

CONTRACT FOR SERVICES

THIS CONTRACT is entered into this ___ day of _____ 2020, between the CITY OF STOCKTON, a municipal corporation ("CITY"), and **CHAMPION INDUSTRIAL CONTRACTORS, INC.** a **STATE OF CALIFORNIA CORPORATION**, with a business address at **1420 COLDWELL AVENUE, MODESTO, CA 95352** hereinafter called "CONTRACTOR.," THIS CONTRACT is for the **ON-CALL PLUMBING MAINTENANCE AND REPAIR SERVICES (PROJECT NO. OM-20-007)**, hereinafter referred to as "SERVICE".

RECITALS

- A. CONTRACTOR represents that it is licensed in the State of California and is qualified, willing and able to provide the services proposed in the SCOPE OF WORK section of this Contract.
- B. CONTRACTOR represents that it is registered pursuant to Labor Code Section 1725.5 and will register annually with the Department of Industrial Relations, if the services have a wage determination for the services outlined in the SCOPE OF WORK section of this Contract.
- C. CONTRACTOR represents that it will pay all required prevailing wages under California Labor Code for all services provided that have a wage determination.
- D. CITY finds it necessary and advisable to use the services of the CONTRACTOR for the purposes provided in this Contract.

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

1. SCOPE OF SERVICES. Subject to the terms and conditions set forth in this Contract, CONTRACTOR shall undertake and complete the services described in **Exhibit A (scope and specifications)**. CONTRACTOR shall provide said services at the time, place, and in the manner specified in Exhibit A and compatible with the standards of the profession. CONTRACTOR agrees that it shall provide fully complete services including all labor, materials, tools, equipment and insurance required and that are acceptable to the CITY.

2. COMPENSATION. CITY shall pay CONTRACTOR for services outlined in **Exhibit A** according to the fee not to exceed the schedule detailed in **Exhibit B (fee schedule)**, which is attached to this Contract and incorporated by this reference. CONTRACTOR agrees this fee is for full remuneration for performing all services and furnishing all staffing, materials and tools called for in the scope of services. The payments shall be made on a monthly basis upon receipt and approval of

ON-CALL PLUMBING MAINTENANCE AND REPAIR SERVICES, OM-20-007
APRIL 22, 2020

CONTRACTOR'S invoice for completed work. Total compensation for services and reimbursement for costs shall not exceed **\$1,250,000** or as otherwise mutually agreed to in a Contract Change Order.

Pursuant to Section 22300 of the Public Contract Code, CONTRACTOR will be permitted, at its request and sole expense, to substitute securities for any monies withheld by the CITY to ensure performance under the contract. Said securities will be deposited either with the CITY or with a State or federally chartered bank as escrow agent. Securities eligible for this substitution are those listed in Section 16430 of the California Government Code or bank or savings and loan certificates of deposit. CONTRACTOR shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

- a. Invoices submitted by CONTRACTOR to CITY must contain a brief description of work performed, location of work, time used, materials and special equipment and 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, CONTRACTOR shall have sixty (60) days in which to submit final invoicing for payment. An extension may be granted by CITY upon receiving a written request thirty (30) days in advance of said time limitation. CITY shall have no obligation or liability to pay any invoice for work performed which CONTRACTOR fails or neglects to submit within sixty (60) days, or any extension thereof granted by the CITY, after work is accepted by CITY.

3. INSURANCE. During the term of this Contract, CONTRACTOR shall maintain in full force and effect at its own cost and expense the insurance coverage as set forth in the attached Exhibit C (Insurance Requirements and Forms) which is attached to this contract and incorporated by this reference, and shall otherwise comply with the other provisions of Exhibit C (Insurance Requirements and Forms). Maintenance of proper insurance coverage is a material element of this contract and that failure to maintain or renew coverage or to provide evidence of renewal may be treated as a material breach of contract.

CONTRACTOR shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this contract, the policies of insurance specified in Exhibit C, which is attached to this contract and incorporated by this reference, and as provided in the "contract documents" including Section 7-1.06 of the City of Stockton Standard Specifications and Plans as adopted on September 27, 2016, by Council Resolution No. 2016-09-27-1213, effective September 27, 2016.

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.

The Additional Insured coverage under the CONTRACTOR's policy shall be "primary and non-contributory" and will not seek contribution from the City of Stockton's insurance or self-insurance and shall be at least as broad as ISO CG 20 01 04 13.

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 for the benefit of the City of Stockton (if agreed to in a written contract or agreement) before the City of Stockton's own insurance or self-insurance shall be called upon to protect it as a named insured.

All self-insured retentions (SIR) must be disclosed to the CITY's Risk Management for approval and shall not reduce the limits of liability. Payment Bond in the amount of the self-insured retention (SIR) may be required.

Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the CITY.

The CITY reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

CONTRACTOR shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event contractor fails to obtain or maintain completed operations coverage as required by this agreement, the CITY at its sole discretion may purchase the coverage required and the cost will be paid by CONTRACTOR.

CONTRACTOR agrees to include with all Subcontractors in their subcontract the same requirements and provisions of this agreement including the indemnity and insurance requirements to the extent they apply to the scope of the Subcontractor's work. Subcontractors hired by CONTRACTOR agree to be bound to CONTRACTOR and the CITY in the same manner and to the same extent as CONTRACTOR is bound to the CITY under the Contract Documents. CONTRACTOR further agrees to include these same provisions with any subcontractor regardless of tier. A copy of the CITY Contract Document Indemnity and Insurance provisions will be furnished to the Subcontractor upon request. The CONTRACTOR shall require all Subcontractors to provide a valid certificate of insurance and the required endorsements included in the agreement prior to commencement of any work and contractor will provide proof of compliance to the CITY.

