

# CITY OF STOCKTON



**REQUEST FOR PROPOSALS (RFP)  
MANAGEMENT AND OPERATION OF THE RECENTLY CLOSED  
VAN BUSKIRK GOLF COURSE BUILDINGS  
FOR THE CITY OF STOCKTON, CALIFORNIA  
(PUR 19-036)**

**PROPOSALS WILL BE RECEIVED UNTIL THE HOUR OF  
2:00 O'CLOCK P.M. THURSDAY, MARCH 12, 2020  
IN THE OFFICE OF THE CITY CLERK,  
FIRST FLOOR, CITY HALL, 425 NORTH EL DORADO STREET,  
STOCKTON, CALIFORNIA 95202-1997**

REQUEST FOR PROPOSALS (RFP)  
MANAGEMENT AND OPERATION OF THE RECENTLY CLOSED  
VAN BUSKIRK GOLF COURSE BUILDINGS  
PUR 19-036

**TABLE OF CONTENTS**

<b>NOTICE INVITING PROPOSALS .....</b>	<b>1</b>
<b>PROPONENT'S CHECKLIST .....</b>	<b>2</b>
<b>1.0 GENERAL INFORMATION .....</b>	<b>3</b>
<b>1.1 REQUEST FOR PROPOSAL (RFP) PROCESS .....</b>	<b>3</b>
<b>1.2 INVITATION TO SUBMIT A PROPOSAL.....</b>	<b>3</b>
<b>1.3 LOCAL BUSINESS PREFERENCE .....</b>	<b>3</b>
<b>1.4 LOCAL EMPLOYMENT—PUBLIC WORKS CONTRACTORS .....</b>	<b>4</b>
<b>1.5 CONSEQUENCE OF SUBMISSION OF PROPOSAL .....</b>	<b>4</b>
<b>1.6 ACCEPTANCE OR REJECTION OF PROPOSAL .....</b>	<b>4</b>
<b>1.7 RIGHT TO CHANGE OR AMEND REQUEST .....</b>	<b>4</b>
<b>1.8 CANCELLATION.....</b>	<b>5</b>
<b>1.9 EXAMINATION OF PROPOSAL MATERIALS .....</b>	<b>5</b>
<b>1.10 ADDENDA AND INTERPRETATION .....</b>	<b>5</b>
<b>1.11 DISQUALIFICATION .....</b>	<b>6</b>
<b>1.12 INFORMAL PROPOSAL REJECTED .....</b>	<b>6</b>
<b>1.13 CONDITIONS TO BE ACCEPTED IF ANY WORK IS SUBCONTRACTED .....</b>	<b>6</b>
<b>1.14 LICENSING REQUIREMENTS.....</b>	<b>7</b>
<b>1.15 INSURANCE REQUIREMENTS.....</b>	<b>7</b>
<b>1.16 INDEMNITY AND HOLD HARMLESS.....</b>	<b>7</b>
<b>1.17 APPLICABLE LAW .....</b>	<b>8</b>
<b>1.18 METHOD OF PAYMENT .....</b>	<b>8</b>
<b>1.19 NOTICE TO OUT-OF-STATE VENDOR.....</b>	<b>8</b>
<b>1.20 TERM.....</b>	<b>8</b>
<b>1.21 COMPETITIVE PRICING .....</b>	<b>9</b>
<b>1.22 FUNDING.....</b>	<b>9</b>
<b>1.23 UNCONDITIONAL TERMINATION FOR CONVENIENCE.....</b>	<b>9</b>
<b>1.24 AUDITING OF CHARGES AND SERVICES .....</b>	<b>9</b>
<b>1.25 CHANGES .....</b>	<b>9</b>
<b>1.26 AWARD .....</b>	<b>9</b>

REQUEST FOR PROPOSALS (RFP)  
MANAGEMENT AND OPERATION OF THE RECENTLY CLOSED  
VAN BUSKIRK GOLF COURSE BUILDINGS  
PUR 19-036

<b>1.27</b>	<b>LIQUIDATED DAMAGES</b> .....	<b>10</b>
<b>1.28</b>	<b>PRODUCT OWNERSHIP</b> .....	<b>10</b>
<b>1.29</b>	<b>CONFIDENTIALITY</b> .....	<b>10</b>
<b>1.30</b>	<b>OTHER GOVERNMENTAL AGENCIES</b> .....	<b>10</b>
<b>1.31</b>	<b>OPTIONAL JOB WALK</b> .....	<b>10</b>
<b>1.32</b>	<b>PREVAILING WAGES &amp; CONTRACTOR/SUBCONTRACTOR REGISTRATION REQUIREMENTS</b> .....	<b>11</b>
<b>2.0</b>	<b>BACKGROUND/GENERAL NATURE OF SERVICE</b> .....	<b>14</b>
<b>2.1</b>	<b>SCOPE OF SERVICES</b> .....	<b>14</b>
<b>3.0</b>	<b>PROPOSAL GUIDELINES, CONTENT AND FORMAT</b> .....	<b>16</b>
<b>3.1</b>	<b>EVALUATION PROCEDURE AND CRITERIA</b> .....	<b>19</b>
<b>3.2</b>	<b>PROPOSED DEVELOPMENT COSTS</b> .....	<b>20</b>
<b>3.3</b>	<b>PROPOSER CONTACT</b> .....	<b>20</b>
<b>3.4</b>	<b>CITY’S USE OF PROPOSAL MATERIAL</b> .....	<b>20</b>
<b>3.5</b>	<b>REJECTION OF PROPOSAL</b> .....	<b>20</b>
	<b>PROPOSAL DOCUMENTS</b> .....	<b>21</b>
	<b>NON-COLLUSION</b> .....	<b>23</b>
	<b>EXHIBIT ‘A’ – INSURANCE REQUIREMENTS</b> .....	<b>24</b>
	<b>EXHIBIT B – HR 40</b> .....	<b>28</b>
	<b>EXHIBIT C - MAP</b> .....	<b>40</b>
	<b>EXHIBIT D - SAMPLE CONTRACT</b>	<b>41</b>

## NOTICE INVITING PROPOSALS

NOTICE IS HEREBY GIVEN that Request for Proposals (RFP) are invited by the City of Stockton, California for specifications for **MANAGEMENT AND OPERATION OF THE RECENTLY CLOSED VAN BUSKIRK GOLF COURSE BUILDINGS (PUR 19-036)** in strict accordance with the specifications.

The City of Stockton is soliciting proposals from IRS registered 501 (c)3 non-profit agencies for recreation, education, or enrichment services at the recently closed Van Buskirk Golf Course Buildings (with limited parkland footprint which is subject to negotiation) which is located at 1740 Houston Avenue, Stockton, CA. Golf will no longer be an expected program at this location. The selected non-profit agency or agencies will maintain a clean and safe facility, parkland, and schedule programs and activities, and has the option to provide concession services to support the neighborhood. This facility is adjacent to the Van Buskirk Community Center and it is anticipated that activities will be complimentary to services at the Center without duplicating or disrupting Center operations. As available, the City will want to use the Facility for City special events, sports activities, and sports camps without charge up to ten days per calendar year.

An optional job walk will be held on February 5 at 11:00 a.m. promptly at 1740 Houston Avenue, Stockton, CA.

**Proposal forms and specifications are available on the City's website at [www.stocktonca.gov/adminbid](http://www.stocktonca.gov/adminbid) and must be delivered to the Office of the City Clerk, City Hall, 425 North El Dorado Street, Stockton, up to but not later than **Thursday, March 12, 2020 at 2:00 p.m.****

The City reserves the right to reject any and/or all proposals received.

**Information on Technical Data**  
Stephen Jiang, Community Services.

**Information on Process/Clarification**  
Susan Garcia, Procurement Division.  
e-mail: [Susan.Garcia@stocktonca.gov](mailto:Susan.Garcia@stocktonca.gov)

DISCLAIMER: The City does not assume any liability or responsibility for errors/omissions in any document transmitted electronically.

Dated: January 23, 2020

ELIZA R. GARZA, CMC  
CITY CLERK OF THE CITY OF STOCKTON

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

**PROPONENT'S CHECKLIST**

Did You:

- \*  Complete the following proposal documents (FROM THIS PACKET ONLY SUBMIT PAGES 22 to 24 AND PLACE IN THE FRONT OF YOUR PROPOSAL):
  - \*  Sign and notarize by jurat certificate the "Non-Collusion Affidavit" form. An "All-Purpose Acknowledgment" form will not be sufficient.
  - \*  Sign and submit Addendum – Questions/Answers
  - \*  Complete and sign a "Fee Schedule" form, (NOT REQUIRED).
  - \*  Sign the "Proponent's Agreement" form. **Include (with proposal) name and e-mail address for City contact, if different from signatory.**
  - \*  Include your proposal, as outlined in these specifications.
  - \*  Submit one (1) ORIGINAL (unbound, no staples) and five (5) copies of all proposal documents. Additionally, submit one (1) USB flash drive with an electronic version of the proposal.
  - \*  Review all clarifications/questions/answers on the City's website at [www.stocktonca.gov/adminbid](http://www.stocktonca.gov/adminbid) .
  - \*  Deliver sealed proposal to City Hall, City Clerk's Office (1st floor), 425 North El Dorado Street, Stockton, CA 95202, before **March 12, 2020, at 2:00 p.m.** Sealed proposal shall be marked "Proposal" and indicate project name, number, and proposal opening date (in the same format below). Please note that some overnight delivery services do not deliver directly to the City Clerk's Office. This could result in the proposal arriving in the City Clerk's Office after the proposal opening deadline and therefore not being accepted.
- A) **“RFP – TO PROVIDE MANAGEMENT AND OPERATION OF THE RECENTLY CLOSED VAN BUSKIRK GOLF COURSE BUILDINGS”**  
 B) **PUR 19-036**  
 C) **March 12, 2020**

**CONTACT INFORMATION:**

Information on Technical Data	Information on Process/Clarification
Stephen Jiang, Community Services e-mail: <a href="mailto:Susan.Garcia@stocktonca.gov">Susan.Garcia@stocktonca.gov</a>	Susan Garcia, Procurement Division (209) 937-8001 e-mail: <a href="mailto:Susan.Garcia@stocktonca.gov">Susan.Garcia@stocktonca.gov</a>

\*If not completed as required, your proposal may be rejected.

DISCLAIMER: The City does not assume any liability or responsibility for errors/omissions in any document transmitted electronically.

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

**1.0 GENERAL INFORMATION**

**1.1 REQUEST FOR PROPOSAL (RFP) PROCESS**

The purpose of this Request for Proposal (RFP) is to request proponents to present their qualifications and capabilities to provide **MANAGEMENT AND OPERATION OF THE RECENTLY CLOSED VAN BUSKIRK GOLF COURSE BUILDINGS (PUR 19-036)** for the City of Stockton.

**1.2 INVITATION TO SUBMIT A PROPOSAL**

Proposals shall be submitted no later than 2:00 p.m., on Thursday March 12, 2020, in the office of:

CITY CLERK  
CITY OF STOCKTON  
425 NORTH EL DORADO STREET  
STOCKTON, CA 95202-1997

One (1) original and five (5) copies of the proposal shall be submitted. Additionally, submit one (1) USB with an electronic version of the proposal. The proposal should be firmly sealed in an envelope which shall be clearly marked on the outside, " **MANAGEMENT AND OPERATION OF THE RECENTLY CLOSED VAN BUSKIRK GOLF COURSE BUILDINGS (PUR 19-036)** for the City of Stockton." Any proposal received after the due date and time indicated may not be accepted and may be rejected and returned, unopened, to the proponent.

**1.3 LOCAL BUSINESS PREFERENCE**

**Stockton Municipal Code Section 3.68.090 reads as follows:**

Preference shall be given to the purchase of supplies, materials, equipment, and contractual services from local merchants, quality and price being equal. Local merchants who have a physical business location within the boundaries of San Joaquin County, and who have applied for and paid a business license tax and registration fee pursuant to Stockton Municipal Code Title 5, Chapter [5.08](#), License Taxes, shall be granted two (2) percent bid preference. Local merchants who have a physical business location within the boundaries of the City of Stockton, and who have applied for and paid a business license tax and registration fee pursuant to Stockton Municipal Code Title 5, Chapter [5.08](#), License Taxes, shall be granted five (5) percent bid preference. This section is intended to provide preference in the award of certain City contracts in order to encourage businesses to move into and expand within the City. (Ord. 2014-03-18-1601 C.S. § 1; prior code § 3-106.1)

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

**1.4 LOCAL EMPLOYMENT—PUBLIC WORKS CONTRACTORS**

Proponent must comply with City of Stockton Municipal Code (SMC) Section 3.68.095, Ordinance No. 011-09 adopted September 1, 2009, effective October 1, 2009.

**1.5 CONSEQUENCE OF SUBMISSION OF PROPOSAL**

- A. The City shall not be obligated to respond to any proposal submitted nor be legally bound in any manner by the submission of a proposal.
- B. Acceptance by the City of a proposal obligates the proponent to enter into an agreement with the City.
- C. An agreement shall not be binding or valid against the City unless or until it is executed by the City and the proponent.
- D. Statistical information contained in these documents is for informational purposes only. The City shall not be responsible for the accuracy of said data. City reserves the right to increase or decrease the project scope.

**1.6 ACCEPTANCE OR REJECTION OF PROPOSAL**

The City reserves the right to select the successful proposal and negotiate an agreement as to the scope of services, the schedule for performance and duration of the services with proponent(s) whose proposal(s) is/are most responsive to the needs of the City. Further, the City reserves the right to reject any and all proposals, or alternate proposals, or waive any informality or irregularity in the proposal as is in the City's best interest.

The City reserves the right to reject any and all proposals, or portions thereof, received in response to the Request or to negotiate separately with any source whatsoever, in any manner necessary, to serve the best interests of the City. Additionally, the City may, for any reason, decide not to award an agreement(s) as a result of this Request.

Non-acceptance of any proposal shall not imply that the proposal was deficient. Rather, non-acceptance of any proposal will mean that another proposal was deemed to be more advantageous to the City or that the City decided not to award an agreement as a result of this Request.

**1.7 RIGHT TO CHANGE OR AMEND REQUEST**

The City reserves the right to change the terms and conditions of this Request. The City will notify potential proponent(s) of any material changes by posting on the City's website. No one is authorized to amend any of the Request requirements in any respect, by an oral statement, or to make any representation

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

or interpretation in conflict with its provisions. If necessary, supplementary information and/or clarifications/questions/answers will be posted on the City's website at [www.stocktonca.gov/adminbid](http://www.stocktonca.gov/adminbid) . Failure of any proponent to not have received such information and/or clarifications/questions/answers shall not relieve such proponent from any obligation under his/her proposal as submitted.

