

# CITY OF STOCKTON



**REQUEST FOR PROPOSALS (RFP)  
THIRD-PARTY ADMINISTRATOR (TPA) TO MANAGE CITY'S SELF-INSURED GENERAL  
LIABILITY PROGRAM  
FOR THE CITY OF STOCKTON, CALIFORNIA  
(PUR 19-037)**

**PROPOSALS WILL BE RECEIVED UNTIL THE HOUR OF  
2:00 O'CLOCK P.M., THURSDAY, DECEMBER 19, 2019  
IN THE OFFICE OF THE CITY CLERK,  
FIRST FLOOR, CITY HALL, 425 NORTH EL DORADO STREET,  
STOCKTON, CALIFORNIA 95202-1997**

REQUEST FOR PROPOSALS (RFP)  
THIRD-PARTY ADMINISTRATOR (TPA) TO MANAGE CITY'S SELF-INSURED  
GENERAL LIABILITY PROGRAM  
PROJECT PUR 19-037

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## NOTICE INVITING PROPOSALS

NOTICE IS HEREBY GIVEN that Request for Proposals (RFP) are invited by the City of Stockton, California for specifications for **THIRD-PARTY ADMINISTRATOR (TPA) TO MANAGE CITY'S SELF-INSURED GENERAL LIABILITY PROGRAM (PUR 19-037)** in strict accordance with the specifications.

The City of Stockton is soliciting proposals for a Third-Party Administrator (TPA) to manage self-insured general liability program for the Human Resources Division, located at 400 E. Main Street, 3<sup>rd</sup> Floor, Stockton, CA.

No job walk will be held.

**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, December 19, 2019 at 2:00 p.m.****

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

### **Information on Technical Data**

Theresa Roland, Human Resources Division.  
e-mail: [procurement@stocktonca.gov](mailto:procurement@stocktonca.gov)

### **Information on Process/Clarification**

Susan Garcia, Procurement Division.  
e-mail: [procurement@stocktonca.gov](mailto:procurement@stocktonca.gov)

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

Dated: November 16, 2019

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

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**PROPONENT'S CHECKLIST**

Did You:

- \* \_\_\_ Complete the following proposal documents (FROM THIS PACKET ONLY SUBMIT PAGES 28 to 30, AND PLACE IN THE FRONT OF YOUR PROPOSAL). Complete Exhibit D Fee Schedule and submit as described in with the 3<sup>rd</sup> bulleted item listed below.
  
- \* \_\_\_ 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, (under separate cover).
  
- \* \_\_\_ 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 **December 19, 2019, 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 THIRD-PARTY ADMINISTRATOR (TPA) TO MANAGE CITY'S SELF-INSURED GENERAL LIABILITY PROGRAM"**
- B) PUR 19-037**
- C) DECEMBER 19, 2019**

**CONTACT INFORMATION:**

Information on Technical Data	Information on Process/Clarification
Theresa Roland, Human Resources Div. e-mail: <a href="mailto:procurement@stocktonca.gov">procurement@stocktonca.gov</a>	Susan Garcia, Procurement Division (209) 937-8001 e-mail: <a href="mailto:procurement@stocktonca.gov">procurement@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.

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**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 **THIRD-PARTY ADMINISTRATOR (TPA) TO MANAGE CITY'S SELF-INSURED GENERAL LIABILITY PROGRAM (PUR 19-037)** 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, December 19, 2019, 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, "**THIRD-PARTY ADMINISTRATOR (TPA) TO MANAGE CITY'S SELF-INSURED GENERAL LIABILITY PROGRAM (PUR 19-037)** 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)

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**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

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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 November 25, 2019. 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 November 27, 2019, and will become a part of the



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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

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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 that may be required will be the sole cost and responsibility of the successful proponent.

**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**

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

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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**

Payment will be made within thirty (30) days after invoices are received and accepted by the City Manager. Invoices are to be rendered monthly.

**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**

Five (5) year contract.

**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

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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**

Any contract which results from this Request will terminate without penalty at the end of the fiscal year in the event funds 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 sixty (60) calendar day advance 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 process, a contract may be awarded for **THIRD-PARTY ADMINISTRATOR (TPA) TO MANAGE CITY'S SELF-INSURED GENERAL LIABILITY PROGRAM (PUR 19-037)** for the City of Stockton.

The City reserves the right to select the successful proponent 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**

Liquidated damages in the amount of TBD dollars per day will be assessed per

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each working day over the 0.00 allotted for this project.

**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 JOB WALK**

There will be no job walk.

**1.32 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 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.

**1.33 Protest Policy**

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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.
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.

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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.

## **2.0 BACKGROUND/GENERAL NATURE OF SERVICE**

The City of Stockton, California (population 315,000) is located in San Joaquin County. Stockton is a full-service City, providing Police, Fire and Public services to the community. The City employs approximately 1500 full-time employees and 300+ part-time and seasonal employees. Full-time employees are members of the Public Employees' Retirement System (PERS).

The City has been permissibly self-insured for General Liability since January 1, 1979. The City purchases excess insurance coverage for its General Liability claims, maintaining a self-insured retention level of \$1,000,000.

Previously, the City's General Liability Program has been administered by the City's Risk Management Department, but due to extensive volume, this is no longer feasible. Over the past five (5) years, the number of new claims has averaged 300 per year.

The City's Deputy Director of Human Resources oversees the General Liability Program and the Safety Manager is responsible for management of the General Liability Program. The Risk Analyst will coordinate day-to-day aspects of the General Liability Program with the TPA.

## **2.1 SCOPE OF SERVICES**

The selected TPA awarded the contract shall operate under the general direction of the City's Risk Manager and consult with other City staff in developing effective procedures and practices to successfully administer the City's property and liability claims. The TPA shall perform all services and related work necessary for claims administration and statistical reporting. TPA services shall include, but are not limited to: general, automobile, and property liability claims administration, investigations, research, analysis, recording, reporting, subrogation, litigation management, liability trust account management and reconciliation, and related support services. The City will retain some litigation management and restitution/recovery functions but may call upon TPA to assist in these areas on a case-by-case basis.

### **i. Program Administration**

The selected TPA shall:

1. Consult with the City and provide professional and technical staff to assist in developing the necessary procedures and practices to implement and administer the City's self-insured program, including administering all open and closed Indemnity claims.



