

CITY OF STOCKTON



**REQUEST FOR SEALED BIDS
TO PROVIDE ADMINISTRATIVE SERVICES FOR
FLEXIBLE SPENDING ACCOUNT (FSA), DEPENDENT CARE FSA (DC FSA),
AND PRE-TAX TRANSPORTATION
FOR THE CITY OF STOCKTON, CALIFORNIA
(PUR 14-022)**

**BIDS WILL BE RECEIVED UNTIL THE HOUR OF
2:00 O'CLOCK P.M., THURSDAY, SEPTEMBER 11, 2014,
IN THE OFFICE OF THE CITY CLERK,
FIRST FLOOR, CITY HALL, 425 NORTH EL DORADO STREET
STOCKTON, CALIFORNIA 95202-1997**

**REQUEST FOR SEALED BIDS
TO PROVIDE ADMINISTRATIVE SERVICES
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TABLE OF CONTENTS

NOTICE INVITING SEALED BIDS.....	1
BIDDER'S CHECKLIST.....	2
1.0 GENERAL INFORMATION	3
1.1 REQUEST FOR SEALED BID	3
1.2 INVITATION TO SUBMIT A BID	3
1.3 LOCAL BUSINESS PREFERENCE.....	4
1.4 CONSEQUENCE OF SUBMISSION OF BID.....	4
1.5 EXAMINATION OF BID MATERIALS.....	4
1.6 ADDENDA AND INTERPRETATION.....	5
1.7 DISQUALIFICATION	5
1.8 INFORMAL BID REJECTED.....	6
1.9 CONDITIONS TO BE ACCEPTED IF ANY WORK IS SUBCONTRACTED.....	6
1.10 LICENSING REQUIREMENTS	6
1.11 INSURANCE REQUIREMENTS.....	6
1.12 HOLD HARMLESS DEFENSE CLAUSE.....	7
1.13 APPLICABLE LAW.....	8
1.14 METHOD OF PAYMENT.....	8
1.15 NOTICE TO OUT-OF-STATE BIDDER.....	8
1.16 TERM.....	8
1.17 COMPETITIVE PRICING.....	9
1.18 FUNDING.....	9
1.19 UNCONDITIONAL TERMINATION FOR CONVENIENCE.....	9
1.20 AUDITING OF CHARGES & SERVICES.....	9
1.21 AWARD	9
1.22 CHANGES	10
1.23 OTHER GOVERNMENTAL AGENCIES.....	10
1.24 PRODUCT OWNERSHIP	10
1.25 CONFIDENTIALITY.....	10
2.0 BACKGROUND/GENERAL NATURE OF SERVICE	12
2.1 SUMMARY OF PROCESS AND REQUIREMENTS.....	13

**REQUEST FOR SEALED BIDS
TO PROVIDE ADMINISTRATIVE SERVICES
FOR FSA, DC FSA, PRE-TAX TRANSPORTATION
FOR THE CITY OF STOCKTON, CALIFORNIA
(PUR 14-022)**

BID DOCUMENTS.....	15
BID TO BE SUBMITTED.....	16
FEE QUOTATION FORM.....	17
PERFORMANCE GUARANTEES.....	19
BIDDER’S AGREEMENT.....	20
NON-COLLUSION AFFIDAVIT.....	21
BID QUESTIONNAIRE.....	22
EXHIBIT 1 – INSURANCE REQUIREMENTS.....	37
ATTACHMENT A – CURRENT FSA CONTRACT.....	39

NOTICE INVITING SEALED BIDS

NOTICE IS HEREBY GIVEN that sealed bids are invited by the City of Stockton, California to provide administrative services for **Flexible Spending Account (FSA), Dependent Care Flexible Spending Account (DC FSA) and Pre-Tax Transportation (PUR 14-022)** in strict accordance with the specifications.

The City is seeking bids from firms to provide administrative services for FSA, DC FSA, Pre-Tax Transportation to City employees. Rate bids should be based on current services.

The bid specifications and forms can be obtained from the City of Stockton's website at <http://www.stocktongov.com/services/business/bidflash/default.html> and must be delivered to the Office of the City Clerk, City Hall, 425 North El Dorado Street, Stockton, California, 95202, up to but no later than **2:00 p.m., on THURSDAY, SEPTEMBER 11, 2014.**

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

For Information on Technical Data or Bid Process/Clarification, contact:

Tami Matuska, HUMAN RESOURCES, CITY OF STOCKTON
Concepcion Gayotin, PURCHASING, CITY OF STOCKTON
Tom Morrison, SEGAL

via email - Purchasing@stocktongov.com

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

Dated: August 14, 2014

BONNIE PAIGE
CITY CLERK OF THE CITY OF STOCKTON

BIDDER'S CHECKLIST

CITY OF STOCKTON / PURCHASING DIVISION

Did You:

- * ___ Complete the following bid documents (FROM THIS PACKET ONLY SUBMIT PAGES 15 to 36):
 - * ___ Complete and sign the "Bid to be Submitted" form.
 - * ___ Sign the "Bidder's Agreement" form. **Include (with bid) name and e-mail address for City contact, if different from signatory.**
 - * ___ Sign and notarize by jurat certificate the "Non-Collusion Affidavit" form. An "All-Purpose Acknowledgment" form will not be sufficient.
 - * ___ Recheck your math on each item extension and total column. Do not superimpose numerals on your bid forms. If erasures or interlineations appear on your bid form, they must be initialed by the person preparing the bid.
 - * ___ Answer questionnaire and submit with bid package.
- * ___ Submit one (1) ORIGINAL of all bid documents and one (1) CD with an electronic version of the bid documents to the City. Also, submit a similar courtesy copy to Segal.
- * ___ Review all clarifications/questions/answers on the City's website at <http://www.stocktongov.com/services/business/bidflash/default.html>
- * ___ Deliver sealed bid to City Hall, City Clerk's Office (1st floor), 425 North El Dorado Street, Stockton, CA 95202, before **THURSDAY, SEPTEMBER 11, 2014, at 2:00 p.m.** Sealed bid shall be marked "Bid" and indicate project name, number, and bid opening date.

Please note that some overnight delivery services do not deliver directly to the City Clerk's Office. This could result in the bid arriving in the City Clerk's Office after the bid opening deadline and therefore not being accepted. NOTE: The Stockton City Clerk's office is closed from 12 noon to 1 p.m. for lunch.

 - A) **BID – ADMIN SVCS FOR FSA, DC FSA, PRE-TAX TRANSPORTATION**
 - B) **PUR 14-022**
 - C) **SEPTEMBER 11, 2014**

For Information on Technical Data or Bid Process/Clarification, contact:

Tami Matuska, HUMAN RESOURCES, City of Stockton
Concepcion Gayotin, PURCHASING, City of Stockton
Tom Morrison, SEGAL

via email - Purchasing@stocktongov.com

*If not completed as required, your bid may be voided.

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

*THIS FORM IS FOR YOUR INFORMATION ONLY AND DOES NOT NEED TO BE SUBMITTED WITH YOUR BID.

**REQUEST FOR SEALED BIDS
TO PROVIDE ADMINISTRATIVE SERVICES
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(PUR 14-022)**

1.0 GENERAL INFORMATION

1.1 REQUEST FOR SEALED BID

The purpose of this sealed bid is to request bidders to present their qualifications and capabilities to provide administrative services for FSA, DC FSA, Pre-Tax Transportation (**PUR14-022**) for the City of Stockton.

1.2 INVITATION TO SUBMIT A BID

Bids shall be submitted no later than **2:00 p.m., on THURSDAY, SEPTEMBER 11, 2014**, in the office of:

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

The bid should be firmly sealed in an envelope which shall be clearly marked on the outside, "ADMINISTRATIVE SERVICES FOR FSA, DC FSA, and PRE-TAX TRANSPORTATION for the City of Stockton (PUR14-022)". Additionally, submit one (1) CD with an electronic version of the bid documents. Any bid received after the due date and time indicated will not be accepted and will be deemed rejected and returned, unopened, to the bidder.

Also, submit a similar courtesy copy of the bid document and the CD to Segal at:

The Segal Company
c/o Tom Morrison
330 North Brand Blvd., Ste. 1100
Glendale, CA 91203

The timeliness of bid submission and its acceptance will be determined by the City of Stockton. Any portion or documents submitted to Segal, but not submitted to the City of Stockton will not be accepted.

No unsolicited material will be accepted after the submittal date.

**REQUEST FOR SEALED BIDS
TO PROVIDE ADMINISTRATIVE SERVICES FOR FSA, DC FSA, PRE-TAX TRANSPORTATION
FOR THE CITY OF STOCKTON, CALIFORNIA
(PUR 14-022)**

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)

1.4 CONSEQUENCE OF SUBMISSION OF BID

- A. The City shall not be obligated to respond to any bid submitted nor be legally bound in any manner by the submission of a bid.
- B. Acceptance by the City of a bid obligates the bidder to enter into a contract with the City.
- C. A contract shall not be binding or valid against the City unless or until it is executed by the City and the bidder.
- 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.

1.5 EXAMINATION OF BID MATERIALS

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

**REQUEST FOR SEALED BIDS
TO PROVIDE ADMINISTRATIVE SERVICES FOR FSA, DC FSA, PRE-TAX TRANSPORTATION
FOR THE CITY OF STOCKTON, CALIFORNIA
(PUR 14-022)**

1.6 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 a bid shall be made in writing/e-mail and deliverable to:

Tami Matuska, HUMAN RESOURCES, CITY OF STOCKTON
Concepcion Gayotin, PURCHASING, CITY OF STOCKTON
Tom Morrison, SEGAL

email - Purchasing@stocktongov.com

Such request for clarification shall be delivered to the City by August 21, 2014. Any City response to a request for clarifications/questions/answers will be posted on the City's website at <http://www.stocktongov.com/services/business/bidflash/default.html> by August 28, 2014, and will become a part of the bid. The bidder should await responses to inquiries prior to submitting a bid.

1.7 DISQUALIFICATION

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

- A. Evidence of collusion among bidders;
- 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 bid process will, and shall be, just cause for disqualification/rejection of bidder's bid submittal and considered non-responsive.
- D. A bidder's default in any operation of a contract which resulted in termination of that contract; and/or
- E. Existence of any lawsuit, unresolved contractual claim, or dispute between bidder 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.

