PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT is entered into this ______ day of _______________ 2017, between the CITY OF STOCKTON, a municipal corporation ("City"), and JDH CORROSION CONSULTANTS, INC. with business address at 1100 Willow Pass Court, Concord, CA 945520 ("Consultant") for the SANITARY SEWER PUMP STATIONS AND FORCEMAINS CATHODIC PROTECTION IMPROVEMENTS (PROJECT NO. M17014/ PUR 16-028), hereinafter referred to as "Project".

RECITALS

A. Consultant represents that it is licensed in the State of California and is qualified to provide the services proposed in the SCOPE OF SERVICES section of this Contract.

B. City finds it necessary and advisable to use the services of the Consultant for the purposes provided in this Contract.

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions in this Contract, City and Consultant agree as follows:

1. SCOPE OF SERVICES. Subject to the terms and conditions set forth in this Contract, Consultant shall undertake and complete the services described in the REQUEST FOR PROPOSALS (RFP) – Section 2 – Scope of Services. Consultant shall provide said services at the time, place, and in the manner specified in the RFP and compatible with the standards of the profession. Consultant agrees that it shall produce a fully complete project that is acceptable to the City.

2. COMPENSATION. City shall pay Consultant for services outlined in the RFP according to the fee not to exceed the schedule detailed in Exhibit A, which is attached to this Contract and incorporated by this reference. Consultant agrees this fee is for full remuneration for performing all services and furnishing all staffing and materials called for in the scope of services. The payments shall be made on a monthly basis upon receipt and approval of Consultant’s invoice. Total compensation for services and reimbursement for costs shall not exceed $141,682.00 or as otherwise mutually agreed to in a Contract Change Order.

3. SCHEDULE AND TERM. Consultant shall perform the scope of work as described in the RFP, Section 1.2 – Contract Term according to the schedule detailed in Exhibit A, which is attached to this Contract and incorporated by this reference. This Contract shall commence on the date written above and shall expire on December 31, 2019, unless extended by mutual agreement through the issuance of a Contract Change Order.

   a. Invoices submitted by Consultant to City must contain a brief description of work performed, time used, and include the City project number. Payment shall be made within thirty (30) days of approval of invoice by City.

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

4. **RIGHTS AND DUTIES OF CITY.** City shall make available to Consultant all data and information in the possession of City which both parties deem necessary to complete the work, and City shall actively aid and assist Consultant in obtaining such information as may be deemed necessary from other agencies and individuals.

5. **OBLIGATIONS OF CONSULTANT.** Throughout the term of this Contract, Consultant represents and warrants that it has or will have at the time this Contract is executed, all licenses, permits, qualifications, insurance, and approvals of whatsoever nature which are legally required for the Consultant to practice its professions, and Consultant shall, at its own cost and expense, keep in effect during the life of this Contract all such licenses, permits, qualifications, insurance, and approvals. Consultant shall meet with the Municipal Utilities Director or other personnel of City or third parties as necessary on all matters connected with the carrying out of Consultant’s services. Such meetings shall be held at the request of either party hereto. Consultant further warrants that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

6. **OWNERSHIP OF WORK.** All reports, drawings, designs, plan review comments, work product, and all other documents completed or partially completed by Consultant in the performance of this Contract shall become and remain the property of the City. Any and all copyrightable subject matter in all materials is hereby assigned to the City and the Consultant agrees to execute any additional documents that may be necessary to evidence such assignment. All materials shall be delivered to the City upon completion or termination of the work under this Contract. If any materials are lost, damaged, or destroyed before final delivery to the City, the Consultant shall replace them at its own expense. Consultant shall keep materials confidential. Materials shall not be used for purposes other than performance of services under this Contract and shall not be disclosed to anyone not connected with these services unless the City expressly provides prior written consent.

7. **CHANGE ORDERS.** City reserves the right to make such alterations as may be deemed necessary or advisable and to require such extra work as may be required for the proper completion of the work contemplated by Consultant. Any such changes will be set forth in a Contract Change Order which will specify, in addition to the work done in connection with the change made, adjustment of contract time, if any, and the basis of compensation for such work. A Contract Change Order will not become effective until approved by the authorized City official.

8. **TERMINATION.** The City may terminate this Contract at any time by mailing a notice in writing to Consultant. The Contract shall then be deemed terminated and no further work shall be performed by Consultant. If the Contract is so terminated, the Consultant shall be paid for that percentage of work actually completed at the time the notice of termination is received.