2. Convert the data from the data system of the present administrator to selected TPA's data system as the City wishes to maintain and integrate all claims into its current statistical base. Please indicate if there is a charge to convert loss data for all incurred claims, both open and closed files and the amount of that charge.
3. Follow the Records Retention Policy established and approved by the City. All files, records, transcripts including loss run data base files and other materials related to the management and administration of City's General Liability Program are the exclusive property of the City of Stockton and must be relinquished in good order and condition upon termination of the Agreement with the selected TPA. Selected TPA shall make files available for review by the City anytime during regular business hours. Selected TPA shall provide copies of file correspondence and documentation as requested by the City.
4. Maintain a master file of claims administration policies, practices and guidelines, and any other material needed to properly administer claims in accordance with applicable state law and City instructions.
5. Provide City's General Liability Analyst and City Attorney's Office with user connections (and software if applicable) on City's existing personal computer, to allow database inquiry access and e-mail capability to TPA's claim processing system. System should allow diary to be set by City's Analyst to follow up on pending issues as needed.
6. Conduct or assist in onsite or offsite training as needed for City personnel involved directly or indirectly in the processing of general liability cases. Inform the City of changes or proposed changes in statutes, rules, regulations, and case law affecting its general liability claims program
7. Periodically update all form letters used in connection with claim processing. The City of Stockton reserves the right to approve and disapprove all forms and form letters.
8. Represent City in all matters related to the set-up, investigation, adjustment, processing, negotiation, and resolution of liability claims against City.
9. Provide accurate, appropriate claims handling in a timely manner, according to agreed upon performance standards and state requirements.
10. Provide the City with written information on changes or proposed changes in statutes, rules and regulations affecting the City's responsibility under a legally self-insured General Liability Program.
11. Inform the City of problem areas or trends, both potential and perceived, and

provide recommendations and/or solutions to address problem areas or trends. Matters of significance must be called to the City's attention at the earliest appropriate time (i.e. disgruntled employees, system problems, large overpayments, large reserve changes, etc.).

12. Attend client meetings as requested by the City of Stockton. TPA's travel expenses in connection with client meetings or other matters relating to claims processing shall be paid by the TPA.
13. Attend appointments, including but not limited to meetings, conferences, court appearances, and scene investigations at the request of the City.
14. Install and/or utilize any necessary automated claims administration systems. TPA shall have ability to integrate with external/third party system, including imports of claims financial data, transaction details, and adjusters' notes from TPA and carriers, as well as exports of financial transaction data and imports to capture payment details from City's Enterprise Resource Planning System (ERP) and/or Accounts Payable systems (e.g. Central Square HTE, Tyler Munis, etc), among other data feeds.
15. Transfer records and systems to the succeeding Administrator at the termination of the contract with no additional cost or fee required.
16. Administrative fees should cover the cost of TPA's staff; all office space; storage space for closed files; supplies; forms/posters/pamphlets; standard management reports; telephone expenses; postage; checks (if utilizing TPA's own checking account); computer hardware/software; transcription services; and other equipment/supplies necessary for claims handling.

ii. Claims Administration

Selected TPA shall:

1. Only utilize outside expert services or subcontractors with prior approval from the City. City reserves the right to approve, disapprove, or select all service providers and vendors selected by TPA.
2. Ensure every file contains a Plan of Action, quarterly litigation budgets and the steps to accomplish it. The Plan of Action should be updated during each diary review. Files should be clearly documented, with claim notes reflecting ongoing file activity. All conversations and issues should be documented.
3. Provide professional and courteous responses to receipt of telephone calls, written or in-person inquiries, complaints and questions from all sources within 48 hours of receipt. Such inquiries may include claim payment or benefit related questions from parties with authorized access to information,

such as claimants, vendors, providers, legal counsel, the City of Stockton, etc.

4. Ensure all claims management adhere to the requirements of the California Government Code for accepting, denying, and rejecting claims;
5. At the direction of the City, contact claimants or their attorneys within five (5) business days of receipt of a claim and maintain appropriate contact with them until the claim is closed;
6. Review the status of claims and assist as directed with setting of adequate reserves on all active cases at least every ninety (90) calendar days;
7. Review all claims for liability and provide first investigative report within thirty (30) calendar days of receipt of claim to City's Risk Management Division;
8. Provide narrative reports when recommending rejection or settlement of a claim, when going to trial, or other significant events occur. Reports must be clear and concise;
9. Negotiate settlements within authority limits provided by City. Funding for the payment of any settlement is specifically excluded from this agreement;
10. Report claims in compliance with Medicare, Medicaid, and SCHIP Extension Act (MMSEA) Section 111;
11. Process payments within authority levels provided by City within fourteen (14) business days of receipt;
12. File all supporting documentation for payments made in the appropriate claim file.
13. Checking: follow the banking requirements of the City, such as establishing, maintaining and reconciling an **interest-bearing checking account** with appropriate deposit and transfer procedures for the payment of claims; or if utilizing a City of Stockton checking account, provide monthly records of financial transactions to coordinate with City's computer or ERP system, or make other claims payment arrangements which are acceptable to the City. The TPA claims administrator will maintain check registers and provide a monthly check register to the City, along with a copy of all checks and vouchers.

14. Reserve Adequacy and Accuracy: Maintain reserves for each file to reflect the probable future liability of a claim as required by Title 8, California Code of Regulation, Section 15300. Reserve calculations should be accurate and adjusted as facts change. Detailed reserve worksheet calculations to be retained in claim file.
15. Provide any required federal or state financial or tax reports. Provide appropriate information, documentation and cooperation to State of California or City of Stockton Auditor upon request.
16. Reconcile all claim file payments twice per year, and upon settlement and file closure. Proof of resolution should remain in claim file.
17. Overpayments/Errors: Any overpayments/incorrect payments should be reported to the City immediately, along with diligent efforts to collect all overpayment and resolve any other incorrect payments.
18. Diary dates shall be established to allow for timely completion of required activity and no less frequently than every sixty (60) calendar days. TPA shall monitor the timely completion of diary notes;
19. All correspondence shall be returned within 48 hours of receipt, unless an immediate response is required;
20. Written responses to requests that cannot be emailed, shall be mailed within ten (10) business days of receipt, unless an immediate response is required;
21. Identify and notify co-defendants within thirty (30) calendar days of identification;
22. Have translators available to assist with non-English speaking claimants.

iii. Investigations

TPA shall:

1. Within ten (10) business days of receipt of claim, unless otherwise requested by City Risk Manager, take statement of facts from claimants when not represented by an attorney. Statements will be preserved by recording or taking hand-written signed statements;
2. Investigate claims where the initial review indicates that it is warranted. Further investigation may include, but is not limited to, on-sight investigation,

photographs, interviewing witnesses and taking signed or recorded statements, verification of damage or loss, taking measurements, obtaining maps/diagrams from the City or other sources, obtaining medical releases, police reports, or other records as required;

iv. Litigation Management

The City of Stockton's City Attorney (CA) shall retain the litigation management function.

