

**Memorandum of Understanding
between Animal Protection League and City of Stockton**

This Memorandum of Understanding (the "**MOU**"), is made and entered into by and between the Animal Protection League, a California nonprofit public benefit corporation (the "**APL**"), and the City of Stockton, a municipal corporation (the "**City**"), as of _____. The APL and the City are sometimes referred to herein individually as a "**Party**" or collectively as the "**Parties**."

RECITALS

The City is responsible for enforcing ordinances governing the humane care, treatment, and regulation of certain animals within the territorial limits of the City of Stockton; and

The City provides such animal-related services through Stockton Animal Services, a section of the Stockton Police Department ("**Animal Services**"); and

The APL is a privately-funded non-profit organization located in the City of Stockton that is dedicated to supporting the Stockton Animal Shelter and the community it serves; and

The parties desire to collaborate to promote humane animal care and sheltering services in the City of Stockton; and

To this end, the City wishes to contract with APL for the performance of certain services as set forth herein; and

The APL is agreeable to rendering such services on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises set forth in this MOU, the Parties agree as follows:

1. **APL RESPONSIBILITIES.** During the Term, and subject to the terms of this MOU, the APL agrees to perform the following services:

- 1.1. **Personnel.** The APL will provide the personnel necessary to perform its obligations as described in this MOU, the type and quantity of which is set forth in Exhibit A. The Parties understand and agree that optimizing humane animal care at Animal Services, maintaining consistency in scheduling of staff, as well as the specific staff selected to work onsite at the Shelter, is desirable to

both Parties and shall be periodically discussed and mutually agreed upon in writing by the APL's Appointee and the City's Appointee throughout the Term.

1.2. **Increased Personnel.** Nothing in Section 1.1 is intended to prevent APL from allocating additional funding or personnel to Animal Services in its discretion.

1.3. **Services.** The APL agrees to provide veterinary and shelter services to the City of Stockton Animal Shelter, the scope and specifics of which shall be periodically discussed at least quarterly and mutually agreed upon by the APL's Appointee and the City's Appointee throughout the Term. Veterinary and shelter services may include, but are not limited to, providing humane care, rescue services, foster care, and volunteer and adoption coordination.

1.4. **Licenses and Certifications.** At all times, the APL will ensure that each of its staff working at Animal Services maintains appropriate licenses and certifications, as required by law.

1.5. **Controlled Substances Registration.** The APL will designate a veterinary practitioner, whose selection shall be in the APL's sole discretion, to lawfully maintain a DEA Certificate of Registration at Animal Services. The DEA Certificate of Registration is required to purchase, process, and administer certain controlled substances that are used to prevent, control, and treat certain communicable diseases among its animal population and to euthanize animals.

1.6. **Fundraising.** The APL's Appointee will work in Partnership with the City's Appointee to pursue fundraising and grant opportunities to support additional shelter staff, services to the shelter and the public, and medical care for animals. Nothing in this Section 1.6 will prevent or otherwise limit either Party from pursuing alternate fundraising avenues to support its work as outlined in this MOU, whether collaboratively or independently.

1.7. **Tools and Supplies.** The APL may use its own tools and instrumentalities, equipment, and other supplies in performing its services under this MOU; provided, however, that the City will provide such materials to the APL as mutually agreed upon by City and APL are needed for the APL to perform such services under this MOU, including those outlined in Section 2.2.

1.8. **Performance; Obligations.** The APL will devote such time and attention as may be reasonably necessary for the satisfactory performance of its obligations pursuant to this MOU. The APL has no pre-existing obligations or commitments (and will not assume or otherwise undertake any obligations or commitments) that would be in conflict or inconsistent with, or that would hinder its performance of its obligations under this MOU. The APL will not be considered in default of this

MOU to the extent that such performance is delayed by any cause, present or future, which is beyond the reasonable control of the APL.

2. **CITY RESPONSIBILITIES.** During the Term, and subject to the terms of this MOU, the City agrees to perform the following:

2.1 **Personnel.** The City agrees that each of its staff working at Animal Services maintains appropriate licenses and certifications, as required by law. The City agrees to make every effort to fill vacant positions as soon as possible. Nothing in this Section 2.1 is intended to prevent the City from allocating additional funding or personnel to Animal Services in its discretion.

2.2 **Medical and Shelter Supplies.** The City will timely purchase and provide all the equipment, materials, and supplies (medical and other) customarily used at Animal Services. This includes, by way of example only and not by limitation or requirement, medical and sheltering supplies such as controlled substances, vaccines, sterilization equipment, and cleaning supplies. The quantity, type, brand, and vendor are at the City's sole discretion and in adherence to City procurement policies and available budgetary resources.