**Any exceptions to this Proposal shall be clearly stated in writing.**

**1.8 CANCELLATION**

The City reserves the right to rescind award of the contract at any time before execution of the contract by both parties if rescission is deemed to be in City's best interest. In no event shall City have any liability for the rescission of award. The proponent assumes the sole risk and responsibility for all expenses connected with the preparation of its proposal.

**1.9 EXAMINATION OF PROPOSAL MATERIALS**

The submission of a proposal shall be deemed a representation and warranty by the proponent that it has investigated all aspects of the Request, that it is aware of the applicable facts pertaining to the Request process and its procedures and requirements, and that it has read and understands the Request. No request for modification of the provisions of the proposal shall be considered after its submission on the grounds the proponent was not fully informed as to any fact or condition. Statistical information which may be contained in the Request or any addendum is for informational purposes only. The City disclaims any responsibility for this information which may subsequently be determined to be incomplete or inaccurate.

**1.10 ADDENDA AND INTERPRETATION**

The City will not be responsible for, nor be bound by, any oral instructions, interpretations, or explanations issued by the City or its representatives. Any request for clarifications/questions/answers of this Request shall be made in writing/e-mail and deliverable to:

City of Stockton  
Attn: Susan Garcia  
Procurement Division  
400 E Main, 3<sup>rd</sup> Floor  
Stockton, Ca 95202  
[procurement@stocktonca.gov](mailto:procurement@stocktonca.gov)

Such request for clarifications/questions/answers shall be delivered to the City by February 13, 2020 by 5:00 p.m. Any City response to a request for clarifications/questions/answers will be posted on the City's website at [www.stocktonca.gov/adminbid](http://www.stocktonca.gov/adminbid) by February 27, 2020 by 5:00 p.m., and will become



CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

a part of the Request. The proponent should await responses to inquiries prior to submitting a proposal.

**1.11 DISQUALIFICATION**

Any of the following may be considered cause to disqualify a proponent without further consideration:

- A. Evidence of collusion among proponents;
- B. Any attempt to improperly influence any member of the evaluation panel;
- C. Any attempt to communicate in any manner with a City of Stockton elected official during the RFP/bid process will, and shall be, just cause for disqualification/rejection of proponent's proposal/Proponent's bid submittal and considered non-responsive.
- D. A proponent's default in any operation of a professional services agreement which resulted in termination of that agreement; and/or
- E. Existence of any lawsuit, unresolved contractual claim, or dispute between proponent and the City.
- F. No person, firm, or corporation shall be allowed to make or file or be interested in more than one bid for the same supplies, services, or both; provided, however, that subcontract bids to the principal bidders are excluded from the requirements of this section: Section 3.68.120 of the Municipal Code.

**1.12 INFORMAL PROPOSAL REJECTED**

A proposal shall be prepared and submitted in accordance with the provisions of these Request instructions and specifications. Any alteration, omission, addition, variance, or limitation of, from, or to a proposal may be sufficient grounds for rejection of the proposal. The City has the right to waive any defects in a proposal if the City chooses to do so. The City may not accept a proposal if any document or item necessary for the proper evaluation of the proposal is incomplete, improperly executed, indefinite, ambiguous, or missing.

**1.13 CONDITIONS TO BE ACCEPTED IF ANY WORK IS SUBCONTRACTED**

- A. The proponent assumes full responsibility, including insurance and bonding requirements, for the quality and quantity of all work performed.
- B. If proponent's supplier(s) and/or subcontractor's involvement requires the use of a licensed, patented, or proprietary process, the proponent of the process is responsible for assuring that the subcontractor, supplier, and/or

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

operator have been properly authorized to use the process or for providing another process which is comparable to that which is required prior to submission of a proposal.

**1.14 LICENSING REQUIREMENTS**

Any professional certifications or licenses or permits that may be required for proposed work on site or improvements to the facility will be the sole cost and responsibility of the successful Proponent.

If concessions services will be provided, Proponent must possess a San Joaquin County Health Permit to perform concession services. If alcohol is provided at the café, Proponent must apply for and receive the ABC license.

**A City of Stockton Business license may be required for this project. Please contact the City of Stockton Business License Division at (209) 937-8313.**

**1.15 INSURANCE REQUIREMENTS**

Proponent/Bidder, at Proponent's/Bidder's sole cost and expense and for the full term of the resultant contract or any extension thereof, shall obtain and maintain at least all of the insurance requirements listed in attached Exhibit A.

All coverage shall be provided by a carrier authorized to transact business in California and shall be primary. All policies, endorsements, and certificates shall be subject to approval by the Risk Manager of the City to Stockton as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager.

Maintenance of proper insurance coverage is a material element of this contract, and failure to maintain or renew coverage or to provide evidence of renewal may be treated as a material breach of contract.

**The Proponent shall assert that these insurance requirements will be met as part of their proposal response. *Failure to comply with these insurance requirements may result in a proposal being deemed unresponsive.* Proponent shall satisfy these insurance requirements concurrently with the signing of the contract prior to commencement of work. *It is strongly suggested that insurance requirements be reviewed with Proponent's broker to ensure any additional costs are included in the proposal pricing component.***

**Any questions pertaining to insurance requirements, please contact City of Stockton Risk Services at (209) 937-5037.**

**1.16 INDEMNITY AND HOLD HARMLESS**

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

To the fullest extent permitted by law, Contractor shall hold harmless, defend at its own expense, and indemnify the City of Stockton, its officers, employees, agents, and volunteers, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney's fees, arising from all acts or omissions of contractor or its officers, agents, or employees in rendering services under this contract; excluding, however, such liability, claims, losses, damages, or expenses arising from the City of Stockton's sole negligence or willful acts. The duty to defend and the duty to indemnify are separate and distinct obligations. The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this agreement. Contractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this agreement for the full period of time allowed by law.

**1.17 APPLICABLE LAW**

Applicable law shall be governed by the laws of the State of California. Venue shall be proper in the Superior Court of the State of California, County of San Joaquin, Stockton Branch, or, for actions brought in Federal Court, the United States District Court for the Eastern District of California, Sacramento Division.

**1.18 METHOD OF PAYMENT**

*(Intentionally left blank)*

**1.19 NOTICE TO OUT-OF-STATE VENDOR**

It is the policy of the City of Stockton to pay all applicable California sales/use tax directly to the State Board of Equalization (BOE) pursuant to California Revenue and Taxation Code 7051.3. The City of Stockton will self-accrue all sales/use tax on purchases made from out-of-state vendors.

Sales and use tax on purchases made by the City of Stockton from all companies located outside California and whose products are shipped from out of state will be remitted to the BOE directly by the City under permit number **SR KHE 28-051174 DP**. **Please do not include sales/use tax on the invoice that you submit to the City of Stockton.**

Questions regarding the City of Stockton's payment of sales/use tax can be directed to the City of Stockton's Procurement Division at (209) 937-8357.

**1.20 TERM**

Initial four (4) year contract term with one additional four-year option to renew.

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

**1.21 COMPETITIVE PRICING**

Proponent warrants and agrees that each of the charges, economic or product terms or warranties granted pursuant to this Contract are comparable to or better than the equivalent charge, economic or product term or warranty being offered to any similarly situated commercial or other government customer of proponent. If proponent enters into any arrangements with another customer of proponent to provide product under more favorable charges, economic or product terms or warranties, proponent shall immediately notify City of such change and this Contract shall be deemed amended to incorporate the most favorable charges, economic or product terms or warranties.

**1.22 FUNDING**

Currently, there is no funding anticipated for repairs or maintenance to Facility or operations of Facility. It is anticipated that this Facility will operate with private investment only. However, any contract which results from this Request will terminate without penalty at the end of the fiscal year in the event funds for repairs and maintenance or operations are not appropriated for the next fiscal year. If funds are appropriated for a portion of the fiscal year, this contract will terminate without penalty, at the end of the term for which funds are appropriated.

**1.23 UNCONDITIONAL TERMINATION FOR CONVENIENCE**

The City may terminate the resultant agreement for convenience by providing a six-month advance of termination notice unless otherwise stated in writing.

**1.24 AUDITING OF CHARGES AND SERVICES**

The City reserves the right to periodically audit all charges and services made by the successful proponent to the City for services provided under the contract. Upon request, the proponent agrees to furnish the City with necessary information and assistance.

**1.25 CHANGES**

The City's Representative has the authority to review and recommend or reject change orders and cost proposals submitted by the proponent or as recommended by the proponent's project manager, pursuant to the adopted City of Stockton Standard Specifications.

**1.26 AWARD**

Upon conclusion of the Request for Proposal process, a contract may be awarded to one or more non-profit agencies for **MANAGEMENT AND OPERATION OF THE RECENTLY CLOSED VAN BUSKIRK GOLF COURSE BUILDINGS (PUR 19-036)** for the City of Stockton.

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

The City reserves the right to select the successful proponent(s) and to negotiate terms of a contract with the proponent(s) whose proposal(s) is/are most responsive to the needs of the City. Further, the City reserves the right to reject any and all proposals, or alternate proposals, or waive any informality in the proposal as is in the City's best interest.

**1.27 LIQUIDATED DAMAGES**

*Intentionally left blank*

**1.28 PRODUCT OWNERSHIP**

Any documents, products or systems resulting from the contract will be the property of the City of Stockton.

**1.29 CONFIDENTIALITY**

If proponent believes that portions of a proposal constitute trade secrets or confidential commercial, financial, geological, or geophysical data, then the proponent must so specify by, at a minimum, stamping in bold red letters the term "**CONFIDENTIAL**" on that part of the proposal which the proponent believes to be protected from disclosure. The proponent must submit in writing specific detailed reasons, including any relevant legal authority, stating why the proponent believes the material to be confidential or a trade secret. Vague and general claims as to confidentiality will not be accepted. The City will be the sole judge as to whether a claim is general and/or vague in nature. All offers and parts of offers that are not marked as confidential may be automatically considered public information after the contract is awarded. **The proponent is hereby put on notice that the City may consider all or parts of the offer public information under applicable law even though marked confidential.**

**1.30 OTHER GOVERNMENTAL AGENCIES**

If mutually agreeable to all parties, the use of any resultant contract/purchase order may be extended to other political subdivisions, municipalities, or tax supported agencies.

Such participating governmental bodies shall make purchases in their own name, make payment directly to successful Proponent and be liable directly to the successful Proponent, holding the City of Stockton harmless.

**1.31 OPTIONAL JOB WALK**

An optional job walk will be held on February 5 at 11:00 a.m. promptly at former Van Buskirk Golf Course is located at 1740 Houston Avenue.

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

**1.32 PREVAILING WAGES & CONTRACTOR/SUBCONTRACTOR REGISTRATION REQUIREMENTS**

Prevailing wage rates are required for this project according to State and Federal Labor laws. Prevailing wage rates can be found by logging on to <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>.

Pursuant to Labor Code Section 1771.1(a): A Contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. It is not a violation of this section for an unregistered Contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the Contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5.

Department of Industrial Relations- Contractor Registration information and web link: <http://www.dir.ca.gov/Public-Works/PublicWorks.html>

In compliance with Senate Bill 854 and the California Labor Code, all Bidders shall include with their Bid proof of registration from the Department of Industrial Relations (DIR) that includes the contractor's Legal Name, Registration Number, License Type/Number, Registration Date and Expiration Date, for every contractor and subcontractor, regardless of tier.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractors must submit their certified payroll records directly to the Division of Labor Standards Enforcement Compliance Monitoring Unit, as well as the City of Stockton.

**1.33 PROPONENT'S SAFETY RESPONSIBILITY**

The scope of work for this project has been reviewed for special risks or hidden dangers that may be present to employees of the proponent or any subcontractor. The proponent is required to identify, notify employees, and implement special

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

precautions to prevent injuries to employees. Additionally, the proponent is required to identify its skill, experience, and equipment in dealing with the types of risk to employees.

**1.34 PROTEST POLICY**

Protest and Appeal Procedures. In order to maintain fairness and impartiality, the City of Stockton has established a solicitation protest policy and procedure.

**A. Protest Procedure**

1. All protests must be in writing and stated as a formal protest.
2. A casual inquiry, complaint, or a statement of intent to protest that does not provide the facts and issues and does not comply with the content requirements or deadlines, will not be considered or acted upon as a protest.
3. The protest must contain a complete statement of the basis for the protest and must include all relevant supporting documentation.
4. The solicitation process and procedures, including evaluation criteria, shall not be proper grounds for protest. Concerns related to the solicitation process and procedures, including evaluation criteria, should be raised and addressed, if at all, prior to the bid/proposal due date and time to allow adjustments before evaluation of the solicitation.
5. Protests must be filed with the City's Chief Financial Officer, or designee, at the address listed in the Solicitation Protest FAQ sheet and Procurement Procedure Manual, not later than five (5) days after the date the City mails the Letter of Intent to Award.
6. Deliveries of the protest by hand, mail, email or fax are acceptable.
7. The City is not responsible for lost or misplaced protests, or to assure the protest is received within the protest deadlines
8. The party challenging the award decision to bear the burden of proof of material error to justify invalidation of the proposed award.

**B. Protest Review**

1. The Chief Financial Officer or designee shall respond in writing at least generally to each material issue raised in the protest.
2. The Chief Financial Officer's, or designee 's, administrative decision may be appealed in writing to the City Manager no later than (5) business days after the date the Chief Financial Officer's, or designee's, the decision is mailed to the protesting party.
3. The City Manager shall review and decide the appeal based on the grounds and documentation set forth in the original protest to the Chief Financial Officer, or designee.
4. Each party shall bear its own costs and expenses involved in the protest and appeal process, including any subsequent litigation.

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

5. The City Manager's administrative decision is final. After the City Manager issues the final administrative decision, the time in which judicial review of the decision must be sought shall be governed by California Code of Civil Procedure Section 1094 or as such section may be amended from time to time.
6. If the protested procurement involves state or federal funds, the Chief Financial Officer, or designee, shall give notice to the interested party that he or she has the right to appeal to the appropriate agency, which shall be identified by name and address. An appeal hereunder shall be filed with the appropriate agency within five (5) working days of the dispatch of rejection notices to the interested party(ies).
7. The City may require the protesting party to submit a City Council approved non-refundable protest fee to cover the administrative cost of processing the protest.

Bidders, proposers, and contractors wishing to protest or appeal a procurement or contracting decision by the City must follow the procedures provided by this section. The City will not review protests or appeals that are not submitted in accordance with these provisions and procedures.

A copy of this policy can be requested from the procurement specialist noted in Section 1.7 of this document.



CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

**2.0 BACKGROUND/GENERAL NATURE OF SERVICE**

The Van Buskirk Park is a 192 acre park located at 1740 Houston Ave. The park was completed in 1964 and was deeded (with restrictions) to the City by Charles and Bertha Van Buskirk. On a portion of this property is the Van Buskirk Community Center, park, ballfields, and golf course facility. The existing deed restrictions limit use to public recreation or public park purposes. The City of Stockton closed the Van Buskirk Golf Course (“Facility”) effective August 31, 2019 due to a decline in the golf market and increased capital needs at the Facility. This Facility was not self-sustaining as a golf course due to the small number of players and the high per capita cost of golf operations. The City Council directed staff to find alternatives to golf enterprise at this location. The City Council has not currently allocated general fund dollars to support operational activities at this Facility. It is anticipated that any services, repairs and improvements, and alternative uses by a non-profit Proponent shall be privately funded without any impact to the General Fund.

The Facility with a limited parkland footprint includes:

- A building formerly used as a café
- A building (two rooms which can be used as offices and one larger room) formerly used as a pro-shop
- Possible use of building formerly used as a cart barn and storage
- Basic bathroom facilities

**2.1 SCOPE OF SERVICES**

It is expected that a non-profit agency responding to this RFP will cooperative with the City to support community engagement through recreation, enrichment, or educational services as the primary use, with concessions as an optional use. This Facility will be made available to all age groups for a broad range of daily, weekly, monthly, and organized special events to serve the community for recreational, educational, social, family, and community activities.

The Operator shall maintain a clean and safe facility, schedule recreation activities, including programs, athletic activities, and community service activities to support the neighborhood for service hours with a general schedule Monday-Friday with some weekend activities.

In addition to operating programs, social events, and activities, the Operator shall establish and support collaborative relationships with the City of Stockton and neighborhood groups such as Conway Homes Resident Council and the Neighborhood Watch Program. The Operator shall provide full-service outreach and marketing activities for its use of the Facility. Of particular interest will be programs that focus on family health. The City is looking for partners with a vision of finding new ways to use the Facility for recreation and education which support and strengthen the existing community safety efforts and improve community health and well-being.

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

The City prefers an agreement where the non-profit organization pays expenses (including security, 24-7 alarm responses, janitorial services, utilities, and daily-tenant maintenance). However, the City will provide normal repairs and maintenance consistent with typical landlord-tenant agreements. The most competitive responses shall include an offer for Facility improvements for a safe facility that supports the community. Proponents are asked to submit a proposed detailed annual budget showing planned operations. The Operator shall provide financial statements which show the organization has reserves to operate the facility for the first year. It is expected the Proponents shall provide all equipment, materials, supplies, and personnel necessary to operate activities according to the required hours of operation at Facility. Proponents shall carefully consider the Facility boundaries (final boundaries to be negotiated) provided in the Attachment C: MAP.

If the café or concessions are provided, the concessionaire shall maintain fair and competitive prices for quality food and drink items sold. Beer and wine sales are were permitted under prior Management Agreement, but future alcohol sales would be subject to careful scrutiny and review. The Proponent shall have all required licenses to sell alcohol and be in compliance with local, state and federal rules. If alcohol is sold, Proponent shall have alcohol liability insurance. The Proponent shall comply with the City's exclusive pouring rights agreement with Coca Cola. Service areas including entrances and parking lots shall be maintained in a clean and sanitary condition. No vending machines are allowed on premises unless approved in writing by Director of Community Services. All advertising and signage must be approved in writing by Director of Community Services.

If operations include direct supervision of youth the following paragraph will be required. Operator must comply with relevant portions of City's administrative Directive HR-40 regarding who must be fingerprinted and submit to a background check and what offenses or disqualifiers will prohibit an individual from working at a Facility that provides direct services to youth. An individual convicted of certain criminal offenses (disqualifiers) is not eligible to work at the Facility. In addition, if any of the assign Operator employees are subsequently found to have disqualifying conviction, that individual must be immediately removed from the Facility and shall not be allowed to perform any further work under this Agreement. If Operator is subsequently found to have disqualifiers on the job, the contract may be immediately terminated by the City. The Operator will certify annually that neither the Operator nor employees and volunteers have been convicted of offenses specified in California Resource Code Section 5164 or City Administrative Directive HR40 (Attached and included as Exhibit B)

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

**3.0 PROPOSAL GUIDELINES, CONTENT AND FORMAT**

The City of Stockton uses a qualifications-based selection process in obtaining these services. In order for the City to properly evaluate the Proponents' qualification to perform this work, the proposals shall include, as a minimum, the following information:

- A. Evidence of the Proponent's ability to be responsive to this project in regard to timeliness and expertise, including availability of staff proposed to be assigned.
- B. The Proponents are encouraged to expand on the Scope of Work to demonstrate their expertise. Evaluation of the proposals will be based on qualifications, the experience of staff proposed to be assigned to the project, references and thoroughness of the proponent's response to the Scope of Services.
- C. Proponents are encouraged to describe their unique skills, connection with the neighborhood, strategies and experience engaging the neighborhood, operational activities that bridge and improve communication between the community and City operations.
- D. The most competitive responses shall include an offer for Facility improvements for a safe facility.
- E. Such additional information that the Proponent may feel would be pertinent to assist the City of Stockton in making its final decision.
- F. Please submit one (1) original and five (5) copies of your proposal/qualifications. Additionally, submit one (1) USB with an electronic version of the proposal. The original should be unbound to allow us to reproduce your proposal, as needed.

**3.0.1 Cover Letter**

Submit a letter on your company letterhead addressing the proposal and format. The letter should be signed by an officer of the firm authorized to bind the firm to all comments made in the proposal, and shall include the name, address, phone number and e-mail address of the person(s) to contact who will be authorized to represent your firm. Attach proof of non-profit status.

**3.0.2 Minimum Experience Qualifications Summary**

A statement of professional experience and ability with a clearly identified statement of relevant professional experience. Proponent shall represent current ability to provide all services listed in Scope of Services.

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

**3.0.3 Management/Method of Operation**

Provide detailed description outlining your firm's approach to provide the service. Highlight innovative ideas your firm may have to provide to the City and describe in detail your procedures and management techniques.

**3.0.4 References**

Provide a list of references with current contact person, e-mail address and phone number who may be contacted regarding firm performance. References must consent to inclusion in the RFP prior to the deadline of the RFP. No City of Stockton elected officials, appointed officials, or City employees may be provided as a reference for the RFP.

**3.0.5 Financial Statement**

The proponent must be able to demonstrate a good record of performance and have sufficient financial resources to ensure that they can satisfactorily provide the services required herein.

The Proponent shall provide financial statements which show the organization has reserves to operate the facility for the first year. Provide a draft Profit and Loss Statement (Draft Facility Budget) based on the operational program you are proposing. That statement should be 100% of expenses required to operate the building. List of all sources of guaranteed revenue and income to support operations at this Facility. The PL should indicate funding for improvements to the building if such improvement is offered.

Proponent shall submit a full and detailed presentation of the true condition of the proponent's assets, liabilities and net worth. The report should include a balance sheet and income statement. If the proponent is a new partnership or joint venture, individual financial statements must be submitted for each general partner or joint venture thereof. If firm is a publicly held corporation, the most current annual report should be submitted.

Proponent shall be expected to provide annual financial reports to the City, and provide a copy of the agency annual report as well.

Any proponent who, at the time of submission, is involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or if a trustee or receiver has been appointed over all or a substantial portion of the property of the proponent under federal bankruptcy law or any state insolvency, may be declared non-responsive.

**3.0.6 Corporate Structure, Organization**

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

Describe how your firm is organized, noting major divisions and any parent/holding companies, as well as brief history of the firm and all personnel potentially to be involved in the project including all sub-consultants. Designate the Principal in Charge and other key personnel. Include résumés. Also provide a description of the experience your firm has had with similar processes.

**3.0.7 Fee Schedule (Under Separate Cover)**

The most competitive responses will include an offer for Facility improvements for a safe facility. Provide detailed basic description of improvements which may be subject to negotiation.

**3.0.8 Facility Improvement Plans**

The most competitive responses will include an offer for Facility improvements for a safe facility. All interested parties should understand that capital improvements and repairs will be required for this Facility to be fully operational and to keep the Facility in good condition over the life of the Agreement. Proponents shall commit to specific improvements and demonstrate how these improvements will be achieved and maintain a financial benefit to the City.

**3.09 Equipment Provided**

Provide a list and brief description of all equipment required to maintain and repair facilities, landscaping (if any), and operation of facility. This list and plans for the Facility will be part of the negotiation process with Finalist.

**3.0.10** The proposal must be submitted, typewritten on 8½" X 11" white paper and must be bound in a secure manner.

**3.0.11** Material and data not specifically requested for consideration, but which the proponent wishes to submit must not appear with the Proposal but may appear only in an "Additional Data" section. This has specific reference to the following types of data:

Generalized narrative of supplementary information; and  
Supplementary graphic material

**3.0.12** All proposals must be signed with the full name of the proponent, if an individual; by an authorized general partner, if a partnership; or by an authorized officer, if a corporation.

**3.0.13** When proposals are signed by an agent other than an officer of a corporation or a member of a general partnership, a power of attorney authorizing the signature must be submitted with the proposal.

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

**3.0.14** If the proposal is submitted by a partnership or joint venture, the Statement of Personal History attached to the Proposal must be completed by each general partner or joint venture thereof. If the proposal is submitted by a corporation, the Statement must be completed by each principal officer of said corporation.

**3.0.15** The original proposal must have wet ink signatures. Modification to a proposal after the proposal submittal deadline will not be accepted by the City.

**3.1 EVALUATION PROCEDURE AND CRITERIA**

The City is interested in selecting a qualified firm with the ability to provide **MANAGEMENT AND OPERATION OF THE RECENTLY CLOSED VAN BUSKIRK CAFÉ AND PRO-SHOP BUILDINGS (PUR 19-036)**. A key component for the successful firm will be the ability to meet the City's performance desires in a cost effective manner.

The Evaluation Panel will consist of City of Stockton staff and any other person(s) designated by the City. Following review of the proposals, the Panel may invite one or more proponents to make an oral presentation. During these presentations, the proponent will be allowed to present such information as may be appropriate in order that the Panel can effectively and objectively analyze all materials and documentation submitted as part of the proposals.

Each firm must be represented by an individual who will be the prime contact person to the City and any other individuals whom the firm may select. The highest-rated proposal(s) will then be further scrutinized through financial analysis and reference checks.

To that end, the Panel will evaluate the proposals based on, but not limited to, the following criteria:

1. Proponent's ability to provide all services as outlined in the Scope of Services;
2. Related experience with similar projects, especially serving South Stockton and neighborhood residents, company background and personnel qualifications;
3. Proponent's Program Plan Draft.
4. Completeness of Budget and Financial Statements;
5. Description of thoughtful use of Facility to serve the neighborhood.
6. List of equipment available to perform services.
7. Plans to repair and improve the Facility for use.

CITY OF STOCKTON  
REQUEST FOR PROPOSALS (PUR 19-036)

8. Proof of Non-Profit Status and current Business License;
9. Copies of any additional permits and certificates required for services.
10. Description and narrative of the service history of individual or business.
11. Non-Collusion Affidavit;
12. References;
13. Affirmative Action Document;
14. Any other criteria as best suits the City of Stockton.

**3.2 PROPOSED DEVELOPMENT COSTS**

The cost of preparing and submitting a proposal is the sole responsibility of the proponent and shall not be chargeable in any manner to the City of Stockton.

**3.3 PROPONENT CONTACT**

Proponent shall provide the name, address, e-mail address and telephone number of an individual in their organization to whom notices and inquiries by the City should be directed as part of this proposal.

**3.4 CITY'S USE OF PROPOSAL MATERIAL**

All material submitted in or with the proposal shall become the property of the City, unless it is clearly marked as proprietary information. The City reserves the right to use any ideas presented in the proposals, without compensation paid to the Firm. Selection or rejection of the proposal shall not affect this right.

**3.5 REJECTION OF PROPOSAL**

The City reserves the right to reject any and all proposals submitted and to request additional information from the Proponent. The award will be made to the firm which, in the opinion of the City, is best qualified.

# PROPOSAL DOCUMENTS

- A) RFP – MANAGEMENT AND OPERATION OF THE RECENTLY CLOSED VAN BUSKIRK GOLF COURSE BUILDINGS
- B) PUR 19-036
- C) MARCH 12, 2020, at 2:00 P.M.

COMPANY NAME: \_\_\_\_\_

CONTACT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

EMAIL: \_\_\_\_\_



CITY OF STOCKTON  
REQUEST FOR PROPOSAL (RFP)

**PROPONENT'S AGREEMENT**

In submitting this proposal, as herein described, the proponent agrees that:

1. They have carefully examined the Scope of Work and all other provisions of this document and understand the meaning, intent and requirements of same.
2. They will enter into contract negotiations and furnish the services specified.
3. They have signed and notarized the attached Non-Collusion Affidavit form, whether individual, corporate or partnership. Must be 'A Jurat' notarization.
4. They have reviewed all clarifications/questions/answers on the City's website at [www.stocktonca.gov/adminbid](http://www.stocktonca.gov/adminbid) .
5. Confidentiality: Successful Proponent hereby acknowledges that information provided by the City of Stockton is personal and confidential and shall not be used for any purpose other than the original intent outlined in the Request for Proposal. Breach of confidentiality shall be just cause for immediate termination of contract agreement.

\_\_\_\_\_  
FIRM

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
SIGNED BY

\_\_\_\_\_  
TITLE OR AGENCY

\_\_\_\_\_  
TELEPHONE NO./FAX NO.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
E-MAIL ADDRESS

**NON-COLLUSION**

**No. 1 AFFIDAVIT FOR INDIVIDUAL PROPONENT**

**STATE OF CALIFORNIA,** \_\_\_\_\_ )ss.  
**County of** \_\_\_\_\_ )  
(insert)

\_\_\_\_\_ being first duly sworn, deposes and says: That on behalf of any person not named herein; that said Proponent has not colluded, conspired, connived or agreed, directly or indirectly with, or induced or solicited any other bid or person, firm or corporation to put in a sham bid, or that such other person, firm or corporation shall or should refrain from bidding; and has not in any manner sought by collusion to secure to themselves any advantage over or against the City, or any person interested in said improvement, or over any other Proponent.

\_\_\_\_\_  
(Signature Individual Proponent)

Subscribed and sworn to (or affirmed) before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
by \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Seal \_\_\_\_\_

Signature \_\_\_\_\_

**No. 2 AFFIDAVIT FOR CORPORATION PROPONENT**

**STATE OF CALIFORNIA,** \_\_\_\_\_ )ss.  
**County of** \_\_\_\_\_ )  
(insert)

\_\_\_\_\_ being first duly sworn, deposes and says: That they are the \_\_\_\_\_ of \_\_\_\_\_ a corporation, which corporation is the party making the foregoing bid, that such bid is genuine and not sham or collusive, or made in the interest or behalf of any person not named herein; that said Proponent has not colluded, conspired, connived or agreed, directly or indirectly with, or induced or solicited any other bid or person, firm or corporation to put in a sham bid, or that such other person, firm or corporation shall or should refrain from bidding; and has not in any manner sought by collusion to secure to themselves any advantage over or against the City, or any person interested in said improvement, or over any other Proponent.