4. INDEMNITY AND HOLD HARMLESS. With the exception that this section shall in no event be construed to require indemnification by CONTRACTOR to a greater extent than permitted under the public policy of the State of California, CONTRACTOR

shall indemnify, protect, defend with counsel approved by CITY and at CONTRACTOR'S sole cost and expense, and hold harmless CITY, its Mayor, Council, officials, representatives, agents, employees, and volunteers from and against any and all claims, causes of action, liabilities, judgments, awards, losses, liens, claims, stop notices, damages, expenses, and costs (including without limitation attorneys' fees, expert and consultant fees, and other expenses of litigation) of every nature, including, but not limited to, death or injury to persons, or damage to property, which arise out of or are in any way connected with the work performed, materials furnished, or services provided under this Agreement, or from any violation of any federal, State, or municipal law or ordinance, or City Policy, by CONTRACTOR or CONTRACTOR'S officers, agents, employees, volunteers or subcontractors. CONTRACTOR shall not be obligated to indemnify or defend CITY for claims finally determined by a court of law or arbitrator to arise from the active 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 CONTRACTOR to CITY, the intent hereunder is to provide the maximum defense and indemnity obligations allowed by CONTRACTOR 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 exception that this section shall in no event be construed to require indemnification, including the duty to defend, by CONTRACTOR to a greater extent than permitted under the public policy of the State of California, the parties agree that CONTRACTOR'S duty to defend CITY is immediate and arises upon the filing of any claim against the CITY for damages which arise out of or are in any way connected with the work performed, materials furnished, or services provided under this Agreement by CONTRACTOR or CONTRACTOR'S officers, agents, employees, volunteers or subcontractors. CONTRACTOR'S duties and obligations to defend the CITY shall apply regardless of whether or not the issue of the CITY'S liability, breach of this Agreement, or other obligation or fault has been determined. CONTRACTOR shall be immediately obligated to pay for CITY'S defense costs of the claim, including, but not limited to, court costs, attorney's fees and costs, expert consultant and witness fees and costs, other witness fees, document reproduction costs, arbitration fees, and, if after final judgment an appeal is pursued, all of such costs for the appeal. At the conclusion of the claim, if there is any determination or finding of sole active negligence or willful misconduct on the part of the CITY, CITY will then reimburse CONTRACTOR for amounts paid in excess of CONTRACTOR'S proportionate share of responsibility for the damages within 30 days after CONTRACTOR provides CITY with copies of all bills and expenses incurred in the defense of the claim(s). It is agreed between the parties that this reimbursement provision assures CONTRACTOR is not obligated to defend or indemnify CITY in an amount greater than provided for under California law, including, without limitation, California Civil Code sections 2782, 2782.6, and 2782.8.

With the exception that this section shall in no event be construed to require indemnification by CONTRACTOR to a greater extent than permitted under the public policy of the State of California, and in addition to the other indemnity obligations in this

Agreement, CONTRACTOR shall indemnify, defend, and hold harmless CITY, its Mayor, Council, officials, representatives, agents employees and volunteers from and against all claims, losses, expenses, and costs including, but not limited to attorneys' fees, arising out of any claim brought against the CITY by an employee, office, agent, or volunteer of CONTRACTOR, regardless of whether such claim may be covered by any applicable workers compensation insurance. CONTRACTOR'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 CONTRACTOR under workers' compensation acts, disability acts, or other employee benefit acts.

CONTRACTOR'S obligation to defend, indemnify, and hold the CITY, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Contract for CONTRACTOR to procure and maintain a policy of insurance.

CONTRACTOR/Subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this agreement for the full period of time allowed by law.

If any section, subsection, sentence, clause or phrase of this indemnification is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this indemnification.

5. SCHEDULE AND TERM. CONTRACTOR shall perform the scope of work as described in **Exhibit A (scope and specifications)** according to the schedule detailed in **Exhibit A**, which is attached to this Contract and incorporated by this reference. This contract shall commence on the date written above and shall expire on **June 30, 2025**. Unless extended by mutual agreement through the issuance of a Contract Change Order.

6. CONFORMANCE TO APPLICABLE LAWS. CONTRACTOR shall comply with all applicable Federal, State, and Municipal laws, rules, and ordinances.

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 D). 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. <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=lab&group=01001-02000&file=1770-1784>.

d. PREVAILING WAGE

CONTRACTOR 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 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. CONTRACTOR 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 CONTRACTOR and each subcontractor's responsibility to insure that the prevailing wage rates of concern is current and paid to the employee.

- i. The CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR choose to work on a Saturday, Sunday or on a holiday recognized by the Labor Unions, the CONTRACTOR 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 CONTRACTOR, 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. The CONTRACTOR 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 CONTRACTOR'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. The CONTRACTOR 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.

e. LOCAL EMPLOYMENT ORDINANCE

Pursuant to Stockton Municipal Code Section 3.68.095 the CONTRACTOR and all subcontractors shall make a good faith effort to employ at least 50 percent of the workforce on this project from local residents, as measured by total labor work hours. Failure of any CONTRACTOR or subcontractor to comply with these requirements shall be deemed a material breach of the contract or subcontract. CONTRACTORS and subcontractors shall maintain records necessary for monitoring their compliance with section 3.68.095.

7. CHANGE ORDERS. CITY reserves the right to make such alterations, deviations, additions to or omissions from the plans and specifications, including the right to increase or decrease the quantity of any item or portion of the work, as may be deemed

by the Project Manager to be necessary or advisable and to require such extra work as may be determined by the Project Manager to be required for the proper completion of the whole work contemplated.

Any such changes will be set forth in a contract change order which will specify, in addition to the work done in connection with the change made, adjustment of contract time, if any, and the basis of compensation for such work. A contract change order will not become effective until approved by the City Manager and/or the City Council.

8. RIGHTS AND DUTIES OF CITY. CITY shall make available to CONTRACTOR 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 CONTRACTOR in obtaining such information as may be deemed necessary from other agencies and individuals.

9. OBLIGATIONS OF CONTRACTOR. Throughout the term of this Contract, CONTRACTOR 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 CONTRACTOR to practice its professions, and CONTRACTOR shall, at its own cost and expense, keep in effect during the life of this Contract all such licenses, permits, qualifications, insurance, and approvals. CONTRACTOR 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 CONTRACTOR'S services. Such meetings shall be held at the request of either party hereto. CONTRACTOR 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. TERMINATION. This Agreement is effective on the Effective Date. The City may terminate this Contract and work pursuant to any of all scope of works at any time by mailing a notice in writing to Contractor. The Contract shall then be deemed terminated and no further work shall be performed by Contractor. If the Contract is so terminated, the Contractor shall be paid for that percentage of work actually completed at the time the notice of termination is received.

