SPECIAL SERVICES	SALARY	OVERTIME	BENEFITS	POST PAY	SERVICES & SUPPLIES	TRANSP.	DEPT OH	DIV OH	TRAINING OH	COUNTY OH	OTHER	REVENUE	TOTAL
	FY 17-18 CONTRACT SERVICES (MAX. OBLIGATION)													\$50,350
1	Deputy Sheriff II (Homeless Outreach & Gang Prevention)	86,216	0	86,978	5,588	3,311	0	4,987	12,621	2,186	1,901	0	0	203,788
	ILIAOC											94		94
	Field Training Bureau (Patrol Training)									6,096				6,096
	Enhanced Helicopter Services						958							958
	Subtotal	\$86,216	\$0	\$86,978	\$5,588	\$3,311	\$958	\$4,987	\$12,621	\$8,282	\$1,901	\$94	\$0	\$210,936
	FY 2017-18 - (FINAL) - FIRM, FIXED TOTAL COST	\$3,773,578	\$841,793	\$3,646,064	\$237,792	\$221,437	\$329,099	\$221,326	\$461,143	\$250,677	\$100,678	\$402,999	(\$69,419)	\$10,417,166
	FY 2016-17 - (FINAL ADJ.) - FIRM, FIXED TOTAL COST	\$3,696,226	\$841,793	\$3,589,291	\$232,204	\$218,805	\$328,141	\$217,360	\$448,820	\$242,395	\$98,961	\$402,905	(\$81,794)	\$10,235,107
		2.09%	0.00%	1.58%	2.41%	1.20%	0.29%	1.82%	2.75%	3.42%	1.74%	0.02%	0.00%	1.78%
		\$77,352	\$0	\$56,773	\$5,588	\$2,632	\$958	\$3,966	\$12,323	\$8,282	\$1,717	\$94	\$12,375	\$182,059

CITY OF STANTON BUDGET ADJUSTMENT AUTHORIZATION

BA # 2018-03Date: August 3, 2017

Title: Public Safety Services Director

Date: August 8, 2017

Title: Administrative Services Director

[illegible]

JUSTIFICATION:

To provide appropriation for a Community Enhancement Deputy.

Budget Adjustment Request Approved:

Date _____

Budget Adjustment Processed:

Entered by

*** PRINT ON BLUE PAPER ONLY ***

City Council Item 15D

***“CITY COUNCIL INITIATED ITEM –
DISCUSSION REGARDING LAND USE FOR
THE BELL STREET PROPERTY”***

City Council Initiated Item.
(This item does not contain a staff report)

City Council Item 15E

***“CITY COUNCIL INITIATED ITEM –
DISCUSSION REGARDING POTENTIAL
AMENDMENTS TO THE ORANGE COUNTY
FIRE AUTHORITY CONTRACT”***

City Council Initiated Item.

(This item does not contain a staff report)