

**PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** is entered into this \_\_\_ day of \_\_\_\_\_ 201\_, between the CITY OF STOCKTON, a municipal corporation ("City"), and **Kiefer Consulting, Inc.**, whose address is 13405 Folsom Blvd, Suite 501, Folsom, CA 95630, and telephone number is 916-932-7220 ("Consultant").

**RECITALS**

A. Consultant is qualified to and experienced in conducting a Fit Gap Assessment and Roadmap analysis to design build and deploy collaboration portals, intranet and potentially a new internet site in SharePoint, for the purposes specified in this Agreement.

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

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

1. **Consultant's Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in Exhibit A. Consultant shall provide said services at that time, place and in the manner specified in Exhibit A.

2. **City Assistance, Facilities, Equipment and Clerical Support.** Except as set forth in Exhibit A, Consultant shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing services pursuant to this Agreement. City shall furnish to Consultant only the facilities and equipment listed in Exhibit A according to the terms and conditions set forth in Exhibit A.

3. **Term.** This Agreement shall commence on the date written above and shall expire on upon completion.

4. **Compensation.** City shall pay Consultant for services rendered pursuant to this Agreement as described more particularly in Exhibit A. 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 \$100,000.

a. Invoices submitted by Consultant to City must contain a brief description of work performed, time used and City reference number. Payment shall be made within thirty (30) days of receipt of Consultant's invoice and approved 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. The City shall have no obligation or liability to pay any invoice for work performed which the Consultant fails or neglects to submit within sixty (60) days, or any extension thereof granted by the City, after the work is accepted by the City.

5. **Sufficiency of Consultant's Work.** All reports, drawings, designs, plan review comments, and work product of Consultant shall be adequate and sufficient to meet the purposes for which they are prepared.

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 Agreement shall become 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 Agreement. 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 Agreement and shall not be disclosed to anyone not connected with these services, unless the City provides prior written consent.

7. **Changes.** City may request changes in the scope of services to be provided by Consultant. Any changes and related fees shall be mutually agreed upon between the parties and subject to a written amendment to this Agreement.

8. **Consultant's Status.** In performing the obligations set forth in this Agreement, 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 or employees of City.

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

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

11. **Indemnity and Hold Harmless.** Consultant shall defend, indemnify, and hold harmless, the City and its officers, agents and employees from and against all claims, losses, damage, injury, and liability for damages arising from, or alleged to have

arisen from, errors, omissions, negligent or wrongful acts of the Consultant in the performance of its services under this Agreement, regardless of whether the City has reviewed or approved the work or services which has given rise to the claim, loss, damage, injury or liability for damages. This indemnification shall extend for a reasonable period of time after completion of the project as well as during the period of actual performance of services under this Agreement. The City's acceptance of the insurance certificates required under this Agreement does not relieve the Consultant from its obligation under this paragraph.

12. **Insurance.** During the term of this Agreement, 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. **Notices.** All notices herein required shall be in writing and shall be sent by certified or registered mail, postage prepaid, addressed as follows:

To Consultant: Gregory Kiefer  
Kiefer Consulting, Inc.  
13405 Folsom Blvd, Suite 501  
Folsom, CA 95630

To City: IT Director  
City of Stockton  
425 N. El Dorado Street  
Stockton, CA 95202

14. **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 Agreement on the basis of any legally protected classification, including race, color, national origin, ancestry, sex or religion of such person.

15. **Licenses, Certifications and Permits.** Prior to the City's execution of this Agreement and prior to the Consultant's engaging in any operation or activity set forth in this Agreement, Consultant shall obtain a City of Stockton business license, which must be kept in effect during the term of this Agreement. Consultant covenants that it has obtained all certificates, licenses, permits and the like required to perform the services under this Agreement.

16. **Records and Audits.** Consultant shall maintain all records regarding this Agreement and the services performed for a period of three years from the date that final payment is made. At any time during normal business hours, the records shall be made available to the City to inspect and audit.

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

18. **Conflicts of Interest.** Consultant covenants that other than this Agreement, 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 of degree by the performance of Consultant's services under this Agreement. If such an interest arises, Consultant will immediately notify the City.

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

20. **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.

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

22. **Exhibits.** All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

23. **Scope of Agreement.** This writing constitutes the entire Agreement between the parties. Any modification to the Agreement shall be in writing and signed by both parties.