\_\_\_\_\_  
(Signature Corporation Proponent)

Subscribed and sworn to (or affirmed) before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
by \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Seal \_\_\_\_\_

Signature \_\_\_\_\_

**No. 3 AFFIDAVIT FOR FIRM, ASSOCIATION, OR CO-PARTNERSHIP**

**STATE OF CALIFORNIA,** \_\_\_\_\_ )ss.  
**County of** \_\_\_\_\_ )  
(insert)

\_\_\_\_\_,  
each being first duly sworn, depose and say: That they are a member of the firm, association or co-partnership,  
designated as \_\_\_\_\_ who is the party making the foregoing bid; that the other partner, or partners, are \_\_\_\_\_ that such bid is genuine and not sham or collusive, or made in the interest or behalf of any person not named herein; that said Proponent has not colluded, conspired, connived or agreed, directly or indirectly with, or induced or solicited any other bid or person, firm or corporation shall or should refrain from proposing; and has not in any manner sought by collusion to secure to themselves any advantage over or against the City, or any person interested in said improvement, or over any other Proponent.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

Subscribed and sworn to (or affirmed) before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
by \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Seal \_\_\_\_\_

Signature \_\_\_\_\_

## EXHIBIT 'A' – INSURANCE REQUIREMENTS

**NOTE:** The City of Stockton is now using the online insurance program PINS Advantage. Once you have been awarded a contract you will receive an email from the City's online insurance program requesting you to forward the email to your insurance provider(s). Please see attached flyer regarding PINS Advantage.

**Note:** Construction or repairs on site may require additional insurance to be discussed in negotiations.

### **Insurance Requirements for Facility Operator**

Operator shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Lessee's operation and use of the leased premises. The cost of such insurance shall be borne by the Operator

### **MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury and **sexual abuse and molestation coverage**, with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than **\$1,000,000** per accident for bodily injury or disease. (for lessees with employees).
3. **Property insurance** against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named insured; whichever is greater. No representation is made that the minimum insurance requirements of this agreement are sufficient to cover the obligations of the Lessee under this agreement.

### ***Limits of Insurance***

The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

### **Other Insurance Provisions:**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

#### ***Additional Insured Status***

The City of Stockton, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Lessee including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Lessee's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used). Additional insured Name of Organization shall read "City of Stockton, its officers, officials, employees, and volunteers." Policy shall cover City of Stockton, its officers, officials, employees, and volunteers for all locations work is done under this contract.

#### ***Primary Coverage***

The Additional Insured coverage under the Lessee's policy shall be "primary and non-contributory" and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13. The City of Stockton does not accept endorsements limiting the Lessee's insurance coverage to the sole negligence of the Named Insured.

#### ***Notice of Cancellation***

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City of Stockton.

#### ***Waiver of Subrogation***

Lessee hereby grants to City of Stockton a waiver of any right to subrogation which any insurer of said Lessee may acquire against the City of Stockton by virtue of the payment of any loss under such insurance. Lessee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Stockton has received a waiver of subrogation endorsement from the insurer. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation** in favor of the City of Stockton for all work performed by the Lessee, its employees, agents and subcontractors.

### ***Self-Insured Retentions***

All Self-insured retentions must be disclosed to Risk Management for approval and shall not reduce the limits of liability. The City of Stockton may require the Lessee to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City of Stockton.

### ***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City of Stockton.

### ***Verification of Coverage***

Lessee shall furnish the City of Stockton with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City of Stockton Risk Services before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Lessee's obligation to provide them. The City of Stockton reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Lessee shall, prior to the commencement of work under this Agreement, provide the City of Stockton with a copy of its declarations page(s) and endorsement page(s) for each of the required policies.

### ***Subcontractors***

Lessees shall require and verify that all subcontractors, or other parties hired for this work, purchase and maintain coverage for indemnity and insurance requirements as least as broad as specified in this agreement to the extent they apply to the scope of the subcontractor's work with the same certificate of insurance requirements and naming as additional insureds all parties to this contract. Lessee shall include the following language in their agreement with Subcontractors: *"Subcontractors hired by Lessee agree to be bound to Lessee and City in the same manner and to the same extent as Lessee is bound to City under the contract documents and provide a valid certificate of insurance and the required endorsements included in the agreement as proof of compliance prior to commencement of any work and to include this same requirement for any subcontractors they hire for this work. A copy of the owner contract document indemnity and insurance provisions will be furnished to the subcontractor upon request."* Lessee shall provide proof of such compliance and verification to the City upon request.

### ***Special Risks or Circumstances***

City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

***Certificate Holder Address***

Proper address for mailing certificates, endorsements and notices shall be:

City of Stockton  
Attn: City Risk Services  
400 E Main Street, 3<sup>rd</sup> Floor – HR  
Stockton, CA 95202

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

EXHIBIT B: HR40

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 1 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

**I. PURPOSE**

- A. To provide a uniform policy and procedure for the administration of the City of Stockton Mandatory Fingerprinting Program, in accordance with California Public Resources Code section 5164, California Education Code section 10911.5, California Penal Code sections 11105, 11105.3, 13300, and any other applicable state and federal laws.
- B. To ensure that the City of Stockton, as an agency receiving criminal history information, complies with the requirements of the State of California, Department of Justice, Division of Criminal Justice Information Services.

**II. POLICY**

All applicants, employees, interns, temporary agency employees, and volunteers who meet the following conditions shall be subject to fingerprinting.

- A. Employees Having Direct Contact With Minors. It is the policy of the City of Stockton to obtain criminal history information for all prospective, as well as current, full-time (including provisional and temporary), part-time, volunteer (including the San Joaquin County Alternate Work Program or any other community service or volunteer organization), and contractual employees in any department who have direct contact<sup>1</sup> with minors. This requirement shall be a condition of employment for all employees who have direct contact with minors.

The City of Stockton will not hire or retain any person or permit any person to volunteer his/her services to work with children in any department who has been convicted of certain criminal offenses (disqualifiers), as specified in California Public Resources Code section 5164.

---

<sup>1</sup> "Direct Contact" is defined in section II.B.

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 2 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

- B. Employees Performing Sensitive Duties. In addition, to implement Stockton Municipal Code Chapter 2.70, the City of Stockton will obtain criminal history information for all persons applying for positions that require the employee to:
1. Perform sensitive and/or fiduciary duties, such as handling public funds or confidential documents.
  2. Enter privately owned property, structures, or curtilages.
  3. Care for ill, injured, or incapacitated members of the public.
  4. Have access to a secure facility.
  5. Have direct contact with minors. "Direct contact with a minor" shall mean any of the following, in the course of paid or unpaid work:
    - a. The care, supervision, guidance, or control of a minor on any basis.
    - b. Close physical proximity to a minor on more than an "occasional" or "incidental" basis.
    - c. Talking face-to-face with or within eye contact of a minor on more than an "occasional" or "incidental" basis.

"Occasional" shall mean irregular or infrequent. "Incidental" shall mean occurring by chance or in isolation. If the job specifications for apposition requires contact with a minor on any basis, then the contact is neither "occasional" nor "incidental."
- C. The City of Stockton, in its discretion, may refuse to hire any person or permit any person to volunteer his/her services who has been convicted of any of the offenses (disqualifiers) specified in Appendix A of this policy.



**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 3 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

- D. In making any employment or retention decision based upon a disqualifier, the Director of Human Resources shall consider, among other factors: the employment classification to which the person is applying or being certified, including its sensitivity; the nature and seriousness of the conduct; whether there is a rational relationship between the employment duties and the nature of the conduct; the circumstances surrounding the conduct; the recentness of the conduct; the age of the individual at the time of the conduct; and the presence or absence of rehabilitation or efforts at rehabilitation.
- E. Submission of fingerprints, as specified in the sections above, shall be a condition of employment.
- F. This policy shall not apply to one-day events or programs.
- G. This policy shall be administered by and is the responsibility of the Director of Human Resources.

### **III. PROCEDURES**

- A. Administration of Criminal Offense Record Information (CORI).
1. The Human Resources Department shall enter into an agreement with the California Department of Justice for the purpose of electronically exchanging criminal offender information. This information shall be accessible only to designated individuals in the Human Resources Department, and the affected computer terminal shall be located in a secure area to provide protection from unauthorized access. CORI shall be made available to the City Auditor and designated members of his/her staff for the sole purpose of performance audits in accordance with Stockton Municipal Code section 2.70.020(B).

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

EXHIBIT B: HR40

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 4 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

- a. Security. Any questions regarding the release, security, and privacy of CORI shall be resolved by the Director of Human Resources.
  - b. Destruction. CORI shall be destroyed after the employment determination has been made, and copies of the CORI information will be destroyed in such a way that the employee's name can no longer be identified.
  - c. Dissemination. CORI shall be used only for the purpose for which it was requested; except that, the City Auditor shall have access to and shall examine CORI in connection with his/her duties under section 1501(d) of the City Charter.
  - d. Storage. CORI shall be securely maintained and accessible only to the Director of Human Resources or his/her designees and the City Auditor or his/her designees, who are committed to protect such information from unauthorized access, use, or disclosure.
  - e. Reproduction. CORI shall not be reproduced for secondary dissemination.
  - f. Subsequent Arrest Reports. Any Subsequent Arrest Reports for separated employees, volunteers, and contract personnel shall be immediately returned to the Department of Justice.
2. The Director of Human Resources and/or his/her designees who are involved in the administration of this policy, and the City Auditor and/or his/her designees who conduct performance audits, shall be fingerprinted and cleared by the Department of Justice prior to attaining access to CORI. Each employee given CORI access shall be fingerprinted and processed through the California Department of Justice. In addition, those employees shall execute a copy of the Employment Statement issued by the Department of Justice, which

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 5 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

statement shall be maintained on file in the Human Resources Department.

- B. Fingerprint Procedures and Review of CORI. All applications for employment and requests to volunteer services, without exception, are to be made to the Human Resources Department.
1. All applicants for employment covered under this policy (as set forth in sections II. A and B, above), including part-time, volunteer, intern, temporary agency, and contract personnel, shall be provided with a fingerprint application and required to submit one set of fingerprints to the Department of Justice prior to the pre-employment physical examination. (Note: This requirement shall not apply to those concessionaires who contract with the Community Services Department solely to rent space to conduct their own business.)
  2. The applicant, volunteer, intern, temporary agency, or contract personnel shall hand-carry the fingerprint application, along with a valid California driver's license or identification card, to the Stockton Police Department Evidence Identification Section to complete the fingerprint process.
  3. Upon receipt of CORI, including Subsequent Arrest Information, the designated Human Resources employees shall review the information for any arrests or convictions for disqualifiers. If there are no disqualifiers, the clearance date shall be entered into the confidential database set up for this specific purpose. Upon the employee's separation from City service, the California Department of Justice shall be notified of the separation to ensure that Subsequent Arrest Notifications are no longer received.
  4. In the event CORI, including Subsequent Arrest Information, reveals disqualifiers, the Director of Human Resources shall evaluate the effect and potential effect of the employee's record of arrest on his/her position of employment, fellow employees, and the public in accordance with sections II.B.2, above; and shall take appropriate

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 6 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

action to maximize public safety and minimize potential liability while respecting the rights of the employee or volunteer. No applicant for employment will be permitted to report for work until the Director of Human Resources, or his or her designee, has first determined from review of the CORI information that the applicant has no disqualifying convictions.

In addition, any employee, volunteer, intern, temporary agency or contract personnel who has direct contact with minors and for whom a disqualifier is subsequently revealed shall be subject to any one of the following actions:

- a. Transfer to a comparable position whose duties require no direct contact with children.
  - b. Reassignment to another department.
  - c. Placement back into a previously held position.
  - d. Termination.
5. The notice of rejection of application for employment or the notice of termination due to disqualifiers is the sole responsibility of the Human Resources Department. The Human Resources Department will immediately notify the Department of Justice that the affected applicant, employee, or volunteer has been rejected and that subsequent reports are not necessary.
  6. The appointing authority shall not make a hiring decision until after CORI has been received and reviewed by the Human Resources Department.
  7. The applicant, employee, or volunteer shall be responsible for reporting any conviction or arrest pending final adjudication to the Human Resources Department. If any conviction or arrest pending adjudication occurs while the employee or volunteer is working for the

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 7 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

City, the employee or volunteer shall report that conviction or arrest to the Human Resources Department. Failure to report an arrest or conviction shall be grounds for disciplinary action, up to and including termination.

8. Employees transferring or promoting to positions covered under this directive shall have a right of reversion to a previously held position in the event subsequent arrest information reveals a disqualifier; EXCEPT THAT the City reserves its right to discipline an employee, up to and including termination, pursuant to the City Charter, Stockton Municipal Code, Civil Service Rules, collective bargaining agreements, and/or any applicable laws or regulations.

#### **IV PENALTIES**

- A. Misuse of CORI is a criminal offense, which may result in criminal or civil prosecution and may result in administrative action up to and including loss of access to information maintained by the Department of Justice and/or termination of employment, in accordance with City Charter sections 1201(a) and 1502, Administrative Directive No. HR-008, applicable memoranda of understanding, and/or the Civil Service Rules and Regulations.
- B. Any violation of this policy shall result in disciplinary action, up to and including termination from City service.

APPROVED:

  


---

**KURT O. WILSON**  
**CITY MANAGER**

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 8 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

**APPENDIX A**

Convictions for which an applicant may be rejected, or for which refusal of certification for appointment, or termination of employment may result, are as follows:

Crimes Against Persons

- Murder (Penal Code § 187, *et seq.*)
- Voluntary manslaughter (Penal Code § 191.5, *et seq.*)
- Mayhem (Penal Code § 203, *et seq.*)
- Torture (Penal Code § 206, *et seq.*)
- Robbery (Penal Code § 211, *et seq.*)
- Assault and/or battery (Penal Code §§ 240, *et seq.*; 243, *et seq.*)
- Rape (Penal Code §§ 261-263; 269.)
- Kidnapping (Penal Code § 207, *et seq.*)
- Prostitution (Penal Code §§ 266-267)
- Lewd or lascivious acts (Penal Code §§ 288, 288.2 )
- Indecent exposure (Penal Code § 314)
- Stalking (Penal Code § 646.9, *et seq.*)
- Registered sex offender (Penal Code § 290)
- Child abandonment (Penal Code § 271, *et seq.*)
- Contributing to the delinquency of a minor (Penal Code § 272, *et seq.*)
- Incest (Penal Code § 285)
- A criminal violation that is substantially similar in nature to any of the foregoing crimes against persons.