9. **CONSULTANT STATUS.** In performing the obligations set forth in this Contract, Consultant shall have the status of an independent contractor and Consultant shall not be
considered to be an employee of the City for any purpose. All persons working for or under the direction of Consultant are its agents and employees, and are not agents of the City. Subcontractors shall not be recognized as having any direct or contractual relationship with the City. The persons engaged in the work, including employees of subcontractors and suppliers, will be considered employees of Consultant. The Consultant shall be responsible for the work of subcontractors, which shall be subject to the provisions of this Contract. The Consultant is responsible to the City for the acts and omissions of its subcontractors and persons directly or indirectly employed by them.

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

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

ii. As an independent contractor, Consultant hereby indemnifies and holds City harmless from any and all claims that may be made against the City based upon any contention by any third party that employer-employee relationship exists by reason of this Contract.

10. ASSIGNMENT. Consultant shall not assign, sublet, or transfer this Contract or any interest or obligation in the Contract without the prior written consent of the City, and then only upon such terms and conditions as City may set forth in writing. Consultant shall be solely responsible for reimbursing subcontractors.

11. INDEMNITY AND HOLD HARMLESS. To the fullest extent permitted by law, Design Professional agrees to indemnify, including the cost to defend, the City of Stockton and its officers, officials, employees, and volunteers from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Design Professional and its employees or agents in the performance of services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the City of Stockton; and does not apply to any passive negligence of the City of Stockton unless caused at least in part by the Design Professional. The duty to defend and the duty to indemnify are separate and distinct obligations. The indemnification obligations of this section shall survive the termination of this agreement.

12. INSURANCE. During the term of this Contract, Consultant shall maintain in full force and effect at its own cost and expense the insurance coverage as set forth in the attached Exhibit B and shall otherwise comply with the other provisions of Exhibit B.

13. HEADINGS NOT CONTROLLING. Headings used in the Contract are for reference purposes only and shall not be considered in construing this Contract.
14. **NOTICES.** Any and all notices herein required shall be in writing and shall be sent by certified or registered mail, postage prepaid, addressed as follows:

To Consultant: JDH Corrosion Consultants, Inc.  
1100 Willow Pass Court  
Concord, CA 94520

To City: Municipal Utilities Dept. or Director  
City of Stockton  
2500 Navy Drive  
Stockton, CA 95206

15. **CONFORMANCE TO APPLICABLE LAWS.** Consultant shall comply with all applicable federal, State, and Municipal laws, rules, and ordinances. Consultant shall not discriminate in the employment of persons or in the provision of services under this Contract on the basis of any legally protected classification, including race, color, national origin, ancestry, sex or religion of such person.

a. **TITLE VI**

Title VI of the Civil Rights Act of 1964 requires that “no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” (42 USC Section 2000d). [http://www.dol.gov/oasam/regs/statutes/titlevi.htm](http://www.dol.gov/oasam/regs/statutes/titlevi.htm).

The City of Stockton requires compliance with the requirements of Title VI in all of its programs and activities regardless of funding source.

b. **DISCRIMINATION AND HARASSMENT POLICY**

The City of Stockton has a Discrimination and Harassment Policy (Exhibit #). The purpose of this policy is to reaffirm the City’s commitment to demonstrating respect for all individuals by strictly prohibiting discrimination and harassment, including sexual harassment in the workplace, to define the types of behavior and conduct prohibited by this policy, and to set forth a procedure for reporting, investigating, and resolving complaints of discrimination and harassment in the workplace.

16. **LICENSES, CERTIFICATIONS, AND PERMITS.** Prior to the City’s execution of this Contract and prior to the Consultant’s engaging in any operation or activity set forth in this Contract, Consultant shall obtain a City of Stockton business license, which must be kept in effect during the term of this Contract. Consultant covenants that it has obtained all certificates, licenses, permits and the like required to perform the services under this Contract.

17. **RECORDS AND AUDITS.** City reserves the right to periodically audit all charges made by Consultant to City for services under this Contract. Upon request, Consultant agrees to furnish City, or a designated representative, with necessary information and assistance.

Consultant agrees that City or its delegate shall have the right to review, obtain, and copy all records pertaining to performance of the Contract. Consultant agrees to provide City or its delegate with any relevant information requested, and shall permit City or its delegate access
to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purposes of determining compliance with this Contract. Consultant agrees to maintain such records for a period of three years from the date that final payment is made.

18. **CONFIDENTIALITY.** Consultant shall exercise reasonable precautions to prevent the unauthorized disclosure and use of City reports, information or conclusions.

19. **CONFLICTS OF INTEREST.** Consultant covenants that other than this Contract, Consultant has no financial interest with any official, employee, or other representative of the City. Consultant and its principals do not have any financial interest in real property, sources of income or investment that would be affected in any manner or degree by the performance of Consultant’s services under this Contract. If such an interest arises, Consultant will immediately notify City.

20. **WAIVER.** In the event either City or Consultant at any time waive any breach of this Contract by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Contract, whether of the same or of any other covenant, condition, or obligation.

