

PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT is entered into this ___ day of _____ 2020, between the CITY OF STOCKTON, a municipal corporation ("City"), and **GRIFFIN STRUCTURES, INC.**, whose address is **1850 WARBURTON AVENUE, SUITE 120, SANTA CLARA, CA 95050** ("Consultant") for the **CONSTRUCTION MANAGEMENT SERVICES - NORTHEAST STOCKTON LIBRARY AND COMMUNITY CENTER (PROJECT NO. PW1724)**, 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 WORK 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 **Exhibit A**. Consultant shall provide said services at the time, place, and in the manner specified in **Exhibit A** 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 **Exhibit A** according to the fee not to exceed the schedule detailed in **Exhibit B**, 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 **\$890,000.00** or as otherwise mutually agreed to in a Contract Amendment.

3. PERFORMANCE-BASED RETENTIONS Griffin Structures, Inc. agrees that ten percent (10%) of Griffin Structures not to exceed fixed base fee amount shall only be released to Griffin Structures, Inc. upon hundred percent (100%) completion of its scope of work ("Performance Retention"). Upon a determination by the City of Stockton that the library project is 100% complete, the City of Stockton will determine it in its "sole" discretion what percentage of Performance Retention will then be available for release to

the Griffin Structures based on Griffin Structures performance of its scope of work as follows:

- a. 100% of the Performance Retention shall be released and paid to Griffin Structures by City in a lump sum if Griffin Structure's services are rated by the City of Stockton, in its "sole" discretion, as "Excellent" or "A";
- b. 80% of the Performance Retention shall be released and paid to Griffin Structures by City in a lump sum if Griffin Structure's services are rated by the City of Stockton, in its "sole" discretion, as "good" or "B";
- c. 70% of the Performance Retention shall be released and paid to Griffin Structures by City in a lump sum if Griffin Structure's services are rated by the City of Stockton, in its "sole" discretion as 'Fair/Satisfactory" or "C", and;
- d. If Griffin Structure's service as rated by City, in its "sole" discretion is less than "A" through "C" as identified herein, no release of any Performance Retention to Griffin Structures by the City of Stockton shall be required or made by the City of Stockton.

4. 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 D** and shall otherwise comply with the other provisions of **Exhibit D**.

5. INDEMNITY AND HOLD HARMLESS. With the exception that this section shall in no event be construed to require indemnification by Consultant to a greater extent than permitted under the public policy of the State of California, Consultant shall indemnify, and hold harmless City, its Mayor, Council, officials, and employees from and against any and all claims and causes of action which result in liabilities, judgments, awards, losses, damages, expenses, and costs (including reasonable attorneys' fees, expert and consultant fees, and other expenses of litigation) including, but not limited to, death or injury to persons, or damage to property, which arise out of any violation of federal, state, or municipal law or ordinance, to the extent damages are caused by the Consultant's negligent services provided under this Agreement, or are in any way caused by the negligent performance of work by the Consultant or Consultant's officers, agents, employees, or subcontractors. Consultant shall not be obligated to indemnify or defend City for claims finally determined by a court of law or arbitrator to arise from the negligence or willful misconduct of the City. It is the intent of the Parties that this indemnity obligation is at least as broad as is permitted under California law. To the extent California Civil Code sections 2782, et seq., limit the defense or indemnity obligations of Consultant to City, the intent hereunder is to provide the maximum defense and indemnity obligations allowed by Consultant under the law. The indemnity set forth in this section shall not be limited by insurance requirements or by any other provision of this Agreement.

With the exception that this section shall in no event be construed to require indemnification by Consultant to a greater extent than permitted under the public policy Professional Services Contract – GRIFFIN STRUCTURES, INC. – PROJECT NO. PW1724

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of the State of California, and in addition to the other indemnity obligations in this Agreement, Consultant shall indemnify, defend, and hold harmless City, its Mayor, Council, officials, representatives, and employees from and against claims, losses, expenses, and costs including, but not limited to, reasonable attorneys' fees, arising out of any claim brought against the City by an employee of Consultant, regardless of whether such claim may be covered by any applicable workers compensation insurance. Consultant's indemnification obligation is not limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Consultant under workers' compensation acts, disability acts, or other employee benefit acts.

6. SCHEDULE AND TERM. Consultant shall perform the scope of work as described in **Exhibit A** according to the schedule detailed in **Exhibit C**, 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, 2023**, unless extended by mutual agreement through the issuance of a Contract Amendment.

- 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.