11. CONTRACTOR STATUS. In performing the obligations set forth in this Contract, CONTRACTOR shall have the status of an independent contractor and CONTRACTOR shall not be considered to be an employee of the City for any purpose. All persons working for or under the direction of CONTRACTOR are its agents and employees, and are not agents 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 CONTRACTOR. The CONTRACTOR shall be responsible for the work of subcontractors, which shall be subject to the provisions of this Contract. The

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CONTRACTOR 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 CONTRACTOR, such persons shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by CONTRACTOR.
- i. It is further understood and agreed that CONTRACTOR must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of CONTRACTOR'S personnel.
- ii. As an independent contractor, CONTRACTOR 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.

12. ASSIGNMENT. CONTRACTOR 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. CONTRACTOR shall be solely responsible for reimbursing subcontractors.

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

14. NOTICES. Any and all notices herein required shall be in writing and shall be sent by certified or registered mail, postage prepaid, addressed as follows:

To CONTRACTOR:	Champion Industrial Contractor, Inc. 1420 Coldwell Avenue Modesto, CA 95352	To City: Public Works Director City of Stockton 22 E. Weber Ave., Room 301 Stockton, CA 95202
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15. LICENSES, CERTIFICATIONS, AND PERMITS. Prior to the CITY'S execution of this Contract and prior to the CONTRACTOR engaging in any operation or activity set forth in this Contract, CONTRACTOR shall obtain a City of Stockton business license, which must be kept in effect during the term of this Contract. CONTRACTOR covenants that it has obtained all certificates, licenses, permits and the like required to perform the services under this Contract.

16. RECORDS AND AUDITS. CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under this Contract. Upon

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**ON-CALL PLUMBING MAINTENANCE AND REPAIR SERVICES, OM-20-007
APRIL 22, 2020**

request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance.

CONTRACTOR agrees that CITY or its delegate shall have the right to review, obtain, and copy all records pertaining to performance of the Contract. CONTRACTOR 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. CONTRACTOR agrees to maintain such records for a period of three years from the date that final payment is made.

17. CONFIDENTIALITY. CONTRACTOR shall exercise reasonable precautions to prevent the unauthorized disclosure and use of CITY'S reports, information, or conclusions.

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

19. WAIVER. In the event either CITY or CONTRACTOR 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.

20. GOVERNING LAW. California law shall govern any legal action pursuant to this Contract 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. DISPUTE RESOLUTION. Prior to undertaking any litigation, the Parties shall make reasonable efforts to resolve all disputes informally, including by means of a conference between senior managers of each Party having authority to resolve the dispute.

1. **Venue**
Any controversy or claim between the Parties shall be determined 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.
2. If any litigation action or proceeding is commenced in connection with this Agreement, the prevailing Party, as determined by the court, shall be

entitled to reasonable attorneys' fees (including allocated costs for in-house legal services), costs and necessary disbursements incurred in such action or proceeding.

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

23. INTEGRATION AND MODIFICATION. The response by CONTRACTOR to the Request for Proposals or Qualifications and the Request for Proposals or Qualifications on file with the CITY 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 or Qualifications. This Contract represents the entire integrated agreement between CONTRACTOR 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 CONTRACTOR and CITY. All exhibits and this contract are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Contract and the attached exhibits, the terms of this Contract will prevail.

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

25. THIRD PARTY RIGHTS. Nothing in this Contract shall be construed to give any rights or benefits to anyone other than CITY and CONTRACTOR.

[illegible]

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

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

CITY OF STOCKTON

By: _____
HARRY BLACK
CITY MANAGER

ATTEST:

By: _____
ELIZA R. GARZA, CMC
CITY CLERK

APPROVED AS TO FORM:

By: _____
DEPUTY CITY ATTORNEY

**CHAMPION INDUSTRIAL
CONTRACTORS, INC.**

By:  _____
Signature

John Walter

Print Name

Title: Chief Operating Officer



**REQUEST FOR PROPOSALS
ON-CALL PLUMBING MAINTENANCE AND REPAIR
SERVICES
PROJECT NO. OM-20-007**

Issued by:

City of Stockton

Public Works Department

22 E. Weber Avenue, Room 301

Stockton, CA 95202

Date Issued: January 28, 2020

Date Proposals Due: February 20, 2020

LATE SUBMITTALS WILL NOT BE ACCEPTED

1.0 INTRODUCTION

The City of Stockton Facilities Maintenance Division is seeking proposals to contract with a State licensed plumbing contractor who shall provide on-call plumbing maintenance and repair services. Services to be performed include the furnishing of all labor, materials, tools, equipment, supplies, services, tasks, transportation, incidental and customary work necessary to competently perform on-call plumbing maintenance, repair, modifications and improvements at all facilities owned or operated by the City of Stockton and/or sites as required/requested in accordance with the most recent California Plumbing Code.

2.0 BACKGROUND

The City of Stockton Facilities Maintenance Division is responsible for managing plumbing repairs at City facilities, including: Fire Stations, Public Safety Buildings, Park Bathrooms and Irrigation Buildings, Sewer and Pump Stations, the Corporation Yard, Libraries, Community Centers, and Office Buildings. All repair work will be on-call and there is no guaranteed number of hours. Ensuring that City facilities are in safe and working condition as quickly as possible is a critical component of this RFP.

3.0 CONTRACT PERIOD

- 3.1 Any resultant Contract shall be effective from July 1, 2020, and shall remain in full force through June 30, 2025, without any options for extension. The City may terminate the Contract at any time as a result of unsatisfactory performance or lack of funding.
- 3.2 Goods and/or services shall not be suspended by the Contractor without 30 day prior written notice to the City's designated Contract Manager.