**REQUEST FOR SEALED BIDS
TO PROVIDE ADMINISTRATIVE SERVICES FOR FSA, DC FSA, PRE-TAX TRANSPORTATION
FOR THE CITY OF STOCKTON, CALIFORNIA
(PUR 14-022)**

1.8 INFORMAL BID REJECTED

A bid shall be prepared and submitted in accordance with the provisions of these bid instructions and specifications. Any alteration, omission, addition, variance, or limitation of, from, or to a bid may be sufficient grounds for rejection of the bid. The City has the right to waive any defects in a bid if the City chooses to do so. The City may not accept a bid if:

- A. Any of the bid forms are left blank or are materially altered;
- B. Any document or item necessary for the proper evaluation of the bid is incomplete, improperly executed, indefinite, ambiguous, or missing.

1.9 CONDITIONS TO BE ACCEPTED IF ANY WORK IS SUBCONTRACTED

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

1.10 LICENSING REQUIREMENTS

Any professional certifications or licenses that may be required will be the sole cost and responsibility of the successful bidder.

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.

1.11 INSURANCE REQUIREMENTS

Bidder, at 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 1.

Proof of insurance coverage for personal injury and property damage, including commercial, general and automobile liability and contractual liability shall be provided in the amount of not less than \$1,000,000 and in a form acceptable to

**REQUEST FOR SEALED BIDS
TO PROVIDE ADMINISTRATIVE SERVICES FOR FSA, DC FSA, PRE-TAX TRANSPORTATION
FOR THE CITY OF STOCKTON, CALIFORNIA
(PUR 14-022)**

the City. The City of Stockton shall be named an additional insured by separate endorsement. Vendor shall provide notice to the City of any change in or limitation of coverage or of cancellation no less than 30 days prior to the effective date. Proof of worker's compensation coverage pursuant to statutory requirements shall also be provided.

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 that failure to maintain or renew coverage or to provide evidence of renewal may be treated as a material breach of contract.

All coverage shall be provided by a carrier authorized to transact business in California and shall be primary.

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.

1.12 HOLD HARMLESS DEFENSE CLAUSE

Contractor agrees to indemnify, save, hold harmless, and at City's request, defend the City, its officers, agents, and employees from any and all costs and expenses (including attorney and legal fees), damages, liabilities, claims, and losses occurring or resulting to the City in connection with the performance, or failure to perform, by Contractor, its officers, agents, sub-contractors, employees, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable under this Agreement, and from any and all costs and expenses (including attorney and legal fees), damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance, or failure to perform, of Contractor, its officers, agents, or employees under this Agreement. The duty to defend and the duty to indemnify are separate and distinct obligations. The City's acceptance of

**REQUEST FOR SEALED BIDS
TO PROVIDE ADMINISTRATIVE SERVICES FOR FSA, DC FSA, PRE-TAX TRANSPORTATION
FOR THE CITY OF STOCKTON, CALIFORNIA
(PUR 14-022)**

the insurance certificates required under this Agreement does not relieve the Consultant from its obligation under this paragraph. The indemnification obligations of this section shall survive the termination of this agreement.

The proponent shall assert that these indemnification/Hold Harmless provisions will be adhered to as part of their proposal. *Failure to agree with this language may result in a proposal being deemed unresponsive.*

1.13 APPLICABLE LAW

This agreement 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.

1.14 METHOD OF PAYMENT

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

1.15 NOTICE TO OUT-OF-STATE BIDDER

The City of Stockton will pay all applicable sales/use tax directly to the State of California for this purchase.

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 bidders.

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.**

1.16 TERM

Term of the agreement(s) with selected Contractors will commence July 1, 2015 for three years, with an option to renew the contract for two consecutive one-year terms, upon the mutual consent of both parties.

**REQUEST FOR SEALED BIDS
TO PROVIDE ADMINISTRATIVE SERVICES FOR FSA, DC FSA, PRE-TAX TRANSPORTATION
FOR THE CITY OF STOCKTON, CALIFORNIA
(PUR 14-022)**

1.17 COMPETITIVE PRICING

Bidder 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 bidder. If bidder enters into any arrangements with another customer of bidder to provide product under more favorable charges, economic or product terms or warranties, bidder 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.

1.18 FUNDING

Any contract which results from this bid 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.

1.19 UNCONDITIONAL TERMINATION FOR CONVENIENCE

The City may terminate the resultant contract for convenience by providing a sixty (60) calendar day advance notice unless otherwise stated in writing.

1.20 AUDITING OF CHARGES & SERVICES

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

1.21 AWARD

Upon conclusion of the bid process, a contract may be awarded for ADMINISTRATIVE SERVICES FOR FSA, DC FSA, and PRE-TAX TRANSPORTATION for the City of Stockton.

The City reserves the right to make an award on any item, quantity of any item, group of items, or in the aggregate to that/those bidder(s) whose bid(s) is/are most responsive to the needs of the City. Further, the City reserves the right to reject any and all bids (or alternate bids), or waive any informality in the bid as is in the City's best interest.

**REQUEST FOR SEALED BIDS
TO PROVIDE ADMINISTRATIVE SERVICES FOR FSA, DC FSA, PRE-TAX TRANSPORTATION
FOR THE CITY OF STOCKTON, CALIFORNIA
(PUR 14-022)**

Consideration will be given in comparing bids and awarding a contract, not only to the dollar amount of the bids, but also to:

- Kind
- Suitability
- Standardization
- Delivery time
- Any other criteria as best suits the City of Stockton
- Compatibility resulting in the lowest ultimate cost; Best value to the City

1.22 CHANGES

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

1.23 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 bidder and be liable directly to the successful bidder, holding the City of Stockton harmless.

1.24 PRODUCT OWNERSHIP

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

1.25 CONFIDENTIALITY

If bidder believes that portions of a bid constitute trade secrets or confidential commercial, financial, geological, or geophysical data, then the bidder must so specify by, at a minimum, stamping in bold red letters the term "**CONFIDENTIAL**" on that part of the bid which the bidder believes to be protected from disclosure. The bidder must submit in writing specific detailed

**REQUEST FOR SEALED BIDS
TO PROVIDE ADMINISTRATIVE SERVICES FOR FSA, DC FSA, PRE-TAX TRANSPORTATION
FOR THE CITY OF STOCKTON, CALIFORNIA
(PUR 14-022)**

reasons, including any relevant legal authority, stating why the bidder 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 bidder 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.**

**REQUEST FOR SEALED BIDS
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FOR FSA, DC FSA, PRE-TAX TRANSPORTATION
FOR THE CITY OF STOCKTON, CALIFORNIA
(PUR 14-022)**

2.0 BACKGROUND/GENERAL NATURE OF SERVICE

The City currently offers an IRS Section 125 plan, which includes a Medical Flexible Spending Account and a Dependent Care Flexible Spending Account that are administered by American Fidelity. This allows employees to use pre-tax payroll deductions for these benefits.

Services

You are asked to provide the same services that are currently in place, with an anticipated effective date of July 1, 2015; however, you will be required to work with City staff prior to the effective date of the contract for transition and open enrollment services. Please refer to Article II in **Attachment A for FSA administrative services**. You must note any deviations in the questionnaire section. If no deviations are noted, you are agreeing to duplicate the current coverage exactly.

In addition, the City would like to add a pre-tax transportation benefit.

Eligible and Contribution Information

FSA/Dependent Care FSA:

Year	Total Number of Accounts (FSA or DC FSA)	Total Contribution
2011	97	\$140,548
2012	114	\$184,491
2013	137	\$219,802
2014 Jan-Jun 6 month period	117	\$98,052
2014 Jul through 2015 Jun	142	\$231,480

*Note one person can have more than one account

Effective Date of Contracts

The contract for all services will be effective July 1, 2015

Commissions

Your bid must exclude commissions

**REQUEST FOR SEALED BIDS
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(PUR 14-022)**

2.1 SUMMARY OF PROCESS AND REQUIREMENTS

A. Questions

All questions must be submitted via email (Purchasing@stocktongov.com) to the City of Stockton.

Questions will be posted in full, along with the responses on the website.

Inquiries are not to be directed to any individuals affiliated with or employed by Segal. Such unauthorized communication may disqualify the bidder from further consideration. However, Segal reserves the right to discuss any part of any response for the purpose of clarification. Bidders will be given equal access to any communications regarding the bid that take place between Segal and other bidders. All information will be posted in the City of Stockton's Bidflash Page: <http://www.stocktongov.com/services/business/bidflash/default.html>

B. Bid Content

Bids must contain responses to the Questionnaire of this document, as well as the associated fees under Table 1A of the Bid To Be Submitted page.

C. Bid Submittal

1. Bidder must submit the following by 2 PM (Pacific Standard Time), Thursday, SEPTEMBER 11, 2014.

To the City: one (1) CD, one (1) signed original

To Segal: one (1) CD, one (1) complete copy of the bid

Please submit electronic documents in either Word or Excel format if applicable.

2. Bids must be enclosed in a sealed envelope or package and clearly marked as follows:

**BID – ADMIN SVCS FOR FSA, DC FSA, PRE-TAX TRANSPORTATION
PUR 14-022
SEPTEMBER 11, 2014**

- a. Official copy to: CITY CLERK
CITY OF STOCKTON
425 NORTH EL DORADO STREET
STOCKTON, CA 95202-1997

**REQUEST FOR SEALED BIDS
TO PROVIDE ADMINISTRATIVE SERVICES FOR FSA, DC FSA, PRE-TAX TRANSPORTATION
FOR THE CITY OF STOCKTON, CALIFORNIA
(PUR 14-022)**

b. Courtesy copy to: TOM MORRISON
THE SEGAL COMPANY
330 NORTH BRAND BLVD, SUITE 1100
GLENDALE, CA 91203

3. No unsolicited material will be accepted after the submittal date.
4. Bids shall remain confidential until the contract(s), if any, resulting from this process are awarded. Thereafter, all information submitted in response to this bid shall be deemed public record. Please see information under Section 1.25 regarding the submission of confidential or proprietary data.
5. Bidder, by submitting its bid, agrees that any costs incurred by bidder in responding to this bid are to be borne by the bidder and may not be billed to the City of Stockton.
6. The bid due date is subject to change. If the bid due date is changed, all known recipients of the original bid will be notified of the new date. The City reserves the right to reject any or all bids.

D. Duration of Bid

All bids will remain in effect and legally binding for at least 180 days from the submittal date.