TPA shall:

1. Monitor outside defense counsel metrics to ensure quality work, timely communication within City account instructions, statutes and regulations; accurate billings, and case resolution.
2. Analyze settlement potential, including options and recommendations. Settlement authority forms should be completed and approved by City's Human Resources Department and City Attorney office prior to being negotiated with attorney of claimant.
3. Prepare and submit settlement recommendations for approval by the City prior to commencing settlement negotiations.
4. Obtain fully executed release on all settlements and dismissals.
5. Attend Settlement Conferences, mediation or arbitrations as requested. Identify if cost will be a reimbursable item or rolled into the cost of the claim.
6. Bring all self-imposed penalties to the City's attention. Penalties incurred as a result of failure by the TPA to comply with statutory laws and/or administrative regulations shall be the sole responsibility of the TPA.
7. If a claimant's attorney is involved, direct all communication to the claimant's attorney regarding the investigation, negotiation, and evaluation of any claims leading to a settlement;
8. Close files as soon as practical and in accordance with State regulations.
9. Assist the City attorney and defense counsel in preparing and/or answering discovery as requested;

v. Subrogation

TPA shall:

1. Place the tortfeasor on notice of the City's subrogation rights; and
2. Work with the City Attorney to draft legal documents to recover monies spent on claim;
3. Aggressively investigate fraud and pursue restitution in all fraud cases. The City shall be notified of all claims involving potential fraud and initiation of fraud investigation activities

vi. Claims Management Information System (CMIS)

TPA shall:

1. Convert all open and closed claims data and enter new claims data into the TPA's CMIS;
2. Record all claims in a CMIS. Claims records must contain all pertinent claim information, including but not limited to claim number, date of loss, date of claim, claimant name and address, location of loss, description of incident, loss reserves, loss payments, and expense reserves;
3. TPA must create a review system to ensure accurate data will be entered into the CMIS. All claims must be reviewed on a periodic basis, as determined by the City. The review system must include a check on all the financial documentation entered into the CMIS to ensure the financial integrity of the system. In addition, the review system must include appropriate claims handling and reserving procedures, and timely file closures;
4. TPA shall use electronic notes in the CMIS to record activity which shall be updated with new developments. All significant documents (e.g. email communications, status updates from counsel, etc.) will be scanned/saved into the database by TPA;
5. TPA shall provide CMIS training, support, and access for up to three (3) City risk management staff so that they may search for claim information and data, as required;
6. Provide specified standard loss reports as agreed upon;
7. Provide special reports as needed by the City;

vii. Excess Insurance Reporting

The City is a member of the California Joint Powers Risk Management Authority (CJPRMA) since 1986.

TPA shall:

1. Report to CJPRMA in accordance with policy provisions outlined in paragraphs 3 and 4 below.
2. Reports to CJPRMA shall be made to:

California Joint Powers Risk Management Authority  
(CJPRMA) 4201 Doolan Road, Livermore, CA 94551

Phone (925) 837-0667

Fax (925) 290-1543

[info@cjprma.org](mailto:info@cjprma.org);

3. Pursuant to the requirements of Section VII (Conditions) of the Memorandum of Coverage as excerpted below:

The covered party shall notify the Authority within 30 days upon receipt of notice of a claim, or the setting of a reserve on any claim or suit including multiple claims or suits arising out of one occurrence, such claim or reserve amounting to fifty percent or more of the retained limit; Title 42 USC 1983 cases in which a complaint has been served and the plaintiff is represented by legal counsel or with reserves of twenty-five percent or more of the retained limit; or regardless of reserve, any claim involving:

- a. One or more fatalities;
- b. Loss of a limb;
- c. Loss of use of any sensory organ;
- d. Quadriplegia or paraplegia;
- e. Third degree burns involving ten percent or more of the body;
- f. Serious facial disfigurement;
- g. Paralysis; or
- h. Closed head injuries.

Written notice containing particulars sufficient to identify the covered party and also, reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the covered part and of available witnesses, shall be given by or for the covered party to the Authority or any of its authorized agents as soon as possible. The

covered party shall notify the Authority within 30 days upon receipt of lawsuit containing allegations involving employment practices liability. Where any lawsuit is reported after the 30-day period as required by this provision, all defense costs incurred prior to the date of late reporting will not constitute ultimate net loss eroding the self-insured retention. The covered parties shall cooperate in an early review of employment practices liability claims or suits with counsel appointed by the Authority at the expense of the Authority;

4. Mandatory Case Report Policy to CJPRMA: Pursuant to Section VII (Conditions) of the Memorandum of Coverage as excerpted below, the following rule is applicable to all cases reported to CJPRMA.

The Authority shall be entitled to complete access to the covered party's claim file, the defense attorney's complete file, and all investigation material and reports, including all evaluations and information on negotiations. The covered party shall be responsible to report the progress of the litigation and any significant developments at least quarterly to the Authority, and to provide the Authority with simultaneous copies of all correspondence provided to the covered party by its defense attorneys and/or its agents.

In addition, the CJPRMA Board of Directors has adopted the following mandatory case reporting standards:

- a. Defense counsel is expected to provide a written analysis of liability and exposure in any reported claim no later than ninety days following receipt of the file from the member agency. CJPRMA understands that the liability picture may develop as discovery is ongoing, but this does not excuse the responsibility of providing an early, objective analysis of the file, subject to later developments. An early analysis not only permits the JPA member to set an accurate reserve level, but also permits the member entity to decide whether to actively litigate the case, try to settle the case, or limit discovery based upon the exposure.
- b. The initial status report should provide, at a minimum, a brief synopsis of the facts giving rise to the lawsuit; the status of the pleadings, including any discussions of demurrers or motions to dismiss, or cross-complaints; a summary and analysis of plaintiff's injuries, damages and exposures in the case; an initial impression of liability; any requests for additional investigation; a brief outline of the discovery planned; and an



evaluation of anticipated litigation costs. The report need not be lengthy, and typically might not exceed three to five pages, but must address the issues directly and in a straightforward manner so that the member entity and CJPRMA can set cost and loss reserves as necessary.

- c. Defense counsel is responsible to report, in writing, the setting of a trial date, settlement conference date, hearing date on motion for summary judgment or similar dispositive motion in any litigated case, within one week of the date on which a court establishes such date. Defense counsel is responsible to report, in writing, all settlement demands or offers within one week of the time the offer is made or the demand is received.
- d. Defense counsel is responsible to report, in writing, on the substance of all depositions taken in the case. This need not be a multi-page deposition summary, but must, at a minimum, include a concise report of major events occurring at the deposition, and an evaluation of the effect of the deposition testimony on the case.
- e. Finally, no later than sixty days before the date set for trial in any case, defense counsel is responsible to report, in writing, on (1) an assessment of liability in the case, (2) the adverse potential exposure if liability is found, (3) a concise summary of injuries sustained and/or claims, (4) an assessment of any other factors (such as local jury tendencies, appearance of important witnesses, etc.) that may affect the liability analysis or exposure assessment, and (5) an opinion on the settlement value of the case.
- f. All status reports from defense counsel must be copied to the CJPRMA Board member whose entity is involved in the claim.

This policy is designed to protect the member entity and CJPRMA, so that they can make informed litigation decisions on reported cases. Defense counsel are cautioned, however, that case reporting is given a high priority by CJPRMA and its members and is a major consideration in evaluating counsel's performance.

### **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. Such additional information that the Proponent may feel would be pertinent to assist the City of Stockton in making its final decision.
- E. 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 501c3 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 should represent their current ability to provide all services listed in Scope of Services.

#### **3.0.3 Management/Method of Operation and Scope of Services**

Provide detailed description outlining your firm's approach to providing Third Party Administrative (TPA) services that will meet the scope of work requirements identified in Section 2, including full service case management, cost control, safety consulting services, annual stewardship reports and actuarial services for a general liability program. Highlight innovative ideas your firm may have to provide to the City and describe in detail your procedures (including safety) and management techniques. Provide a list of services and programs you will provide. If you have confirmed service partners, please provide the name of partner and a letter by the partner confirming interest in collaboration in the City's General Liability Program.