21. **GOVERNING LAW.** California law shall govern any legal action pursuant to this Agreement with venue for all claims in the Superior Court of the County of San Joaquin, Stockton Branch or, where applicable, in the federal District Court of California, Eastern District, Sacramento Division.

22. **NO PERSONAL LIABILITY.** No official or employee of City shall be personally liable to Consultant in the event of any default or breach by City or for any amount due Consultant.

23. **INTEGRATION AND MODIFICATION.** The response by Consultant to the Request for Proposals and the Request for Proposals on file with the City Clerk are hereby incorporated herein by reference to the extent that such documents do not differ from the provisions and terms of this Contract that shall supersede such response to Request for Proposals. This Contract represents the entire integrated agreement between Consultant and City, supersedes all prior negotiations, representations, or agreements, either written or oral, between the parties, and may be amended only by written instrument signed by Consultant and City. All exhibits and this contract are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Contract and the attached exhibits, the terms of this Contract will prevail.

24. **SEVERABILITY.** The provisions of this Contract are severable to the extent that should any of its provisions or terms be declared void in whole or in part by operation of law or agreement of the parties, the remainder of the provisions or terms not expressly declared void shall remain enforceable and in full effect.

25. **THIRD PARTY RIGHTS.** Nothing in this Contract shall be construed to give any rights or benefits to anyone other than City and Consultant.
26. **AUTHORITY.** 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.

CITY OF STOCKTON

By: __________________________
    KURT O. WILSON
    CITY MANAGER

ATTEST:

By: __________________________
    BRETT HUNTER
    INTERIM CITY CLERK

APPROVED AS TO FORM:

By: __________________________
    DEPUTY CITY ATTORNEY

JDH Corrosion Consultants, Inc.

By: __________________________
    Signature

Print Name

Title: _________________________

President
Section 2 – Management/Method of Operation

General Overview

JDH Corrosion Consultants, Inc. has reviewed the General Scope of Work described in the Request for Proposal (RFP) for Sanitary Sewer Pump Stations and Forcemains Cathodic Protection Improvements (Project No. M17014/PUR 16-028) and wishes to assure the City of Stockton that we have the experience and resources necessary to provide the corrosion engineering services requested in this RFP in a timely and professional manner. JDH Corrosion Consultants, Inc. personnel will be responsible for performing the necessary cathodic protection assessments, pre-design system surveys, assessing needs for additional corrosion protection and improvements to existing systems, preparing survey reports and making recommendations for repair/rehabilitation or improvement where necessary.

In general, the two primary objectives of this project will include the following:

1. Evaluate the condition of existing cathodic protection systems and determine the repairs or improvements needed to ensure that an adequate level of protection is provided to the subject pump stations and forcemains.

2. Preparation of bid level design documents for the repair or improvement of the existing cathodic protection systems along with technical support during construction as well as training of City staff following the system installations.

To accomplish these goals we will conduct initial field investigations as necessary to be able to properly evaluate the condition of existing cathodic protection systems and where they may be deficient and what repairs, upgrade and replacements/improvements are needed to be able to provide the level of protection as specified in NACE Standard SP0169-13. Corrosion engineering services that we anticipate incorporating into our scope of work for this project include the following:

Scope of Work & Test Procedures

Phase I

(a) **Kickoff and Progress Meetings:** There will be an initial kick-off meeting with City staff to coordinate the survey of the pump stations, forcemains and sewer interceptors. Our field survey crew will need access to the facilities in order to perform a proper survey and determine the needs for improvement. We will only survey during daylight hours and typically from 9 am to 3 pm in order to coincide with the workhours of the City of Stockton personnel. We will also hold several progress meetings during the contract. The first is anticipated to be at the conclusion of the field survey work and the second at the completion of the 50% design drawings.
City of Stockton
Sanitary Sewer Pump Stations and Force mains CP Improvements

(b) **Review of Records:** JDH will re-familiarize ourselves with the existing Final Report, City of Stockton Comprehensive Cathodic Protection Survey, as prepared by our firm in October of 2009 as well as the original cathodic protection design drawings for each pump station, forcemain and sewer interceptor. A pre-engineering testing protocol will be developed to assess the repairs needed at each pump station in accordance with NACE Standard Test Method TM-0497 (2002). The criteria to be used for the assessment and adjustment of all cathodic protection systems will be NACE SP-0169 (2013).

(c) **Potential Survey:** JDH will conduct an interrupted potential survey of the pump stations and force mains that are protected with impressed current cathodic protection systems as detailed below. Potential data will be obtained at all test stations.