Crimes Against Property

- Arson (Penal Code § 451, *et seq.*)
- Theft / Larceny (Penal Code § 484, *et seq.*)
- Burglary (Penal Code § 458, *et seq.*)
- Forgery (Penal Code § 470, *et seq.*)
- Embezzlement (Penal Code § 503, *et seq.*)
- Identity theft (Penal Code § 530.5, *et seq.*)

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 9 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

- Extortion (Penal Code § 581, *et seq.*)
- A criminal violation that is substantially similar in nature to any of the foregoing crimes against property.

Crimes involving Controlled Substances

Any crime described in the California Uniform Controlled Substance Act (division 10, commencing with section 11350), except where consideration of such conviction for employment purposes is prohibited or otherwise limited by law per Labor Code § 432.8. Employers are prohibited from considering marijuana related convictions which are more than two (2) years old. Specifically, agencies may not consider marijuana related convictions for violations of subdivision (b) or (c) of section 11357 of the Health and Safety Code or a statutory predecessor thereof, or subdivision (c) of section 11360 of the Health and Safety Code, or section 11364, 11365, or 11550 as related to marijuana prior to January 1, 1976, or a statutory predecessor thereof.

Miscellaneous Crimes

- Perjury (Penal Code § 118, *et seq.*)
- Falsifying/Tampering with Evidence (Penal Code §§ 132-135.5)
- Falsifying public documents (Penal Code § 112, *et seq.*)
- Bribery (Penal Code §§ 68, 92, *et seq.*, 165)
- Money laundering (Penal Code § 186.9, *et seq.*)
- Bookmaking (Penal Code § 337a)
- Misappropriation of public funds (Penal Code § 424, *et seq.*)
- A criminal violation that is substantially similar in nature to any of the foregoing miscellaneous crimes.

**EXHIBIT C  
MAP OF FACILITY**

**(actual parkland use is subject to negotiations)**





**EXHIBIT D**  
**SAMPLE CONTRACT**

CITY OF STOCKTON  
**STANDARD AGREEMENT**

Agreement Number:

1. This Agreement is entered into between the City of Stockton ("City") and ("Contractor") to provide as set forth in Exhibit A to this Agreement.

2. The term of this Agreement is as follows, unless amended as described in Exhibit A and Exhibit C section 8:  
Commences on: Terminates on:

3. The maximum not to exceed amount to be paid to Contractor for the term of this Agreement, including if authorized, reimbursement of expenses, is: \$

4. The complete Agreement consists of all the following Agreement documents which by reference are incorporated and made a part of this Agreement. The parties agree to comply with the terms and conditions of this Agreement.

- (a) Exhibit A – Statement of Work
- (b) Exhibit B – Insurance
- (c) Exhibit C – General Terms and Conditions
- (d) Exhibit D –
- (e) Exhibit E – Compensation Schedule
- (f) Exhibit F – Timeline

**IN WITNESS WHEREOF, the authorized parties have executed this Agreement.**

CONTRACTOR

Contractor's Name (if other than an individual, state whether a corporation, partnership, etc.):

Authorized Signature

Date

Printed Name and Title of Person Signing

Address

**CITY OF STOCKTON**

Laurie Montes, Interim City Manager

Date

ATTEST:

Eliza R. Garza CMC, City Clerk

APPROVED AS TO FORM:  
John M. Luebberke, City Attorney

BY:

**EXHIBIT A**  
**STATEMENT OF WORK**

**1. Project Objectives**

- 1.1 The City is the owner of the Van Buskirk Golf Course Facility Buildings (“Facility”) located at 1740 Houston Ave. This Facility is located in South Stockton at the east portion the Van Buskirk Park and adjacent to both the Van Buskirk Community Center and the adjacent park. A map of the Facility is attached as Attachment 1 to this Exhibit one and incorporated by reference.
- 1.2 This Facility consists of an access gate, a parking lot, two buildings (previously used as café and pro-shop), one cart barn. The City reserves the right to demolish the cart barn during the term of the agreement..
- 1.3 City solicited a private non-profit operator with creative vision and tangible leadership skills and community organizing skills to program and supervise recreation opportunities for the neighborhood, as well optional concessions services. The Operator shall offer a creative vision for recreation, community enrichment, and occasional special events programming.

**2. Project Scope**

- 2.1 The Facility was created as an opportunity for the City to engage the South Stockton community, improve the quality of life of youth and adults in the neighborhood by providing a local venue for recreational activities, and programming that supports and strengthens the community.
- 2.2 In performance of work to be provided in this Facility, Operator shall actively participate with the Van Buskirk Community Center, Conway Homes Resident Council, and neighborhood watch. Operator shall also seek opportunities to work with neighborhood groups and non-profit agencies serving South Stockton such as schools, faith-based groups, health care providers, city and county partners, law enforcement agencies, the local business community, and other South Stockton stakeholders.

**3. Specifications**

- 3.1 Operator is a non-profit agency which has agreed to manage the Facility, provide services to the community, fundraise, implement a marketing

strategy, and engage the community to most effectively meet neighborhood needs. The Operator shall provide services with measurable programming goals and objectives detailed in an Annual Program Plan and measurable results shared in quarterly reports.

**4. Major Deliverables**

- 4.1 The Annual Program Plan due February of each year of operation.
- 4.2 Quarterly Meetings and Reports due 60 days after the end of each quarter.
- 4.3 Final Annual Report and summary of achievements and data due April 1 of each year.
- 4.4 Annual Financial Report due April 1 of each year.
- 4.5 Annual Confidential Security Plan due April 1 of each year.

**5. Tasks That Support the Deliverables**

*5.1 TO BE ADDED IN NEGOTIATIONS*

**6. Internal and External Standards and Guidelines**

**6.1 Non-Profit Status.**

Operator is a not-for-profit organization whose primary function under this Agreement is to provide social services and management of Facility in accordance with the policies and directives of City. Operator shall maintain non-profit status for the term of Agreement. Failure to do so will be cause for immediate breach of Agreement.

**6.2 *(reserved for specific operations standards)***

**6.3 New Hires Fingerprinting and Background Checks**

Operator shall hire, supervise, and manage all personnel necessary for the management, operation, and maintenance of Facility and shall comply with City's administrative directive with respect to fingerprinting Operator employees and volunteers. If Operator has staff who directly supervise youth, Operator shall follow the guidelines for HR40 for fingerprinting of employees who directly supervise youth. Any individual who has been convicted of certain criminal offenses as set forth below is not eligible to work or volunteer under this Agreement. Operator shall review obligations

summarized and comply with the relevant portions of Attachment 2 to this Exhibit A. concerning HR 40 City Manager’s Administrative Directive regarding who must be fingerprinted and what offenses or disqualifiers will prohibit an individual from working at Facility.

6.4 Special Event Permit.

Beyond the footprint of the Facility, Operator shall comply with the City’s Special Events Permit Process and notify the City’s authorized representative of such potential activity according to the policies and guidelines within the required timelines and formal permit applications and meetings.

7. Criteria of Acceptance for Deliverables

If any activities or reports provided by Operator are considered deficient, the City will provide feedback in writing and the Operator shall have sufficient opportunity to make corrections, generally 30 days after notice of deficiency.

8. Notices

Pursuant to Exhibit C – General Terms and Conditions, Paragraph 15 – Notices, the mailing address for all required notices is as follows:

**Contractor:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**City:** City of Stockton  
Attn: City Manager  
425 N. El Dorado Street  
Stockton, CA 95202

9. Key Personnel

*TO BE ADDED IN NEGOTIATIONS*

10. Option to Renew.

The original term of the Agreement may be extended by \_\_\_\_\_ mutual options to renew by a written amendment executed by both parties. However, the total term of the Agreement including the extended term shall not exceed \_\_\_\_ years.

11. Month to Month Operations.

If at the expiration of this term, including all available mutual option extensions, Operator continues to manage the Facility and follow the terms of this Agreement with the consent of City, the Agreement shall continue month-to-month, subject to all terms and conditions of the Agreement. During the period of month-to-month

operation of the facility, the Agreement shall be terminable by either party upon thirty (30) days' written notice.

12. **Vacation of Premises.**

Operator agrees to fully vacate the Facility at the termination of this Agreement. Should Operator fail to vacate as herein provided, Operator agrees that City or its authorized agents may enter upon the premises and remove all personal property and equipment therefrom and that the cost of removal and any temporary storage or disposal shall be billed to the Operator and shall be the responsibility of Operator. The City shall, within its sole discretion, determine whether any such property or equipment shall be stored or disposed of. Nothing herein shall be considered a waiver of the City's rights under the law to demand and obtain possession of the Facility in the event of a violation of Operator's part of any of the terms or conditions hereof.

SAMPLE

**ATTACHMENT 1 TO EXHIBIT A: MAP OF FACILITY AREA:**

This map may be amended during negotiations



**CITY OF STOCKTON, CALIFORNIA**  
**CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS,  EMPLOYEES, INTERNS, TEMPORARY  AGENCY EMPLOYEES, AND  VOLUNTEERS APPLYING FOR AND  HOLDING POSITIONS WITH THE CITY OF  STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 1 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

**I. PURPOSE**

- A. To provide a uniform policy and procedure for the administration of the City of Stockton Mandatory Fingerprinting Program, in accordance with California Public Resources Code section 5164, California Education Code section 10911.5, California Penal Code sections 11105, 11105.3, 13300, and any other applicable state and federal laws.
- B. To ensure that the City of Stockton, as an agency receiving criminal history information, complies with the requirements of the State of California, Department of Justice, Division of Criminal Justice Information Services.

**II. POLICY**

All applicants, employees, interns, temporary agency employees, and volunteers who meet the following conditions shall be subject to fingerprinting.

- A. Employees Having Direct Contact With Minors. It is the policy of the City of Stockton to obtain criminal history information for all prospective, as well as current, full-time (including provisional and temporary), part-time, volunteer (including the San Joaquin County Alternate Work Program or any other community service or volunteer organization), and contractual employees in any department who have direct contact<sup>1</sup> with minors. This requirement shall be a condition of employment for all employees who have direct contact with minors.

The City of Stockton will not hire or retain any person or permit any person to volunteer his/her services to work with children in any department who has been convicted of certain criminal offenses (disqualifiers), as specified in California Public Resources Code section 5164.

<sup>1</sup> "Direct Contact" is defined in section II.B.



**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 2 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

- B. Employees Performing Sensitive Duties. In addition, to implement Stockton Municipal Code Chapter 2.70, the City of Stockton will obtain criminal history information for all persons applying for positions that require the employee to:
1. Perform sensitive and/or fiduciary duties, such as handling public funds or confidential documents.
  2. Enter privately owned property, structures, or curtilages.
  3. Care for ill, injured, or incapacitated members of the public.
  4. Have access to a secure facility.
  5. Have direct contact with minors. "Direct contact with a minor" shall mean any of the following, in the course of paid or unpaid work:
    - a. The care, supervision, guidance, or control of a minor on any basis.
    - b. Close physical proximity to a minor on more than an "occasional" or "incidental" basis.
    - c. Talking face-to-face with or within eye contact of a minor on more than an "occasional" or "incidental" basis.

"Occasional" shall mean irregular or infrequent. "Incidental" shall mean occurring by chance or in isolation. If the job specifications for apposition requires contact with a minor on any basis, then the contact is neither "occasional" nor "incidental."
- C. The City of Stockton, in its discretion, may refuse to hire any person or permit any person to volunteer his/her services who has been convicted of any of the offenses (disqualifiers) specified in Appendix A of this policy.

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 3 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

- D. In making any employment or retention decision based upon a disqualifier, the Director of Human Resources shall consider, among other factors: the employment classification to which the person is applying or being certified, including its sensitivity; the nature and seriousness of the conduct; whether there is a rational relationship between the employment duties and the nature of the conduct; the circumstances surrounding the conduct; the recentness of the conduct; the age of the individual at the time of the conduct; and the presence or absence of rehabilitation or efforts at rehabilitation.
- E. Submission of fingerprints, as specified in the sections above, shall be a condition of employment.
- F. This policy shall not apply to one-day events or programs.
- G. This policy shall be administered by and is the responsibility of the Director of Human Resources.

### **III. PROCEDURES**

- A. Administration of Criminal Offense Record Information (CORI).
1. The Human Resources Department shall enter into an agreement with the California Department of Justice for the purpose of electronically exchanging criminal offender information. This information shall be accessible only to designated individuals in the Human Resources Department, and the affected computer terminal shall be located in a secure area to provide protection from unauthorized access. CORI shall be made available to the City Auditor and designated members of his/her staff for the sole purpose of performance audits in accordance with Stockton Municipal Code section 2.70.020(B).

**CITY OF STOCKTON, CALIFORNIA**  
**CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 4 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

- a. Security. Any questions regarding the release, security, and privacy of CORI shall be resolved by the Director of Human Resources.
  - b. Destruction. CORI shall be destroyed after the employment determination has been made, and copies of the CORI information will be destroyed in such a way that the employee's name can no longer be identified.
  - c. Dissemination. CORI shall be used only for the purpose for which it was requested; except that, the City Auditor shall have access to and shall examine CORI in connection with his/her duties under section 1501(d) of the City Charter.
  - d. Storage. CORI shall be securely maintained and accessible only to the Director of Human Resources or his/her designees and the City Auditor or his/her designees, who are committed to protect such information from unauthorized access, use, or disclosure.
  - e. Reproduction. CORI shall not be reproduced for secondary dissemination.
  - f. Subsequent Arrest Reports. Any Subsequent Arrest Reports for separated employees, volunteers, and contract personnel shall be immediately returned to the Department of Justice.
2. The Director of Human Resources and/or his/her designees who are involved in the administration of this policy, and the City Auditor and/or his/her designees who conduct performance audits, shall be fingerprinted and cleared by the Department of Justice prior to attaining access to CORI. Each employee given CORI access shall be fingerprinted and processed through the California Department of Justice. In addition, those employees shall execute a copy of the Employment Statement issued by the Department of Justice, which

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 5 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

statement shall be maintained on file in the Human Resources Department.