E. Additional Requirements

1. Right to Audit – The successful bidder will be required to allow the City the full right to audit.
2. Plan Rules – The bidder agrees to accept any specified eligibility or benefit rules established by the City. Any proposed modifications to the specified eligibility or benefit must be clearly pointed out in the appropriate section of the bid.
3. Transfer of Records – In the event of contract termination, the administrator agrees to transfer to the City (or to a successor administrator) within 30 days of termination notice all data and participant records necessary for the continued administration of the plans. The administrator must agree to continue operations until the transfer of data has been completed.
4. All record documents and data shall be the property of the City and not the administrator.

BID DOCUMENTS

- A) BID – ADMIN SRVCS FOR FSA, DC FSA, PRE-TAX TRANSPORTATION
- B) PUR 14-022
- C) SEPTEMBER 11, 2014

COMPANY NAME: _____

CONTACT NAME: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

EMAIL: _____

BID TO BE SUBMITTED

FEE QUOTATION FORM

1. Rates shown must be valid for a July 1, 2015 effective date and may not expire prior to the award of contract made by The City.
2. Rates must be guaranteed for the specified contract period on the Fee Quotation Form.
3. All rates quoted must exclude any commissions or payment to any third party.
4. Any start-up costs, development of communications materials and any other charges must be included in the base fees.
5. All underwriting rules/restrictions that apply to rates quoted must be listed as an attachment to the rate exhibit. You may not place contingencies on your bid based upon variations in enrollment.
6. You are to assume no changes to the current eligibility rules.
7. Your proposal should be based on administering the current benefits. Please list any benefits that your company cannot administer as requested in the questionnaire section of the Bid.
8. Rates must be quoted on PEPM (per employee per month) basis

FEE QUOTATION FORM

TABLE 1A

Fee Table – FSA & DC FSA & Pre-Tax Transportation

PLEASE DO NOT ALTER THE TABLES

Complete the following table on a monthly, composite PEPM basis ONLY.

Please provide unbundled fees for each of the three accounts as an employee can select one or more accounts.

Administrative Services	7/1/15-12/31/15	1/1/16-12/31/16	1/1/17-12/31/17	Year 4 (optional)	Year 5 (optional)
Health Care					
Debit Card Fee					
Dependent Care					
Pre-Tax Transportation					
Total per employee per month					

I/We agree to provide benefits for the City of Stockton, in accordance with the provisions and specifications listed in this Bid.

FIRM

ADDRESS

SIGNATURE OF AUTHORIZED PERSON

TITLE

NAME OF AUTHORIZED PERSON

DATE SIGNED

(_____) _____
TELEPHONE

**IF YOU DO NOT WISH TO BID, PLEASE RETURN YOUR BID IMMEDIATELY
STATING REASON.**

List of all services that are included in fees. (Please specify all services as this list will be included in a contract agreement should your firm be selected).

--

List of optional services your company can provide which are not included in the noted fees, along with associated fees.

--

PERFORMANCE GUARANTEES

1. The City is looking for a flat dollar (\$\$\$) performance guarantee amount that can be allocated by the City across the various guarantees as they choose. Please indicate the amount you are willing to place at risk.
2. The City will require specific performance guarantees. In addition, you may provide other guarantees designed to differentiate your program. Unless noted, all guarantees shall be set and measured annually. Measurement of performance guarantees may be based on internal self-reporting, subject to independent audit.

Guarantee	Penalty	Standard	Frequency
Achieve a minimum of 99% financial accuracy			
Process 99% of claims within 30 calendar days			
Answer 90% of calls within 30 seconds			
Implementation guarantee			once
Respond to 95% of written inquires within 20 calendar days			
Resolve 95% of written inquiries within 30 calendar days			
Resolve 95% of telephone inquiries within 1 calendar day			
Maintain call abandonment rate below 5%			
Respond to 95% of client inquires within 10 calendar days			
Resolve 99% of appeals within 60 calendar days			
Achieve 95% of Coding Accuracy			
TOTAL			

Table to be completed by bidder.

BIDDER'S AGREEMENT

In submitting this bid, as herein described, the bidder agrees that:

1. They have carefully examined the specifications and all other provisions of this form and understand the meaning, intent, and requirements of same;
2. They have reviewed and understand all clarifications/questions/answers on the City's website at: <http://www.stocktongov.com/services/business/bidflash/default.html>;
3. They will enter into written contract and furnish the item(s)/service(s) in the time specified in strict conformity with the specifications and conditions contained therein for the price quoted by the bidder on this bid;
4. The proposed price is inclusive of all freight and handling charges and includes delivery to the City of Stockton, Human Resources Department, or if specified, to the alternate point of delivery shown in the specifications;
5. They have signed and notarized the attached Non-Collusion Affidavit form whether individual, corporate or partnership. Must be "A Jurat" notarization;

FIRM	ADDRESS
SIGNATURE OF AUTHORIZED PERSON	TITLE
NAME OF AUTHORIZED PERSON	DATE SIGNED
() TELEPHONE	E-MAIL ADDRESS

NOTE: *Bids are invalid if submitted unsigned.* If erasures or interlineations appear on your bid form, they must be initialed by the person preparing the bid. Bids shall be mailed or delivered to:

**OFFICE OF THE CITY CLERK
FIRST FLOOR, CITY HALL
425 NORTH EL DORADO STREET
STOCKTON, CALIFORNIA 95202-1997**

on or before **2:00 p.m. THURSDAY, SEPTEMBER 11, 2014**, and publicly opened immediately thereafter in the City Council Chambers. Courtesy copy shall be sent to Segal.

SPECIAL NOTE: U.P.S. OR OTHER SPECIAL HANDLING SERVICES DO NOT DELIVER DIRECTLY TO THE CITY CLERK'S OFFICE. BIDDERS ARE ADVISED THAT IF A SPECIAL HANDLING SERVICE IS USED, BIDS MAY NOT REACH THE CITY CLERK'S OFFICE IN TIME FOR BID OPENING AND WILL BE REJECTED AND RETURNED TO BIDDER.

BID QUESTIONNAIRE

Questionnaire Instructions to Vendors

*****DO NOT ALTER THE QUESTIONS OR QUESTION NUMBERING*****

- Provide an answer to each question even if the answer is “not applicable” or “unknown.” Incomplete questionnaires may be cause for disqualification.
- If your response to a question differs by the type of coverage you are proposing, provide a separate response for each coverage and clearly indicate to which coverage your response pertains.
- Answer the question as directly as possible.
 - If the questions asks “How many...” provide a number,
 - If the question asks, “Do you...” indicate Yes or No **first**, followed by your additional narrative explanation.
- Responses should not exceed 200 words in length.
- Responses should not refer to your appendix/attachments for further information.
- Vendor will be held accountable for accuracy/validity of all answers.
- Remember, BID responses will become part of the contract between the winning Vendor and the City.

NOTE: Please make sure to include an electronic copy of your completed questionnaire in Word on the CD with your response.

ALL QUESTIONS REGARDING THIS BID SHALL BE MADE IN WRITING/E-MAIL AND DELIVERABLE TO THE CITY OF STOCKTON AS INDICATED ON PAGE 5 - SECTION 1.6 ADDENDA AND INTERPRETATION.

DO NOT ALTER THE QUESTIONS.

A. GENERAL REQUIREMENTS

For this section of the questionnaire, answer the question/requirement with a simple “Yes” or “No” answer. If you answer “No” to any of the questions/requirements in this section, please explain the response at the end of the section. The explanation will be reviewed; however, failure to agree to all of the terms requested in this section may cause the City to deem your proposal non-responsive.

1. Do you agree that if this proposal results in your company being awarded a contract and if, in the preparation of that contract, there are inconsistencies between what was proposed and accepted versus the contract language that has been generated and executed, that any controversy arising over such discrepancy will be resolved in favor of the language contained in the proposal or correspondence relating to your proposal?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Will you agree to be bound by the terms of your proposal until a final contract is executed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Do you agree to all the terms and conditions in Section I of this Bid?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. You will be required to issue the Contract <u>within thirty (30) calendar days</u> after being given a <i>Notice of Intent to Award</i> unless waived by the City. Please confirm your acceptance of this requirement.	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Confirm that your proposed rates exclude commissions.	<input type="checkbox"/> Yes <input type="checkbox"/> No
6. Other than the quoted administration rates in the financial section of this Bid, there should not be any other charges or fees of any kind that will or could apply to the City such as start-up costs, booklets or printing. The fees quoted shall include all services and supplies that could reasonably be expected to be provided to the City during the course of your administration of the plans. Confirm your agreement to this requirement.	<input type="checkbox"/> Yes <input type="checkbox"/> No
7. Please confirm that there will be no adjustments to the proposed fees and/or rates based on actual enrollment or subsequent shifts in enrollment.	<input type="checkbox"/> Yes <input type="checkbox"/> No
8. Please confirm that your proposed rates are guaranteed for three years from July 1, 2015 through June 30, 2018.	<input type="checkbox"/> Yes <input type="checkbox"/> No
9. The City requires that it maintain the right to terminate the contract at any time with no financial penalty provided that it gives 60 days advance written notification to the contractor. Do you agree to this provision?	<input type="checkbox"/> Yes <input type="checkbox"/> No
10. Will you transfer enrollment cards, claim information, and other administrative records to any carrier that would replace you in the event of termination of this contract at no charge?	<input type="checkbox"/> Yes <input type="checkbox"/> No
11. Do you agree to the provision that changes in administration rate may only occur on the anniversary date unless required by mandatory benefit changes?	<input type="checkbox"/> Yes <input type="checkbox"/> No
12. Do you agree to include a minimum of 180 days’ advanced notice of renewal rates in your contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
13. Confirm that you agree to waive any and all actively at-work restrictions and pre-existing condition limitations for employees enrolled in the plan on the contract effective date and waive any pre-existing limitation for employees that	<input type="checkbox"/> Yes <input type="checkbox"/> No

enroll after the policy effective date. Contract should include such language.	
14. Will you agree to accept any specified eligibility rule(s) established by the City?	<input type="checkbox"/> Yes <input type="checkbox"/> No
15. Will you guarantee that all insureds (including COBRA participants), who would have continued to be covered on the plan effective date if there had been no change in carriers, will be covered by your policy on the plan effective date?	<input type="checkbox"/> Yes <input type="checkbox"/> No
16. Will you agree to include in your contract a hold harmless provision that indemnifies the City against liability that arises as the result of negligent acts, errors, omissions, fraud and other criminal acts committed by your network providers, officers, employees, and agents of the organization?	<input type="checkbox"/> Yes <input type="checkbox"/> No
17. Do you agree to maintain compliance with HIPAA privacy and security for the duration of the contract with the City and after it ends?	<input type="checkbox"/> Yes <input type="checkbox"/> No
18. Confirm that your company is in compliance with all state and federal laws applicable to the programs you are proposing or the services you will provide.	<input type="checkbox"/> Yes <input type="checkbox"/> No
19. Do you agree to provide quarterly and annual reporting (<i>i.e.</i> , Administration, claims, enrollment and utilization)? - Enrollment - Administration fees - Claims - Utilization	<input type="checkbox"/> Yes <input type="checkbox"/> No