Pipe-to-soil potentials will be measured using a Model MC Miller Model LC-4 Digital high-input impedance Voltmeter or equal. Potentials will be measured versus a copper-copper-sulfate reference electrode (CSE) placed in contact with the soil directly over the pipe at the existing test stations. When the soil is very dry tap water will be poured on the ground and the electrode set in the wet soil to reduce contact resistance between the reference electrode and the soil. The pipeline test lead will be connected to the positive terminal of the meter and the reference electrode will be connected to the negative terminal of the referenced meter.

We will compare the field data for each pipeline with the results from the surveys in 2006 and 2009 and plot them together on a graph as shown below. This allows for easily comparison and CP protection trending.

![PIE-D-TO-SOIL (OFF) POTENTIAL SURVEY COMPARISON](image)

Sample Potential Survey Plot for Multiple Years

[Image of a graph showing potential survey comparison]

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**jdh corrosion consultants, inc.**
Pipe-to-soil potentials measured on pipelines with impressed current cathodic protection will be listed in the tables with respective GPS coordinates as "On" and "Off". These potentials will be obtained as follows:

All rectifiers located on one pipeline will be interrupted simultaneously utilizing the GPS synchronized interrupters installed in the rectifier unit. Portable GPS synchronized units will be installed on any rectifiers that may not have an installed interrupter. "On" potentials are measured with the contact closed (cathodic protection current flowing to the pipeline) and "Off" potentials are measured with the contact momentarily open (no CP current flowing to the pipeline). The "Off" potentials eliminate "IR Error" in the measurements and are used to determine if the pipelines meet NACE criteria for corrosion protection. "IR Error" is due to cathodic protection current (I) flowing through the soil (R) and results in measured potentials which are greater than the true potential of
the structures. When the rectifier is off, the current (I) is equal to zero and therefore the "IR Error" is also essentially zero. "IR" refers to Ohm's law "voltage equals current times resistance" or V=IR.

(d) **Rectifier Output Measurements & Repair:** The voltage and current output of each rectifier will be measured using the LC-4 voltmeter (or equal). If a rectifier is not working properly we will troubleshoot the problem in order to diagnose the repair for the rectifier. Simple repairs will be made in the field while more complicated repairs will be incorporated into the overall repairs to each pump station and forcemain CP system.

(e) **Insulating Joints:** The effectiveness of the insulating joints is determined in accordance with NACE SP0286-2007, by measuring the pipe-to-soil potential on either side of the flange using a stationary reference electrode. A structure is determined to be electrically isolated from above grade structures if there is a significant difference in the potentials measured on either side of the joint.

A radio frequency Insulation Checker should also be used to test the insulating effectiveness of the insulating joints installed at each pump station. The insulation checker uses radio frequency skin effect and only reads the immediate joint to determine insulating effectiveness. The instrument indicates the shorted or not shorted condition of the joint. For large diameter pipelines, at least four measurements should be obtained, one in each quadrant.

(f) **Pre-design Engineering Report:** Provide 2 hard copies and one electronic copy of a pre-design report. The pre-design engineering report will contain the following:
- Listing of all field test procedures, all field data collected and photographic documentation of findings
- Aerial maps will be prepared showing the locations of all test stations and other structures using the GPS coordinates collected during the course of this assessment
- Synopsis of all documentation reviewed based on NACE and industry standards
- Operational analysis of all CP systems and repairs/adjustments made in the field
- Recommendations for repairs and/or upgrades to the systems along with associated costs
- Recommended design criteria for each pump station and forcemain
Phase II

Cathodic Protection Design Services: JDH will prepare bid level design documents which will include the following:
  a. Detailed design drawings, technical specifications in CSI format
  b. Engineering cost estimates
  c. Drawing submittals and technical submittals at 50%, 90% and 100% levels
  d. Attend design review meetings with City of Stockton Staff and others as requested
  e. Provide one full set of mylars 24" x 36" ready for signature at the conclusion of the design process including one set of technical specifications, an Engineer's Estimate of construction cost and a Construction Schedule.

Phase III

Bidding Assistance: JDH will provide bidding assistance which will include the following:
  a. Preparing addenda and letters of clarification
  b. Responses to technical questions during the bid period
  c. Making recommendations relative to contract award
  d. Attend a pre-bid meeting and preconstruction conference

Phase IV

Engineering Services during Construction: JDH will provide engineering services during construction which will include the following:
  a. Reviewing material submittals (up to 15 submittals)
  b. Attending pre-construction meetings and responding to technical questions during this time period
  c. Respond to RFT's and provide technical assistance during system improvements
  d. Log deep well anodes as necessary
  e. Provide record drawings at the conclusion of the project (As-built plans on mylars)