**THIS AGREEMENT** executed the date and year first above written.

**CITY OF STOCKTON**

**Kiefer Consulting, Inc.**

\_\_\_\_\_  
Kurt O. Wilson  
City Manager

By: \_\_\_\_\_

Signature

ATTEST:

\_\_\_\_\_  
Amy J. Hoffman

Print name

\_\_\_\_\_  
City Clerk

Title: \_\_\_\_\_

V. Pres / CFO

APPROVED AS TO FORM:

[If Consultant is a corporation signature(s) must comply with Corporations Code §313.]

\_\_\_\_\_  
City Attorney



Exhibit A



**Draft Fit/Gap Assessment Proposal**

**April 20, 2015**



13405 Folsom Blvd. Suite 501  
Folsom, CA 95630

Greg Kiefer, President  
916-932-7220  
[gkiefer@kieferconsulting.com](mailto:gkiefer@kieferconsulting.com)

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# 1 INTRODUCTION

Kiefer Consulting is pleased to submit our proposal to the City of Stockton to perform a fit gap assessment focused on identifying how they can best leverage SharePoint moving forward. Through over 25 years, our team and our partners have successfully delivered over 200 Information Technology solutions for public and private sector clients. As illustrated in the following diagram, we are committed to key services and solution offerings, which align directly with the needs of the City of Stockton.