2.3 **Maintenance of Records.** The City will use its best efforts to maintain accurate and complete records of each animal at Animal Services, including by way of example only and not limitation or requirement, a description of the animal, date of receipt and outcome, manner of outcome, and associated fees or charges. The City is solely responsible for maintaining accurate records and reports as required by applicable law and regulations; however, the APL agrees to cooperate in good faith as is reasonably necessary to facilitate such recordkeeping and reporting (for example, by providing records regarding veterinary care for shelter animals).

2.4 **Transparency.** The City will permit the APL reasonable access to its systems, premises and personnel for the purpose of advancing the objectives set forth in this MOU, as its time and other business activities permit.

3. **MUTUAL RESPONSIBILITIES.** During the Term, and subject to the terms of this MOU, each Party agrees to perform the following:

3.1. **Humane Outcomes.** Each Party agrees to collaborate with the other Party to promote humane and sustainable programs for animal care and sheltering services in the City of Stockton. Such collaboration may include, by way of example only and not by limitation or requirement:

A. Improving the lives and humane outcomes of the impounded and surrendered animals at Animal Services and working to reduce the number of unwanted animals in the City of Stockton.

B. Respectively ensuring that all activities relating to this MOU are performed by humane and professional staff that is familiar with the "Five Freedoms of Animal Welfare" and the current "Guidelines for Standards of Care in Animal Shelters" established by The Association of Shelter Veterinarians.

C. Promoting humane and efficient operations at Animal Services through respective staff training and education and the strict observance of established protocols, policies and procedures at Animal Services.

D. Observing best practices and protocols with respect to infectious disease control (for example, quarantine, veterinary assessment and care) and animal housing (for example, cleaning, capacity and location) at Animal Services.

3.2. **Rescue Partnership.** In an effort to maximize opportunities for pet adoption and to reduce the homeless pet population in the City of Stockton, the Parties agree (A) to make available for transfer to the APL certain impounded or abandoned animals in Animal Services' possession, as may be mutually deemed desirable by the Parties, and (B) to abide by established intake and quarantine procedures in order to promote effective population management and to reduce the length of stay of such animals.

3.3. **Transparency and Performance Measures.** Each Party agrees to cooperate in good faith with the other Party in all matters relating to this MOU, to foster transparency and shared knowledge between the Parties through participation in regular meetings and the sharing of collected data and research findings, and to work together to develop and implement outcome-based performance measures that are both valid and reliable and that can be used to evaluate shelter performance. In furtherance of this Section 3.3, the City will promptly provide historical intake, output and related data; budget data and other relevant animal welfare statistics and confidential information as may be reasonably requested by the APL.

3.4. **Compliance with Laws.** Each Party will comply in all material respects with all applicable laws, rules, regulations and orders with respect to such Party and its business and properties.

4. **TERM; TERMINATION.**

4.1. **Term.** This MOU shall be effective from July 1, 2018 through and until June 30, 2021 (the "**Term**").

4.2. **Extensions.** The term of this MOU may be extended by up to two (2) one-year terms by mutual written agreement of both Parties for a total contract term of five (5) years. Notification and agreement to any extension must be received and approved at least one hundred eighty (180) days prior to current term's expiration.

4.3. **Termination for Convenience.** Either Party may terminate this MOU at any time and for any reason during the Term by giving three hundred sixty-five (365) days' notice in writing of such termination to the other Party.

4.4. **Termination for Breach.** If either Party breaches any term or condition of this MOU, and such breach continues for a period of sixty (60) days after written notice from the other Party (except for a breach regarding failure to pay any amount(s) due, whether due to City budget constraints or otherwise, in which case the period to cure shall be fourteen (14) days), the non-defaulting Party may terminate this MOU immediately. Time to cure may be extended in the discretion of the Party giving notice. Notice given under this Section 4.4 shall, at a minimum, specify the alleged default and the applicable time to cure. No Party shall be relieved of any obligation or liability arising from any prior breach of any provision of this MOU by such Party.

4.5. **Effect of Termination.** Upon the expiration or termination of this MOU, the City will pay the APL for any amounts that are due and payable under Section 5 for services performed by the APL prior to such expiration or termination. If this MOU is terminated prior to the end of the Term, whether for convenience or for breach, the City is obligated to pay for only the pro rata portion of the services provided by the APL, calculated using the per-diem amount set forth in Section 5.2.