Training City Electricians and Maintenance Staff: Provide training opportunities for City Staff which will include both classroom and field instruction. Allow City Staff the opportunity to join technical training classes that may be beneficial to the City's program. Additional training objectives will include the following:
  - Basic corrosion theory and its application to City structures
  - Review of City Corrosion Control Standards
  - Test equipment operation and maintenance
  - Monthly monitoring and maintenance requirements
  - Annual monitoring and maintenance requirements
  - Rectifier troubleshooting techniques
  - Rectifier safety and maintenance

Prepare and submit an Operation and Maintenance Manual for the repaired, replaced and improved CP systems.
City of Stockton
Sanitary Sewer Pump Stations and Forcemains CP Improvements

Project Management & QA/QC

Quality and Cost Control
JDH Corrosion Consultants, Inc. has made a practice of keeping our clients updated and informed of our progress on projects which eliminates any surprises for all parties concerned and provides a path to allow for changes or modifications to the work scope in a timely manner without extending the overall project schedule. JDH Corrosion Consultants, Inc. has office staff that logs the expended labor hours for each task and tracks these hours throughout the duration of the project. The Project Manager reviews this data and evaluates the performance versus various factors affecting design phase costs.

Project Schedule Control, Milestones and Status Reporting System
JDH Corrosion Consultants, Inc. uses project milestones as goals to gauge progress. Early work scope meetings with City of Stockton will be utilized to establish milestones for this project. Milestones will aid in ensuring that this project is completed on schedule. However, we also realize that milestones are not guaranteed and may need to be revised during the progress of the project for a variety of reasons. Through working closely with City of Stockton staff and keeping everyone informed on a weekly basis of progress and unforeseen circumstances that may occur will allow for changes or modifications to the milestones while at the same time minimizing impact on the overall schedule or budget.

We have reserve manpower to counteract the unknowns which may or may not occur on this project. We will keep City of Stockton abreast of our progress monthly using Microsoft Project scheduling software along with a memorandum describing pitfalls or gains made during the course of each month. We will provide the District with a schedule more detailed than the estimation contained in this proposal for use as a baseline at the start of this project.

A monthly progress meeting is suggested to be held at the District office to review status of the project. Meeting minutes can be written up and distributed to all parties following each meeting. We will also hold a kickoff and management meetings at the beginning of the project. An agenda will be prepared and distributed to all parties prior to each meeting.

Project Controls
JDH Corrosion Consultants, Inc. has established standard management techniques for project delivery, which are designed to track our work on a weekly basis. The City of Stockton will receive an itemized spreadsheet summarizing our progress with each invoice. The format of this spreadsheet can be tailored to meet your specifications and requirements. Using this information will help our staff to track job performance, identify budget problems and determine whether additional scope items are warranted. Also, no work outside of the contract work scope will be performed without prior written authorization from the City of Stockton. In addition, conflict resolution is the responsibility of the overall Project Manager both for internal and external conflicts of technical, cost and of a scheduling nature.

Third Party Technical Review
Blackstone Group Ltd. will provide JDH Corrosion Consultants, Inc. with 3rd party technical review of all field test procedures, cathodic protection designs, calculations, data analysis, engineering reports and operation and maintenance manuals.
CORROSION ENGINEERING SERVICES

Fee Schedule for

City of Stockton Project No. M17014/ PUR 16-028

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Subconsultant
Blackstone Group Ltd.

Sr. TechnicalReviewer                     $218.00

Notes:
1. Effective Date: Sept, 1, 2017 thru Dec. 31, 2018
2. Payment Terms: Net 30 days
### City of Stockton
Sanitary Sewer Pump Stations and Force mains Cathodic Protection Improvements
(Project No. M17014/PUR 16-028)
MANPOWER COST ESTIMATE
Rev. 5/7/2017

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<th>Project Manager</th>
<th>Sr. Project Engineer</th>
<th>Design Engineer</th>
<th>Project Engineer</th>
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EXHIBIT B: INSURANCE REQUIREMENTS

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than $1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability**: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than $1,000,000 per accident for bodily injury and property damage.

3. **Workers’ Compensation** insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease. *(Not required if consultant provides written verification it has no employees)*

4. **Professional Liability** (Errors and Omissions) Insurance appropriate to the Consultant’s profession, with limit no less than $1,000,000 per occurrence or claim, $2,000,000 aggregate. *(If Claims-made, see below.)*

If the Consultant maintains higher limits than the minimums shown above, the City of Stockton requires and shall be entitled to coverage for the higher limits maintained by the consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of Stockton.

Other Insurance Provisions

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

**Additional Insured Status**
The City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers are to be covered as additional insureds on the CGL policy and AL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant’s insurance *(at least as broad as ISO*
Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used). Additional insured Name of Organization shall read “City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers.” Policy shall cover City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers for all locations work is done under this contract.