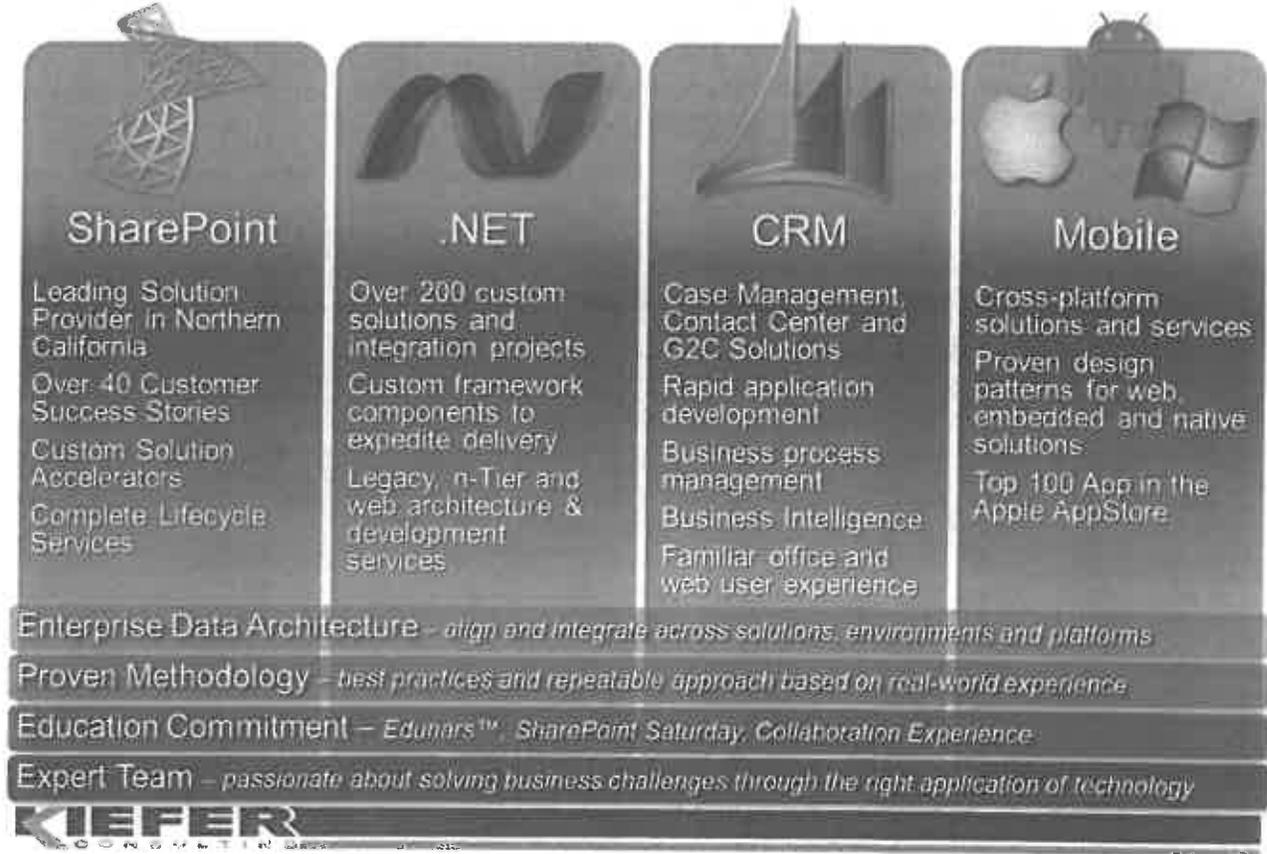


Figure 1 - Kiefer Consulting Inc. Service and Solution Model

Kiefer Consulting is a distinguished Microsoft Gold Partner, who works closely with their local team to transform and optimize business processes through seamless technical solutions. By serving on the CIO Academy Advisory Committee, hosting SharePoint Saturday, leading the local .Net User Group, teaching PMI courses and hosting monthly Edunars, we are considered trusted advisors to numerous innovators in the region.

**Factors that Distinguish the Kiefer Consulting team:**

**Collaborative Approach:** We partner with our clients and our community. We work closely with clients through each stage of a project to understand requirements, identify opportunities and communicate effectively with all stakeholders. Our team fosters professional development, knowledge transfer and innovation throughout the region by hosting events such as SharePoint Saturday and monthly Edunars™ (Educational Seminars) on relevant technology.

**Philanthropic Commitment:** A key tenant of our business model is contributing to the communities in which we serve. We developed *The Collaboration Experience*, a program that blends project management training with technology immersion for students at California State University campuses. Kiefer Consulting serves on the Advisory board of the CIO Academy, which provides public sector technology leaders an opportunity to improve their leadership skills, learn from their peers and gain insight from technology industry leaders. Kiefer Consulting participates in the California Mobility Conference advisory board to grow the effective use of mobile technology in California government departments.

**Proven Application Development/IT Project Management:** Kiefer Consulting has successfully provided services in a variety of capacities through all project phases. Kiefer Consulting has developed a strong niche in project management around which it has devised specialty tools, templates, and methodologies to facilitate communication, foster quality assurance and actively manage risks and issues.

**Commitment to Quality Delivery:** Kiefer Consulting has been praised for its performance and commitment to quality delivery for public and private sector engagements. Customer satisfaction is demonstrated by our past performance references.

In addition, Kiefer Consulting is a Microsoft Certified Gold Partner. Microsoft awards this designation to less than 1% of its partners only after a company can demonstrate success with customers and can meet extensive skills requirements.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Kiefer", with a long, sweeping flourish extending to the right.

Greg Kiefer, President  
13405 Folsom Blvd. Suite 501  
Folsom, CA 95630  
916-932-7220  
gkiefer@kieferconsulting.com

## **2 FIT GAP ASSESSMENT PROPOSAL**

The City of Stockton has asked Kiefer Consulting to provide an estimate for what it would take to conduct a Fit Gap Assessment and Roadmap analysis to design build and deploy collaboration portals, intranet and potentially a new internet site in SharePoint.

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### **2.1 THE CITY OF STOCKTON'S CURRENT STATE**

Currently, the City of Stockton uses a variety of solutions for managing documents and collaborating on documents. These technologies include GroupWise, which contains approximately 600 GB of compressed documents, and file shares. The City of Stockton is currently proposing to migrate GroupWise to Office 365 and SharePoint Online by November 2015.

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### **2.2 PROJECT OVERVIEW**

Kiefer Consulting will conduct a Fit Gap Assessment that discovers the requirements for the desired solutions as well as any other requirements that are a fit for SharePoint.

#### **2.2.1 In Scope**

- **Fit/Gap Assessment** – This will provide the City of Stockton with an understanding of how their requirements fit within SharePoint and to what degree platform features will address business needs. The Fit/Gap Assessment is a process of capturing all of the City of Stockton's requirements, mapping it to SharePoint functionality, applying a level of effort and producing a report that the City of Stockton can use to determine how much of their requirements they want to implement.
- **Assessment Review** – Kiefer Consulting will conduct a review of the Fit/Gap Assessment report and help the City of Stockton prioritize based on feature dependencies, the City of Stockton resources and timeframes.