Please provide a Program Plan, an operational plan which will be reviewed and approved by City before implementation by TPA. This Plan should include management policies, a schedule of day to day operations, a complete listing of classes, rentals, clinics, workshops, trainings, and services offered by TPA. If you are listing services that require certifications or licensures, please identify the type of certifications and licenses that will be required for that service.

Please provide a sample of case management, cost controls, safety consulting services, annual stewardship reports and actuarial services taking the City into consideration.

#### **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.

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. Please write "Confidential" on any financial statement page that is confidential.

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.

Please provide a draft Profit and Loss Statement certified by a CPA.

### **3.0.6 Corporate Structure, Organization**

Describe how your firm is organized, as well as brief history of the firm and all personnel potentially to be involved in the project including all Board of Directors. Designate the Principal in Charge and other key personnel. Include résumés of key senior personnel. Also provide a description of the experience your firm has had with similar processes.

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

Provide detailed basic fee structure and break-down of any other charges related to your firm's proposal utilizing the Fee Form attached and incorporated in this RFP. Finalist's fee structure may be subject to negotiation. Fee Schedule should be under separate cover and marked: "ATTN: Procurement".

**3.0.8** The proposal must be submitted, word processed or typewritten on 8½" X 11" white paper (average 12 font) and must be bound in a secure manner.

**3.0.9** 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

**3.0.10** 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. If the Proponent has a Board of Directors, the Proposal must be signed by both the Executive Director/CEO and President of the Board.

**3.0.11** 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 **THIRD-PARTY ADMINISTRATOR (TPA) TO MANAGE CITY'S SELF-INSURED GENERAL LIABILITY PROGRAM (PUR 19-037)**. A key component for the

successful firm will be the ability to meet the City's vision for the neighborhood 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. Proponent's Program Plan Draft, Sample Calendar, Draft Budget and Fee Schedule: completed and signed (under separate sealed cover);
3. Completeness of CPA certified, Budget and Financial Statements;
4. Proof of current Business License;
5. Non-Collusion Affidavit;
6. References;
7. Affirmative Action Document;
8. 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 – THIRD-PARTY ADMINISTRATOR (TPA) TO  
MANAGE CITY’S SELF-INSURED GENERAL LIABILITY  
PROGRAM
- B) PUR 19-037
- C) DECEMBER 19, 2019

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.

### **Exhibit 2: Insurance Requirements for Professional Services**

Contractor 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 performance of the work hereunder by the Contractor, its agents, representatives, or employees.

#### **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 with limits no less than **\$1,000,000** 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. **Automobile Liability**: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.  
***(Not required if Contractor provides written verification it has no employees)***
4. **Professional Liability** (Errors and Omissions) Insurance appropriate to the Contractor's profession, with limit no less than **\$2,000,000** per occurrence or claim, \$2,000,000 aggregate. (If Claims-made, see below.)

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 Contractor 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 Contractor 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 Contractor'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 Contractor'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 Contractor's insurance coverage to the sole negligence of the Named Insured.

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

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

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

Contractor hereby grants to City of Stockton a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City of Stockton by virtue of the payment of any loss under such insurance. Contractor 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 Contractor, 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 Contractor 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.

### ***Claims Made Policies (note – applicable only to professional liability)***

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained, and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***
3. If coverage is canceled or non-renewed, and not ***replaced with another claims-made policy form with a Retroactive Date*** prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of ***five (5)*** years after completion of contract work.

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

Contractor 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 Contractor'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.

Contractor 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***

Contractors 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. Contractor shall include the following language in their agreement with Subcontractors: Subcontractors hired by Contractor agree to be bound to Contractor and City in the same manner and to the same extent as Contractor 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. Contractor 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**

<b>Subject:</b>  <b>DISCRIMINATION AND HARASSMENT POLICY</b>	<b>Directive No. HR-15</b>	<b>Page No. 1 of 14</b>
	<b>Effective Date:</b>  <b>5/1/2015</b>	<b>Revised From:</b> <b>7/27/09</b> <b>4/6/09</b> <b>3/1/2010</b> <b>(see below)</b>

PER-015 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/98  
PER-037 (Sexual Harassment Investigative Procedures) revised from 2/15/93

**I. PURPOSE**

The purpose of this policy is to reaffirm the City’s commitment to demonstrating respect for all individuals by strictly prohibiting discrimination and harassment, including sexual harassment in the workplace. This policy defines prohibited behavior and conduct, and sets forth a procedure for reporting, investigating and resolving complaints of discrimination, harassment, in the workplace, including retaliation and hostile work environment.

**II. POLICY**

- A. The City of Stockton prohibits any form of discrimination and/or harassment of any person based on race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other category or attribute consistent with state or federal law. All such discrimination and harassment is unlawful and shall not be tolerated. In addition, under the federal Affordable Care Act (ACA), the City of Stockton prohibits discrimination and/or harassment, or retaliation against an employee who obtains coverage, receives a tax credit or subsidy through the Health Care “Market Place” or “Exchange.”
- B. It is an unlawful employment practice to discriminate against or to harass an unpaid intern or volunteer on the basis of any legally protected classification unless an exception applies, such as a bona fide occupational qualification.
- C. The City will neither tolerate nor condone discrimination and/or harassment of employees by managers, supervisors, co-workers, or non-employees with whom City employees have a business service, or professional relationship.
- D. All City employees and non-employees share a responsibility to assist in

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maintaining an employment environment free of discrimination and harassment. This policy applies to all aspects of City employment, including, but not limited to, hiring, reassignment, placement, promotion, employment action, disciplinary action, layoff, reemployment, transfer, leave of absence, compensation and benefits, training; or other terms of treatment of that person in an unpaid internship, or another limited duration program to provide unpaid work experience for that person, or the harassment of an unpaid intern or volunteer.

- E. All allegations of discrimination and/or harassment shall be investigated immediately by the City, in accordance with this policy. If it is determined that any prohibited activity has occurred, remedial action shall be taken. Such action may include discipline up to and including discharge. In addition, under applicable law, individual supervisors and employees may be subject to personal liability and/or punitive damages in any litigation arising as a result of such conduct.
  
- F. All new hires shall attend harassment awareness training, and supervisors and managers shall attend harassment awareness and prevention training for supervisors every two years.
  
- G. The City of Stockton prohibits retaliation against any employee or non-employee by another employee, non-employee, supervisor, or manager for reporting, filing, testifying, assisting or participating in any manner in any investigation, proceeding, or hearing conducted by the employer or a federal or state enforcement agency.
  
- H. This policy applies to all officials, employees, volunteers, unpaid interns, agents, or contractors of the City.
  
- I. This policy shall be administered by the Director of Human Resources.