4.0 PRICE ADJUSTMENT

Price adjustments shall only be made to the hourly labor rate shown on the Cost Proposal in the case of a published change in the applicable wage determination made by the California Department of Industrial Relations (DIR). Such price adjustments shall be made to exactly match the increased wage difference and shall only take place during the specified effective period. DIR wage determination-based price adjustment requests must be submitted and approved as an amendment to the original Contract.

5.0 PRICE

Contractor is to provide a base hourly rate charge on the attached price sheet for as needed repair.

The hourly rate bid for each type of service listed shall include all wages, payroll taxes, fringe benefits, insurance, transportation, equipment, materials, supplies, overhead and

profit. Labor rates include service truck and all tools/equipment typically found on service truck.

All charges shall begin at the time when the Contractor arrives at the site and end upon the completion of work at the site.

Labor hours shall be charged based on actual time spent on each job, not on a portal-to-portal basis, and shall be computed to the nearest one-quarter (1/4) hour.

Mark-up on parts and materials may not exceed 10% of Contractor's cost as determined by supplier invoice or other evidence of actual cost. Invoices must identify the work performed, cost of labor, parts/materials used, and parts/materials cost.

6.0 SCOPE OF WORK

The Contractor shall provide total maintenance and repair program consisting of a variety of tasks including, but not limited to, laying out, installing, replacing, repairing, and testing plumbing service and plumbing systems and components. Systems include, but are not limited to domestic water, heating, cooling, hot water systems, conditioned water systems, pool water systems, sanitary sewer and storm systems as well as all related components required for municipal buildings and facilities. Services will include, but not be limited to installing and repairing piping, fixtures and maintenance for sinks, faucets, drains, traps, urinals, toilets, valves, water heaters, heaters, drinking fountains, water or drain lines, sprinkler lines, pools, water spray features, kitchen facilities, sewers, backflow devices and equipment, heating and air conditioning systems as well as additional plumbing related issues as they arise and the services necessary to ensure safe, well maintained plumbing systems for City employees and the public. This may include repair or replacement as determined by the Contract Administrator.

6.1 ON-CALL REPAIR SERVICES

1. Provide on-call, as-needed repair of the City's plumbing systems when requested by the City.
2. Provide emergency, time critical repair of plumbing systems when requested by the City.
3. Provide an appropriate level of staffing and provide appropriate tools and vehicles necessary to support all City maintenance and repair functions during hours of operation and for response after normal working hours.
4. Furnish and install all new parts, materials and lubricants, which are commercial grade and meet or exceed the original equipment manufacturers (OEM) specifications. Any use of parts other than those manufactured by the original equipment manufacturer shall be approved by CITY Project Coordinator prior to

utilization in specific work tasks.

5. Maintain a supply of available parts and maintain a supply system for acquisition of additional parts either immediately or with minimal delay.
6. Check in with CITY Project Coordinator or designee upon each site visit.
7. Troubleshoot, diagnose, and develop a Scope of Work for the material and labor required to complete the repair.
 - a. Develop an estimate based on the Scope of Work and submit to CITY Project Coordinator or designee.
 - i. Develop potential alternatives, with costs, in cases of repairs versus replacements.
 - b. Submit estimate to CITY Project Coordinator for approval.
 - c. Proceed with the work only after authorization by CITY Project Coordinator and complete all work in accordance with the approved cost estimate.
 - d. Advise CITY Project Coordinator if any additional work is required and when a technician will return to perform said work.
 - a. Additional work exceeding the approved cost estimate by 10% must be approved by CITY Project Coordinator
8. Have and maintain a thorough knowledge of commercial plumbing. All maintenance and repairs shall be provided in accordance with the highest standards of the industry, skill, workmanship, applicable trade practices, shall meet warranties and be in conformance to all applicable laws, codes and regulations
9. Provide all vehicles, lifts, and tools needed for the work.
10. The Contractor shall maintain the appropriate licenses and will comply with all other license, insurance, and permit requirements of the City, State, and Federal governments as well as all other requirements of the law.

6.2 ON-CALL REPAIR SERVICE REQUIRED RESPONSE TIME

1. Possess and maintain a telephone answering system with 24 hours, 7 days per week service, capable of contacting and dispatching service personnel.
 - a. The telephone number shall be provided to CITY Project Coordinator upon commencement of this CONTRACT.
2. Respond, mobilize, and be on-site ready to start work for all emergency requests

within 2 hours, unless a longer response time is agreed to by CITY Project Coordinator.

3. Respond, mobilize, and be on-site ready to start work for non-emergency request within 4 hours, unless a longer response time is agreed to by CITY Project Coordinator.
4. Time to respond shall start when the City calls the problem into the Contractor's designated emergency phone number. The Contractor shall provide a call-back to the City designee within thirty (30) minutes of the initial call if unanswered by the Contractor.
5. If repairs cannot be completed upon arrival, facility shall be left in a secured fashion to ensure the safety of City employees and citizens.
 - a. Repairs are to be completed within two working days of the initial request, or by mutual agreement with CITY Project Coordinator

6.3 Warranties

Contractor warrants that the Work performed shall conform to the specifications, drawings, samples, and other descriptions set forth in the Contract Documents and shall be free of defects in workmanship. Contractor shall at its own expense promptly repair, replace and/or re-perform any portion of the Work that is defective or in any way fails to conform to the requirements in the Contract Documents for a period commencing on the date of final completion of the Work and acceptance by City and ending one (1) year as thereafter as such one-year period is extended through any extended warranty provided in the Contractor's Bid. Any repair, replacement or re-performance will meet the requirements in the Contract Documents for a period of one (1) additional year following City's acceptance of such repair, replacement or re-performance. If Contractor fails to promptly make any repair, replacement or re-performance as required herein, City may conduct the necessary work at Contractor's expense. Contractor cannot void

6.4 Contractor Responsibilities

The Contractor shall appoint a Project Manager who shall be responsible for the performance of the work and an alternate(s) who shall act for the Contractor when the Project Manager is absent. The names of these persons shall be designated in writing to the City. For this work, the term "Project Manager" shall include the alternate as specified above. The Project Manager, or their designee/alternate, shall be available during normal business hours to meet with City representative/s to discuss any problem areas.