**Primary Coverage**
For any claims related to this contract, the Consultant’s insurance coverage shall be endorsed as primary insurance as respects the City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers. Any insurance or self-insurance maintained by the City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers shall be excess of the Consultant’s insurance and shall not contribute with it. The City of Stockton does not accept endorsements limiting the Consultant’s insurance coverage to the sole negligence of the Named Insured.

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

**Waiver of Subrogation**
Consultant hereby grants to City of Stockton a waiver of any right to subrogation which any insurer of said Consultant may acquire against the City of Stockton by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Stockton has received a waiver of subrogation endorsement from the insurer.

**Deductibles and Self-Insured Retentions**
Any deductibles or self-insured retentions must be declared to and approved by the City of Stockton Risk Services. The City of Stockton may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

**Acceptability of Insurers**
Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII if admitted to do business in the State of California; if not admitted to do business in the State of California, insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A+:X.

**Claims Made Policies**
If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. If Claims Made policy form is used, a three (3) year discovery and reporting tail period of coverage is required after completion of work.
Verification of Coverage
Consultant shall furnish the City of Stockton with original certificates and amendatory endorsements required by this clause. All certificates and endorsements are to be received and approved by the City of Stockton Risk Services before work commences. Failure to obtain the required documents prior to the work beginning shall not waive the Consultant’s obligation to provide them. The City of Stockton reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time, for any reason or no reason.

Consultant shall, prior to the commencement of work under this Agreement, provide the City of Stockton with a copy of its Declarations Page and Endorsement Page for each of the required policies.

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

- City of Stockton
- Attention: Risk Services
- 425 N El Dorado Street
- Stockton, CA 95202

City of Stockton Risk Services Phone: 209-937-5037
City of Stockton Risk Services Fax: 209-937-8558

Maintenance of Insurance
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.

Subcontractors
Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that City of Stockton is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances
City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE

Subject: DISCRIMINATION AND HARASSMENT POLICY

<table>
<thead>
<tr>
<th>Directive No.</th>
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(see below)

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

I. PURPOSE

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

II. POLICY

A. The City of Stockton prohibits any form of discrimination and/or harassment of any person based on race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other category or attribute consistent with state or federal law. All such discrimination and harassment is unlawful and shall not be tolerated. In addition, under the federal Affordable Care Act (ACA), the City of Stockton prohibits discrimination and/or harassment, or retaliation against an employee who obtains coverage, receives a tax credit or subsidy through the Health Care “Market Place” or “Exchange.”

B. It is an unlawful employment practice to discriminate against or harass an unpaid intern or volunteer on the basis of any legally protected classification unless an exception applies, such as a bona fide occupational qualification.

C. The City will neither tolerate nor condone discrimination and/or harassment of employees by managers, supervisors, co-workers, or non-employees with whom City employees have a business service, or professional relationship.

D. All City employees and non-employees share a responsibility to assist in
CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE

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PER-015 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/96
PER-037 (Sexual Harassment Investigative Procedures) revised from 2/15/93

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

E. All allegations of discrimination and/or harassment shall be investigated immediately by the City, in accordance with this policy. If it is determined that any prohibited activity has occurred, remedial action shall be taken. Such action may include discipline up to and including discharge. In addition, under applicable law, individual supervisors and employees may be subject to personal liability and/or punitive damages in any litigation arising as a result of such conduct.

F. All new hires shall attend harassment awareness training, and supervisors and managers shall attend harassment awareness and prevention training for supervisors every two years.

G. The City of Stockton prohibits retaliation against any employee or nonemployee by another employee, non-employee, supervisor, or manager for reporting, filing, testifying, assisting or participating in any manner in any investigation, proceeding, or hearing conducted by the employer or a federal or state enforcement agency.

H. This policy applies to all officials, employees, volunteers, unpaid interns, agents, or contractors of the City.

I. This policy shall be administered by the Director of Human Resources.
III. DEFINITION AND EXAMPLES OF DISCRIMINATION AND HARASSMENT

A. "Discrimination," as used in this policy, is any action, behavior, practice, or process that is intended to deny, or results in the denial of, employment rights, privileges, or benefits because of a person's race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other prohibition identified under state and federal law. The following are examples of conduct that may constitute discrimination:

1. Soliciting applications from a source where all or most of potential workers are of the same race or color.

2. Considering a person's gender as the basis for differences in pay, work assignments, performance evaluations, training, discipline, or any other area of employment; and

3. Questioning a job applicant about the existence, nature and severity of a disability.

B. "Harassment," as used in this policy, consists of any conduct affecting another person because of his or her race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other category or attribute identified under state and federal law when such conduct has the purpose or the effect of: (1) creating an intimidating, hostile or offensive work environment; (2) unreasonably interfering with the employee's or non-employee's work performance; or (3)
otherwise adversely affecting an employee's or non-employee's employment opportunities.