7. 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>.

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

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b. DISCRIMINATION AND HARASSMENT POLICY

The City of Stockton has a Discrimination and Harassment Policy (**Exhibit E**). 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.

c. LABOR STANDARDS PROVISIONS/CALIFORNIA LABOR CODE

The bidder shall understand that conditions set forth in Chapter 1, Part 7, Division 2 of the California Labor Code shall be considered part of the contract agreement. https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=7.&chapter=1.&article=2.

d. PREVAILING WAGE RATES

Consultant and any subcontractor shall pay each employee engaged in the trade or occupation not less than the prevailing hourly wage rate. In accordance with the provisions of Section 1770 of the Labor Code, the Director of Department of Industrial Relations of the State of California has determined the general prevailing rates of wages and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Section 1773.1, apprenticeship or other training programs authorized by Section 3093 and similar purposes applicable to the work to be done. Consultant performing the work under this contract shall obtain a copy of the wage rate determination and shall distribute copies to each subcontractor. As the wage determination for each craft reflects an expiration date, it shall be the prime Consultant and each subcontractor's responsibility to insure that the prevailing wage rates of concern is current and paid to the employee.

- i. The Consultant performing the work shall be responsible for obtaining a copy of the State wage rate determination. State wage rates may be obtained at <http://www.dir.ca.gov/OPRL/pwd/Determinations/Northern/Northern.pdf>. The Consultant shall be responsible for posting said wage rates at a prominent location at the work site and shall maintain same in a good readable condition for the duration of the work.

- ii. Should the Consultant choose to work on a Saturday, Sunday or on a holiday recognized by the Labor Unions, the Consultant shall reimburse the City the actual cost of engineering, inspection, superintendence, and or other overhead expenses which are directly chargeable to the contract. Should such work be undertaken at the request of the City, reimbursement will not be required. To conform strictly with the provisions of Division 2, Part 7, Chapter 1, Article 2, of the Labor Code of the State of California. To forfeit as a penalty to City the sum of TWENTY-FIVE AND NO/100 DOLLARS (\$25.00) for each laborer, worker, or mechanic employed by CONTRACTOR, or by any subcontractor under Consultant, in the execution of this contract, for each calendar day during which any laborer, worker, or mechanic is required or permitted to work more than eight (8) hours and who is not paid the general prevailing rate of per diem wages for holiday and overtime work in violation of the provisions of Sections 1770 to 1781 of the Labor Code of the State of California. That all sums forfeited under the provisions of the foregoing sections shall be deducted from the payments to be made under the terms of this contract.
- iii. PAYROLL RECORDS - The Consultant to whom the contract is awarded shall insure that the prime and each subcontractor will, in accordance with Section 1776 of the Labor Code, maintain certified payroll records. A copy of said records shall be provided with each invoice to the Public Works Department, Attention: Contract Compliance Officer. It shall be the Consultant's responsibility to obtain copies of the current prevailing wage rate determination for all subcontractors. Additionally, certified payroll records must be uploaded to the DIR website as required by labor code.
- iv. APPRENTICESHIP STANDARDS - The Consultant shall comply with the provisions established in Section 1777.5 of the Labor Code concerning the 1) certified approval by local joint apprenticeship committees for the employment and training of apprentices, and 2) contribution of funds to administer and conduct apprenticeship programs, if applicable to the job.

8. 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.

9. 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 Professional Services Contract – GRIFFIN STRUCTURES, INC. – PROJECT NO. PW1724

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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 Public Works 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.

10. 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.

11. CONTRACT AMENDMENTS. 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 Amendment 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 Amendment will not become effective until approved by the authorized City official.

12. 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.

13. 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.

14. 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.

15. HEADINGS NOT CONTROLLING. Headings used in the Contract are for reference purposes only and shall not be considered in construing this Contract.

16. 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: Griffin Structures, Inc.	To City: Public Works Director
1850 Warburton Avenue	City of Stockton
Suite 120	22 E. Weber Ave., Rm. 301
Santa Clara, CA 95050	Stockton, CA 95202

17. 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.

18. RECORDS AND AUDITS. City reserves the right to periodically audit all charges made by Consultant to City for services under this Contract. Upon request, Professional Services Contract – GRIFFIN STRUCTURES, INC. – PROJECT NO. PW1724

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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.

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

20. 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.

21. 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.

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

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

24. 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.

25. 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.

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

27. 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

GRIFFIN STRUCTURES, INC.