- B. Fingerprint Procedures and Review of CORI. All applications for employment and requests to volunteer services, without exception, are to be made to the Human Resources Department.
1. All applicants for employment covered under this policy (as set forth in sections II. A and B, above), including part-time, volunteer, intern, temporary agency, and contract personnel, shall be provided with a fingerprint application and required to submit one set of fingerprints to the Department of Justice prior to the pre-employment physical examination. (Note: This requirement shall not apply to those concessionaires who contract with the Community Services Department solely to rent space to conduct their own business.)
  2. The applicant, volunteer, intern, temporary agency, or contract personnel shall hand-carry the fingerprint application, along with a valid California driver's license or identification card, to the Stockton Police Department Evidence Identification Section to complete the fingerprint process.
  3. Upon receipt of CORI, including Subsequent Arrest Information, the designated Human Resources employees shall review the information for any arrests or convictions for disqualifiers. If there are no disqualifiers, the clearance date shall be entered into the confidential database set up for this specific purpose. Upon the employee's separation from City service, the California Department of Justice shall be notified of the separation to ensure that Subsequent Arrest Notifications are no longer received.
  4. In the event CORI, including Subsequent Arrest Information, reveals disqualifiers, the Director of Human Resources shall evaluate the effect and potential effect of the employee's record of arrest on his/her position of employment, fellow employees, and the public in accordance with sections II.B.2, above; and shall take appropriate

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 6 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

action to maximize public safety and minimize potential liability while respecting the rights of the employee or volunteer. No applicant for employment will be permitted to report for work until the Director of Human Resources, or his or her designee, has first determined from review of the CORI information that the applicant has no disqualifying convictions.

In addition, any employee, volunteer, intern, temporary agency or contract personnel who has direct contact with minors and for whom a disqualifier is subsequently revealed shall be subject to any one of the following actions:

- a. Transfer to a comparable position whose duties require no direct contact with children.
  - b. Reassignment to another department.
  - c. Placement back into a previously held position.
  - d. Termination.
5. The notice of rejection of application for employment or the notice of termination due to disqualifiers is the sole responsibility of the Human Resources Department. The Human Resources Department will immediately notify the Department of Justice that the affected applicant, employee, or volunteer has been rejected and that subsequent reports are not necessary.
  6. The appointing authority shall not make a hiring decision until after CORI has been received and reviewed by the Human Resources Department.
  7. The applicant, employee, or volunteer shall be responsible for reporting any conviction or arrest pending final adjudication to the Human Resources Department. If any conviction or arrest pending adjudication occurs while the employee or volunteer is working for the

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 7 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

City, the employee or volunteer shall report that conviction or arrest to the Human Resources Department. Failure to report an arrest or conviction shall be grounds for disciplinary action, up to and including termination.

8. Employees transferring or promoting to positions covered under this directive shall have a right of reversion to a previously held position in the event subsequent arrest information reveals a disqualifier; EXCEPT THAT the City reserves its right to discipline an employee, up to and including termination, pursuant to the City Charter, Stockton Municipal Code, Civil Service Rules, collective bargaining agreements, and/or any applicable laws or regulations.

#### **IV PENALTIES**

- A. Misuse of CORI is a criminal offense, which may result in criminal or civil prosecution and may result in administrative action up to and including loss of access to information maintained by the Department of Justice and/or termination of employment, in accordance with City Charter sections 1201(a) and 1502, Administrative Directive No. HR-008, applicable memoranda of understanding, and/or the Civil Service Rules and Regulations.
- B. Any violation of this policy shall result in disciplinary action, up to and including termination from City service.

APPROVED:

  


---

**KURT O. WILSON**  
**CITY MANAGER**

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 8 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

**APPENDIX A**

Convictions for which an applicant may be rejected, or for which refusal of certification for appointment, or termination of employment may result, are as follows:

Crimes Against Persons

- Murder (Penal Code § 187, *et seq.*)
- Voluntary manslaughter (Penal Code § 191.5, *et seq.*)
- Mayhem (Penal Code § 203, *et seq.*)
- Torture (Penal Code § 206, *et seq.*)
- Robbery (Penal Code § 211, *et seq.*)
- Assault and/or battery (Penal Code §§ 240, *et seq.*; 243, *et seq.*)
- Rape (Penal Code §§ 261-263; 269.)
- Kidnapping (Penal Code § 207, *et seq.*)
- Prostitution (Penal Code §§ 266-267)
- Lewd or lascivious acts (Penal Code §§ 288, 288.2 )
- Indecent exposure (Penal Code § 314)
- Stalking (Penal Code § 646.9, *et seq.*)
- Registered sex offender (Penal Code § 290)
- Child abandonment (Penal Code § 271, *et seq.*)
- Contributing to the delinquency of a minor (Penal Code § 272, *et seq.*)
- Incest (Penal Code § 285)
- A criminal violation that is substantially similar in nature to any of the foregoing crimes against persons.

Crimes Against Property

- Arson (Penal Code § 451, *et seq.*)
- Theft / Larceny (Penal Code § 484, *et seq.*)
- Burglary (Penal Code § 458, *et seq.*)
- Forgery (Penal Code § 470, *et seq.*)
- Embezzlement (Penal Code § 503, *et seq.*)
- Identity theft (Penal Code § 530.5, *et seq.*)

**CITY OF STOCKTON, CALIFORNIA  
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

<b>Subject:</b>  <b>FINGERPRINTING OF APPLICANTS, EMPLOYEES, INTERNS, TEMPORARY AGENCY EMPLOYEES, AND VOLUNTEERS APPLYING FOR AND HOLDING POSITIONS WITH THE CITY OF STOCKTON</b>	<b>Directive No.</b>  <b>HR-40</b>	<b>Page 9 of 9</b>
	<b>Effective Date:</b> <b>4/7/14</b>	<b>Revised from:</b> <b>8/1/95</b> <b>3/1/00</b> <b>8/30/04</b> <b>7/24/06</b> <b>4/14/08</b>

- Extortion (Penal Code § 581, *et seq.*)
- A criminal violation that is substantially similar in nature to any of the foregoing crimes against property.

Crimes involving Controlled Substances

Any crime described in the California Uniform Controlled Substance Act (division 10, commencing with section 11350), except where consideration of such conviction for employment purposes is prohibited or otherwise limited by law per Labor Code § 432.8. Employers are prohibited from considering marijuana related convictions which are more than two (2) years old. Specifically, agencies may not consider marijuana related convictions for violations of subdivision (b) or (c) of section 11357 of the Health and Safety Code or a statutory predecessor thereof, or subdivision (c) of section 11360 of the Health and Safety Code, or section 11364, 11365, or 11550 as related to marijuana prior to January 1, 1976, or a statutory predecessor thereof.

Miscellaneous Crimes

- Perjury (Penal Code § 118, *et seq.*)
- Falsifying/Tampering with Evidence (Penal Code §§ 132-135.5)
- Falsifying public documents (Penal Code § 112, *et seq.*)
- Bribery (Penal Code §§ 68, 92, *et seq.*, 165)
- Money laundering (Penal Code § 186.9, *et seq.*)
- Bookmaking (Penal Code § 337a)
- Misappropriation of public funds (Penal Code § 424, *et seq.*)
- A criminal violation that is substantially similar in nature to any of the foregoing miscellaneous crimes.



## EXHIBIT B INSURANCE

*NOTE: The City of Stockton is now using the online insurance program PINS Advantage. Once you have been awarded a contract you will receive an email from the City's online insurance program requesting you to forward the email to your insurance provider(s). Please see attached flyer regarding PINS Advantage.*

**Note: Construction or repairs on site may require additional insurance to be discussed in negotiations.**

**Insurance Requirements for Facility Operator. NOTE: If Improvements are made to the Facility by Operator, this Insurance Exhibit will be expanded for that or any other additional work contemplated by Operator.**

Operator shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Operator's operation and use of the leased premises. The cost of such insurance shall be borne by the Operator

### **MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury and **sexual abuse and molestation coverage**, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Workers' Compensation insurance** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease. (for Operators with employees).
3. **Property insurance** against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named insured; whichever is greater. No representation is made that the minimum insurance requirements of this agreement are sufficient to cover the obligations of the Operator under this agreement.

## **Limits of Insurance**

The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

### **Other Insurance Provisions:**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

#### **Additional Insured Status**

The City of Stockton, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Operator including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Operator's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used). Additional insured Name of Organization shall read "City of Stockton, its officers, officials, employees, and volunteers." Policy shall cover City of Stockton, its officers, officials, employees, and volunteers for all locations work is done under this contract.

#### **Primary Coverage**

The Additional Insured coverage under the Operator's policy shall be "primary and noncontributory" and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13. The City of Stockton does not accept endorsements limiting the Operator's insurance coverage to the sole negligence of the Named Insured.

#### **Notice of Cancellation**

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City of Stockton.

#### **Waiver of Subrogation**

Operator hereby grants to City of Stockton a waiver of any right to subrogation which any insurer of said Operator may acquire against the City of Stockton by virtue of the payment of any loss under such insurance. Operator agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Stockton has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of

subrogation in favor of the City of Stockton for all work performed by the Operator, its employees, agents and subcontractors.

### **Self - Insured Retentions**

All Self-insured retentions must be disclosed to Risk Management for approval and shall not reduce the limits of liability. The City of Stockton may require the Operator to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City of Stockton.

### **Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City of Stockton.

### **Verification of Coverage**

Operator shall furnish the City of Stockton with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City of Stockton Risk Services before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Operator's obligation to provide them. The City of Stockton reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Operator shall, prior to the commencement of work under this Agreement, provide the City of Stockton with a copy of its declarations page(s) and endorsement page(s) for each of the required policies.

### **Subcontractors**

Operators shall require and verify that all subcontractors, or other parties hired for this work, purchase and maintain coverage for indemnity and insurance requirements as least as broad as specified in this agreement to the extent they apply to the scope of the subcontractor's work with the same certificate of insurance requirements and naming as additional insureds all parties to this contract. Operator shall include the following language in their agreement with Subcontractors: "Subcontractors hired by Operator agree to be bound to Operator and City in the same manner and to the same extent as Operator is bound to City under the contract documents and provide a valid certificate of insurance and the required endorsements included in the agreement as proof of compliance prior to commencement of any work and to include this same requirement for any subcontractors they hire for this work. A copy of the owner contract document indemnity and insurance provisions will be furnished to the subcontractor upon request." Operator shall provide proof of such compliance and verification to the City upon request.

**Special Risks or Circumstances**

City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**Certificate Holder Address**

Proper address for mailing certificates, endorsements and notices shall be:

City of Stockton Attn: City Risk Services  
400 E Main Street, 3rd Floor – HR  
Stockton, CA 95202

SAMPLE

## EXHIBIT C

### GENERAL TERMS AND CONDITIONS

1. **Operator Services.** Subject to the terms and conditions set forth in this Agreement, Operator shall provide to City the services described in Exhibit A and Exhibit D of the Agreement. Operator shall provide said services at the time, place and in the manner specified in Exhibit A and Exhibit D of the Agreement.
2. **City Assistance, Facilities, Equipment and Clerical Support.** Except as set forth in Exhibit A and Exhibit D, Operator shall, at its sole cost and expense, furnish and maintain all facilities and equipment that may be required for furnishing services pursuant to this Agreement. If applicable, City shall furnish to Operator only the facilities and equipment listed in Exhibit A and Exhibit D to the Agreement.
3. **Compensation.** Operator shall not be compensated for work at Facility under the terms of this Agreement.
4. **Sufficiency of Operator's Work.** All Operator services, work, and deliverables shall be performed in a good and workmanlike manner with due diligence in accordance with the degree of skill normally exercised by similar Operators supplying services and work of a similar nature, and in conformance with applicable laws, codes and professional standards. Operator's work shall be adequate and sufficient to meet the purposes of this Agreement.
5. **Ownership of Work.** All reports, work product, all other documents completed or partially completed by Operator or its approved subcontractors, in performance of this Agreement, and if applicable, drawings, designs, and plan review comments shall become the property of the City. Any and all copyrightable subject matter in all materials is hereby assigned to the City and the Operator and its approved subcontractors agree to execute any additional documents that may be necessary to evidence such assignment. All materials shall be delivered to the City upon completion or termination of the work under this Agreement. If any materials are lost, damaged or destroyed before final delivery to the City, the Operator shall replace them at its own expense. Operator and its approved subcontractors shall keep materials confidential. Materials shall not be used for purposes other than performance of services under this Agreement and shall not be disclosed to anyone not connected with these services, unless the City provides prior written consent.
6. **Timeliness.** Time is of the essence in this Agreement. Further, Operator acknowledges that the failure of Operator to comply with the time limits described in Exhibit A and Exhibit D may result in economic or other losses to the City.
7. **Changes.** Both parties to this Agreement understand that it may become desirable or necessary during the term of this Agreement for City to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with City and the change and cost shall be

memorialized in a written amendment to the original contract prior to the performance of the additional work. Until the amendment is so executed, City will not be responsible to pay any charges Operator may incur in performing such additional services, and Operator shall not be required to perform any such additional services.

**8. Amendment.** No variation of the terms of this Agreement shall be valid unless an amendment is made in writing and signed by both parties.

**9. Operator's Status.**

9.1 In performing the obligations set forth in this Agreement, Operator shall have the status of an independent Operator and Operator shall not be considered to be an employee of the City for any purpose. All persons working for or under the direction of Operator are its agents and employees and are not agents or employees of City. Operator by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of City. Except as expressly provided in Exhibit A and Exhibit D, Operator has no authority or responsibility to exercise any rights or power vested in the City. No agent, officer or employee of the City is to be considered an employee of the Operator. It is understood by both Operator and City that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture. Nothing in this Agreement, either express or implied, is intended to confer upon any person or entity, other than City and Operator and their respective officers, directors, employees, and agents providing services under this Agreement any rights, remedies, obligations or liabilities or by reason of this Agreement.

9.2 Operator shall determine the method, details and means of performing the work and services to be provided by Operator under this Agreement. Operator shall be responsible to City only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to City's control with respect to the physical action or activities of Operator in fulfillment of this Agreement. Operator has control over the manner and means of performing the services under this Agreement. If necessary, Operator has the responsibility for employing other persons or firms to assist Operator in fulfilling the terms and obligations under this Agreement.

9.3 If in the performance of this Agreement any third persons are employed by Operator, such persons shall be entirely and exclusively under the direction, supervision and control of Operator. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Operator.

9.4 It is further understood and agreed that Operator must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Operator's assigned personnel under the terms and conditions of this Agreement.

9.5 *(Reserved for language related to improvements to the facility, if any.)*

**10. Subcontractors.**

10.1 Subcontractors shall not be recognized as having any direct or contractual relationship with City. Operator shall be responsible for the work of subcontractors, which shall be subject to the provisions of this Agreement. Subcontractors will be provided with a copy of the Agreement and be bound by its terms. Operator is responsible to City for the acts and omissions of its subcontractors and persons directly or indirectly employed by them.

10.2 If in the performance of this Agreement any third persons are employed by Operator, such persons shall be entirely and exclusively under the direction, supervision and control of Operator. All terms of employment including hours, wages working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by Operator.

10.3 It is further understood and agreed that Operator must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Operator's personnel.

10.4 Prevailing Wage. If Operator uses subcontractor for improvements, language will be added regarding any requirements by the State of California and the Department of Industrial Relations (DIR) by Operator to pay Prevailing Wage rates to all public works contracts as set forth in Labor Codes Section 1720, 1720.2, 1720.3, 1720.4 and 1771.