The Contractor shall employ only workers who are competent and skilled for work under this Contract. The City shall, throughout the term of the Contract or any extension thereof, have the right of reasonable rejection and/or approval of staff assigned to the work by the Contractor. If the City's Contract Manager rejects one of Contractor's staff, the Contractor must provide replacement staff satisfactory to the City at no additional cost to the City. If, in the opinion of the City, any Contractor employee who is incompetent, disorderly, refuses to perform in accordance with the contract specifications, threatens or uses abusive language while on City property, or is otherwise unsatisfactory, shall be removed immediately from work under this contract upon request of the City.

Contractor acknowledges it is an independent contractor and shall not for any purpose be deemed to be an employee, agent, or other representative of the City. Contractor shall not assign, sublet, transfer or otherwise substitute its interest in this work, or any of its obligations, without the prior written consent of the City. It is the intent of these specifications that all work is to be performed by Contractor's forces.

Contractor shall employ a sufficient number of staff to ensure performance of the work described. All work shall be performed by experienced staff directly employed by the Contractor.

Each employee of the Contractor shall be identified by photograph identification badge and uniform readily identifying the worker as an employee of the Contractor's firm. Each employee must be so identified at all times while performing work in any City facility.

No unauthorized person or persons not employees of the Contractor (i.e., spouse, children, brother, sister, friends, etc.) shall be allowed within the immediate work area during the performance of services under this contract.

Contractor shall keep the premises free from the accumulation of waste materials, rubbish, and other debris resulting from the work. At the completion of the work, the Contractor shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment, machinery, surplus material, and leave the site clean and ready for occupancy.

Contractor will be responsible for the removal, packaging, transportation and proper disposal of all materials deemed as waste per all applicable local, state, and federal regulations. Disposal of contractor project waste in city containers or at city facilities is not allowed.

6.5 Contractor Qualifications

The successful firm(s) must have been actively engaged in the maintenance and repair of commercial building plumbing systems of similar size and design as the scope of work covered by this contract for a minimum of (5) years. The contractor

shall show that they have available under direct employment and supervision, the necessary organization and facilities to properly fulfill all services and conditions required under this specification. In addition, contractor should use only licensed, skilled professionals having a minimum of five (5) years experience in maintaining and repairing the various plumbing systems.

Contractor shall possess a valid C-36 license from the California Contractor's license Board.

Contractor shall have extensive knowledge and experience doing business with governmental entities as a direct provider without the use of a subcontractor. Contractor shall have the ability to Self-Perform work.

7.0 LOCATIONS

The City of Stockton reserves the right to add, modify or cancel services at existing locations without Contractor approval or prior notice. Such adjustments will be communicated in writing by the Public Works Director or his authorized representative.

City Facilities	Address
AMERICAN LEGION PARK	1859 N BAKER ST
ANDERSON PARK	6201 N EL DORADO ST
ANIMAL CONTROL	1575 S. LINCOLN ST.
ARNOLD RUE COMMUNITY	5758 LORRAINE AV.
ATHERTON PARK	1978 QUAIL LAKES DR
BROOKING PARK	4500 NUGGET AV
BUCKLEY COVE PARK	4311 BUCKLEY COVE WY
CALDWELL PARK	3021 PACIFIC AV
CESAR CHAVEZ CENTRAL	605 N EL DORADO ST
CITY ANNEX / PERMIT CENTER	6 E LINDSAY ST
CITY HALL	425 N EL DORADO ST
CIVIC AUDITORIUM	525 N CENTER ST
CORP YARD	1465 S LINCOLN ST
DELTA WATER SUPPLY	11373 N. LOWER SACRAMENTO
DENTONI PARK	1430 ROYAL OAKS DR
DOROTHY JONES COMNTY	2044 FAIR ST.
FAIR OAKS LIBRARY	2370 E MAIN ST
FAKLIS PARK	5250 COSUMNES DR
FIRE COMPANY #1	1818 FRESNO AV
FIRE COMPANY #10	2903 W. MARCH LN.
FIRE COMPANY #11	1211 E. SWAIN RD.
FIRE COMPANY #12	4010 E. MAIN ST.
FIRE COMPANY #13	3606 HENDRIX DR
FIRE COMPANY #14	3019 MCNABB PL.

FIRE COMPANY #2	110 W. SONORA ST.
FIRE COMPANY #3	1116 E. FIRST ST.
FIRE COMPANY #4	5525 PACIFIC AV.
FIRE COMPANY #5	3498 MANTHEY RD.
FIRE COMPANY #6	1501 PICARDY LN
FIRE COMPANY #7	1767 W. HAMMER LN.
FIRE COMPANY #9	550 E. HARDING WY.
GIBBONS PARK	1825 W HAMMER LN
GRUPE PARK	5818 CUMBERLAND PL
HARRELL PARK	2244 S LINCOLN ST
LONG PARK	4535 WOODCHASE LN
LOUIS PARK	3201 MONTE DIABLO AV
MARGARET TROKE LIBRARY	502 W BENJAMIN HOLT DR
MATT EQUINOA PARK	9499 GLACIER POINT DR
MAYA ANGELOU BRANCH LIBRARY	2324 POCK LN
MCKINLEY COMMUNITY CENTER	424 E. NINTH ST.
MCKINLEY PARK	424 E NINTH ST
MERLO GYM	1670 E. SIXTH ST.
MISASI PARK	9820 RONALD E MCNAIR WY
MORELLI PARK	1025 W WEBER AV
MUNICIPAL UTILITY DISTRICT (MUD)	2500 NAVY DR.
NELSON PARK	3535 BROOKVIEW DR
OAK PARK	501 E ALPINE AV
OAK PARK ICE ARENA	3545 ALVARADO ST.
OAK PARK SWIMMING POOL	ALPINE AV & ALVARADO
OAK PARK TENNIS COMPLEX	3514 SUTTER ST
PANELLA PARK	5758 LORRAINE AV
PAUL E WESTON PARK	3603 E W S WOODS BL
PETERSON PARK	2429 S UNION ST
PISTOL RANGE	3040 NAVY DR
PIXIE WOODS	3201 MONTE DIABLO AV
PODESTO TEEN CENTER	725 N. EL DORADO ST.
POLICE DEPARTMENT	22 E MARKET ST
SANDMAN PARK	8801 DON AV
SEIFERT COMMUNITY CENTER	28 W. BENJAMIN HOLT DR.
SENIOR CENTER	730 E. FULTON AV.
SHERWOOD PARK	100 W ROBINHOOD DR
SIERRA VISTA COMMUNITY	2456 BELLEVIEW AV.
STEWART EBERHART BUILDING	22 E WEBER AV
STOCKTON ARENA	248 W. FREMONT ST
STRIBLEY COMMUNITY CENTER	1760 E. SONORA ST.