Explain any "No" answers provided in the requirements above:

YOUR BID MUST INCLUDE ANSWERS TO EACH OF THESE QUESTIONS

GENERAL INFORMATION	VENDOR RESPONSE
<p>1. What are your company's most recent claims paying ability rating? (If you are not rated by one or more of these organizations, please state so).</p>	<p align="center">Rating Date</p> <p>AM Best Standard & Poor Fitch Moody's Other/Not Rated (circle one and explain)</p>
<p>2. Has there been any change in your ratings in the last 2 years? If yes, please explain the nature and reason(s) for the change.</p>	
<p>3. Has your organization acquired, been acquired by, or merged with another organization in the past 24 months?</p>	
<p>4. Please confirm that you will provide all administrative services listed in Article II of Attachment A. If your bid deviates in any way from the coverage currently in effect, you must clearly itemize all deviations in here.</p>	
<p>5. Describe how administration fees will be billed and collected, when administration fee is due, grace periods, and the process for late payment charges. Include the interest rate credited to early payment, and interest rate charged for late payments.</p>	
<p>6. Do you agree to provide a complete financial accounting report for the group? Please attach a sample of an actual report (naturally, omitting any means of identifying the policyholder).</p>	
<p>7. Assuming that a policy terminates on a policy anniversary, will a regular annual financial accounting report be made of the most recently completed policy year? What if termination occurs off the anniversary date?</p>	

GENERAL INFORMATION	VENDOR RESPONSE
8. Do you agree that upon termination of a contract with your company, your company would remain liable for all pending and unreported claims incurred prior to the termination date?	
9. a. Will your rates be guaranteed for all coverage for the requested time period beginning on the contract effective date? b. Thereafter, will your rates be guaranteed for each succeeding full twelve-month period or longer period as negotiated? c. Will this provision be included in your contract?	
10. Does the contract provide the plan sponsor the right to audit the performance of the plan and services provided? Indicate what services, records and access will be made available to the plan sponsor at no additional charge. Also, indicate frequency and notice requirements that are part of the right to audit provision.	
11. Where is the office located that would handle the general servicing of this account?	
12. Do you agree to attend onsite City meetings during the year, as requested, including a yearly benefits fair?	
13. What is the minimum amount of implementation lead-time you need in order to initiate services for the City? Provide a general timetable of the major events that need to take place during implementation (along with estimated dates) in order to coordinate a smooth implementation of your services by the effective date of the contract with the City.	
14. List any transition issues the client should consider with respect to moving services from an existing vendor to your services.	
15. Indicate the toll-free phone number the City's enrollees will call.	
16. Indicate your standard and "after" business hours and days: STANDARD BUSINESS DAYS	

GENERAL INFORMATION	VENDOR RESPONSE
STANDARD BUSINESS HOURS NON-BUSINESS DAYS “AFTER” BUSINESS HOURS	
17. Explain any of your current contractual relationships with a third-party firm in which the third party firm will be paid by the City either directly or indirectly (e.g. % of savings) during the course of the contract with this City.	
18. Do you agree that you will not assign or transfer the rights or obligations of the contract or any portion thereof, without the prior written approval of the City?	
19. Describe any pending or closed lawsuits against your organization in the past two years.	
20. If your company is awarded this business, how soon after notification of the award would you be able to have a draft contract?	
21. Confirm that you have included a copy of your proposed performance guarantees with your bid.	
22. Confirm that you understand that you will be required to work with City staff prior to the effective date of the contract (July 1, 2015), for transition and open enrollment services.	

ADMINISTRATIVE SERVICES FOR FSA, DC FSA, PRE-TAX TRANSPORTATION

FSA, DC FSA, PRE-TAX TRANSPORTATION	VENDOR RESPONSE
ORGANIZATIONAL EXPERIENCE	
1. Please list the number of years your company has provided the following services: <ul style="list-style-type: none"> • Medical FSA Administration • Dependent Care FSA Administration • Transit (Pre-tax transportation) Administration 	
California Membership Profile/Client Base 2. Please complete the following : Membership - Medical FSA Account 2 Years Prior 1 Year Prior Current	
Membership - Dependent Care FSA Account 2 Years Prior 1 Year Prior Current	
Membership - Transit Account (Pre-tax transportation) 2 Years Prior 1 Year Prior Current	
ADMINISTRATIVE SERVICES	
Account Service 3. Payment <i>Options</i> (Check only one) <ul style="list-style-type: none"> <input type="checkbox"/> Electronic Fund Transfer <input type="checkbox"/> Manual Invoicing <input type="checkbox"/> Both options available 	
4. a. What on-line services/functions will be made available to the City via the Internet? (Check all that apply) <ul style="list-style-type: none"> <input type="checkbox"/> Claims Summary - Reimbursements <input type="checkbox"/> Contribution History <input type="checkbox"/> Enrollment Counts <input type="checkbox"/> Other 	

FSA, DC FSA, PRE-TAX TRANSPORTATION	VENDOR RESPONSE
b. Provide name of web site and sample password, if applicable:	
<p>5. For this question, complete the following for all that apply:</p> <p>Forms</p> <p>a. SPDs</p> <p style="padding-left: 40px;">Cost: Included in Fee? Included in Basic Fee Not Available</p> <p style="padding-left: 40px;">Cost: Additional Indicate additional cost</p> <p>b. Claims Forms</p> <p style="padding-left: 40px;">Cost: Included in Fee? Included in Basic Fee Not Available</p> <p style="padding-left: 40px;">Cost: Additional Indicate additional cost</p> <p>c. Other, please describe:</p> <p style="padding-left: 40px;">Cost: Included in Fee? Included in Basic Fee Not Available</p> <p style="padding-left: 40px;">Cost: Additional Indicate additional cost</p>	
<p>Member Service (i.e. Customer service, Internet access, etc.)</p> <p>6. a. Is the cost of providing a toll-free number to be made available to participants to handle claims or other service issues included in your quotation?</p> <p>b. What hours will the telephone lines be staffed by actual customer service representatives? (Please do not include hours the telephone line will be staffed by an answering service. Include weekend hours.) Hours: _____ Days: _____</p>	
<p>7. Indicate “YES” or “NO” for which of the following information is available on your FSA website:</p> <p>a. Ability to access the user’s account balance/status information</p> <p>b. Download reimbursement forms</p>	

FSA, DC FSA, PRE-TAX TRANSPORTATION	VENDOR RESPONSE
c. List of eligible medical expenses for reimbursement under the Medical FSA	
d. List of eligible expenses for reimbursement under the Dependent Care Assistance Program (DCAP)	
e. Frequently asked questions (FAQ) about Medical FSA and DCAP	
f. Worksheets/calculators to help individuals determine an appropriate annual amount of money to set aside in their Medical FSA or DCAP	
g. List other useful information for account holder provided	
h. Quarterly statements on account balance	
i. Reminder before year end of balance in account	
8. Do you have a method for tracking termination dates?	
9. Indicate “YES” or “NO” if you accept requests for reimbursement in each of the following methods: a. Mail b. Walk-in c. Fax d. E-mail (with scanned attachment) e. Automatic integration with Medical Plan for deductible and coinsurance payments	
10. Do you offer the employer an online enrollment process for the Medical FSA and DCAP?	
11. Please confirm that a pre-funding account will not be required.	
12. Attach a copy of your claim denial letter/form outlining your appeals process with appeal timeframe.	
13. How do you handle overpayments and underpayments ?	
14. Do you maintain an internal audit program to verify that your staff is properly adjudicating claims?	

FSA, DC FSA, PRE-TAX TRANSPORTATION	VENDOR RESPONSE
<p>15. Indicate “YES” or “NO” if you will perform each of the following nondiscrimination tests for the City each year:</p> <p>a. Medical FSA: Eligibility test</p> <p>b. Medical FSA: Benefits test</p> <p>c. DCAP: Eligibility test</p> <p>d. DCAP: Contributions and Benefits test</p> <p>e. DCAP: More than 5% owners concentration test</p> <p>f. DCAP: 55% average benefits test</p>	
<p>16. Do you agree to accept responsibility for an error made by your company that could result in the entire plan being disqualified under Section 125?</p>	
<p>17. a. Do you agree to provide monthly management reports to the City?</p> <p>b. Provide samples of these reports.</p> <p>c. List which of the provided reports are available electronically.</p>	
<p>18. Have you administered a claim that has been investigated by the IRS for lack of substantiation or other compliance concerns?</p>	
<p>19. a. Please provide sample communication materials you have produced for your clients.</p> <p>b. Is the cost of these communication materials included in your regular fee for the use of the program?</p> <p>c. If not, what is the additional cost?</p> <p>d. Are customized communications available?</p> <p>e. What is the cost? Include these fees on the FSA Rate Sheet.</p>	
<p>20. a. Do you require that the City maintain their own banking account and you write checks from that account?</p> <p>b. Is your proposal based on the assumption that checks/statements are mailed</p>	

FSA, DC FSA, PRE-TAX TRANSPORTATION	VENDOR RESPONSE
directly to the participant's home address?	
21. List the most common alternatives you utilize for terminated employees who have an underspent account.	
22. Do you have a process to minimize an employee overspending their Medical FSA or DCAP account in a given year?	
23. For transit benefits, do you allow payroll deduction changes on a month-to-month basis? If not, please explain.	
24. Describe the information that will be required from the employee to submit a valid claim for FSA benefits reimbursement, (i.e. do they need a copy of the EOB from the health carrier confirming their out of pocket, etc.)	
25. How often would reimbursements be made to participants? Health care reimbursement account? Dependent care reimbursement account? Transit account?	
26. Do you offer ACH or direct deposit of reimbursements? If yes, does an additional fee apply? (Please include fee in Table 1)	
27. Describe how you handle the banking arrangement for clients that are fully outsourced, what type of accounts you would propose for the City, and your strategy for eliminating or minimizing banking fees.	
28. Detail your reconciliation responsibilities and procedures. The City will require that all reconciliations be performed by the selected vendor.	
29. Confirm that you agree to perform the following functions in the event of cancellation: a. Guarantee a post-termination administrative fee of no more than your last month's monthly fee	<input type="checkbox"/> Confirmed <input type="checkbox"/> Not Confirmed