By: _____
HARRY BLACK
CITY MANAGER

By: _____

Signature

ATTEST:

Jon Hughes
Print Name

BY: _____
ELIZA R. GARZA, CMC
CITY CLERK

Title: Executive Vice President

APPROVED AS TO FORM:

BY: _____
DEPUTY CITY ATTORNEY

Certified Payroll

Griffin Structures will enforce all state requirements for registrations with the Department of Industrial Relations as required by the recently enacted law SB 854. Accordingly, we will ensure that all contractors and listed trade contractors provide a DIR registration number at the time of bid and will verify the same to ensure the State has the necessary information to enforce certified payroll requirements. As stipulated by State law, the DIR will perform all certified payroll enforcement including interviews, however Griffin will also receive and file all certified payroll and will enforce any deficiencies identified by the DIR as they arise.

Scope of Work

Construction Phase

Pre-Construction Conference:

Griffin will organize and conduct the Pre-Construction meeting and provide agenda and meeting minutes accordingly. Griffin will ensure that all pertinent team members will be present to coordinate with City staff.

Contract Administration:

Griffin will work closely with the City and staff to prepare and oversee the mobilization of the Contractor, the phasing of work, and the establishment of suitable and safe construction staging including, but not limited

to: fencing, barricades, temp facilities, temp utilities, construction trailer placement etc. The planning of this effort will start early in the preconstruction process. Also, an initial site phasing and staging plan will be included in the bid documents to give guidance to the bidders regarding City standards and expectations.

Submittal Procedures:

Griffin will oversee the distribution of all shop drawings submittal reviews, RFI's, payment requests, change orders, product data, material delivery dates, daily reports, project logs etc. As described above, Griffin will use of Submittal Exchange for expedient distribution and tracking of these documents. We will tailor this effort to provide the exact level of detail expected from the City.

Meetings:

Griffin will prepare the agendas and meeting minutes, discuss the schedule updates and near-term activities; work with the team to clarify or resolve problems; coordinate with other Contractors; update the team on the status of change orders, submittals, and RFI's; and review safety issues and other topics as they arise. Griffin will assign action items to responsible parties along with the corresponding date the action requires completion. These meetings will be reviewed for concurrence and will be distributed to attendees within five calendar days.



Quality Assurance/Quality Control (QA/QC):

As described above, Griffin has a very robust QA/QC methodology and we will employ that effort to this project to observe, verify, and document the specified level of construction quality.

Inspections:

Kleinfelder will supply the inspections proposed by our team. They have a broad capability, and provides material testing and inspection services included in the following exhibit.

Geotechnical Testing and inspection
<ul style="list-style-type: none"> o Laboratory Testing of Soils o Compaction Testing of Fill and Backfill o Field Testing of Soils o Monitoring of Fill Placement o Evaluation of Suitability of Fill and Backfill Materials o Monitoring of Foundation Construction, such as Driven Piles, Drilled Piers, Footings, etc.
Special Inspection
<ul style="list-style-type: none"> o Reinforced & Pre-Stressed Concrete o Reinforcing Steel o Spray-applied Fire Proofing o Structural Welding o Piling, Drilled Piers, and Caissons o High-strength Bolting o Shotcrete o Structural Masonry
Materials Engineering
<ul style="list-style-type: none"> o Building Performance Evaluations o Failure Analysis o Production Quality Control o Product Testing o Materials Research o Forensic Engineering o Materials Design o As-built Condition Surveys o Floor Flatness/Levelness o Metal Location Surveys
Materials Testing
<ul style="list-style-type: none"> o Soils o Structural and Reinforcing Steel o Aggregates o Wood o Concrete o Asphaltic Concrete o Guniting and Shotcrete o Paint and Protective Coatings o Masonry Block, Brick, Grout, Mortar, and Assembled Prisms

Kleinfelder has several accredited laboratories. In-house testing and qualification assures that qualified personnel are assigned, and registered engineers supervise the field and laboratory activities. The laboratories hold many testing and accreditations and certifications.

Coordination of Other Consultants:

Griffin will coordinate and oversee the scheduling of all other consultant inspections including, those performed by our team and any other third party inspectors required (e.g., NPDES).

Construction Observation:

Griffin will serve as the ‘eyes and ears’ of the City for quality control. Accordingly, Griffin will walk the site regularly and inspect all installations for consistency with the construction documents. Specifically, Griffin will enforce the highest level of quality of workmanship to ensure the City receives the best value for the investment made on behalf of the community.