10.5 Prevailing Wage and Contractor/Subcontractor Registration Requirements. Without limiting the generality of the foregoing, the City requires compliance with its prevailing wage requirements and requires compliance with bidding and bond requirements for alterations, additions, improvements, ad associated work with any improvements to the Facility during the term, whether by or on behalf of City or Operator which can be found at the State of California website at [www.dir.ca.gov/DPreWageDetermination.htm](http://www.dir.ca.gov/DPreWageDetermination.htm).

## 11. Termination.

11.1 Termination without Cause. Notwithstanding the term of Agreement and extension options provided herein, this Agreement may be terminated without cause in the sole discretion of either party by given at least three months (3 months) prior written notice to the other part of election to terminate this Agreement. The Director of Community Services is hereby authorized to give termination on behalf of the City.

11.2 Termination for Breach. Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving **ten working days written** notification to the other party.

11.3 Funding- Non-Appropriation. It is mutually understood between the Parties

that payment to the Operator for performance shall be dependent upon the availability of appropriations by the City Council for the purposes of this Agreement. No legal liability on the part of the City for any payment may arise under this Agreement until funds are made available and until the Operator has received funding availability, which will be confirmed in writing. If funding for any fiscal year is reduced or deleted, or if the City loses funding for any reason, the City, in its sole discretion, shall have the option to either (a) cause this Agreement to be canceled or terminated pursuant to applicable provisions of the Agreement; or (b) offer to amend the Agreement to reflect the reduced funding for this Agreement.

**12. Non-Assignability.** The Operator shall not assign, sublet, or transfer this Agreement or any interest or obligation in the Agreement without the prior written consent of the City, and then only upon such terms and conditions as City may set forth in writing. Operator shall be solely responsible for reimbursing subcontractors.

**13. Indemnity and Hold Harmless.** With the exception that this section shall in no event be construed to require indemnification by Operator to a greater extent than permitted under the public policy of the State of California, Operator shall, indemnify, protect, defend with counsel approved by City and at Operator' sole cost and expense, and hold harmless City, its Mayor, Council, officials, representatives, agents, employees, and volunteers from and against any and all claims, causes of action, liabilities, judgments, awards, losses, liens, claims, stop notices, damages, expenses, and costs (including without limitation attorneys' fees, expert and consultant fees, and other expenses of litigation) of every nature, including, but not limited to, death or injury to persons, or damage to property, which arise out of or are in any way connected with the work performed, materials furnished, or services provided under this Agreement, or from any violation of any federal, state, or municipal law, or ordinance, or City Policy, by Operator or Operator' officers, agents, employees, volunteers, or subcontractors. Operator shall not be obligated to indemnify or defend City for claims finally determined by a court of law or arbitrator to arise from the active negligence or willful misconduct of the City. It is the intent of the Parties that this indemnity obligation is at least as broad as is permitted under California law. To the extent California Civil Code sections 2782, et seq., limit the defense or indemnity obligations of Operator to City, the intent hereunder is to provide the maximum defense and indemnity obligations allowed by Operator under the law. The indemnity set forth in this section shall not be limited by insurance requirements or by any other provision of this Agreement.

With the exception that this section shall in no event be construed to require indemnification, including the duty to defend, by Operator to a greater extent than permitted under the public policy of the State of California, the parties agree that Operator' duty to defend City is immediate and arises upon the filing of any claim against the City for damages which arise out of or are in any way connected with the work performed, materials furnished, or services provided under this Agreement by Operator or Operator' officers, agents, employees, volunteers, or subcontractors. Operator' duties and obligations to defend the City shall apply regardless of whether or not the issue of the City's liability, breach of this Agreement, or other obligation or fault has been determined. Operator shall be immediately obligated to pay for City's defense costs of the claim, including, but not limited to, court costs, attorney's



fees and costs, expert consultant, and witness fees and costs, other witness fees, document reproduction costs, arbitration fees, and, if after final judgment an appeal is pursued, all of such costs for the appeal. At the conclusion of the claim, if there is any determination or finding of sole active negligence or willful misconduct on the part of the City, City will then reimburse Operator for amounts paid in excess of Operator' proportionate share of responsibility for the damages within thirty (30) days after Operator provides City with copies of all bills and expenses incurred in the defense of the claim(s). It is agreed between the parties that this reimbursement provision assures Operator is not obligated to defend or indemnify City in an amount greater than provided for under California law, including, without limitation, California Civil Code sections 2782, 2782.6, and 2782.8.

With the exception that this section shall in no event be construed to require indemnification by Operator to a greater extent than permitted under the public policy of the State of California, and in addition to the other indemnity obligations in this Agreement, Operator shall indemnify, defend, and hold harmless City, its Mayor, Council, officials, representatives, agents employees, and volunteers from and against all claims, losses, expenses, and costs including but not limited to attorneys' fees, arising out of any claim brought against the City by an employee, office, agent, or volunteer of Operator, regardless of whether such claim may be covered by any applicable workers' compensation insurance. Operator' indemnification obligation is not limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Operator under workers' compensation acts, disability acts, or other employee benefit acts.

**14. Tender of Claims.** Pursuant to the obligation created by Indemnity clause above, Operator shall accept tender of any third-claim party submitted to it by City as a result of Operator obligation herein within 30 days of such tender.

**15. Insurance.**

15.1 Insurance Coverage. During the term of this Agreement, Operator shall maintain in full force and effect at its own cost and expense the insurance coverage as set forth in the attached Exhibit B to this Agreement and shall otherwise comply with the other provisions of Exhibit B to this Agreement.

15.2 Proof of Insurance. Operator shall provide proof of insurance in the required form to the City's Risk Manager prior to contract is attested as evidence that it has complied with the insurance requirements as set forth in Exhibit B. Operator shall guarantee Co-located partners or subcontractors have complied with the insurance requirements and fingerprinting requirements as appropriate.

15.3 Insurance related to Operator improvements to be added if improvements require construction.

**16. Notices.** All notices herein required shall be in writing and shall be sent by certified or registered mail, postage prepaid, addressed in Exhibit A to this Agreement.

**17. Conformance to Applicable Laws.** Operator shall comply with all applicable Federal, State, and Municipal laws, rules, and ordinances. Operator shall not

discriminate in the employment of persons or in the provision of services under this Agreement on the basis of any legally protected classification, including race, color, national origin, ancestry, sex or religion of such person.

**18. Licenses, Certifications and Permits.** Prior to the City's execution of this Agreement and prior to the Operator's engaging in any operation or activity set forth in this Agreement, Operator shall obtain a City of Stockton business license, which must be kept in effect during the term of this Agreement. Operator covenants that it has obtained all certificates, licenses, permits and the like required to perform the services under this Agreement. Such licenses, certificates and permits shall be maintained in full force and effect during the term of this Agreement. If improvements are included, all City, County, and State requirements for Permits and inspections will be satisfied. If concession operations will be provided on site, Operator will satisfy all applicable requirements regarding concessions, food handling, health permits and facility permits. Additional language may be added here based on final negotiations.

**19. Records and Audits.** Operator shall keep true and correct records of all gross receipts, operating revenue and operating expenditures and submit an annual financial report to the City by April 1 of each year of as part of the Annual Financial Report. Records shall include all items reasonably necessary to verify Operator's annual Profit and Loss Statement. All records shall be kept for not less than five (5) years after delivery of the required annual report. At any time during normal business hours, the records shall be made available to the City to inspect and audit.

**20. Confidentiality.** Operator shall exercise reasonable precautions to prevent the unauthorized disclosure and use of City reports, information or conclusions.

**21. Conflicts of Interest.** Operator covenants that other than this Agreement, Operator has no financial interest with any official, employee, agent, or other representative of the City. Operator and its principals do not have any financial interest in real property, sources of income or investment that would be affected in any manner of degree by the performance of Operator's services under this Agreement. If such an interest arises, Operator shall immediately notify the City.

**22. Waiver.** In the event either City or Operator at any time waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or of any other covenant, condition or obligation. No payment, partial payment, acceptance, or partial acceptance by City shall operate as a waiver on the part of City of any of its rights under this Agreement.

**23. Governing Law.** California law shall govern any legal action pursuant to this Agreement with venue for all claims in the Superior Court of the County of San Joaquin, Stockton Branch or, where applicable, in the Federal District Court of California, Eastern District, Sacramento Division. The prevailing party in any action brought to enforce or construe the terms of this Agreement may recover from the other party its reasonable costs and attorney's fees expended in connection with such an action.

24. **No Personal Liability.** No official or employee of City shall be personally liable to Operator in the event of any default or breach by the City or for any amount due Operator.

25. **Severability.** If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or city statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

26. **Non-Discrimination.** During the performance of this Agreement, Operator and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state, or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation, family and medical care leave, pregnancy leave, or disability leave. Operator and its officers, employees, agents, representative or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the City's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12990 (et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulation or Code of Federal Regulations. Title VI of the Civil Rights Act of 1964 requires that "no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (42 USC Section 2000d). <http://www.dol.gov/oasam/regs/statutes/titlevi.htm>. The City requires compliance with the requirements of Title VI in all of its programs and activities regardless of funding source.

27. **Force Majeure.** Neither party shall be responsible for delays or failures in performance resulting from acts of God, acts of civil or military authority, terrorism, fire, flood, strikes, war, epidemics, pandemics, shortage of power or other acts or causes reasonably beyond the control of that party. The party experiencing the force majeure event agrees to give the other party notice promptly following the occurrence of a force majeure event, and to use diligent efforts to re-commence performance as promptly as commercially practicable.

28. **Taxes and Charges including Possessory Interest.** Operator shall be responsible for payment of all taxes, fees, contributions or charges applicable to the conduct of the Operator's business. Operator recognizes and understands that this Agreement may create a possessory interest subject to property taxation and that if such an interest is created, Operator shall be solely liable and responsible for the payment of any such taxes levied regarding operations of this Facility.

29. **Cumulative Rights.** Any specific right or remedy provided in this Agreement will

not be exclusive but will be cumulative of all other rights and remedies to which may be legally entitled.

**30. Advice of Attorney.** Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

**31. Heading Not Controlling.** Headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.

**32. Entire Agreement, Integration, and Modification.**

32.1 This Agreement represents the entire integrated agreement between Operator and the City; supersedes all prior negotiations, representations, or agreements, either written or oral between the parties and may be amended only by a written Amendment signed by the Operator and City Manager.

32.2 All Exhibits to this Agreement and this Agreement are intended to be construed as a single document.

**33. Counterparts.** This Agreement may be executed in one or more counterparts, by original signature, by electronic or digital signature, or by fax, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

**34. Authority.** The individual(s) executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

## EXHIBIT D

### FACILITY OPERATOR SPECIAL TERMS AND CONDITIONS

1. **Definitions.** The following words and phrases have the following meanings for purposes of this Agreement:

1.1 "Services" means, collectively, the services, duties and responsibilities described in Exhibit A of this Agreement and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement.

1.2 "Deliverable" means quantifiable goods or services that will be provided upon completion of a project. A deliverable is any tangible material, work or thing delivered by one party to the other, including associated technical documentation. A deliverable can be tangible or intangible parts of the development process, and often are specified functions or characteristics of the project.

2. **General.** The following terms and conditions are applicable for the Facility Operator Services only. The special conditions shall be read in conjunction with the Standard Agreement, General Terms and Conditions ("GTC") Exhibit C, and all other Exhibits identified in the Standard Agreement.

2.1 Where any portion of the GTC is in conflict to or at variance with any provisions of the Special Conditions of the Agreement, then unless a different intention stated, the provision(s) of the Special Conditions of the Agreement shall be deemed to override the provision(s) of GTC only to the extent that such conflict or variations in the Special Conditions of the Agreement are not possible of being reconciled with the provisions of the GTC.

2.2 In the case of modification of a part or provision of the GTC, the unaltered part or provision, or both shall remain in effect. The Special Conditions shall relate to a particular project and be peculiar to that project but shall not weaken the character or intent of the GTC.

3. **Time for Performance.**

Timeliness of Performance i) Operator shall provide the Services, and Deliverables within the term and within the time limits required under this Agreement, pursuant to the provisions of Exhibit A and Exhibit D. ii) Neither Operator nor Operator's agents, employees nor subcontractors are entitled to any damages from the City, nor is any party entitled to be reimbursed by the City, for damages, charges or other losses or expenses incurred by Operator by reason of delays or hindrances in the performance of the Services, whether or not caused by the City.

#### **4. Standard of Performance**

In addition to Exhibit C, Section 4 and 17, Operator agrees as follows:

4.1 Operator's Services shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of Operator's profession currently practicing under similar conditions. Operator shall comply with the profession's standard of performance, applicable laws, regulations, and industry standards. By delivery of completed work, Operator certifies that the work conforms to the requirements of this Agreement and all applicable federal, state and local laws. If Operator is retained to perform services requiring a license, certification, registration or other similar requirement under California law, Operator shall maintain that license, certification, registration or other similar requirement throughout the term of this Agreement.

4.2 Operator acknowledges that it is entrusted with or has access to valuable and confidential information and records of the City and with respect to that information, Operator agrees to be held to the standard of care of a fiduciary. Operator shall assure that all services that require the exercise of professional skills or judgment are accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed, if required by law. Operator must provide copies of any such licenses. Operator remains responsible for the professional and technical accuracy of all Services or Deliverables furnished, whether by Operator or its subcontractors or others on its behalf. All Deliverables must be prepared in a form and content satisfactory to the Using Agency and delivered in a timely manner consistent with the requirements of this Agreement.

4.3 If Operator fails to comply with the foregoing standards, Operator must perform again, at its own expense, all Services required to be re-performed as a direct or indirect result of that failure. Any review, approval, acceptance or payment for any of the Services by the City does not relieve Operator of its responsibility for the professional skill and care and technical accuracy of its Services and Deliverables. This provision in no way limits the City's rights against Operator either under this Agreement, at law or in equity.

#### **5. Compensation**

5.1.0 In addition to Section 3 Compensation in Exhibit C – GTC, Operator shall retain 100% of revenue and proceeds from all Operator related income producing activities associated with Facility Operations, including, but not limited to the following: rental fees, facility use fees, concessions (excluding the City's exclusive right to vending machines on site) fundraising, etc. Operator shall report 100% of income and revenue relate to Facility pursuant to terms of this Agreement.

5.1.2 There will be no compensation to the City by Operator for Operator's use of the Facility. The Operator will keep any revenue raised by Operator from the activities at the Facility.

5.1.3 At the termination of the Agreement, the City shall have and assume no liability for costs, expenses, damages or lost profits resulting from contracts entered into by Operator with third parties in reliance upon this Agreement.