4.6. **Survival.** If expressly stated herein to survive the Term, such provision shall continue to survive as set forth in this MOU (for example, Section 7 [Confidentiality; Publicity]). The provisions of this Section 4.6 (Survival), Section 6.2 (Employment Taxes and Benefits), Section 10 (Indemnity and Hold Harmless), and Section 11 (General Provisions) shall each survive indefinitely.

5. PAYMENT.

5.1. **Payment.** Subject to availability of budgeted funds, the City agrees to pay the APL for the services set forth in this MOU in the amount of \$1,308,485 for year one. The amounts for the second and third year will be increased by a flat five percent (5%). Annual payment for any term extension exercised will be for a mutually agreed upon amount not to exceed five percent (5%) of the preceding year.

A. Start-Up Payment. The City will provide a one-time payment of \$100,000 to APL within thirty (30) days of the execution of the MOU by both parties.

B. The City's payments during the Term of this MOU are subject to approval by the City Council during the City's Annual Budget Process.

5.2. **Method of Payment.** The City shall pay to the APL one twelfth (1/12) of the total annual contract amount specified in Sections 5.1 in twelve (12) equal installments. The APL will provide monthly invoices to the City and the City shall issue payment within thirty (30) days of invoice acceptance and approval. For purposes of determining the amount due if this MOU is terminated before June 30 of the then-current year, a per diem amount shall be established by dividing the total annual contract by three hundred sixty-five (365) days.

5.3. **Adjustment.** The Parties understand and agree that the payment schedule in Section 5.1 is calculated based on an average annual intake of 12,000 animals at Animal Services (the "**Baseline Volume**"). Should the actual annual intake volume at Animal Services (the "**Actual Volume**") exceed the Baseline Volume during any fiscal year, then the City agrees to pay to the APL a lump-sum payment that reflects the difference between the Baseline Volume and the Actual Volume for such fiscal year, at a per-animal price of \$100.00, to be calculated as follows: (Actual Volume – Baseline Volume) x (\$100.00). After the end of such fiscal year, the APL will provide an invoice to the City reflecting any adjustment, and the City shall issue payment within thirty (30) days of invoice receipt.

5.4. **Expenses.** Unless otherwise specified in this MOU or approved in writing by the City, the City will not reimburse the APL for any expenses incurred by the APL in connection with performing its obligations under this MOU, and vice versa.

5.5. **Use of Funds.** The APL agrees that all funds paid by the City pursuant to

this MOU will be used only to fulfill the terms of this MOU.

6. RELATIONSHIP OF THE PARTIES.

6.1. Independent Contractor. It is specifically understood and agreed that the APL is an independent contractor, and is not an agent, joint venturer or employee of, and has no authority to bind the City by contract or otherwise. The APL will perform its services as set forth in this MOU under the general direction of the City, but the APL will determine the manner and means by which such services are accomplished, subject to the requirements that the APL will (A) at all times comply with applicable laws and policies and procedures of the City and (B) openly receive and incorporate input and direction from the City as the APL reasonably determines is necessary and is consistent with prevailing professional standards and practices of the industry in which the APL operates. The APL shall consult with the appropriate manager or other designee of the City to ensure that its services are satisfactory to the City, both in the manner and at the frequency as may be requested by the City from time-to-time.

6.2. Employment Taxes and Benefits. Each Party understands and agrees that (A) neither Party will withhold on behalf of the other Party any sums for income tax, unemployment insurance, social security or any other withholding pursuant to any law or requirement of any governmental body or make available any of the benefits afforded to its employees; (B) all of such payments, withholdings and benefits, if any, are the sole responsibility of the Party incurring the liability; and (C) each Party will indemnify and hold the other harmless from any and all loss or liability arising with respect to such payments, withholdings and benefits, if any.

6.3. Nonexclusive Relationship. The relationship between the City and the APL is not exclusive. The City reserves the right to work with and contract with other entities and individuals for purposes of addressing shelter overcrowding and developing other means to enhance the effectiveness, efficiency and capacity of animal care and sheltering within the City of Stockton. Similarly, nothing in this MOU shall in any way prevent the APL from working with or contracting with shelters and organizations other than City, whether during the Term or at any time thereafter.

6.4. Respective Costs. Unless otherwise noted herein, each Party will bear its respective costs for any necessary permits, insurance, taxes and other matters required for compliance under this MOU.