Non-Conforming Work:

Griffin will observe all installations and notify if any non-confirming work installed. These notices will be detailed thoroughly and provide recommendations to the City and Architect for corrective measures. We will also notify the Contractor of non-confirming work and we will track all resolutions via our Field Observation Log described above.

Exercise of Contract Prerogatives:

As with all construction projects, the City has certain prerogatives embedded within the contract that allows for certain unilateral actions. These include, but are not limited to: unilateral change orders, notices of delay, correction notices, default notices, notices to correct schedule, and other similar communications. Griffin is well versed in all said prerogatives and will advise the City in their proper and effective implementation for the good of the City and the success of the project.

Endorsements of Insurance; Performance and Payment Bonds:

Given our experience as At-Risk developer, Griffin has a well-established review protocol for all endorsements, contract documents, payment and performance bonds, and we will make recommendations for the correction of any deficiencies thereof.

Progress Review:

The Griffin Structures’ Construction Manager will provide daily progress review of all activities performed on the project. This will take the form of a daily report which includes all workers, equipment, activities, materials, and issues encountered that day.



Additionally, a counting of construction days will be accrued as verification of contract days spent, along with a percentage of completion for activities. Any issues or problems will also be documented for future reference. Also, as discussed above, Griffin will review every schedule provided by the Contractor to confirm they meet the overall objectives of the project. Accordingly, Griffin will oversee and ensure that activities in the field are consistent with the approved schedule, and we will recommend corrective action should they fail correlate.

Maintain On-Site Records:

Griffin will manage all project documentation via our cloud-based document management system. As such, we will maintain all shop drawings, product data, samples, submittals, purchases, materials, equipment, and applicable handbooks. All documents will be maintained and turned over to the City at the completion of the project.

Schedule of Values and Processing of Payments: Griffin will establish, or cause to be established by the contractor, a comprehensive Schedule of Values for the entirety of the project for approval by the City. Once approved, this will serve as the basis for all progress payments, which Griffin will review for consistency with progress in the field and make recommendations to the Contractor for correction. Once corrected, Griffin will make recommendations to the City for processing.

Evaluate Change Order Proposal Costs:

Griffin will review all change orders and provide supplemental information as needed to justify their approval or rejection. Griffin will negotiate with the Contractor on the City’s behalf and serve as the point of contact for resolving issues and mitigating against potential claims. Specifically, Griffin will seek to avoid claims as detailed above.

Change Order Reports:

Griffin will maintain a comprehensive log of all change orders for the project. This log will include anticipated change orders not yet received, change order requests, the status of their review or rejection, and a final documentation of all approved change orders.

Contractor Claims:

As described above, Griffin has an extensive claims mitigation and avoidance program which we will employ for this project.

Project Status Reports:

As with the preconstruction phase, Griffin will provide a monthly project status report for distribution to all parties the City deems appropriate. This report will include key milestones, anticipated work pending, budget updates, photographs, and any key challenges encountered.

Equipment Instruction Manuals, Warranties and Releases:

Integral to our cloud- based document management system, Submittal Exchange will assemble all guarantees, certifications, affidavits, leases, easement deed, operating and maintenance manuals, warranties and any other closeout documents. This system will provide a complete digital file for all documents, for future use, as well as maintain cloud-based file for future use.

Completion of Contracts and Project:

Griffin will coordinate the final punch walk of the project to ensure all improvements are per the plans and specifications. Throughout the course of construction, Griffin will employ a Field Observation Log to identify quality issues observed by the project team on an ongoing basis. This will function as an ongoing pre-punch list, and therefore help to minimize the issues discovered at the final punch walk. Griffin

will also oversee the follow up punch walks to confirm corrective action is resolved. Once completed, Griffin will issue a comprehensive punch list for completion by the contractor. Afterwards, Griffin will oversee the completion of these items and ensure that all deficiencies and corrections are completed to the satisfaction of the City.

As-Built Documents:

Griffin Structures will maintain a complete and up to date set of drawings for the duration of the project. As such, we will use the CM set as the As-Built set and require that all trade contractors mark up the CM set which will allow for a complete set of As-Built documents be turned over to the City for record purposes.

Training Sessions:

Griffin will oversee and attend all training sessions for City staff. We will require that all training sessions be video taped and that those tapes be turned over to the City for future reference. These sessions will also be performed in accordance with CalGreen commissioning requirements and managed in a manner that is consistent with state building code.