STRIBLEY PARK	502 DELLA ST
SWENSON GOLF CLUBHOUSE	6803 ALEXANDRIA PL
SWENSON PARK	6803 ALEXANDRIA PL
VALVERDE PARK	2418 ARDEN LN
VAN BUSKIRK COMMUNITY	714 HOUSTON AV
VAN BUSKIRK GOLF	1740 HOUSTON AVENUE
VAN BUSKIRK PARK	734 HOUSTON AV
VICTORY PARK	1001 N PERSHING AV
WATER FIELD OFFICE	7400 WEST LN
WILLIAMS BROTHERHOOD PARK	2040 S AIRPORT WY

8.0 JOB WALK

There is currently no job walk scheduled for this project.

9.0 INVOICING

Contractor will promptly submit two (2) packets of itemized invoices per month. Invoices for the first half of the month (1st thru the 15th) will be submitted no later than the 22nd or the next business day should the 22nd fall on a weekend or holiday. Invoices for the second half of the month (16th thru the end of the month) will be submitted no later than the 7th or the next business day should the 7th fall on a weekend or holiday. All invoices should reference the purchase order and a City work order number if provided.

10.0 PROJECT GENERAL INFORMATION

11.1 Proposal Submissions

Proposals shall be submitted no later than **3:00 PM on February 20, 2020** to:

CITY OF STOCKTON
PUBLIC WORKS DEPARTMENT
ATTN: COLIN SCOTT
22 E. WEBER AVENUE, ROOM 301
STOCKTON, CA 95202

The proposal should be firmly sealed in a clearly marked envelope with “**ON-CALL PLUMBING MAINTENANCE AND REPAIR SERVICES**” for the City of Stockton (Project OM-20-007). The cost proposal must be in a separate, sealed envelope labeled as Cost Proposal with the Project Name and Number. Late Proposals will not be accepted.

11.2 Acceptance or Rejection of Proposal

The City reserves the right to negotiate an agreement with the firm submitting the highest-ranking proposal. Also, the City reserves the right to reject any and all proposals or to waive any irregularity in a proposal if it is deemed to be in the best interest of the City. Failure to submit all requested information could be grounds to reject the proposal.

11.3 Proposal Questions and Requests for Clarification

Any question or request for clarification shall be submitted in writing to:

Colin.Scott@stocktonca.gov

Requests for clarification shall be submitted at least **seven (7) business** days prior to the proposal due date. If a response warrants an addendum to the RFP, such addendum will be posted on Bid Flash at least two (2) business days prior to the proposal due date. It is the proposer's responsibility to check the website for any addendums or responses to questions. The website address is as follows:

<http://www.stocktongov.com/services/business/bidflash/pw.html?dept=Public Works>

11.4 Causes for Disqualification

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

- A. Evidence of collusion among proponents;
- B. Any attempt to improperly influence any member of the evaluation panel;
- C. Any attempt to communicate in any manner with a City of Stockton elected official during the RFP/bid process will, and shall be, just cause for disqualification/rejection of proponent's proposal/bid submittal and considered non-responsive.
- D. A proponent's default in any operation of a professional services agreement which resulted in termination of that agreement; and/or
- E. Existence of any lawsuit, unresolved contractual claim, or dispute between proponent and the City.
- F. No person, firm, or corporation shall be allowed to make or file or be interested in more than one bid for the same supplies, services, or both; provided, however, that subcontract bids to the principal bidders are excluded from the requirements of this section: Section 3.68.120 of the Municipal Code.

- G. Any exceptions to the insurance requirement may result in a non-responsive proposal.

11.5 Licensing Requirements

Contractor shall possess a City of Stockton business license Contractor shall maintain said licenses for the duration of the work. A copy of your company's License must be submitted with your proposal.

11.6 Insurance Requirements

The proposer must obtain and maintain the required insurance. Proposer should review **Attachment 2, Instructions to Proposers** for information regarding insurance, indemnification, Disadvantaged Business Enterprises, prevailing wages, etc. Failure to comply with the Instructions to Proposers may be grounds for rejection.

12.0 REQUIRED PROPOSAL CONTENT

The proposal shall contain the following, at a minimum:

- Cover Letter
- Table of Contents
- Executive Summary
- Project Team
- Detailed Work Plan
- Examples of experience with similar types of work
- References
- Cost Proposal

The Proposal shall be no more than ten (10) pages (8½" x 11"), with a minimum font size of 10. Proposer shall submit one (1) electronic copy pdf copy on a flash drive (proposal and cost proposal shall be separate files), and four (4) bound sets of the proposal.

12.1 Cover Letter

The letter shall be signed by an official with the authority to negotiate and contractually bind the firm with the City of Stockton. Provide name, title, address, email, and telephone number for this officer. Describe any subcontract arrangements or licensing agreements. Include any potential conflict of interest.

12.2 Table of Contents

The proposal should include a table of contents.

12.3 Executive Summary

The Executive Summary shall include a summary of the proposal, emphasizing the approach to be taken and including a work plan, schedule, and description of the capabilities of the Project Manager and key personnel. The summary should convey an understanding of the purpose of the project and the services required for performance.

12.4 Project Team

Describe your team organization including the qualifications of the prime Project Manager and any other key personnel related to the project. Provide an organizational chart of the proposed team structure.