FSA, DC FSA, PRE-TAX TRANSPORTATION	VENDOR RESPONSE
b. Transfer all records to the City or the successor administrator within 30 days of termination in a form that is acceptable to the recipient	<input type="checkbox"/> Confirmed <input type="checkbox"/> Not Confirmed
DEBIT CARD QUESTIONS	
30. Describe your debit card services and type of benefits handled (e.g., FSA, Dependent Care, Transit, etc.). Do you provide a proprietary card or do you use an outside vendor?	
31. With what other companies do you contract in order to provide debit card services (e.g. bank, credit card company, etc.)? Describe the services provided by your company and those contracted to other companies, and the contractual arrangements.	
32. Please describe your recommended procedure for "stacking" the Health Care and Dependent Care FSA accounts. Describe alternative arrangements that you can support.	
33. Describe how you pay claims during the 90-day grace period for FSAs.	
34. Describe when paper substantiation must be submitted by an individual and any substantiation that the individual is requested to retain for tax purposes.	
35. How do you assure that every claim, both electronic and paper, is properly substantiated in accordance with IRS guidelines?	
36. Describe which automatic electronic substantiation methods you use: -Copayments -Recurring claims -Real-time substantiation -Inventory Information Approval System (IIAS)	
37. Are you in compliance with IRS Notice 2006-69? If not, please describe your compliance program. What types of claims cannot be administered via your debit card?	

FSA, DC FSA, PRE-TAX TRANSPORTATION	VENDOR RESPONSE
38. Provide a list of items that you consider qualified medical expenses that are payable by your program using an electronic substantiation method.	
39. Can your card program be used to pay for over-the-counter medication? If so, please provide a sample list of payable medications.	
40. Describe your procedures and policies that prevent abuse of the debit card (e.g. use by the employee to purchase items that are not qualified medical expenses).	
41. Confirm that all fees associated with the debit cards are included in the base FSA administration fees.	
42. Describe the banking arrangements necessary to implement your debit card program. Include information about when money transfers would be required and how often.	
43. Must all participants use the debit card or can only certain individuals elect the debit card option?	
44. When you offer a debit card, do you require that all reimbursements be administered via this debit card or will you accept hard copy claim submissions by those participants who forget to use their card?	
HIPAA Questions	
45. a. Do you have a formal HIPAA compliance plan in place?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b. Will you provide a sample copy upon request?	<input type="checkbox"/> Yes <input type="checkbox"/> No
46. Will your organization be issuing Notices of Privacy Practices as required by HIPAA to each new plan enrollee?	

FSA, DC FSA, PRE-TAX TRANSPORTATION	VENDOR RESPONSE
<p>47. Considering the nature of the services to be provided to the City, would you consider your regulatory status under HIPAA to be the plan's Business Associate as defined under the recently published final rules modifying HIPAA Privacy and Security and include a copy of your HIPAA Business Associate Agreement, if any? If you would not consider yourself the plan's HIPAA Business Associate, or have no standard HIPAA Business Associate Agreement, please explain.</p>	

EXHIBIT 1 – INSURANCE REQUIREMENTS

ADMINISTRATIVE SERVICES FOR FSA, DC FSA, PRE-TAX TRANSPORTATION CONSULTANT

CONSULTANT shall procure and maintain for the duration of the Agreement, insurance against all 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 CONSULTANT, its agents, representatives, volunteers, or employees.

1. **INSURANCE** Throughout the life of this Contract, the Consultant shall pay for and maintain in full force and effect with an insurance company admitted by the California Insurance Commissioner to do business in the State of California and rated not less than “A: VII” in Best Insurance Key Rating Guide, the following policies of insurance:
 - A. **AUTOMOBILE LIABILITY** insurance, endorsed for “any auto” with the following limits of liability: Bodily Injury \$250,000 each person, and \$500,000 each occurrence. Property Damage \$100,000 each occurrence.
 - B. **WORKERS’ COMPENSATION** insurance as required under the California Labor Code and Employers Liability Insurance with limits not less than \$1,000,000 per accident/injury/disease.
 - C. **COMMERCIAL OR COMPREHENSIVE GENERAL LIABILITY AND MISCELLANEOUS SUPPLEMENTARY INSURANCE;**

FOR **ADDITIONAL** REQUIREMENT(S):

- (i) **COMMERCIAL OR COMPREHENSIVE GENERAL LIABILITY** insurance which shall include Contractual Liability, Products and Completed Operations coverage’s, Bodily Injury and Property Damage Liability insurance with combined single limits of not less than \$1,000,000 per occurrence, and \$2,000,000 Aggregate limit.
- (ii) **PROFESSIONAL LIABILITY/ERRORS AND OMISSIONS**, Not less than \$1,000,000 per Claim/\$2,000,000 Aggregate (3 yr discovery and reporting tail period coverage). Certificate of Insurance only required.

Deductibles and Self-Insured Retentions must be declared and are subject to approval by the CITY.

The Policy(s) shall also provide the following:

- 1 The Commercial General Liability insurance shall be written on ISO approved occurrence form with additional insured endorsement naming: *City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers are additional insureds.*
2. All insurance required by this Agreement shall be with a company acceptable to the CITY and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONSULTANT completes its performance of services under this Agreement.
3. For any claims related to services or products provided under this contract, the Consultant’s insurance coverage shall be primary insurance as respects the City of Stockton its officers, agents, and employees. Any coverage maintained by the CITY shall be excess of the

Consultant's insurance and shall not contribute with it. Policy shall waive right of recovery (waiver of subrogation) against the CITY.

4. Each insurance policy required by this clause shall have a provision that coverage shall not be cancelled by either party, except after thirty (30) days' prior to written notice by certified mail, return receipt requested, has been given to the CITY. Further, the thirty (30) day notice shall be unrestricted, except for workers' compensation, or non-payment of administration, which shall permit ten (10) days advance notice. The insurer and/or the contractor and/or the contractor's insurance agent shall provide the CITY with notification of any cancellation, major change, modification or reduction in coverage.
5. Regardless of these contract minimum insurance requirements, the Consultant and its insurer shall agree to commit the Consultant's full policy limits and these minimum requirements shall not restrict the Consultant's liability or coverage limit obligations.
6. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the California Civil Code.
7. The Company shall furnish the City of Stockton with the Certificates and Endorsement for all required insurance, prior to the CITY's execution of the Agreement and start of work.
8. Proper address for mailing certificates, endorsements and notices shall be:

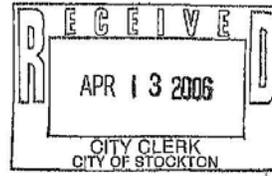
City of Stockton
Attention: Risk Services
425 N. El Dorado Street
Stockton, CA 95202
9. Upon notification of receipt by the CITY of a Notice of Cancellation, major change, modification, or reduction in coverage, the Consultant shall immediately file with the CITY a certified copy of the required new or renewal policy and certificates for such policy.

Any variation from the above contract requirements shall only be considered by and be subject to approval by the CITY's Risk Manager (209) 937-8617. Our fax is (209) 937-8558.

If at any time during the life of the Contract or any extension, the Consultant fails to maintain the required insurance in full force and effect, all work under the Contract shall be discontinued immediately. Any failure to maintain the required insurance shall be sufficient cause for the CITY to terminate this Contract.

If the Consultant should subcontract all or any portion of the work to be performed in this contract, the Consultant shall cover the sub-contractor, and/or require each sub-contractor to adhere to all subparagraphs of these Insurance Requirements section. Similarly, any cancellation, lapse, reduction or change of sub-contractor's insurance shall have the same impact as described above.

ATTACHMENT A – CURRENT FSA CONTRACT



C-06-062 (NP)

STATEMENT OF TERMS AND CONDITIONS

**FLEX SPENDING ACCOUNT RECORDKEEPING
FOR
CITY OF STOCKTON
BY
AMERICAN FIDELITY ASSURANCE COMPANY**

3-21-06

RSO

06-0039

TABLE OF CONTENTS

PREAMBLE

ARTICLE I DEFINITIONS
 1.01 Account
 1.02 Plan Administrator
 1.03 Agreement
 1.04 Code
 1.05 Employer
 1.06 Participant
 1.07 New Participant
 1.08 Plan
 1.09 Policy
 1.10 Recordkeeper

ARTICLE II POWERS AND DUTIES OF RECORDKEEPER
 2.01 Recordkeeper
 2.02 Powers of the Recordkeeper
 2.03 Claim Procedure
 2.04 Duties of the Recordkeeper

ARTICLE III RESPONSIBILITIES OF EMPLOYER AS PLAN ADMINISTRATOR
 3.01 Responsibilities Concerning Recordkeeper
 3.02 Indemnification of Recordkeeper
 3.03 Indemnification of Employer

ARTICLE IV ESTABLISHMENT OF ACCOUNTS
 4.01 Account to Hold Contributions
 4.02 Account to Remain Property of Employer
 4.03 Status of Recordkeeper
 4.04 Account Not to Earn Interest
 4.05 Contributions shall be Maintained in FDIC Insured Accounts

ARTICLE V TERM
 5.01 Termination
 5.02 Termination Upon Written Notice
 5.03 Audits

ARTICLE VI FEES FOR SERVICES
 6.01 Fees

ARTICLE VII EXCEPTION TO ELECTION CHANGES
 7.01 Exception to Election Changes

ARTICLE VIII COMPLIANCE WITH HIPAA REQUIREMENTS AS A BUSINESS
ASSOCIATE OF THE EMPLOYER

- 8.01 Recordkeeper as Business Associate
- 8.02 Definitions
- 8.03 Use and Disclosure
- 8.04 Further Limitations or Restrictions
- 8.05 Use for Management and Administration
- 8.06 Other Services
- 8.07 Safeguards
- 8.08 Assignment
- 8.09 Standard Transactions
- 8.10 Access
- 8.11 Amendment of PHI
- 8.12 Accounting
- 8.13 Breach of Obligations
- 8.14 Return of PHI
- 8.15 Compliance by Employer
- 8.16 Amendments to HIPAA
- 8.17 Effective Date

ARTICLE IX MISCELLANEOUS

- 9.01 Action by the Employer
- 9.02 Notices
- 9.03 Applicable Law
- 9.04 Amendment
- 9.05 Titles
- 9.06 Severability
- 9.07 Controlling Agreement
- 9.08 Third Party Rights

PREAMBLE

This Agreement of Flexible Spending Account Recordkeeping will be effective as of the date of the first remittance of flexible spending account contributions for the Plan Sponsor/Employer's (the "Employer") plan, and covers the services provided by American Fidelity Assurance Company (the "Recordkeeper") for the Employer's Section 125 Flexible Benefit Plan (the "Plan").