Accounting Records:

Griffin brings a significant amount of experience in cost accounting methods including the management of contract unit costs and T&M analysis. We will employ that experience to provide comprehensive cost accounting records and controls. Griffin will use its cost controls system to establish a master budget that captures all costs associate with the project. We will provide

regular updates to the City throughout the duration of the project.

Permits:

Griffin will work with the City and the design team to ensure all permits are pulled and all requirements of the permitting process are enforced.

Initial Start-Up and Testing:

As part of the commissioning process, all installations will go through both a pre-functional testing protocol and a functioning test protocol. These tests will be managed and documented by the Commissioning Agent and overseen by the Construction Manager.

Storm Water Pollution Plan:

SWPPP is critical to the preservation of our environment. Accordingly, we will oversee the implementation of the SWPPP program, first by requiring the Contractor provide a QSP as required by the State Water Quality Control Board, and then by performing our own spot check observations. Any deficiencies and repairs that may be needed will be communicated to the Contractor to rectify as required.

Project Close-Out and Post Construction Services

Relocation:

Griffin Structures will coordinate and oversee the installation of all City furnished materials and fixtures, and equipment (FF&E), and we will coordinate all efforts related to the relocation of City staff to the new facility.



User Training:

Griffin will oversee and attend all training sessions for City staff. We will require that all training sessions be video-taped and that those tapes be turned over to the City for future reference. These sessions will be performed in accordance with CalGreen commissioning requirements and managed in a manner that is consistent with state building code.

Punch Lists:

Griffin will coordinate the final punch walk to ensure all improvements are per the plans and specifications. Specifically, Griffin will employ a Field Observation Log that will seek to identify quality issues observed by the project team on an ongoing basis. This will serve to function as an ongoing pre-punch list, and therefore help to minimize the issues discovered at the final punch walk. Griffin will also oversee the follow up punch walks to confirm corrective action is resolved. Once completed, Griffin will issue a comprehensive punch list for completion by the contractor. Griffin will oversee the completion of these items and ensure that all deficiencies and corrections are completed to the satisfaction of the City.

Project As-Builts, Close Out, and Warranties:

Griffin Structures will maintain a complete and up to date set of drawings for the duration of the project. As such, we will use the CM set as the As-Built set. We will require all trade contractors to mark up the CM set which will allow for a complete set of As-Built documents for delivery to the City for its records.

Final Claims Releases:

As described above in our claims avoidance strategy, should any claims be made on the project, or any stop notices imposed, Griffin will work with the City to resolve all claims for the success of the project.

Final Project Report and Payment:

Griffin Structures will prepare a final report for the City that captures a final summary of all financial matters including contractor change orders, consultant costs, services, FF&E, and other costs related to the project. This report will also address all schedule issues and contract dates, as well as final acceptance summary with signed receipts from all City staff. The final report will address all close out documentation as well as final FF&E purchases and installations.

User Complaints:

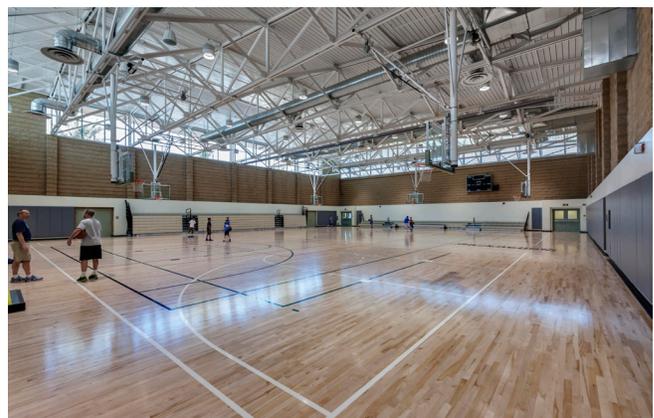
Should user complaints issues arise, Griffin will coordinate with the staff and contractor to investigate and resolve any issues related to the project.

Year-End Walk Through:

Griffin is prepared to provide a year-end walk through at the conclusion of the warranty period to determine if any issues need to be resolved prior to the expiration of the warranty period. This is typically performed at the 11th month so the Contractor has sufficient time to address the issues prior to expiration.

Conclusion

Griffin Structures takes pride in providing unparalleled construction management services. As described above, Griffin will serve as the eyes and ears of the City. Our motto is “no surprises”. We achieve that by proper management (avoiding the issues in the first place) and clear and concise documentation (for defense and resolution of unavoidable issues). Accordingly, Griffin will provide comprehensive construction management and inspection services as detailed in the RFP.