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**III. DEFINITION AND EXAMPLES OF DISCRIMINATION AND HARASSMENT**

- A. "Discrimination," as used in this policy, is any action, behavior, practice, or process that is intended to deny, or results in the denial of, employment rights, privileges, or benefits because of a person's race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other prohibition identified under state and federal law. The following are examples of conduct that may constitute discrimination:
1. Soliciting applications from a source where all or most of potential workers are of the same race or color.
  2. Considering a person's gender as the basis for differences in pay, work assignments, performance evaluations, training, discipline, or any other area of employment; and
  3. Questioning a job applicant about the existence, nature and severity of a disability.
- B. "Harassment," as used in this policy, consists of any conduct affecting another person because of his or her race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other category or attribute identified under state and federal law when such conduct has the purpose or the effect of: (1) creating an intimidating, hostile or offensive work environment; (2) unreasonably interfering with the employee's or non-employee's work performance; or (3)



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otherwise adversely affecting an employee's or non-employee's employment opportunities.

Harassment may take many forms, including, but not limited to, the following examples:

1. Verbal Harassment: Epithets, derogatory and offensive comments or slurs based on race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.
  2. Physical Harassment: Assault, impeding or blocking movement that results in the physical interference with normal work or movement on the basis of race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.
  3. Visual Harassment: The displaying of posters, photography, notices, bulletins, e-mails, cartoons or drawings with derogatory and offensive content based on race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.
- C. "Sexual harassment," as used in this policy, is a subcategory of harassment, and is specifically defined by law as unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:
1. Submission to such conduct is made a term or condition of employment; or
  2. Submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or

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3. Such conduct has the purpose or effect of unreasonably interfering with an employee's or non-employee's work performance or creating an intimidating, hostile or offensive working environment because of the persistent, severe or pervasive nature of the conduct.

Examples of Sexual Harassment include, but are not limited to the following:

- a. Unwelcome sexual overtures or propositions.
- b. Offering employment benefits or status in exchange for sexual favors.
- c. Making or threatening retaliation after a negative response to sexual advances.
- d. Visual conduct such as leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons, calendars or posters.
- e. Verbal conduct such as using epithets or slurs, telling sexually explicit jokes, or making derogatory or suggestive comments about a person's body or dress.
- f. Written communications of a sexual nature distributed in hard copy, soft copy or via a computer network.
- g. Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes or invitations.
- h. Physical conduct such as touching, assaulting, impeding or blocking movements.

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- i. Retaliation for making harassment reports or threatening to report harassment.
  
- D. Affordable Care Act (ACA) Anti-Retaliation  
Pursuant to section §1558 of the Affordable Care Act, the City prohibits discrimination or retaliation towards any employee who:
  - 1. Receives a health insurance tax credit or subsidy through the Health Care “Marketplace” or “Exchange”, by which can trigger a penalty payable by the employer;
  - 2. Reports potential violations of protections afforded under Title I of the Act, which provides guaranteed availability protections among other things;
  - 3. Testifies in a proceeding concerning such violation;
  - 4. Assists or participates in a proceeding concerning a violation; or
  - 5. Objects to, or refuses to participate in, any activity, policy, practice, or assigned task that the employee reasonably believes to be in violation of any provision of the Title I of the Act.

An employee who believes that he or she has been discharged or otherwise discriminated against in violation of section §1558 of the Affordable Care Act may seek relief in accordance with the procedures, notifications, burdens of proof, remedies, and statutes of limitation set forth in section 2087(b) of title 15, United States Code.

**IV. REPORTING AND COMPLAINT PROCEDURES**

A. Immediate Action Required

The City’s reporting and complaint procedures provide for an immediate, thorough and objective investigation of discrimination or harassment claims, appropriate disciplinary action taken against any person found to have engaged in prohibited behavior, and appropriate alternative remedies to any

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employee or non-employee subject to discrimination or harassment. To accomplish this, such incidents must be reported immediately to a supervisor or manager.

1. Employee's and Non-Employee's Responsibilities when Subjected to Discrimination and/or Harassment
  - a. Employees or non-employees who believe they have been subjected to discrimination or harassment, or are aware of discrimination or harassment against others, shall report the situation immediately to his/her supervisor or manager, except as specified in subsection (b), below. Employees and non-employees shall report any such incidents occurring in the workplace, whether committed by coworkers, supervisors or managers, or third persons doing business with the City, such as customers or vendors, or other non-employees. If comfortable doing so, an employee or non-employee who has a complaint of discrimination or harassment is encouraged to directly inform the person(s) engaging in the behavior that such conduct is offensive and insist the behavior to stop.
  - b. Employees and non-employees must immediately contact a supervisor or manager to register a complaint of discrimination or harassment, unless that supervisor or manager is the individual engaging in the unwanted behavior. In that case, the employee or non-employee may contact someone at the next supervisory level. If the employee or non-employee feels uncomfortable dealing directly with his or her immediate supervisor or manager, he or she may contact the department head, or the Director of Human Resources (or either of their designees) to register a complaint of discrimination or harassment.
  - c. Employees and non-employees may file a formal complaint of harassment or discrimination with their department head or

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with Human Resources. To assist the City in conducting a thorough investigation, complaints shall be submitted in writing and shall include specific details of the incident(s), the names of the individuals involved, the names of any witnesses, and any documentary evidence (notes, pictures, cartoons, etc.) that will corroborate the allegations.

- d. Employees and non-employees shall immediately report any retaliation to a supervisor, manager, department head or Director of Human Resources (or designee). All retaliation complaints shall be immediately, objectively and thoroughly investigated in accordance with the investigation procedures. If a report of retaliation is substantiated, appropriate disciplinary action, up to and including discharge shall be taken.

2. Supervisor's or Manager's Responsibilities to Eliminate Discrimination and/or Harassment

- a. A supervisor or manager is responsible for enforcing the City's discrimination and harassment policy. Supervisors or managers must ensure that all employees and non-employees are aware of the City's policy through open discussion of the policy at staff meetings and by posting the policy in a conspicuous location accessible to all staff members.
- b. A supervisor or manager shall be cognizant of employees' and non-employees' behavior and shall not permit any employee or non-employee under their supervision to be subjected to or engage in any conduct prohibited by this policy.
- c. A supervisor or manager who observes conduct prohibited by this policy shall immediately direct the employee or non-employee to cease the conduct.

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- d. A supervisor or manager who receives a complaint of prohibited conduct is required to take the complaint seriously, and report the matter immediately to the department head; be supportive of the complainant; ensure there is no retaliation against the complainant; conduct an internal fact-finding review into the allegations; obtain as much detailed information as possible; thoroughly document the findings; communicate in written form to the parties the resolution of the complaint; and report to and consult with the Human Resources Department promptly, without delay.
  
- B. Confidentiality. The City will make every effort to protect the privacy and confidentiality of all parties involved, as well as any information and/or documentation obtained, to the extent possible consistent with a thorough investigation.
  
- C. Penalty for Non-Compliance. The City shall take disciplinary action, up to and including discharge, against any supervisor or manager who fails in his/her responsibility to take immediate action in response to an employee's or non-employee's complaint of discrimination or harassment. Further, such disciplinary action shall be taken against a supervisor or manager who fails to stop discriminatory or harassing conduct committed in his/her presence or to stop such conduct about which the supervisor or manager has knowledge.
  