## **6. Personnel**

6.1 Any work or services subcontracted hereunder shall be specified by written agreement and shall be subject to each provision of this Agreement. Operator shall provide subcontractor a copy of this fully executed Agreement.

6.2 Operator agrees to assign only competent personnel according to the reasonable and customary standards of training and experience in the relevant field to perform services under this Agreement. Failure to assign such competent personnel shall constitute grounds for termination of this Agreement. The payment made to Operator pursuant to this Agreement shall be the full and complete compensation to which Operator and Operator's officers, employees, agents, and subcontractor are entitled for performance of any work under this Agreement. Neither Operator nor Operator's officers or employees are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to employees of the City. The City will not make any federal or state tax withholdings on behalf of Operator. The City shall not be required to pay any workers' compensation insurance on behalf of Operator. Operator shall pay, when and as due, any and all taxes incurred as a result of Operator's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request.

6.3 Key Personnel. Because of the special skills required to satisfy the requirements of this Agreement, Operator shall not reassign or replace key personnel without the written consent of the City, which consent the City will not unreasonably withhold. "key personnel" means those job titles and the persons assigned to those positions in accordance with the provisions of this Agreement. The City may at any time in writing notify Operator that the City will no longer accept performance of Services under this Agreement by one or more Key Personnel listed. Upon that notice Operator shall immediately suspend the services of the key person or persons and must replace him or them in accordance with the terms of this Agreement. A list of key personnel is found in Exhibit A, Scope of Services.

6.4 New Hire, Recruitment, and Staffing Guidelines. Operator shall hire, supervise, and manage all personnel necessary for the management, operation, and maintenance of Facility and shall comply with City's administrative directive with respect to fingerprinting Operator employees and volunteers. If Operator has staff who directly supervise youth, Operator shall follow the guidelines for HR40 for fingerprinting of

employees who directly supervise youth. Any individual who has been convicted of certain criminal offenses as set forth below is not eligible to work or volunteer under this Agreement.

Operator shall comply with the relevant portions concerning Attachment 1 of Exhibit A, HR 40 City Manager's Administrative Directive, regarding who must be fingerprinted and what offenses or disqualifiers will prohibit an individual from working at Facility. Operator employees and volunteers, if applicable, are required to submit fingerprints in a manner authorized by the State of California Department of Justice. Operator and all applicable employees/volunteers shall submit fingerprints prior to the start of work pursuant to this Agreement. Operator is responsible for all costs of fingerprinting and background check. Any individual who has been convicted of certain specified criminal offenses is not eligible to work at Facility. The disqualifying criminal convictions are as follows: Any of those offenses identified in City of Stockton Administrative Directive HR-40, a copy of which is attached hereto as and incorporated herein by reference, California Public Resources Code, Section 5164, except for those provisions contained in California Penal Code Sections 211, 215, 236,240, provided, however, that any individual who has been convicted of violating Penal Code Section 211, 215, 236, or 240 may, in the sole discretion of the City, nevertheless be ineligible to work or volunteer at the Facility.

In addition, if any Operator employees assigned to work at the Facility are subsequently found to have a disqualifying conviction, Operator expressly agrees to remove those employees immediately from the Facility and take all necessary actions to ensure that they are not permitted to perform any further work under this Agreement. Additionally, should any officers of Operator be subsequently found to have any of the disqualifying convictions set forth above, the contract may be immediately terminated by City at the City's sole discretion. Operator shall certify in writing to City before the first day of operation that neither the Operator Officers nor any of Operator's employees have been convicted of any of the specified disqualifying criminal offenses set forth above.

Operator shall certify in writing that all staff are in compliance with HR40 upon contract attest and following up with annual certification by January 15 of each year for the duration of this Agreement and any extension thereto.

## **7. Reports and Information**

Operator shall at such times and in such forms as the City may require furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters are covered by this Agreement as specified in Exhibit A and Exhibit E if applicable and discussed during negotiations.

## **8. Findings Confidential**



All of the reports, information, data, et cetera, prepared or assembled by the Operator under this Agreement are confidential and the Operator agrees that they shall not be made available to any individual or organization without the prior written approval of the City. Operator shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is required by applicable law or by proper legal or governmental authority, is already rightfully in the Operator's possession without obligation of confidentiality, is independently developed by Operator outside the scope of this Agreement or is rightfully obtained from third parties. Operator shall give City prompt notice of any such legal or governmental demand and reasonably cooperate with City in any effort to seek a protective order or otherwise to contest such required disclosure.

## **9. Copyright**

No materials, including but not limited to reports, maps, or documents produced as a result of this Agreement, in whole or in part, shall be available to Operator for copyright purposes. Any such materials produced as a result of this Agreement that might be subject to copyright shall be the property of the City and all such rights shall belong to the City, and the City shall be sole and exclusive entity who may exercise such rights.

## **10. Deliverables**

Operator shall prepare or provide to the City various Deliverables. "Deliverables" include work product, such as reports and analyses, produced by Operator for the City. The City may reject Deliverables that do not include relevant information or data, or do not include all documents or other materials specified in this Agreement or reasonably necessary for the purpose for which the City made this Agreement or for which the City intends to use the Deliverables. If the City determines that Operator has failed to comply with the foregoing standards, it has 30 days from the discovery to notify Operator of its failure. If Operator does not correct the failure, or if it is possible to do so, within 30 days after receipt of notice from the City specifying the failure, then the City, by written notice, may treat the failure as a default of this Agreement. Partial or incomplete Deliverables may be accepted for review only when required for a specific and well-defined purpose and when consented to in advance by the City. Such Deliverables will not be considered as satisfying the requirements of this Agreement and partial or incomplete Deliverables in no way relieve Operator of its commitments under this Agreement.

## **11. Management and Operations of Facility.**

11.1 Management Responsibilities. Operator owes to City the duty to perform its obligations under this Agreement and to conduct the management and operation of the Facilities at all times with integrity and good faith consistent with the terms of this Agreement and the well-being of the greater Stockton community in a manner consistent with industry practices and all applicable laws, permits, and requirements. Operator shall

follow policies and guidelines established by the City that are applicable to the operation and maintenance of the Facilities. Operator shall not enter into any material contracts which extend beyond the term of this Agreement and any extensions thereto.

11.2 Promotion of Facility and Facility Activities. City and Operator will actively cooperate to promote the Facility and related educational and recreational programs, events, and activities. City will provide marketing assistance and information through City resources. City will communicate marketing deadlines and opportunities through City publications and social media.

11.3 Use of City Logos. City may use Operator logo when advancing the purposes of this Agreement with the prior written approval of each use by Operator. Operator may use City logos on flyers and marketing items in addition to Operator logo with the prior written approval of each use by the City Public Information Officer.

11.4 Weekly Programming and Set Hours of Operation. Operator shall set and maintain a weekly programming schedule when facility is open. Weekly hours shall be set in Program Plan and reported in Annual Report. If Operator must shut down Facility during regularly scheduled hours, Operator must send a press release to Community Services Department at least 72 hours in advance unless the closure is due to an emergency.

11.5 Monthly Reporting of Activities. Operator will submit a complete and accurate report of all activities booked at the Facility in a manner agreeable to both parties.

11.6 Annual Program Plan. Operator will turn in annually, a report of goals, activities, and key performance measures annually, in a manner mutually agreeable to both parties. The purposes of this Annual Program Plan are to ensure Facility is used to its full potential and serve the needs of the community. The Annual Program Plan shall be received by February 1 annually. At a minimum, the Plan shall include:

- A report on all management policies in place;
- Narrative description of proposed use (day to day operations and schedule, listed hours of operation, a complete listing of activities, including classes, special events, community outreach programs, clinics, community workshops, trainings, and other opportunities);
- Mutually agreed format for statistics (identified goals, measurable objectives, program descriptions with categorized activity listings, monthly utilization data, demographic data, and program implementation data);
- Security plan;
- Annual Financial Report with a full summary of operating expenditures and operating revenues.
- Annual Inventory (upon attest of Agreement and annually)
- Finalized annual calendar of the prior year events and activities; and
- Capital Improvement Plan (recommendations for Capital Improvements).

11.7 Quarterly Meetings. Operator and City agree to meet quarterly to discuss issues of Facility operations, maintenance, and repair. Depending on any issues identified in the meetings, additional meetings may be scheduled as necessary during the term of this Agreement.

11.8 Rules and Regulations and Policies. All users of the Facility shall be required to adhere to City, State, and Federal policies, procedures, rules, and regulations now and hereafter adopted by CITY for use and control of the Facility. Operator shall have sole responsibility for enforcing all applicable rules and regulations during Operator use and will be responsible for asking those individuals who are in violation of the rules to leave the premises.

## **12. Responsibilities of Parties.**

### **12.1 City Responsibilities.**

City shall have the sole responsibility for providing and paying for the following services:

1. Landlord major improvements to roofing, HVAC, and plumbing.

### **12.2 Operator's Responsibilities.**

Operator shall have the sole responsibility for providing and paying for the following services and equipment:

2. Utilities
3. Water and Sewer charges (adequate hot and cold water and drainage)
4. Garbage service
5. Pest control
6. Maintenance and repairs
7. Landscaping
8. Security system and Fire system
9. Telephone and internet service including wiring.
10. Booking and scheduling of facility.
11. Computers and related IT services
12. Cash registers
13. Pick up of garbage, trash, and debris from daily Operator's operations
14. Communication with City Janitorial Vendor (if one is assigned).
15. Operator sports and recreational equipment and materials and supplies
16. Operational supplies
17. Daily operation performance of any equipment.
18. Reporting of vandalism or inappropriate use of facility.
19. Permits and inspections related to services provided.
20. All additional equipment for business at Facility.
21. Personnel for alarm call response. Including evenings, weekends, and holidays.

**13. Sanitary Condition and Safety of Facility.**

Operator shall be responsible for the safety and sanitary conditions of their use of the Facility and shall remedy without delay any defective, dangerous by taking immediate actions as appropriate. In addition, Operator shall be responsible for the daily housekeeping of the Facility related to Operator activities keeping Facility in a safe, clean, wholesome, and sanitary condition. Operator shall ensure, that, at all times, during the term of this Agreement that Facility shall be kept free of trash, garbage, and obstructions of any kind. And ensure that all trash resulting from cleaning shall be placed in appropriate containers. Facility shall be kept in compliance with any and all applicable present and future laws relating to sanitation, public health, safety, or welfare or any general rules and regulations of any governmental authority in force now, or at any time, during the term of this Agreement.

It shall be the responsibility of Operator to notify facility liaison or public works liaison of any urgent or emergency maintenance required, as provided by the City, to avoid harm to the interior and or exterior of the building, its contents, or other persons. If Operator fails to immediately notify City of urgent or emergency maintenance do so, Operator shall reimburse City for any costs related to Operator's failure to comply with this requirement. Including but not limited to, additional repair costs incurred because of delayed notification.

For non-urgent Facility maintenance issues, Operator will utilize the City Work Order process for orderly management of Facility issues. For urgent maintenance issues after hours, Operator may utilize the "Firecom" 24-hour line at (209) 937-8341.

**14. Signage.**

Operator agrees to submit all proposed signage to the City for review and approval. City maintains the sole right to deny logos, pictures, or other signage that fails to comply with existing City policies.

**15. Security.**

Operator shall be responsible for determining the security needs of the Facility, arrange for security for all events at the Each year, Operator and City representatives shall meet and update a written Security Plan which will outline day to day security of the Facility. The Security Plan shall include both emergency and non-emergency procedures and protocols to be followed by Operator and or any contractor or Facility user.

**16. Right of Entry, Keys, and Security Codes.**

Installation of locks and keys will be the responsibility of the City. Operator shall furnish a list of key holders and persons eligible for a security code to City Authorized Representative. Any changes to list must be communicated to City Representative within 24 working hours. Operator shall follow the City key policy. City shall maintain right to

enter to inspect or repair the Facility. Upon termination of Agreement, Operator shall surrender all sets of keys to the Facility and any Facility Improvements, to City. Failure of key protocol may require the building be rekeyed, and Operator charged.

**17. Acceptance of Condition of Facility**

Operator accepts the Facility and all equipment provided by the City hereunder in their present 'as is' condition.

**19. City Events.**

City shall have the ability to schedule seven (7) City activities at no cost to the City. City and Operator shall coordinate schedules, as appropriate. On the occasion that the City uses the Facility for special events, City shall be responsible for performing the housekeeping of the area after the event.

**21. City Ownership.**

City shall retain ownership of Facility and adjoining real property. Operator shall not be considered a tenant, and shall gain no right to occupy facilities as a tenant or any other property right or interest in the facilities by virtue of this Agreement.

**22. Emergency Contacts.**

Operator will provide City with emergency phone numbers of key staff and Board Members. Operator shall ensure that City representatives have the ability to communicate with said persons twenty-four hours a day when emergency maintenance or conditions occur. Operator will be responsible to answer fire and security alarm calls, respond to break-ins, and promptly meet with Police or security staff all hours of day or night.

**21. Concessions.**

Operator and City will meet and discuss a plan for operations and supervision of any proposed concessions activity on site. City and Operator will also meet and discuss collaborative meal programs for the benefit of the community which will be considered a distinctly different activity.

The need, demand, nature, extent and supplies/vendor of such optional services shall be determined at the sole discretion of the Director of Community Services or designee. Should any sponsorship agreements with beverage or food service companies, including sales clauses be considered, City and Operator will meet and confer prior to the execution of any agreement for the purposes of getting approval from the Director of Community Services, which approval shall not be unreasonably withheld. Operator shall also obtain prior written approval from City before any sale of food or beverages is conducted on site. No concessions equipment shall be installed without prior written permission from the City. City maintains the right to provide an exclusive vending agreement at the location.

The sale or use of alcoholic beverages is strictly prohibited in Facility unless agreed upon here. Operator shall provide copies of all related concession licenses for City review and approval prior to the commencement of any concession contract. It shall be the sole responsibility of Operator to ensure that all food and beverage products sold by Operator or its concessionaire(s) shall conform to all applicable federal, state and local laws, including the California Health and Safety Code, and other requirements.

**22. Naming Rights**

The City maintains the right to name the Facility in accordance with current or future City policies.

SAMPLE

**EXHIBIT E**  
**COMPENSATION SCHEDULE**

The Operator shall not be compensated for the services identified in Exhibit A, Exhibit C, and Exhibit D to this Agreement. This schedule is intentionally left blank.

SAMPLE

## EXHIBIT F

### TIMELINE

1. Consultant shall complete the requested services identified in Exhibit A as follows:

#### 1.1 TIMELINE FOR COMPLETION OF WORK

1.1.1 (insert deliverable title) (insert duration i.e. 1 week)

1.1.2 (insert deliverable title) (insert duration i.e. 1 day)

1.1.3 (insert deliverable title) (insert duration i.e. 3 weeks)