NORTHEAST STOCKTON LIBRARY AND COMMUNITY CENTER
Fee Proposal

Item No.	PROJECT PHASE	PRINCIPAL IN CHARGE	PROJECT EXECUTIVE	CONSTRUCTION MANAGER
		Roger Torriero \$240/hr.	Jon Hughes \$210/hr.	Rob Carnes \$195/hr.
1	PRE-CONSTRUCTION PHASE	8	12	172
1.1	Review and Familiarize with Plans and Specifications	Incl.	Incl.	Incl.
1.2	Familiarize with California Building Codes	Incl.	Incl.	Incl.
1.3	Oversee Contractor Mobilization	Incl.	Incl.	Incl.
1.4	Set Up Document Management System	Incl.	Incl.	Incl.
1.5	Chair and Pre-Construction Conference	Incl.	Incl.	Incl.
2	CONSTRUCTION PHASE	144	216	3096
2.1	Weekly Coordination Meetings	Incl.	Incl.	Incl.
2.2	Utility Coordination	Incl.	Incl.	Incl.
2.3	Review and Process all Submittals	Incl.	Incl.	Incl.
2.4	Review Contractor's Monthly Pay Requests	Incl.	Incl.	Incl.
2.5	Department of Industrial Relations Certified Payroll Enforcement	Incl.	Incl.	Incl.
2.6	Process Clarifications, Interpretations, and Contract Documents	Incl.	Incl.	Incl.
2.7	Maintain Electronic and Hard Copy Files	Incl.	Incl.	Incl.
2.8	Periodic Reports as Needed	Incl.	Incl.	Incl.
2.9	Liaison Between City and Contractor	Incl.	Incl.	Incl.
2.10	Inspection and Monitor Quality of Construction	Incl.	Incl.	Incl.
2.11	Daily Field Reports	Incl.	Incl.	Incl.
2.12	Coordinate with Building Department	Incl.	Incl.	Incl.
2.13	Enforce Stockton's Local Hire Ordinance	Incl.	Incl.	Incl.
2.14	Investigate and Resolve Potential Claims	Incl.	Incl.	Incl.
2.15	Perform Construction Quality Assurance Inspection	Incl.	Incl.	Incl.
2.16	Identify Potential Safety Issues	Incl.	Incl.	Incl.
2.17	Coordinate with City's Project Manager	Incl.	Incl.	Incl.
2.18	Coordinate Special Inspections and Testing	Incl.	Incl.	Incl.
2.19	As-Built Drawings	Incl.	Incl.	Incl.
2.20	All Items Listed in GSI Approach and Scope of Services	Incl.	Incl.	Incl.
3	PUNCH LIST AND CLOSEOUT PHASE	8	12	172
3.1	Administer Punch Walk	Incl.	Incl.	Incl.
3.2	Enforce Completion of Punch List Items	Incl.	Incl.	Incl.
3.3	Coordinate Commissioning	Incl.	Incl.	Incl.
3.4	Coordinate City Training	Incl.	Incl.	Incl.
3.5	Final Change Order Negotiations	Incl.	Incl.	Incl.
3.6	Coordinate Turnover of All Project Documents	Incl.	Incl.	Incl.
3.7	Final Closeout	Incl.	Incl.	Incl.
	Total Hours	160	240	3440
	Subtotals	\$38,400	\$50,400	\$670,800
	PROJECT / CONSTRUCTION MANAGEMENT TOTAL	NO CHARGE		\$721,200
4	REIMBURSABLE COSTS			
4.1	Submittal Exchange			\$168,800
4.2	Special Inspections and Testing Allowance			\$12,000
4.3	Insurance			\$150,000
4.4	Misc. Printing & Office Supplies			\$5,700
	GRAND TOTAL			\$890,000



NORTHEAST STOCKTON LIBRARY AND COMMUNITY CENTER
Resource Allocation Schedule

PROJECT PHASE	2020											
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
PROJECT PHASES												
Contractor Bidding & Award												
Mobilization												
Construction												
Punch List and Closeout												
MONTHLY STAFFING HOURS												
Principal In Charge	8	8	8	8	8	8	8	8	8	8	8	8
Project Executive	12	12	12	12	12	12	12	12	12	12	12	12
Construction Manager	172	172	172	172	172	172	172	172	172	172	172	172
Principal In Charge	\$ -	\$ -	\$ -	\$ -	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920
Project Executive	\$ -	\$ -	\$ -	\$ -	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520
Construction Manager	\$ -	\$ -	\$ -	\$ -	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060