March 28, 2006

4

ARTICLE I

DEFINITIONS

Capitalized terms used herein and not otherwise defined herein shall have the same meaning as set forth in the Plan. The masculine gender shall include both sexes; the singular shall include plural and the plural the singular, unless the context otherwise requires.

1.01 "Account" shall mean the account established by the Recordkeeper on behalf of the Employer from which benefits are to be paid in accordance with the terms of the Plan and this Agreement.

1.02 "Plan Administrator" shall mean the Employer or its appointed delegate, which includes the person, persons, or group appointed to act as Administrator under the Plan.

1.03 "Terms" shall mean this Agreement of the Flexible Spending Account Recordkeeping, as set forth herein, with any and all further supplements and amendments thereto, which supplements and amendments shall be effective as to Employer upon written notice to Employer.

1.04 "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and successor tax laws.

1.05 "Employer" shall mean the Plan Sponsor, which is the City of Stockton.

1.06 "Participant" shall mean the Employee of an Employer who participates in the Plan under the participation provisions thereof. For purposes of the medical expense reimbursement account, "Participant" does not include Employees who participated during the current plan year, left the plan by discontinuing contributions to the plan, and who then are rehired.

1.07 "New Participant" shall mean an Employee newly hired during the plan year and who has not previously participated in the flexible spending accounts during the current plan year.

1.08 "Plan" shall mean the Employer's Section 125 Flexible Benefit Plan as hereafter amended from time to time.

1.09 "Policy" shall mean the medical expense reimbursement insurance risk coverage contract issued to the Employer by American Fidelity Assurance Company. The Employer has either (a) applied for coverage under the Policy and the Trust Subscription Agreement, as required by the Recordkeeper, has been submitted to the Recordkeeper (See Article VII for limitations of election), (b) not applied for the Policy and will assume the uniform coverage risk for the medical expense reimbursement and has signed and submitted a Flexible Spending Account Agreement, or (c) has not submitted any signed

Agreement because the Plan either does not include medical expense reimbursement and only includes dependent daycare reimbursement.

1.10 "Recordkeeper" shall mean American Fidelity Assurance Company as duly appointed by the Employer pursuant to the terms of the Plan.

March 28, 2006

6

ARTICLE II

POWERS AND DUTIES OF THE RECORDKEEPER

2.01 Recordkeeper. The Recordkeeper shall provide the recordkeeping and other ministerial services as the Recordkeeper appointed by the Employer as such under the terms of the Plan. The duties of the Recordkeeper shall be only as provided under this Agreement, the Policy, or as otherwise agreed to, in writing, by the Recordkeeper.

2.02 Powers of the Recordkeeper. The Recordkeeper shall have such powers as are necessary for the proper payment of claims for medical expense reimbursement and dependent care expense reimbursement benefits under the Plan, including, but not limited to, the following:

(a) To prescribe procedures to be followed by Participants in filing applications for benefits under the Plan and for furnishing evidence necessary to establish their rights to benefits under the Plan;

(b) To apply the provisions of the Plan (including the provision allowing no election changes by participants for the medical expense reimbursement account during the plan year unless otherwise agreed to in writing by the Employer and the Recordkeeper) as interpreted by the Plan Administrator in determining the rights of any Participant who applies for benefits under the Plan and to notify any such Participant of any such determination;

(c) To obtain from the Employer, Participants, and others, information as shall be necessary for proper accounting of expense reimbursement benefit payments made pursuant to the terms of the Plan, the Policy, and the directions of the Plan Administrator; and

(d) To receive from and hold on behalf of the Plan Administrator those sums of monies in the Account as determined by the Plan Administrator which (i) represent contributions made under the Plan (by Participants or the Employer) and (ii) will be held and administered in accordance with the Plan, the Policy and this Agreement to pay benefits (or to be returned to the Employer).

Provided, the foregoing notwithstanding, the Recordkeeper shall have no power to add to or subtract from or to modify any of the provisions of the Plan, or to change or add to any benefit provided in the Plan.

2.03 Claim Procedure. The Recordkeeper shall pay or deny claims for reimbursement of medical expenses and dependent care expenses in accordance with the terms of the Plan, where applicable. The Recordkeeper shall refer to the Plan Administrator any request for review of a denial of benefits pursuant to the provisions of the claim procedures set forth in the Plan. In accordance with the terms of the Plan, the Plan Administrator (and not the Recordkeeper) shall have the final and absolute authority to determine the validity of claims and whether claims should be paid or denied. Claims will

be retained by the Recordkeeper for a period of six years plus the current year, after which they will be purged.

2.04 Duties of the Recordkeeper. The Recordkeeper shall provide the following recordkeeping services to the Plan Administrator:

(a) At the direction of the Plan Administrator, make expense reimbursement benefit payments from the Account to, or for the benefit of Participants entitled to such benefits under the Plan;

(b) Compile and analyze Plan contribution information, including enrollment and enrollment change information, for purposes of determining whether the "25% key employee" nondiscrimination test (if applicable) of Code Section 125 is satisfied, if and only if, all required information is provided by the Plan Administrator; provided, however, that the Recordkeeper shall not have the duty to determine whether any other nondiscrimination provision applicable under Code Section 125 or any other provision of the Code applicable to any plan or benefit offered or provided under the Plan is satisfied;

(c) Provide to the Plan Administrator by January 15 of each year, if requested, annual statements of monies from Participants received and posted who participated in one or both flexible spending accounts as set forth in the Plan during the preceding calendar year;

(d) Prepare a monthly reconciliation of allocations and expense reimbursement benefit payments made from the Account, if requested;

(e) Return unused reimbursement amounts which may be due to the Employer under the terms of the Plan and the Policy on a timely basis following the runoff period after the end of the Plan year.

ARTICLE III

RESPONSIBILITIES OF EMPLOYER AS PLAN ADMINISTRATOR

3.01 Responsibilities Concerning Recordkeeper. The Employer shall take the following actions in connection with its delegation of recordkeeping duties to the Recordkeeper:

(a) Deliver to the Recordkeeper all contributions (both by Participants and the Employer) received by the Employer under the Plan;

(b) Provide any and all costs, claims, contribution and participation information in the format and frequency that the Recordkeeper determines is necessary to perform its recordkeeping duties;

(c) Interpret the Plan and provide written directions to the Recordkeeper concerning (i) the proper interpretation of the terms of the Plan or any expense reimbursement provision thereunder and (ii) payment of benefits; and

(d) Complete and file an annual 5500 report, if necessary.

3.02 Recordkeeper agrees to defend, indemnify, and hold Employer harmless from any and all claims, losses, damages, or liability which Employer may suffer or incur by reason of Recordkeeper's failure to accurately or correctly perform the services required of it under the terms of this Agreement, unless arising from the Employer's own negligent or willful breach of the provisions of this Statement of Terms and Conditions.

3.03 Employer agrees to defend, indemnify and hold Recordkeeper harmless from any and all claims, losses, damages, or liability which Recordkeeper may suffer or incur by reason of Employer's failure to accurately or correctly perform the services required of it under the terms of this Agreement, unless arising from the Recordkeeper's own negligent or willful breach of the provisions of this Statement of Terms and Conditions.

ARTICLE IV

ESTABLISHMENT OF ACCOUNTS

4.01 Account to Hold Contributions. Pursuant to the Plan and Policy, the Employer is required to collect contributions. The Employer does not desire to retain physical custody of such contributions and has requested that the Recordkeeper hold and administer such contributions as agent of the Employer, for the benefit of the Participants in the Plan. Accordingly, the Employer hereby requests the Recordkeeper to establish the Account for and on behalf of the Employer and the Participants in the Plan. In accordance with the terms and provisions of the Plan, the Employer shall collect and remit to the Recordkeeper all amounts collected by it under the Plan. All amounts received by the Recordkeeper will be credited to the Account which has been established in the name of the Employer by the Recordkeeper. The Employer will deliver all such contributions as soon as reasonably possible following receipt by the Employer in accordance with the terms of the Plan in order that such amounts may be available to pay benefits. No credits for adjustments on previous billings are allowed; any necessary adjustment will be resolved separately from the monthly contributions upon written agreement between Employer and Recordkeeper.

4.02 Account to Remain Property of the Employer. All contributions to the Account (and the Account itself) shall be deemed to be and remain the exclusive property of the Employer until payment of benefits has occurred. The Recordkeeper shall have no proprietary interest in or title to any amounts held in the Account, its duties hereunder being solely to administer the Account for and on behalf of the Employer and the Participants in accordance with the terms and provisions of the Plan and this Agreement. Further, the Account shall in no manner whatsoever be considered as a trust or other similar entity.

4.03 Status of Recordkeeper. The duties of the Recordkeeper hereunder shall be performed in its capacity as the agent of the Employer for the purposes of administering the Account. Due solely to the fact that the Recordkeeper is administering the Account for and on behalf of the Employer, this fact in no manner whatsoever should be considered as a guarantee to either the Employer or the Participants that all funds which need to be made available for the payment of benefits under the plan are in the Account. The Recordkeeper does not warrant payment of any amount otherwise due to be paid under the Plan except with respect to those amounts which the Employer has delivered to the Recordkeeper for payment of benefits as provided under the Plan and the Policy. The maximum amount of reimbursement elected by a Participant under the medical expense reimbursement account is available at all times during the period of coverage, as required in Internal Revenue Code Section 125-2 (Q/A-7).

4.04 Account Not to Earn Interest. The Employer has specifically requested and the Recordkeeper has agreed that the contributions will not be maintained in interest bearing accounts or investments; accordingly, the contributions held in the Account will be held only in non-interest bearing accounts and investments..

4.05 FDIC Insured Accounts. Recordkeeper shall maintain contributions in accounts insured by the Federal Deposit Insurance Corporation.