#### **2.2.2 Out of scope**

- Designing, Building and Deploying the City of Stockton's final set of solutions.

### 3 PROJECT RESOURCES AND COST ESTIMATES

Kiefer Consulting, Inc. shall allocate SharePoint team to serve as the resources for project activities.

We estimate the level of effort to complete services described herein to be no more than 100 hours. The anticipated duration of this engagement is projected to be no more than four (4) weeks. The contract may be extended beyond this date pending additional requests from the client or the dates may change based on the City of Stockton team members' schedules. Upon completion of the fit/gap assessment, *Kiefer Consulting will work the City of Stockton stakeholders to develop a scope of work that can be accomplished for a not to exceed amount of \$100,000 for SharePoint online services.*

#### 3.1 FEE SCHEDULE

This project shall be performed on a Time and Materials (T&M) basis based on a rate of \$150.00 per hour. The following are projected project hours.

Tasks	Hours	Cost
Assessment and Design		
Product Demonstration, Discovery and Requirements Gathering	40	\$6,000.00
Fit Gap Assessment	40	\$6,000.00
Assessment Review	20	\$3,000.00
<b>Total</b>		<b>\$15,000.00</b>

#### 3.2 TRAVEL COSTS

As the client is located in the Sacramento area, no travel expenses will incur for services. If the client requires services to be performed outside the Sacramento area, then services will incur an eight hour minimum charge, plus travel. Travel includes expenses such as rental car, flights, parking, public transportation, mileage reimbursement for use of personal car, lodging, daily meal per diem of \$45, and any other reasonable expense incurred. Expenses will be billed at actual rates.

#### 3.3 TERMS AND CONDITIONS

The Terms and Conditions ("Terms") in Attachment A shall govern the Services provided by Kiefer Consulting as set forth in this Statement of Work.

## **3.4 PROJECT ASSUMPTIONS AND CONSTRAINTS**

### **3.4.1 General Assumptions**

- The City of Stockton will provide Kiefer Consulting access to the necessary environments.
- Kiefer Consulting shall not take responsibility for any product or any task performed that is not provided by Contractor.
- Kiefer Consulting shall not take responsibility for any errors, incompatibilities or defects in third party software or network devices. Any errors, incompatibilities, or defects in such software or devices may add time and cost to the project.
- Kiefer Consulting is not responsible for delays, errors, or omissions caused or incurred by other parties. Such delays, errors, or omissions may increase the time and cost of the project.
- This SOW shall expire 30 days from the SOW date listed above.
- Kiefer Consulting will not provide Project Management ("PM") services unless otherwise specified in this SOW.

### **3.4.2 Customer Responsibilities**

- Customer shall designate a representative to be the Customer Primary Contact. This representative shall be the focal point for all communications relative to this project and shall have the authority to act on Customer's behalf in matters regarding this project.
- Customer shall provide accurate information regarding business processes and the City of Stockton staff needs.
- Customer's employees shall be made reasonably available to Kiefer Consulting to answer questions and provide important information concerning the project needs.



# 4 AUTHORIZED SIGNATURE

The City of Stockton representative that signs this document must be authorized to enter into an agreement with Kiefer Consulting, Inc. to provide the services in this SOW. By signing this document, the City of Stockton agrees to the above information, and Kiefer Consulting may begin work on the proposed services. Once signed, please scan and email the document back to [gkiefer@kieferconsulting.com](mailto:gkiefer@kieferconsulting.com).

Party contracting services:  
the City of Stockton

Service Provider:  
Kiefer Consulting, Inc.

\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name, Title

Gregory Kiefer, President and CEO  
\_\_\_\_\_  
Printed Name, Title

Date: \_\_\_\_\_

Date: January 31, 2014

Date

Phone: \_\_\_\_\_

Phone: 916-932-7220

Email: \_\_\_\_\_

Email: [gkiefer@kieferconsulting.com](mailto:gkiefer@kieferconsulting.com)

**Exhibit B:**  
**Insurance Requirements for Professional Services**

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, \$1,000,000 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**).

#### **Primary Coverage**

For any claims related to this contract, the **Consultant's insurance coverage shall be 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 primary endorsements limiting the Consultant's insurance coverage to sole negligence.

#### **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.

**Certificate Holder Address**

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

- o City of Stockton
- o Attention: Risk Services
- o 425 N El Dorado Street
- o 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.