6.5. Reporting. The Parties understand and agree that, with respect to the performance of its obligations as set forth in this MOU, the APL shall report to and be evaluated solely by the City (e.g., the City's Designee). The APL will not be obligated to engage with any "citizen oversight committee" for Animal Services or any similar non-governmental committee, entity or individual without its consent.

7. CONFIDENTIALITY; PUBLICITY.

7.1. Confidential Information.

A. Confidential Information. Each Party agrees to maintain in strict confidence any confidential information disclosed by the other Party in connection with the activities undertaken pursuant to this MOU, or that the Party has access to in connection with its performance of its obligations pursuant to this MOU, that (i) if disclosed in writing or orally, is marked or identified as "confidential" at the time of such disclosure or (ii) under the circumstances, a person exercising reasonable business judgment would understand to be confidential or proprietary (collectively, the "Confidential Information"). Each Party hereto agrees (i) to maintain all Confidential Information in strict confidence, (ii) not to disclose Confidential Information to any third parties; and (iii) not to use Confidential Information for any purpose except for in connection with this MOU. Each Party further agrees to take all actions reasonably necessary to protect the confidentiality of all Confidential Information including, without limitation, implementing and enforcing procedures to minimize the possibility of unauthorized use or disclosure of Confidential Information.

B. Exceptions. The provisions of this Section 7.1 will not restrict either Party from disclosing Confidential Information to the extent required by any law or regulation; provided that the disclosing Party uses its reasonable efforts to give the other Party reasonable advance notice of such required disclosure. Confidential Information will not include any information that (i) is now or thereafter becomes generally known or available to the public, through no act or omission on the part of either Party; (ii) was known by either Party prior to receiving such information from the disclosing Party and without any restriction as to use or disclosure; (iii) is rightfully acquired by either Party from a third party who has the right to disclose it and who provides it without restriction as to use or disclosure; or (iv) is independently developed by either Party without access to confidential or proprietary information.

7.2. **Publicity.** Each Party agrees to promptly notify the other Party of any known material consumer or other organizational complaint and adverse media coverage relating to or otherwise arising from this MOU. Each Party agrees not to use the other Party's name in any public announcement (oral or written), newsletter, press release, advertisement, social media, or similar communication without the prior approval of the other Party. Any use of a Party's intellectual property, including its logo and other marks, and any and all photographs, videos and other recordings relating to the MOU must be agreed to by such Party, and all such intellectual property is and remains forever the sole and exclusive property of such Party. In addition, City may not participate in any event promoting or otherwise relating to the MOU or the APL without prior authorization by the APL.

7.3. **Survival.** The provisions of this Section 7 shall remain in effect through and until the date that is two (2) years following the expiration or termination of this MOU.

8. **DESIGNEES; NOTICE.**

8.1. **Designees.** Each Party will appoint a person to serve as the official contact (each, a "**Designee**"). Each Designee shall have the authority to act on its respective Party's behalf in any matter relating to this MOU and shall be to whom formal notices and demands relating to this MOU are given. In addition, each Party will appoint a person to serve as the day-to-day coordinator for the activities of each Party in carrying out the terms of this MOU (each, an "**Appointee**"). Each Appointee shall have the authority to act on its respective Party's behalf in any matter relating to this MOU and shall be to whom communications relating to this MOU are given. The Designees and Appointees of each Party are as follows:

The APL's Designee and Appointee:

Jacqueline Ronzone, Executive Director
Animal Protection League
P.O. BOX 691912
Stockton, CA 95269
Tel: (209) 956-3647

The City's Designee:

Eric Jones, Chief of Police
City of Stockton Police Department

22 E. Market Street
Stockton, CA 95202
Tel: (209) 937-8217

The City's Appointee:

Phillip Zimmerman, Police Services Manager
Stockton Animal Services
1575 South Lincoln Street
Stockton, CA 95206
Tel: (209) 937-8274

8.2. **Notice.** Any notice required to be provided under the terms of this MOU shall be delivered by (A) email, deemed delivered upon email confirmation of receipt by the intended recipient; (B) certified U.S. mail, return receipt requested, at the addresses set forth above or to such other address as may be specified by either Party to the other in accordance with this Section 8.2; or (C) by personal service to the Appointee identified above or to any other person that the Appointee designates in writing to receive notice under this MOU and delivered in accordance with this Section 8.2.

9. **INSURANCE REQUIREMENTS.** The APL agrees to have and maintain appropriate insurance coverage in amounts and types as set forth by Exhibit B.