PROJECT PHASE	2021											
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
PROJECT PHASES												
Contractor Bidding and Award												
Mobilization												
Construction												
Punch List and Closeout												
MONTHLY STAFFING HOURS												
Principal In Charge	8	8	8	8	8	8	8	8	8	8	8	8
Project Executive	12	12	12	12	12	12	12	12	12	12	12	12
Construction Manager	172	172	172	172	172	172	172	172	172	172	172	172
Principal In Charge	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920	\$ 1,920
Project Executive	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520	\$ 2,520
Construction Manager	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540	\$ 33,540
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060	\$ 36,060
TOTALS	160	160	160	160	160	160	160	160	160	160	160	160
	240	240	240	240	240	240	240	240	240	240	240	240
	3,440	3,440	3,440	3,440	3,440	3,440	3,440	3,440	3,440	3,440	3,440	3,440
	\$ NO CHARGE											
	\$ 50,400	\$ 50,400	\$ 50,400	\$ 50,400	\$ 50,400	\$ 50,400	\$ 50,400	\$ 50,400	\$ 50,400	\$ 50,400	\$ 50,400	\$ 50,400
	\$ 670,800	\$ 670,800	\$ 670,800	\$ 670,800	\$ 670,800	\$ 670,800	\$ 670,800	\$ 670,800	\$ 670,800	\$ 670,800	\$ 670,800	\$ 670,800
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ 721,200	\$ 721,200	\$ 721,200	\$ 721,200	\$ 721,200	\$ 721,200	\$ 721,200	\$ 721,200	\$ 721,200	\$ 721,200	\$ 721,200	\$ 721,200

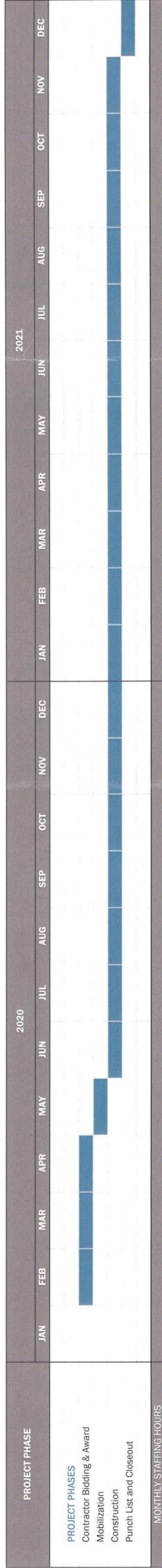
9B. Project Schedule

This proposal assumes a start of Pre-Construction services on May 1, 2020, which is anticipated to last for 1 month. Construction is anticipated to start June 1, 2020, and continue for a total of 18 months, as described in the RFP. We have also included hours for 1 month of Punch List & Close-out, anticipated to be in December 2021. For more detailed illustration of the schedule, see Section 9, Cost Proposal, which contains Fee and Schedule details.



NORTHEAST STOCKTON LIBRARY AND COMMUNITY CENTER

PROPOSED SCHEDULE





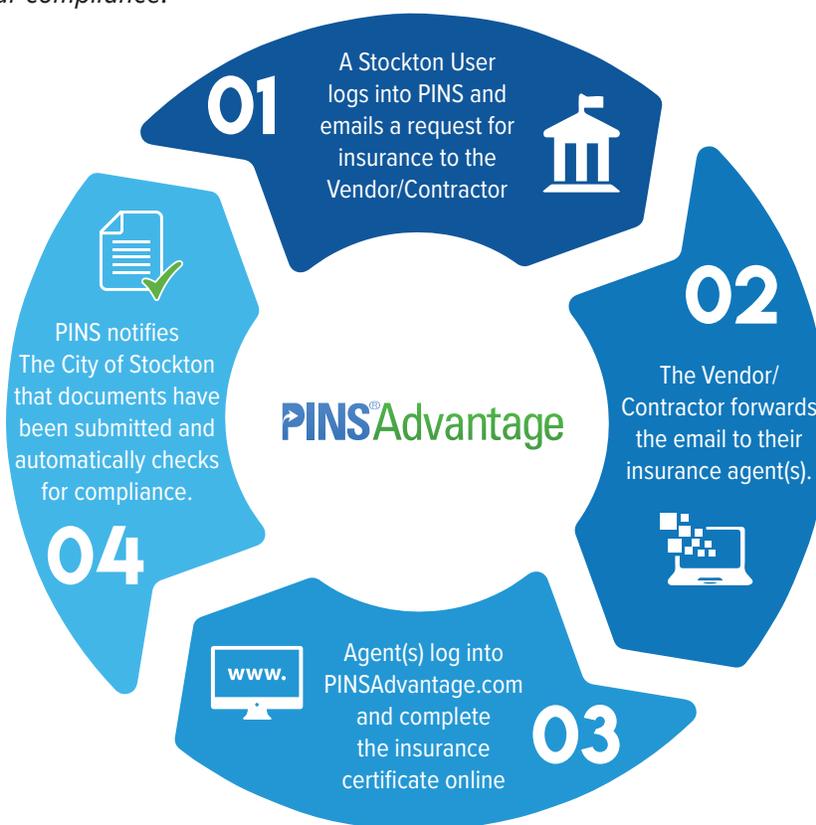
The City of Stockton is now using www.PINSAdvantage.com to track Insurance Certificates and all related documents.