The following should be addressed:

- Demonstrate the company's experience in each of the areas of expertise needed to successfully complete the project. This should include a description of prior experience in working with public agencies, including working with City staff.
- Ability for project team to perform the proposed work within the time limits of the project, considering their current and projected workload and assignments.

12.5 Detailed Work Plan

Provide a concise description of the approach and process the vendor will employ to successfully complete the work to be performed to include any specific staffing or equipment resources that will be employed by the vendor.

The following should be addressed:

- The Contractor's telephone answering system with 24 hours, 7 days per week service, capable of contacting and dispatching service personnel.
- The Contractor's staff's ability to respond, mobilize, and be on-site ready to start work for all emergency requests within 2 hours.
- The Contractor's ability to maintain a supply of available parts and maintain a supply system for acquisition of additional parts either immediately or with minimal delay.

12.6 Examples of Experience with Similar Types of Work

Provide examples of projects similar in scope and size to this project.

Detail any involvement, past or current, relative to litigation or other disputes, if any, concerning your performance with any clients to whom your company has provided services.

List all contracts canceled or not extended. State any and all instances of being disqualified, removed, or otherwise prevented from completing the terms of any previous contracts over the past five (5) years. Give names, street addresses, and phone numbers and explain the circumstances.

12.7 References

Provide three references from clients your firm has served in the past three years, including one client that has newly engaged the firm in the past 36 months and one long-term client. Letters of reference for the company, two of which are familiar with the project manager and key personnel. This shall include the name, company, contact information, and description of related work that was provided to the client. No City of Stockton elected officials, appointed officials, or employees may be provided as a reference for this Proposal.

12.8 Cost Proposal

The proposed fee for service shall be submitted in a separate, sealed envelope, and include the following information on the template provided in **Attachment 1, Request for Sealed Proposal.**

Contractor is encouraged to attend the job walk to inspect areas prior to submitting bid in order to be fully aware of the scope of services required. Failure to do so will not relieve the successful bidder from performing in strict accordance with the specifications at no additional cost to the City.

The cost proposal must be in a sealed envelope separate from the proposal.

13.0 PROPOSAL EVALUATION

The Contractor Selection process will follow the timeline shown below

<u>Event</u>	<u>Date</u>
Post Request for Proposals	January 28, 2020
Written Questions submitted by	February 13, 2020 at 5:00 PM
Response to Written Questions	February 18, 2020
Proposals Due	February 20, 2020 at 3:00 PM
Interviews Start	February 2020
Negotiations	February 2020
City Council Approval	April 14, 2020

13.1 Proposal Evaluation

The selection committee will evaluate all proposals. This is a qualifications and cost based selection, so ranking will be in accordance with the attached Evaluation Scoring Worksheet (See Attachment 3). Cost will be a factor in evaluation, but selection is predominately qualifications based. Cost proposals will not be opened until after other categories have been evaluated. Local preference will also be a factor, so Stockton firms are encouraged to propose.

13.2 Negotiations

City staff will begin negotiations with the highest ranked firm. If an agreement cannot be reached after a reasonable period of time, as determined by the City, then the City will terminate negotiations with the number one ranked firm and negotiations will be opened with the second ranked firm. The compensation discussed with one prospective Contractor will not be disclosed or discussed with another Contractor.

The selected Contractor will be expected to enter into a Professional Services Contract with the City. Proposers should direct their attention to Attachment 2, Instructions to Proposers for the most current insurance and indemnification language. It is expected that the successful proposer will accept these terms without modification.

The contract shall not be in force until the Council approves the contract and the City Manager signs it. Work performed before the issuance of a Notice to Proceed cannot be paid by the City.

ATTACHMENTS:

Attachment 1 – Request for Proposal

Attachment 2 – Instructions to Proposers

Attachment 3 – Evaluation Scoring Sheet

**DEPARTMENT OF INDUSTRIAL RELATIONS
LABOR COMPLIANCE
SELF-CERTIFICATION**

We, the undersigned, self-certify that we will comply with all California Department of Industrial Relations (DIR) laws, rules and regulations that apply to Public Work as defined in Labor Code Section 1720(a)(1), as well as Senate Bill 854 (2014), and all other related statutes.

In addition, we acknowledge that to be eligible to bid on City of Stockton Public Works projects, we and all subcontractors under us are registered, and will remain registered with the DIR until project completion; otherwise, we will be disqualified from consideration as a bidder for the subject project.

CONTRACTOR: Champion Industrial Contractors, Inc.

BY:  _____

TITLE: John Walter, Chief Operating Officer

DATE: April 8, 2020

NON-COLLUSION DECLARATION
 (Title 23 United States Code Section 112 and Public
 Contract Code Section 7106)

To the CITY of STOCKTON DEPARTMENT OF PUBLIC WORKS.

The undersigned declares:

I am the Chief Operating Officer, of Champion Industrial Contractors, Inc., the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on April 8, 2020 at Modesto(city), CA (state).

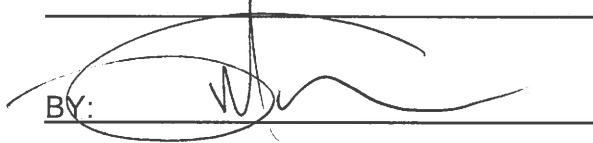
John Walter

(Signature)

TITLE VI VIOLATION SELF-CERTIFICATION

We, the undersigned, self-certify that pursuant to Federal Code of Regulations (CFR), 23 CFR 200.9, 633 and 49 CFR 21.7, we do not have any unresolved violations under Title VI of the Civil Rights Act of 1964 and related statutes, including Americans with Disabilities Act (ADA). In addition, we acknowledge that an unresolved Title VI violation will disqualify us for consideration as a bidder for the subject project.

CONTRACTOR: Champion Industrial Contractors, Inc.