10. **INDEMNITY AND HOLD HARMLESS.** With the exception that this section shall in no event be construed to require indemnification by APL to a greater extent than permitted under the public policy of the State of California, APL shall, indemnify, protect, defend with counsel approved by CITY and at APL'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 APL 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 APL or APL's officers, agents, employees, volunteers or subcontractors. APL 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 APL to CITY, the intent hereunder is to provide the maximum defense and indemnity obligations allowed by APL under the law. The indemnity set forth in

this section shall not be limited by insurance requirements or by any other provision of this Agreement.

With the exception that this section shall in no event be construed to require indemnification, including the duty to defend, by APL to a greater extent than permitted under the public policy of the State of California, the parties agree that APL'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 APL or APL's officers, agents, employees, volunteers or subcontractors. APL'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. APL 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 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 APL for amounts paid in excess of APL's proportionate share of responsibility for the damages within 30 days after APL 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 APL 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 APL 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, APL 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 APL, regardless of whether such claim may be covered by any applicable workers compensation insurance. APL'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 APL under workers' compensation acts, disability acts, or other employee benefit acts.

11. GENERAL PROVISIONS.

11.1. **Amendment.** No provision of this MOU may be amended or modified except by a written instrument signed by both Parties to this MOU and delivered in accordance with Section 8.2.

11.2. **Assignment.** Neither Party may assign this MOU, in whole or in part,

without the prior written consent of the other Party.

11.3. **Existing Agreements.** This MOU constitutes the entire understanding and agreement between the Parties regarding the subject matter herein and supersedes all prior understandings, discussions, representations, warranties and agreements between the Parties, whether written or oral. Any prior existing Memorandum of Understanding between the Parties will be terminated upon execution of this MOU.

11.4. **Severability.** If any provision of this MOU is deemed invalid, void or unenforceable, such provision shall be considered severed from the MOU and the remaining provisions shall be given full force and effect.

11.5. **Governing Law.** California law shall govern any legal action pursuant to this MOU 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.

11.6. **Counterparts.** This MOU may be executed in counterparts and delivered by electronic signature or facsimile or otherwise, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding to be executed as of the date first above written.

City of Stockton

Kurt O. Wilson, City Manager

ATTEST:

Bret Hunter, CMC
City Clerk

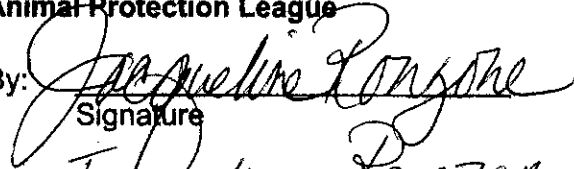
APPROVED AS TO FORM:

By:

City Attorney

Animal Protection League

By:


Signature

Jacqueline Ronzone
Print name

Title:

Executive Director

Exhibit A**APL Staffing**

Title of Position	Number of Positions
Managing Veterinarian	1
Shelter Veterinarian	1
Veterinarian Part-Time	0.5
RVT Supervisor	1
RVT/Vet tech Assistants	8
Clinic Assistant – Part-Time	1
Rescue Coordinator	1
Foster Coordinator	1
Volunteer Coordinator	1
Animal Adoption Assistant – Part-Time	2
Behavior Coordinator	1
Executive Director/Operations Manager	1

Exhibit B:
Insurance Requirements for Professional Services

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

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

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

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

Other Insurance Provisions

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

Additional Insured Status

The City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers are to be covered as additional insureds on the CGL policy and AL policy with respect to liability arising out of work or operations performed

by or on behalf of the APL 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 APL's insurance (**at least as broad as** ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used). Additional insured Name of Organization shall read "City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers." Policy shall cover City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers for all locations work is done under this contract.

Primary Coverage

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

Notice of Cancellation

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

Waiver of Subrogation

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

Deductibles and Self-Insured Retentions

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

Acceptability of Insurers

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

Claims Made Policies

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

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. If Claims Made policy form is used, a three (3) year discovery and reporting tail period of coverage is required after completion of work.

Verification of Coverage

APL shall furnish the City of Stockton with original certificates and amendatory endorsements required by this clause. All certificates and endorsements are to be received and approved by the City of Stockton Risk Services before work commences. Failure to obtain the required documents prior to the work beginning shall not waive the APL's obligation to provide them. The City of Stockton reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time, for any reason or no reason.

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

Certificate Holder Address

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

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

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

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

Maintenance of Insurance

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

Subcontractors

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

Special Risks or Circumstances

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