March 28, 2006

10

ARTICLE V

TERM OF AGREEMENT

5.01 Termination. Unless earlier terminated pursuant to the provisions of 5.02, this Agreement shall remain in effect for one Plan year following the effective date. At the end of one Plan year, this Agreement will continue in full force and effect until terminated. Further, this Agreement will automatically terminate upon termination of the Plan if the Employer certifies to the Recordkeeper that no further benefits are to be paid to Participants. In the event of termination of this Agreement, any and all amounts held in the Account will be returned to the Employer in accordance with the terms of the Policy, and the Employer will then be solely responsible for the performance of the duties otherwise required to be performed by the Recordkeeper hereunder or under the Plan.

5.02 Termination Upon Written Notice. This Agreement may be terminated with or without cause by either party upon no less than thirty (30) days written notice to the other party. In addition, the Agreement may be terminated immediately by written notice specifying a termination date by any party should any of the following events occur: (a) a party fails to comply with the Agreement, or (b) an act of dishonesty or fraud is committed by any party, or (c) any other reason deemed by the Recordkeeper or the Employer to be a legitimate business reason. If the Recordkeeper insures the uniform coverage risk, the risk policy will also terminate and all risk reverts back to the Employer. If the Recordkeeper's recordkeeping services are terminated, or if Employer terminates either the Section 125 Plan or the flexible spending accounts, a runoff period will only be honored if Employer immediately provides funds to pay any outstanding claims.

5.03 Audits. Employer shall have the right, at its own discretion and expense, to conduct statistically valid audits of services provided by the Recordkeeper under this Agreement, subject to the following conditions:

(a) The Employer shall have the right to select an auditor of its choice except that the auditor shall not be involved in, or be a subsidiary to, a business engaged in activities competitive to the Recordkeeper. The Employer's auditor shall agree in writing to maintain the confidentiality of any trade secret or proprietary information of which it may become aware during the course of the audit.

(b) The Recordkeeper shall have the opportunity, prior to the release of the audit report, to review the draft and to include in the report its responses to issues raised by the report.

ARTICLE VI

FEEES FOR SERVICES

6.01 Fees. In consideration of the Recordkeeper performing the services described herein for the Employer, the Employer will pay a fee of \$0 per month for participation in one or both flexible spending accounts for each Participant in the Plan during such month.

March 28, 2006

12

ARTICLE VII

EXCEPTION TO ELECTION CHANGES

7.01 Exception to Election Changes. If the employer applies for the Medical Expense Reimbursement Policy, Participants may not make election changes under said Policy except in the case of termination of employment unless otherwise agreed to in writing by Employer and Recordkeeper, or otherwise stipulated by amendment to this Agreement. This stipulation does not affect election changes under a dependent care account.

ARTICLE VIII

COMPLIANCE WITH HIPAA REQUIREMENTS AS A BUSINESS ASSOCIATE OF THE EMPLOYER

8.01 Recordkeeper as Business Associate. In connection with Recordkeeper's performance of services pursuant to this Agreement, Recordkeeper may create, receive or have access to Protected Health Information. Since HIPAA regulates the use and disclosure of Protected Health Information ("PHI"), Employer and Recordkeeper want to address and ensure in this Article VIII their respective compliance with HIPAA's applicable business associate provisions and requirements in connection with the services performed under this Agreement. Wherever the term "Employer" is used in this Article VIII, it shall mean "Plan Administrator" and "Employer", as those terms are defined in Paragraphs number 1.02 and 1.05 of this Agreement.

8.02 Definitions. When used in this Article VIII, the following terms shall have the meanings specified adjacent to them:

(a) "Data Aggregation," "Designated Record Set," "Secretary" and "Standard Transaction" shall each have the meaning provided for that term in HIPAA.

(b) "Electronic PHI" means any PHI that comes within or satisfies the definition of "protected health information" at 45 C.F.R. 160.103(1)(i) and (ii), and is disclosed to, or created, obtained, maintained or received by Business Associate in connection with, or in any manner related to, Recordkeeper's performance of services pursuant to this Agreement, or otherwise for or on behalf of Employer or any Plan.

(c) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, and all rules and regulations promulgated thereunder, as either or both are amended and revised from time to time.

(d) "Law" means any and all statutes, legislation, rules, regulations, codes, laws, orders, decrees, decisions, and ordinances enacted, issued or promulgated by any federal, state or local governmental authority, agency, body, commission, board, court or legislature.

(e) "Person" means any natural person, corporation, limited liability company, partnership, trust, or other legal entity or organization.

(f) "Plan" means all individual or group health plans, cafeteria plans, and similar employee benefit plans sponsored by the Employer that provide, reimburse or pay the cost of medical care or similar services and to which Recordkeeper now or hereafter provides services.

(g) "Protected Health Information" or "PHI" shall mean any and all information constituting "protected health information," as that term is defined in HIPAA, that is disclosed to, or created, obtained, maintained or received by, Recordkeeper in connection with this Statement.

(h) "Secretary" means the Secretary of the Department of Health and Human Services, or his or her duly designated designee.

(i) "Security Incident" has the same meaning as the term "security incident" in 45 C.F.R. 164.304.

8.03 Use and Disclosure. Recordkeeper shall neither use nor disclose PHI except as provided in this Article or permitted under applicable law. Except as otherwise specified in this Article, Recordkeeper may make any and all uses of PHI that are reasonably necessary to perform its undertakings with respect to the services under this Agreement. Neither Employer nor any Plan shall request Recordkeeper to use or disclose PHI in any manner that would violate HIPAA.

8.04 Further Limitations or Restrictions. Recordkeeper shall also comply with all further limitations and restrictions on the privacy or any use or disclosure of PHI agreed by Employer or any Plan in accordance with 45 C.F.R. 164.522 to the extent they may affect Recordkeeper's use or disclosure of PHI provided that Recordkeeper has received prior written notification of those limitations and restrictions from Employer or the applicable Plan. Neither Employer nor any Plan will commit Recordkeeper to any such limitations or restrictions, including, but not limited to, restrictions on the use or disclosure of PHI as provided for or limitations in 45 C.F.R. 164.522, unless those limitations or restrictions are required by applicable Law or, in all other instances, without first obtaining Recordkeeper's written approval, which approval will not be unreasonably withheld or delayed. Employer shall immediately notify Recordkeeper of any changes in, or revocation of, any authorization or consent of any participant of or beneficiary under any Plan with respect to the use or disclosure of PHI, to the extent same may affect Recordkeeper.

8.05 Use for Management and Administration. Recordkeeper may use PHI as necessary for the proper management and administration of the Plan to carry out the legal responsibilities of Recordkeeper. Recordkeeper may disclose PHI as necessary for the proper management and administration of the Plan or to carry out the legal responsibilities of Recordkeeper if (a) the disclosure is required by law or (b) prior to the disclosure, Recordkeeper obtains a binding written agreement from each Person to whom Recordkeeper will disclose the PHI which provides that each such Person will (i) hold the PHI in confidence and use or further disclose the PHI only as required by law or for the lawful purpose for which Recordkeeper disclosed it to the Person, and (ii) notify Recordkeeper of each instance of which the Person becomes aware in which the confidentiality of the PHI is breached and/or a Security Incident occurs.

8.06 Other Services. Recordkeeper may use PHI, as permitted by HIPAA, to provide Data Aggregation services relating to the health care operations of Employer or any Plan as permitted under HIPAA. Recordkeeper may use PHI to report a violation of Law to the Secretary in accordance with HIPAA.

8.07 Safeguards. Recordkeeper will use appropriate, commercially reasonable safeguards to ensure the confidentiality and security of PHI permitted under this Agreement. Recordkeeper will implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic PHI that Recordkeeper creates, receives, maintains or transmits on behalf of Employer or any Plan. Recordkeeper shall promptly notify Employer in writing after Recordkeeper has actual knowledge of any use or disclosure of PHI not permitted by this Article. Recordkeeper's obligation to protect the privacy of the PHI it created or received for or from Employer will be continuous and survive the termination of the Agreement.

Recordkeeper will report to the applicable Plan and Employer any Security Incident of which it becomes aware.

8.08 Assignment. In each instance that Recordkeeper provides PHI to any agent, subcontractor, assignee or delegatee and/or assigns or delegates (if such assignment or delegation is permitted hereunder) any of its undertakings with respect to the services under this Agreement to any other Person, then Recordkeeper shall obtain a binding written agreement from each such agent, subcontractor, assignee and delegatee requiring that Person to comply with the provisions of this Article with respect to the use, disclosure and safeguarding of PHI including, without limitation, the implementation of reasonable and appropriate safeguards to protect Electronic PHI and the reporting of Security Incidents involving such Person of which such Person becomes aware.

8.09 Standard Transactions. If Recordkeeper conducts in whole or in part any Standard Transaction for or on behalf of Employer or any Plan, Recordkeeper will comply, and Recordkeeper will require any of its subcontractors or agents involved with the conduct of such Standard Transaction to comply, with each applicable requirement of HIPAA as respects that Standard Transaction, as follows:

(a) When either party provides, transmits or exchanges data and information electronically to the other party with respect to any Plan, that party shall transfer the data and information in the code sets, data elements, and formats reasonably specified by Recordkeeper. To the extent required by HIPAA, Recordkeeper shall only specify and use the code sets, data elements and formats that comply with HIPAA. All electronic transmissions between the parties shall be to the address provided by the receiving party to the transmitting party. Plan Administrator authorizes Recordkeeper to submit such data and information to Plan Administrator in the specified electronic format after completion of successful testing thereof. If Plan Administrator is unable or unwilling to transfer data in the specified legal electronic format proposed by Recordkeeper, then Recordkeeper shall be under no obligation to receive or transmit data in any other format.

(b) Recordkeeper shall use its reasonable efforts to provide Plan Administrator with at least sixty (60) days' prior written notice of any proposed change by Recordkeeper to any code sets, data elements or segments, and formats then being used by the parties hereto for purposes of the electronic exchange of data and information concerning any Plan.

(c) Each party will take reasonable measures to ensure that its data transmissions concerning the Policy or containing any PHI are timely, accurate, complete, and secure, and will take reasonable precautions to prevent unauthorized access to the other party's data transmission or operating system. If either party receives data from the other party that was not intended for it, the receiving party will immediately notify the sender to arrange for, at the sender's sole election, the return, re-transmission or destruction of that data.

(d) Each party will obtain and maintain, at its own expense, its own operating system necessary for timely, complete, accurate, and secure data transmission pursuant to this Agreement. Each party will pay its own costs related to data transmission under this Agreement, including, without limitation, charges for the party's own operating system equipment, software and services, maintaining an electronic mailbox, connection time, terminals, connections, telephones, internet service providers, modems, and applicable minimum use charges, except as otherwise provided in this Agreement or any other agreement between the parties. Each party will be responsible for its own expenses incurred in connection with translating, formatting, and sending or receiving communications over the electronic network to any electronic mailbox of the other party, except as otherwise provided in this Agreement or any other agreement between the parties.