BY: 

John Walter, Chief Operating Officer

TITLE

DATE: April 8, 2020



P.O. Box 4399 - 1420 Coldwell Avenue, Modesto, CA 95352
Tel: (209) 524-6601 Fax: (209) 524-6931
Contractor's License #174777

On-Call Plumbing Maintenance and Repair Service Project No. OM-20-007

Warranty:

The seller warrants that all articles furnished shall be free from all defects of materials and workmanship, that all articles shall be of good quality and correct for the purposes intended. Defective items shall be replaced at no cost to the city according to the following schedule:

Drain cleaning, unclogging, hydro-jetting, etc.

Due to the fact there is no control over what is put down the drains after servicing, a warranty is not available for this type of work.

Replacement of flush valves, faucet stems, pipe leaks, repairs on equipment.

A (30) thirty day warranty applies to this category. The warranty applies to the specific part or parts being replaced. If the faucet or piece of equipment being repaired is in questionable condition, we will contact the city and give them the option of repairing or replacing the item. In the case of A/C repairs, no warranty is made for loss of refrigerant.

Equipment Replacements – Equipment supplied by Champion Industrial Inc.

A (1) one year parts and labor warranty applies to this category. It is common for some types of equipment, such as water heaters, to have longer warranties. In these cases the manufacture's warranty would extend the warranty on the "parts" portion of the installation.

Equipment Replacements – Equipment supplied by Owner.

A (1) one year labor only warranty applies to this category. Champion Industrial Contractors Inc. is unable to warranty equipment or parts supplied by others.

Clarifications.

The owner acknowledges that equipment must be maintained properly to reach its maximum usable life. After being replaced, should a part or piece of equipment fail due to abuse, or failure to follow the manufacturer's recommended maintenance, warranties would not apply. As an example:

An A/C unit is replaced. Then after a period of time, instead of replacing the air filter, the old filter is simply removed. This causes the unit to clog and then fail to condition the air. The resultant damage would not be covered under warranty.

Champion Industrial Contractors, Inc.

EXHIBIT B

COST PROPOSAL

On-Call Plumbing Maintenance and Repair Services at City Facilities
as described in this RFP.

Item	Labor Rate Schedule	Hourly Rate	Annual QTY.	Proposed Cost
1	Shop rate for plumbing services – Apprentice (7:00 a.m. to 5:00 p.m. Mon- Fri)	\$106.00	170 hours	\$18,020.00
2	Shop rate for plumbing services – Journeyman (7:00 a.m. to 5:00 p.m. Mon-Fri)	\$133.00	1250 hours	\$166,250.00
3	After-hours rate for Apprentice (5:00 p.m. to 7:00) Saturday, Sunday, Holiday a.m.)	\$138.00	20 hours	\$2,760.00
4	After-hours rate for Journeyman (5:00 p.m. to 7:00 a.m.) Saturday, Sunday, Holiday	\$168.00	150 hours	\$25,200.00
			Total cost for scoring	\$212,230.00

Specialized Equipment Rate Schedule
Describe Equipment & Hourly or Flat Rate

Proposer may submit additional rate sheet for specialized equipment rate schedule

5	See snake, sewer inspection camera	Flat Rate		\$260.00
6	Drain cleaning machine (snake)	Flat Rate		\$135.00
7	Hydro Jetter	Flat Rate		\$145.00
8				

Note: 1. All rates include service truck and all tools/equipment on truck.

Note: 2. Annual quantities are estimates only for comparison purposes, actual quantities shall be on an "as needed" basis.

Note: 3. Mark-up on parts and materials may not exceed 10% of Contractor's cost. Invoices must identify the work

Comments:

Rental fees will apply to any equipment not owned by Champion Industrial Contractors.

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

Exhibit C:
Insurance Requirements for Construction Contracts

Contractor shall procure and maintain for the duration of the contract, *and for five (5) years thereafter*, 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, their agents, representatives, employees, or subcontractors. In the event contractor fails to obtain or maintain completed operations coverage as required by this agreement, the City, at its sole discretion, may purchase the coverage required and the cost will be paid by the contractor.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office (ISO) 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 CA 0001 covering Code 1 (any auto), with limits no less than **\$2,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Surety Bonds** as described below.
5. **Contractors' Pollution Legal Liability** and/or Asbestos Legal Liability with limits no less than \$2,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

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.

Claims Made Policies – (Note – applicable only to professional and/or pollution liability)

If any coverage required is written on a claims-made coverage form:

1. The retroactive date must be shown, and this date must be before the execution 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 contract 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, or start of work date, the Contractor must purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the City of Stockton for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractors Pollution Liability policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

Notice of Cancellation

Each insurance policy required above shall provide 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.

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.

Surety Bonds

Contractor shall provide the following Surety Bonds:

1. Bid bond
2. Performance bond
3. Payment bond (or Labor and Material bond)
4. Maintenance bond

The Payment Bond and the Performance Bond shall be in a sum equal to one hundred percent (100%) of the contract price, or equal to the annual price of the contract, with an annually renewing bond. If the Performance Bond provides for a one-year warranty a separate Maintenance Bond is not necessary. If the warranty period specified in the contract is for longer than one year a Maintenance Bond equal to 10% of the contract price is required. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

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

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

I. PURPOSE

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

II. POLICY

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

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

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

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III. DEFINITION AND EXAMPLES OF DISCRIMINATION AND HARASSMENT

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

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

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

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

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

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

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

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- i. Retaliation for making harassment reports or threatening to report harassment.

D. Affordable Care Act (ACA) Anti-Retaliation

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

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

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

IV. REPORTING AND COMPLAINT PROCEDURES

A. Immediate Action Required

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

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

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

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

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

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

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

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

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

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

V. INVESTIGATION PROCEDURES

A. Determination of Responsibility for Investigation

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

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

B. Investigative Guidelines

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

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

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supervisors, about the harassment.

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

VI. RESPONDING TO THE COMPLAINT

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

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

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

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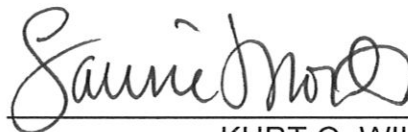
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agencies. Both the EEOC and DFEH serve as neutral fact-finders and attempt to assist parties in resolving disputes voluntarily.

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