- V. INVESTIGATION PROCEDURES
  - A. Determination of Responsibility for Investigation

If a formal complaint is filed with the department head or the Director of Human Resources (or either of their designees), the department head and the Director of Human Resources shall consult with one another to determine whether the department or Human Resources shall conduct the fact-finding investigation into the allegations. Either the department head or the Director of Human Resources (or either of their designees), depending on who is

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responsible for the investigation, shall issue written notification to the complainant and alleged harasser(s). The notification shall specify the nature of the complaint, and inform the parties that an investigation into the allegations of discrimination and/or harassment shall be conducted.

**B. Investigative Guidelines**

The investigation shall include the following steps taken in the order best suited to the circumstances:

1. Identify and preserve the evidence.
2. Confirm the name and position of the complainant. Interview the complainant.
3. Allow the complainant the opportunity to place the complaint in writing.
4. Obtain the identity of the alleged harasser(s).
5. Obtain as many details as possible regarding the incident(s) that prompted the complaint, including the number of occurrences, dates, times, locations, and witnesses (if applicable).
6. Ascertain how the complainant felt about the alleged incident when it occurred; complainant's response(s) to the alleged behavior; and witness statements (if applicable).
7. Ascertain if any threats or promises were made in connection with the alleged harassment.
8. Ascertain if the complainant knows of or suspects that there are other victims of harassment by the same person(s).
9. Ascertain whether the complainant has spoken to anyone, especially

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supervisors, about the harassment.

10. Ascertain what resolution would be acceptable to the complainant.
11. Interview the alleged harasser to get his or her side of the story, including any possible motivation for a false allegation.
12. Interview witnesses who were identified by the complainant regarding the alleged harasser or other persons identified during the investigation.
13. Interview witnesses who were identified by the alleged harasser or other persons identified during the investigation.
14. Advise all participants that the investigation is "confidential" and not to engage in any retaliatory conduct, as such conduct is subject to disciplinary action up to and including discharge. Confidentiality will be maintained to the extent possible. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Director of Human Resources. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction.
15. Conduct follow-up interviews, if warranted.
16. Prepare report of findings and discuss with management and designated legal staff.

**VI. RESPONDING TO THE COMPLAINT**

- A. Following the completion of the fact-finding investigation, either the department head or the Director of Human Resources (or either of their designees), depending on who is responsible for the investigation, shall



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make a report of findings, along with a recommendation regarding the appropriate remedial action to be taken, if warranted. The recommendation shall be made after reviewing the findings of the investigation, giving consideration to all factual information, the nature of the alleged conduct, and the totality of the circumstances. If the investigation was conducted by the Director of Human Resources, or designee, the Director, or designee, shall confer with the affected department head and both shall concur on the remedial action to be taken, if any. If the investigation was conducted by the department head, the department head shall confer with the Director of Human Resources prior to making the report of findings and both shall concur on the remedial action to be taken, if any.

- B. If either the department head or the Director of Human Resources does not concur with the findings and recommendation of the other, the City Attorney (or designee) shall review and resolve the matter in dispute.
- C. Report of findings and recommendation shall be treated as a confidential document and no other distribution shall be made without first consulting with the City Attorney's Office. A completed investigation report will not be disclosed, except as it is deemed necessary to support a disciplinary action, to take remedial action, to defend the City in adversarial proceedings, or to comply with the law or court order.
- D. Either the department head or the Director of Human Resources (or either of their designees), depending on who is responsible for the investigation shall provide a written response to the complainant and the person alleged to have committed the misconduct, discrimination and/or harassment. The response shall include a copy of the City's discrimination and harassment policy and a memorandum indicating the City's determination as to whether the complaint is:
  - 1. Unsustained: The investigation failed to disclose sufficient evidence to substantiate the allegation(s).
  - 2. Unfounded: The investigation proved that the act(s) or omission(s)

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

<b>Subject:</b>  <b>DISCRIMINATION AND HARASSMENT POLICY</b>	<b>Directive No. HR-15</b>	<b>Page No. 13 of 14</b>
	<b>Effective Date:</b>  <b>5/1/2015</b>	<b>Revised From:</b> <b>7/27/09</b> <b>4/6/09</b> <b>3/1/2010</b> <b>(see below)</b>

PER-015 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/98  
PER-037 (Sexual Harassment Investigative Procedures) revised from 2/15/93

complained of did not occur. The finding also applies when the individual employee(s) named in the complaint were not involved in the act(s) or omission(s) alleged.

3. Sustained: The investigation disclosed sufficient evidence to substantiate the allegation(s) made in the complaint; appropriate action will be taken.

E. Details regarding any specific fact-findings or disciplinary action to be taken will not be communicated to the complainant. The City Attorney shall review the response for legal sufficiency before dissemination.

F. The City shall close and retain the investigation file, in accordance with applicable laws, regulations, and City policy regarding retention of City records.

**VII. DISCIPLINE**

Disciplinary action imposed as a result of any investigation conducted pursuant to this policy shall be commensurate with the severity of the offense, up to and including discharge, even for a first offense.

**VIII. ALTERNATIVE REMEDIES**

If upon exhausting all internal remedies to file, investigate, and respond to a charges of discrimination/harassment, pursuant to title VII of the Federal Civil Rights Act of 1964 (42 U.S.C §§ 2000e *et seq.*), any person has a right to file a charge of discrimination/harassment with the Equal Employment Opportunity Commission ("EEOC"). In addition, pursuant to the California Fair Employment and Housing Act (Gov. Code §§ 12900 – 12996.) a person may also file a complaint of discrimination/harassment with the California Department of Fair Employment and Housing ("DFEH"). Employees or non-employees who believe that they have been subjected to discrimination/harassment may file a complaint with either of these

**CITY OF STOCKTON, CALIFORNIA  
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<b>Subject:</b>  <b>DISCRIMINATION AND HARASSMENT POLICY</b>	<b>Directive No. HR-15</b>	<b>Page No. 14 of 14</b>
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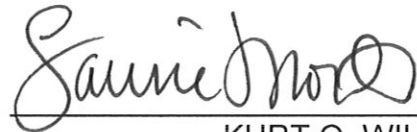
PER-015 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/98  
PER-037 (Sexual Harassment Investigative Procedures) revised from 2/15/93

agencies. Both the EEOC and DFEH serve as neutral fact-finders and attempt to assist parties in resolving disputes voluntarily.

**IX. COMMUNICATION OF POLICY**

This policy shall be provided to all managers, supervisors, employees, volunteers, unpaid interns, agents or contractors of the City and shall be posted in the appropriate places. All employees shall participate in City approved harassment awareness training as directed by management or Human Resources; and all supervisors, as required by law, shall participate in City approved interactive harassment awareness training and education sessions at least once every two years, or as otherwise specified by law.

APPROVED:



KURT O. WILSON  
CITY MANAGER

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, Acting 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 (Type the Project objectives)

**2. Project Scope**

2.1 (Type the Project Scope in detail including location of Work, resources, equipment and facilities needed.)

**3. Specifications**

3.1 (If applicable and the project has specifications, insert the specifications into this section.)

**4. Major Deliverables**

4.1 (Type the major deliverables in detail)

**5. Tasks That Support the Deliverables**

5.1 (In detail, describe the Tasks that support the deliverables and which party will complete them.)