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

1. **Verbal Harassment:** Epithets, derogatory and offensive comments or slurs based on race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.

2. **Physical Harassment:** Assault, impeding or blocking movement that results in the physical interference with normal work or movement on the basis of race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.

3. **Visual Harassment:** The displaying of posters, photography, notices, bulletins, e-mails, cartoons or drawings with derogatory and offensive content based on race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.

C. "Sexual harassment," as used in this policy, is a subcategory of harassment, and is specifically defined by law as unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made a term or condition of employment; or

2. Submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an employee's or non-employee's work performance or creating an intimidating, hostile or offensive working environment because of the persistent, severe or pervasive nature of the conduct.

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

a. Unwelcome sexual overtures or propositions.

b. Offering employment benefits or status in exchange for sexual favors.

c. Making or threatening retaliation after a negative response to sexual advances.

d. Visual conduct such as leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons, calendars or posters.

e. Verbal conduct such as using epithets or slurs, telling sexually explicit jokes, or making derogatory or suggestive comments about a person's body or dress.

f. Written communications of a sexual nature distributed in hard copy, soft copy or via a computer network.

g. Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes or invitations.

h. Physical conduct such as touching, assaulting, impeding or blocking movements.
i. Retaliation for making harassment reports or threatening to report harassment.

D. Affordable Care Act (ACA) Anti-Retaliation

Pursuant to section §1558 of the Affordable Care Act, the City prohibits discrimination or retaliation towards any employee who:

1. Receives a health insurance tax credit or subsidy through the Health Care "Marketplace" or "Exchange", by which can trigger a penalty payable by the employer;
2. Reports potential violations of protections afforded under Title I of the Act, which provides guaranteed availability protections among other things;
3. Testifies in a proceeding concerning such violation;
4. Assists or participates in a proceeding concerning a violation; or
5. Objects to, or refuses to participate in, any activity, policy, practice, or assigned task that the employee reasonably believes to be in violation of any provision of the Title I of the Act.

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

IV. REPORTING AND COMPLAINT PROCEDURES

A. Immediate Action Required

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

Subject: DISCRIMINATION AND HARASSMENT POLICY

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PER-016 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/96, 1/1/98
PER-037 (Sexual Harassment Investigative Procedures) revised from 2/15/93

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

1. Employee’s and Non-Employee’s Responsibilities when Subjected to Discrimination and/or Harassment

a. Employees or non-employees who believe they have been subjected to discrimination or harassment, or are aware of discrimination or harassment against others, shall report the situation immediately to his/her supervisor or manager, except as specified in subsection (b), below. Employees and non-employees shall report any such incidents occurring in the workplace, whether committed by coworkers, supervisors or managers, or third persons doing business with the City, such as customers or vendors, or other non-employees. If comfortable doing so, an employee or non-employee who has a complaint of discrimination or harassment is encouraged to directly inform the person(s) engaging in the behavior that such conduct is offensive and insist the behavior to stop.

b. Employees and non-employees must immediately contact a supervisor or manager to register a complaint of discrimination or harassment, unless that supervisor or manager is the individual engaging in the unwanted behavior. In that case, the employee or non-employee may contact someone at the next supervisory level. If the employee or non-employee feels uncomfortable dealing directly with his or her immediate supervisor or manager, he or she may contact the department head, or the Director of Human Resources (or either of their designees) to register a complaint of discrimination or harassment.

c. Employees and non-employees may file a formal complaint of harassment or discrimination with their department head or
with Human Resources. To assist the City in conducting a thorough investigation, complaints shall be submitted in writing and shall include specific details of the incident(s), the names of the individuals involved, the names of any witnesses, and any documentary evidence (notes, pictures, cartoons, etc.) that will corroborate the allegations.

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

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

   a. A supervisor or manager is responsible for enforcing the City’s discrimination and harassment policy. Supervisors or managers must ensure that all employees and non-employees are aware of the City’s policy through open discussion of the policy at staff meetings and by posting the policy in a conspicuous location accessible to all staff members.

   b. A supervisor or manager shall be cognizant of employees’ and non-employees’ behavior and shall not permit any employee or non-employee under their supervision to be subjected to or engage in any conduct prohibited by this policy.

   c. A supervisor or manager who observes conduct prohibited by this policy shall immediately direct the employee or non-employee to cease the conduct.
d. A supervisor or manager who receives a complaint of prohibited conduct is required to take the complaint seriously, and report the matter immediately to the department head; be supportive of the complainant; ensure there is no retaliation against the complainant; conduct an internal fact-finding review into the allegations; obtain as much detailed information as possible; thoroughly document the findings; communicate in written form to the parties the resolution of the complaint; and report to and consult with the Human Resources Department promptly, without delay.