WHAT IS THE PROCESS?

The PINS system starts with **The City of Stockton**. A **Stockton User** logs into PINS and emails a request for proof of insurance to the **Vendor/Contractor**. The **Vendor/Contractor** forwards the request email to their **Insurance Agent(s)**. The **Insurance Agent(s)** logs into www.PINSAdvantage.com and completes the insurance certificate online.

Note: Vendors will receive the insurance request email from: no-reply@pinsadvantage.com

Thank you for your compliance!



PINS[®]Advantage

www.pinsadvantage.com
+ 1 626 844 1838

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

Insurance Requirements for Professional Services

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

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability**: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
(Not required if Contractor provides written verification it has no employees)
4. **Professional Liability** (Errors and Omissions) Insurance appropriate to the Contractor's profession, with limit no less than **\$2,000,000** per occurrence or claim, \$2,000,000 aggregate. (If Claims-made, see below.)

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

representation is made that the minimum insurance requirements of this agreement are sufficient to cover the obligations of the Contractor under this agreement.

Limits of Insurance

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

Other Insurance Provisions

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

Additional Insured Status

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

Primary Coverage

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

Notice of Cancellation

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

Waiver of Subrogation

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

Self-Insured Retentions

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

Acceptability of Insurers

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

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

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

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

Verification of Coverage

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

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

Subcontractors

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

Special Risks or Circumstances

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

Certificate Holder Address

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

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

CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE

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

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

I. PURPOSE

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

II. POLICY

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

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

Subject: DISCRIMINATION AND HARASSMENT POLICY	Directive No. HR-15	Page No. 2 of 14
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PER-015 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/98
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maintaining an employment environment free of discrimination and harassment. This policy applies to all aspects of City employment, including, but not limited to, hiring, reassignment, placement, promotion, employment action, disciplinary action, layoff, reemployment, transfer, leave of absence, compensation and benefits, training; or other terms of treatment of that person in an unpaid internship, or another limited duration program to provide unpaid work experience for that person, or the harassment of an unpaid intern or volunteer.

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

CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE

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

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

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)

CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE

Subject: DISCRIMINATION AND HARASSMENT POLICY	Directive No. HR-15	Page No. 4 of 14
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PER-015 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/98
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otherwise adversely affecting an employee's or non-employee's employment opportunities.

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

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

CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE

Subject: DISCRIMINATION AND HARASSMENT POLICY	Directive No. HR-15	Page No. 5 of 14
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PER-015 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/98
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3. Such conduct has the purpose or effect of unreasonably interfering with an employee's or non-employee's work performance or creating an intimidating, hostile or offensive working environment because of the persistent, severe or pervasive nature of the conduct.

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

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

CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE

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

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

- i. 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	Directive No. HR-15	Page No. 7 of 14
	Effective Date: 5/1/2015	Revised From: 7/27/09 4/6/09 3/1/2010 (see below)

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

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

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

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

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

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

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

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

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

V. INVESTIGATION PROCEDURES

A. Determination of Responsibility for Investigation

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

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

B. Investigative Guidelines

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

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

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supervisors, about the harassment.

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

VI. RESPONDING TO THE COMPLAINT

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

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

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

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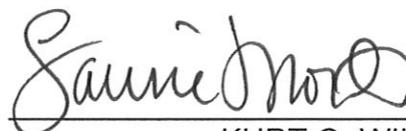
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agencies. Both the EEOC and DFEH serve as neutral fact-finders and attempt to assist parties in resolving disputes voluntarily.

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:



KURT O. WILSON
CITY MANAGER

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