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

6.1 (If applicable and the project has internal and/or external standards or guidelines, insert them into this section.)

**7. Criteria of Acceptance for Deliverables**

7.1 (Type criteria used to determine whether deliverables are acceptable, how they will be accepted, and who will accept them.)

**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**

(If applicable, type the name and contact information Key Personnel working on the Project.)

**10. Option to Renew.**

(If an option to renew is applicable, keep this clause and type the specifics as to how many renewal terms e.g. two one-year renewals, etc.)

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

SAMPLE

**EXHIBIT B  
INSURANCE**

**(RESERVED FOR CITY'S INSURANCE PROVISIONS APPROVED BY RISK)**

SAMPLE

**EXHIBIT C**  
**GENERAL TERMS AND CONDITIONS**

1. **Goods, Equipment and Services.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in Exhibit A of the Agreement. Contractor shall provide said services at the time, place and in the manner specified in Exhibit A of the Agreement.

2. **City Assistance, Facilities, Equipment and Clerical Support.** Except as set forth in Exhibit A, Contractor 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 Contractor only the facilities and equipment listed in Exhibit A to the Agreement.

3. **Compensation.** City shall pay Contractor for services rendered pursuant to this Agreement as described more particularly in Exhibit A and Exhibit E to the Agreement.

3.1 Invoices submitted by Contractor to City must contain a brief description of work performed, time spent and City reference number. Within thirty (30) days of receipt of Contractor's invoice, City will review invoice, and if acceptable make payment on approved invoice.

3.2 Upon completion of work and acceptance by City, Contractor shall have sixty (60) days in which to submit final invoicing for payment. An extension may be granted by City upon receiving a written request thirty (30) days in advance of said time limitation. The City shall have no obligation or liability to pay any invoice for work performed which the Contractor fails or neglects to submit within sixty (60) days, or any extension thereof granted by the City, after the work is accepted by the City.

4. **Sufficiency of Contractor's Work.** All Contractor 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 contractors supplying services and work of a similar nature, and in conformance with applicable laws, codes and professional standards. Contractor'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 Contractor 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 Contractor 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 Contractor shall replace them at its own expense. Contractor 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, Contractor acknowledges that the failure of Contractor to comply with the time limits described in Exhibit A and Exhibit F 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 Contractor may incur in performing such additional services, and Contractor 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. Contractor's Status.**

9.1 In performing the obligations set forth in this Agreement, Contractor shall have the status of an independent contractor and Contractor shall not be considered to be an employee of the City for any purpose. All persons working for or under the direction of Contractor are its agents and employees and are not agents or employees of City. Contractor 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, Contractor 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 Contractor. It is understood by both Contractor and City that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

9.2 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor 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 Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.

9.3 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. 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 Contractor.

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

## **10. Subcontractor.**

10.1 Subcontractors shall not be recognized as having any direct or contractual relationship with City. Contractor 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. Contractor 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 Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. 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 Contractor.

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

## **11. Termination.**

11.1 Termination for Convenience of City. The City may terminate this Agreement at any time by mailing a notice in writing to Contractor. The Agreement shall then be deemed terminated, and no further work shall be performed by Contractor. If the Agreement is so terminated, the Contractor shall be paid for the work actually completed at the time the notice of termination is received.

11.2 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 written notification to the other party.

11.3 Funding- Non-Appropriation. It is mutually understood between the Parties that payment to the Contractor 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 Contractor 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 Contractor 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. Contractor shall be solely responsible for reimbursing subcontractors.

13. Indemnity and Hold Harmless. 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 indemnification obligations of this section shall survive the termination of this agreement.

14. Insurance. During the term of this Agreement, Contractor 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. 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.

16. Conformance to Applicable Laws. Contractor shall comply with all applicable Federal, State, and Municipal laws, rules, and ordinances. Contractor 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.

**17. Licenses, Certifications and Permits.** Prior to the City's execution of this Agreement and prior to the Contractor's engaging in any operation or activity set forth in this Agreement, Contractor shall obtain a City of Stockton business license, which must be kept in effect during the term of this Agreement. Contractor 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.

**18. Records and Audits.**

Contractor shall maintain all records regarding this Agreement and the services performed for a period of three (3) years from the date that final payment is made. At any time during normal business hours, the records shall be made available to the City to inspect and audit. To the extent Contractor renders services on a time and materials basis, Contractor shall maintain complete and accurate accounting records, in a form prescribed by City or, if not prescribed by City, in accordance with generally accepted accounting principles, such records to include, but not be limited to, payroll records, attendance cards, time sheets, and job summaries.

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

**20. Conflicts of Interest.** Contractor covenants that other than this Agreement, Contractor has no financial interest with any official, employee or other representative of the City. Contractor 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 Contractor's services under this Agreement. If such an interest arises, Contractor shall immediately notify the City.

**21. Waiver.** In the event either City or Contractor 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.

**22. 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.

**23. No Personal Liability.** No official or employee of City shall be personally liable

to Contractor in the event of any default or breach by the City or for any amount due Contractor.

**24. 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.

**25. Non-Discrimination.** During the performance of this Agreement, Contractor 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. Contractor 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.

**26. 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.

**27. Taxes and Charges.** Contractor shall be responsible for payment of all taxes, fees, contributions or charges applicable to the conduct of the Contractor's business.

**28. 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.

**29. 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.

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

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

31.1 This Agreement represents the entire integrated agreement between Contractor 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 Contractor and City Manager.

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

**32. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

**33. 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

### PROFESSIONAL SERVICES 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 Professional 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.**

3.1 Contractor shall perform the services according to the schedule contained in Exhibit F.

3.2 Timeliness of Performance i) Contractor 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 F. ii) Neither Contractor nor Contractor'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 Contractor 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, Contractor agrees as follows:

4.1 Contractor'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 Contractor's profession currently practicing under similar conditions. Contractor shall comply with the profession's standard of performance, applicable laws, regulations, and industry standards. By delivery of completed work, Contractor certifies that the work conforms to the requirements of this Agreement and all applicable federal, state and local laws. If Contractor is retained to perform services requiring a license, certification, registration or other similar requirement under California law, Contractor shall maintain that license, certification, registration or other similar requirement throughout the term of this Agreement.

4.2 Contractor 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, Contractor agrees to be held to the standard of care of a fiduciary. Contractor 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. Contractor must provide copies of any such licenses. Contractor remains responsible for the professional and technical accuracy of all Services or Deliverables furnished, whether by Contractor 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 Contractor fails to comply with the foregoing standards, Contractor 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 Contractor 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 Contractor either under this Agreement, at law or in equity.

#### **5. Compensation**

5.1 In addition to Section 3 Compensation in Exhibit C – GTC, the Contractor shall be compensated for the services provided under this Agreement as follows:

5.1.1 Contractor shall be compensated for services rendered and accepted under this Agreement and shall be paid monthly, in arrears on a not to exceed



basis, based upon the rates set forth in Exhibit E attached hereto and made a part of this Agreement. Contractor may vary the compensation for each task in Exhibit E provided that the total project compensation listed in Exhibit E and the Standard Agreement is not exceeded.