B. **Confidentiality.** The City will make every effort to protect the privacy and confidentiality of all parties involved, as well as any information and/or documentation obtained, to the extent possible consistent with a thorough investigation.

C. **Penalty for Non-Compliance.** The City shall take disciplinary action, up to and including discharge, against any supervisor or manager who fails in his/her responsibility to take immediate action in response to an employee's or non-employee's complaint of discrimination or harassment. Further, such disciplinary action shall be taken against a supervisor or manager who fails to stop discriminatory or harassing conduct committed in his/her presence or to stop such conduct about which the supervisor or manager has knowledge.

V. **INVESTIGATION PROCEDURES**

A. **Determination of Responsibility for Investigation**

If a formal complaint is filed with the department head or the Director of Human Resources (or either of their designees), the department head and the Director of Human Resources shall consult with one another to determine whether the department or Human Resources shall conduct the fact-finding investigation into the allegations. Either the department head or the Director of Human Resources (or either of their designees), depending on who is
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PER-016 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/96, 1/1/98
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responsible for the investigation, shall issue written notification to the complainant and alleged harasser(s). The notification shall specify the nature of the complaint, and inform the parties that an investigation into the allegations of discrimination and/or harassment shall be conducted.

B. Investigative Guidelines

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

1. Identify and preserve the evidence.

2. Confirm the name and position of the complainant. Interview the complainant.

3. Allow the complainant the opportunity to place the complaint in writing.

4. Obtain the identity of the alleged harasser(s).

5. Obtain as many details as possible regarding the incident(s) that prompted the complaint, including the number of occurrences, dates, times, locations, and witnesses (if applicable).

6. Ascertain how the complainant felt about the alleged incident when it occurred; complainant’s response(s) to the alleged behavior; and witness statements (if applicable).

7. Ascertain if any threats or promises were made in connection with the alleged harassment.

8. Ascertain if the complainant knows of or suspects that there are other victims of harassment by the same person(s).

9. Ascertain whether the complainant has spoken to anyone, especially
supervisors, about the harassment.

10. Ascertain what resolution would be acceptable to the complainant.

11. Interview the alleged harasser to get his or her side of the story, including any possible motivation for a false allegation.

12. Interview witnesses who were identified by the complainant regarding the alleged harasser or other persons identified during the investigation.

13. Interview witnesses who were identified by the alleged harasser or other persons identified during the investigation.

14. Advise all participants that the investigation is “confidential” and not to engage in any retaliatory conduct, as such conduct is subject to disciplinary action up to and including discharge. Confidentiality will be maintained to the extent possible. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Director of Human Resources. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction.

15. Conduct follow-up interviews, if warranted.

16. Prepare report of findings and discuss with management and designated legal staff.

VI. RESPONDING TO THE COMPLAINT

A. Following the completion of the fact-finding investigation, either the department head or the Director of Human Resources (or either of their designees), depending on who is responsible for the investigation, shall
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make a report of findings, along with a recommendation regarding the appropriate remedial action to be taken, if warranted. The recommendation shall be made after reviewing the findings of the investigation, giving consideration to all factual information, the nature of the alleged conduct, and the totality of the circumstances. If the investigation was conducted by the Director of Human Resources, or designee, the Director, or designee, shall confer with the affected department head and both shall concur on the remedial action to be taken, if any. If the investigation was conducted by the department head, the department head shall confer with the Director of Human Resources prior to making the report of findings and both shall concur on the remedial action to be taken, if any.

B. If either the department head or the Director of Human Resources does not concur with the findings and recommendation of the other, the City Attorney (or designee) shall review and resolve the matter in dispute.

C. Report of findings and recommendation shall be treated as a confidential document and no other distribution shall be made without first consulting with the City Attorney’s Office. A completed investigation report will not be disclosed, except as it is deemed necessary to support a disciplinary action, to take remedial action, to defend the City in adversarial proceedings, or to comply with the law or court order.

D. Either the department head or the Director of Human Resources (or either of their designees), depending on who is responsible for the investigation shall provide a written response to the complainant and the person alleged to have committed the misconduct, discrimination and/or harassment. The response shall include a copy of the City’s discrimination and harassment policy and a memorandum indicating the City’s determination as to whether the complaint is:

1. Unsustained: The investigation failed to disclose sufficient evidence to substantiate the allegation(s).

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

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

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

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

**VII. DISCIPLINE**

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

**VIII. ALTERNATIVE REMEDIES**

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

## IX. COMMUNICATION OF POLICY

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

**APPROVED:**

![Signature]

KURT O. WILSON
CITY MANAGER