(e) Each party will provide the other party with all information (including, without limitation, access and security codes) reasonably necessary to allow access to the other party's operating system in order to successfully complete data transmissions and satisfy the transmission and security requirements provided in this Agreement. Each party shall test, and cooperate with the other party in testing each party's operating system to reasonably ensure the accuracy, timeliness, completeness, and confidentiality of each data transmission made in connection with any Plan.

(f) Each party shall use its reasonable efforts in accordance with prudent business practices to provide uninterrupted access to the operating system of the other party for purposes of electronic transmissions concerning any Plan.

(g) The parties shall use their good faith efforts to incorporate herein such applicable requirements of HIPAA that are hereafter adopted concerning the privacy, security, standardization or encryption of electronic data transmissions involving any Plan.

8.10 Access. Upon Employer's reasonable written request, Recordkeeper will make available to Employer or, at Employer's direction, to an individual participant in any Plan (or the individual's personal representative) any PHI (in its possession or under its reasonable control) concerning the individual in a Designated Record Set for his or her inspection and obtaining copies for so long as the PHI is so maintained by Recordkeeper. The PHI shall be made available in the format requested by the individual, unless the PHI is not readily producible in such format, in which case it shall be produced in a readable hard copy format. Recordkeeper shall have the right to charge the individual a reasonable cost-based fee, as permitted by 45 C.F.R. 164.524. Recordkeeper does not assume any obligation to coordinate access to PHI maintained by other business associates of Employer or any Plan. Recordkeeper shall make its internal policies, procedures, practices, books and records relating to its safeguarding, use or disclosure of PHI available to the Secretary, in a time and manner reasonably designated by the Secretary for purposes of determining Employer or any Plan's compliance with HIPAA.

8.11 Amendment of PHI. Upon Employer's request, Recordkeeper will promptly amend, or provide Employer with reasonable access to promptly amend any portion of the PHI or any record in a Designated Record Set in accordance with 45 C.F.R. 164.526 for as long as the PHI is maintained in a Designated Record Set in the possession or under

the reasonable control of Recordkeeper.

8.12 Accounting. Recordkeeper will maintain a record for each disclosure of PHI, which is not excepted from disclosure accounting under HIPAA, including, without limitation, 45 C.F.R. 164.528, that Recordkeeper makes to any Person. That record shall include all information that Employer would be required under HIPAA to respond to a request by a participant in any Plan (or his or her personal representative) for an accounting of disclosures of PHI in accordance with HIPAA, including, without limitation, the information required by 45 C.F.R. 164.528(b)(2).

8.13 Breach of Obligations. If Employer determines that Recordkeeper has breached the provisions of this Article in any material respect and Recordkeeper has not remedied or cannot remedy that breach within fifteen (15) days after its receipt of written notification thereof from Employer, Employer may terminate the recordkeeping arrangement and this Agreement or, if termination is not feasible, report the breach to the Secretary.

8.14 Return of PHI. Upon termination of the recordkeeping arrangement or this Agreement and as to the extent permitted by applicable law and as consistent with its other obligations and undertakings provided in this Article, Recordkeeper will, if feasible, return to Employer or destroy all PHI that Recordkeeper still maintains in any form, including all copies of any data or compilations derived from and allowing identification of any individual who is a subject of the PHI. Recordkeeper will complete such return or destruction as promptly as possible. Recordkeeper will identify the conditions that make the return or destruction of any PHI infeasible and any PHI that Recordkeeper cannot feasibly return to Employer or destroy. Recordkeeper will limit its further use or disclosure of that PHI to those purposes that make its return or destruction of that PHI infeasible, and extend the safeguards and protections of this Agreement to that PHI.

8.15 Compliance By Employer. As between Employer and Recordkeeper, Employer shall be solely responsible for compliance with the applicable plan sponsor disclosure rules of 45 C.F.R. 164.504(f) and other requirements of HIPAA applicable to Employer as the sponsor and/or administrator of any Plan. As between a Plan and Recordkeeper, such Plan shall be solely responsible for its compliance with the applicable obligations and requirements under HIPAA applicable to that Plan as a covered entity. To the extent that Recordkeeper provides PHI (other than "summary health information," within the meaning of 45 C.F.R. 164.504(a), or enrollment information) to Employer in connection with the services performed under this Agreement or otherwise, Employer will ensure compliance with the requirements of HIPAA including 45 C.F.R. 164.504(f) with respect to that PHI. To the extent that Employer is relying upon the "summary health information" exception to the foregoing plan sponsor disclosure requirements, Employer will ensure, consistent with the provisions of 45 C.F.R. 164.504(f)(ii), that the information in question meets the requirements of that definition and that the information is sought for the purpose of obtaining premium bids or for modifying, amending or terminating the group health plan or any other legally permissible purpose.

8.16 Amendments to HIPAA. Upon the effective date of any final regulation or amendment to HIPAA that conflicts with any term of this Article or which imposes any requirement, condition or obligation upon Recordkeeper, Employer or any Plan concerning the subject matter hereof that is not imposed by this Article, then this Article will be automatically amended to incorporate the applicable terms and conditions of that regulation or amendment such that this Article contractually imposes those terms upon the party or parties hereto to which they apply. Any ambiguity in this Article shall be resolved in favor of a meaning that results in the parties complying with HIPAA.

8.17 Effective Date. This Article shall be effective on the effective date of this Agreement, except with respect to the applicable requirements of the HIPAA security standards for the protection of Electronic PHI set forth at Subpart C of Part 164 of Title 45 of the Code of Federal Regulations, which shall be effective on the later of the effective date of this Agreement or April 20, 2005. The Employer or any Plan's engagement of Recordkeeper to perform any services during which Recordkeeper may create or have access to PHI shall constitute Employer and that Plan's acceptance of, and agreement to, all the terms and provisions of this Article.

SECTION IX
MISCELLANEOUS

9.01 Action by the Employer. Whenever under the Agreement a party is permitted or required to do or perform any act or thing, it shall be done and performed by an officer or a proper authority of the Party.

9.02 Notices. All notices, advice, direction or reports required or permitted to be given under this Agreement shall be in writing and shall be mailed postage prepaid or delivered by hand and acknowledged by signed receipt, addressed as follows:

To Recordkeeper:

American Fidelity Assurance Company
Section 125 Administration
2000 Classen Center
P O Box 268887
Oklahoma City OK 73126

To Employer

Di Smith, Deputy Director
Human Resources Department
22 E. Weber Avenue, Suite 150
Stockton, CA 95202

9.03 Applicable Law. The provisions of this Agreement shall be construed, administered, and enforced according to the laws of the State of Oklahoma.

9.04 Amendment. This Agreement may be amended only by mutual written agreement.

9.05 Titles. The title of the Articles and Paragraphs hereof are included for convenience only and shall not be construed as a part of this Agreement or in any respect affecting or modifying its provisions.

9.06 Severability. If any provision or provisions of this Agreement shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining provisions of this Agreement, but shall be fully severable and the Agreement shall be construed and enforced as if said illegal or invalid provisions had never been inserted herein.

March 28, 2006

20

9.07 Controlling Agreement. This Agreement supersedes and replaces any prior agreement between the parties with respect to the subject matter contained herein.

9.08 Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than Employer and Recordkeeper.

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Contract.

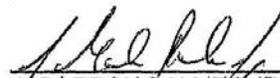
IN WITNESS WHEREOF, the parties have executed this Contract the day and year first hereinabove written.

ATTEST:

CITY OF STOCKTON, a municipal corporation


for KATHERINE GONG MEISSNER
City Clerk of the City of Stockton




J. GORDON PALMER JR.
City Manager

APPROVED AS TO FORM:

"RECORDKEEPER"

RICHARD E. NOSKY, JR.
CITY ATTORNEY

American Fidelity Assurance Company

BY 
JOHN M. LUEBBERKE
Assistant City Attorney

BY: 
Title: Asst V.P.

Resolution No. **06-0139**

STOCKTON CITY COUNCIL

RESOLUTION IMPLEMENTING AN INTERNAL REVENUE CODE SECTION 125 PLAN AND AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE CITY OF STOCKTON AND AMERICAN FIDELITY ASSURANCE COMPANY TO PROVIDE ENROLLMENT AND ADMINISTRATIVE SERVICES FOR THE SECTION 125 PLAN AND TO OFFER CERTAIN QUALIFIED VOLUNTARY INSURANCE PRODUCTS IN CONJUNCTION WITH THE SECTION 125 PLAN

WHEREAS, an Internal Revenue Code Section 125 Plan ("Plan") allows employees to direct a part of their pay, on a pre-tax basis, into special accounts that can be used throughout the year for reimbursement of certain out-of-pocket medical, dental, vision, and over-the-counter medications and/or dependent care expenses; and

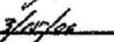
WHEREAS, the Plan will provide the opportunity for City employees to maximize their health care benefits with tax-sheltered funds or select other qualified voluntary insurance products, which would be beneficial according to the needs of a particular family; and

WHEREAS, the City sought proposals from vendors, and subsequently selected and negotiated with American Fidelity Assurance Company for the implementation, enrollment, and administration of the Plan with an effective implementation date of June 1, 2006; and

WHEREAS, the Plan Administrator, American Fidelity Assurance Company, and staff from Human Resources will hold group orientations in March and April 2006, and receive enrollment forms during April and May 2006; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The City Manager is hereby authorized to execute a contract with American Fidelity Assurance Company to implement an Internal Revenue Code Section 125 Plan that will be effective June 1, 2006.
2. The City Manager is hereby authorized and directed to take all necessary actions to implement the Internal Revenue Code Section 125 Plan.

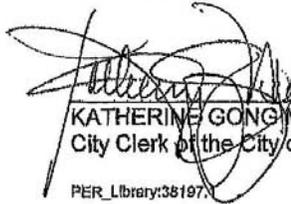
CITY CITY
REVIEW 
DATE 

3. The City Manager is hereby authorized and directed to take all actions necessary to carry out the purpose and Intent of this resolution.

PASSED, APPROVED AND ADOPTED MAR 21 2006


EDWARD J. CHAVEZ, Mayor of the
City of Stockton

ATTEST:


KATHERINE GONGMIN
City Clerk of the City of
PER Library:38197