## **6. Personnel**

6.1 None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written agreement and shall be subject to each provision of this Agreement. Contractor shall provide subcontractor a copy of this fully executed Agreement.

6.2 Contractor 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 Contractor pursuant to this Agreement shall be the full and complete compensation to which Contractor and Contractor's officers, employees, agents, and subcontractors are entitled for performance of any work under this Agreement. Neither Contractor nor Contractor'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 Contractor. The City shall not be required to pay any workers' compensation insurance on behalf of Contractor. Contractor shall pay, when and as due, any and all taxes incurred as a result of Contractor'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, Contractor 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 Contractor that the City will no longer accept performance of Services under this Agreement by one or more Key Personnel listed. Upon that notice Contractor 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.

## **7. Reports and Information**

Contractor 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.

## **8. Findings Confidential**

All of the reports, information, data, et cetera, prepared or assembled by the Contractor under this Agreement are confidential and the Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the City. Contractor 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 Contractor's possession without obligation of confidentiality, is independently developed by Contractor outside the scope of this Agreement or is rightfully obtained from third parties. Contractor 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 Contractor 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**

Contractor shall prepare or provide to the City various Deliverables. "Deliverables" include work product, such as written reviews, recommendations, reports and analyses, produced by Contractor 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 Contractor has failed to comply with the foregoing standards, it has 30 days from the discovery to notify Contractor of its failure. If Contractor 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 Contractor of its commitments under this Agreement.

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

The Contractor shall be compensated for the services identified in Exhibit A, Exhibit C, and Exhibit D to this Agreement as follows:

**1. Project Price**

1.1 The maximum the Contractor shall be paid on this Agreement is \$\_\_\_\_\_ (hereafter the “not to exceed” amount). The “not to exceed” amount includes all payments to be made pursuant to this Agreement, including City approved reimbursable expenses, if any. Nothing in this Agreement requires the City to pay for work that does not meet the Standard of Performance identified in Exhibit D section 4 or other requirements of this Agreement.

1.2 Standard Reimbursable Items: Only the reimbursable items identified in Exhibit A, C, and D (Compensation), shall be compensated to the Contractor. Reimbursable expenses will be reimbursed without markup. Fees plus reimbursable expenses shall not exceed the amount set forth in section 1.1 of this Exhibit and a copy of the original invoice for the items listed in i, ii or iii below shall be attached to the invoice submitted to the City for reimbursement. Payments shall be based upon work documents submitted by the Contractor to the City and accepted by the City as being satisfactory to City’s needs. The City shall not pay a markup on any of the items listed in i, ii or iii. Additionally, items such a telephone, fax, postage or freight are already included in the billable hourly rate. Contractor shall be reimbursed the direct expenses, which are the actual cost of the following items that are reasonable, necessary and actually incurred, by the Contractor in connection with the services:

- i. Expenses, fees or charges for printing, reproduction or binding of documents at actual costs with no markup added to the actual cost.
- ii. Any filing fees, permit fees, or other fees paid or advanced by the Contractor at actual costs with no markup added to the actual cost.
- iii. Travel expenses shall be reimbursed in accordance with the City’s travel policy, which is incorporated herein by reference. Reimbursement shall be made at actual costs with no markup added to the actual cost.

1.3 The Contractor shall be entitled to receive payments for its work performed pursuant to the Agreement. The City will pay Contractor based on invoices for acceptable work performed and approved until the “not to exceed” amount is reached. Thereafter, Contractor must complete services based on the Agreement without additional compensation unless there is a material change to the Statement of Work and Scope by a written Amendment.

1.4 If work is completed before the “not to exceed” amount is reached, the Contractor’s compensation will be based on the Contractor’s invoices previously submitted for acceptable work performed and approved.

1.5 **Subcontractor Costs:** Compensation for subcontractors shall be limited to the same restrictions imposed on the Contractor. Maximum markup Contractor may apply to subcontractor fees, minus reimbursable expenses, shall not exceed \_\_\_\_\_%.

2. **Task Price.** Below is the price for the services and reimbursable expenses as described in Exhibit A of this Agreement.

Task	Description	Task Price
1		\$
2		\$
3		\$
<b>TOTAL PRICE</b>		<b>\$</b>

3. **Hourly Rates.** The following is a list of hourly billable rates that Contractor shall apply for additional services requested of the Contractor. Contractor shall be compensated based on the hourly rates set forth below, on a time and material basis for those services that are within the general scope of services of this Agreement, but beyond the description of services required under Exhibit A, and all services are reasonably necessary to complete the standards of performance required by this Agreement. Any changes and related fees shall be mutually agreed upon between the parties by a written amendment to this Agreement.

**Hourly Billable Rate Schedule**

Title	Role on Project	Hourly Billable Rates
		\$
		\$
		\$
		\$
		\$
		\$
		\$

4. **Additional Fees.** Should an amendment to the Agreement be issued for additional services that require the following items, the unit prices are as follows:

Title	Unit Price
	\$

**5. Invoice to Address.** Each invoice submitted shall identify the specific task(s) listed in Exhibit A and this Exhibit, and the completed work product/deliverable for the agreed upon price listed in this Exhibit. Invoices shall be submitted to the below address:

City of Stockton \_\_\_\_\_ Department  
Attention: \_\_\_\_\_  
425 N. El Dorado Street  
Stockton, CA 95202

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)

SAMPLE



**2.1 Hourly Billable Rate Schedule**

Title	Role on Project	Hourly Billable Rates
		\$
		\$
		\$
		\$
		\$
		\$
		\$

**3. Additional Fees.** Should an amendment to the negotiated Agreement be issued for additional services that require the following items, the unit prices are as follows:

Title	Unit Price
	\$

**NOTE:**

**Project Price**

1.1 Standard Reimbursable Items: Only the reimbursable items identified in the awarded Agreement shall be compensated to the Contractor. Reimbursable expenses will be reimbursed without markup. Fees plus reimbursable expenses shall not exceed the Total amount set forth in section 1 of this Exhibit and a copy of the original invoice for the items listed in i, ii or iii below shall be attached to the invoice submitted to the City for reimbursement. Payments shall be based upon work documents submitted by the Contractor to the City and accepted by the City as being satisfactory to City’s needs. The City shall not pay a markup on any of the items listed in i, ii or iii. Additionally, items such a telephone, fax, postage or freight are already included in the billable hourly rate. Contractor shall be reimbursed the direct expenses, which are the actual cost of the following items that are reasonable, necessary and actually incurred, by the Contractor in connection with the services:

- i. Expenses, fees or charges for printing, reproduction or binding of documents at actual costs with no markup added to the actual cost.
- ii. Any filing fees, permit fees, or other fees paid or advanced by the Contractor at actual costs with no markup added to the actual cost.



- iii. Travel expenses shall be reimbursed in accordance with the City's travel policy, which is incorporated herein by reference. Reimbursement shall be made at actual costs with no markup added to the actual cost.

1.2 Subcontractor Costs: Compensation for subcontractors shall be limited to the same restrictions imposed on the Contractor. Maximum markup Contractor may apply to subcontractor fees, minus reimbursable expenses, shall not exceed \_\_\_\_\_%.