

**OPERATIONS AGREEMENT FOR THE
GARY AND JANICE PODESTO IMPACT TEEN CENTER
BETWEEN THE CITY OF STOCKTON AND
FAMILY RESOURCE & REFFERAL CENTER OF SAN JOAQUIN**

This Agreement ("Agreement"), entered into June 9, 2011 is by and between the **CITY OF STOCKTON**, a municipal corporation ("CITY"), and **FAMILY RESOURCE & REFERRAL CENTER OF SAN JOAQUIN** ("FRRC"), with respect to the Janice and Gary Podesto Impact Teen Center ("CENTER"). This agreement shall take effect July 1, 2011.

WITNESSETH:

CITY has determined it is necessary and appropriate to provide youth services at CENTER.

CITY received Murray-Hayden funds from the State of California and must guarantee performance of the covenants and obligations of the grant contract through operational oversight of CENTER.

CITY has determined the mission of CENTER is to improve the quality of life of Stockton youth by providing quality recreational, social, leisure, and educational programming.

CITY believes that offering a measurable programming schedule; planned special activities/events on a regular basis; and a forum for youth advocacy/leadership to address City issues such as crime, poverty, education, and arts for Stockton teens is in the best interests of the health and future of CITY.

FRRC is a non profit organization which has agreed to provide day to day management of CENTER; maintain minimum staffing levels; fund raise and accept donations to operate CENTER, implement a solid marketing strategy; engage youth; operate and implement programs; provide educational opportunities, schedule more enriching activities; develop youth leadership; establish a forum for teen advocacy; and provide measurable outcomes for all activities.

CITY of Stockton's Community Services Department ("DEPARTMENT") has, as one of its responsibilities, the oversight of the operations of CENTER.

FRRC and CITY are committed to work collaboratively to make CENTER a safe and enjoyable facility that will enhance the City, and improve the overall quality of life of its City's residents.

CITY and the FRRC consider it appropriate to memorialize an understanding to better assure successful operation of CENTER as a valuable resource to the community it serves.

C-11-203
NP

NOW, THEREFORE, THE PARTIES HAVE AGREED TO AS FOLLOWS:

ARTICLE 1: DEFINITIONS

The following terms have the meanings and content set forth in this section wherever they are used in the Agreement or attached Exhibits, or documents incorporated into this agreement by reference.

- 1.1 "BUDGET" means budget approved by governing boards or collaborative agencies containing sources and uses of funds for the project which is hereby incorporated into this reference by agreement.
- 1.2 "FRRRC" means Family Resource & Referral Center of San Joaquin, a California Non-Profit Corporation, and its authorized representatives, assigns, transferees, or successors-in-interest.
- 1.3 "CITY" means the City of Stockton, a municipal corporation, and its authorized representatives, officers, officials, directors, employees, and agents.
- 1.4 "CENTER" means the Gary and Janice Podesto Impact Teen Center.
- 1.5 "DEPARTMENT" means the City of Stockton's Community Services Department.
- 1.6 "COMPLIANCE REPORT" means a monthly report written by FRRRC and delivered to DEPARTMENT which includes specific items as mutually agreed upon by CITY and FRRRC. Report schedule may be adjusted as mutually agreed upon.
- 1.7 "PROGRAM PLAN" means a plan written by FRRRC and approved by DEPARTMENT which identifies goals, measurable objectives, program descriptions with categorized activity listings, weekly and monthly program utilization data, monthly membership data, daily usage data, demographic data, program implementations, an annual budget, expense/revenue projections. The Program Plan is subject to change as mutually agreed upon by CITY and FRRRC.
- 1.8 "MAINTENANCE REPORT" means a regular report completed by FRRRC and transmitted to DEPARTMENT which includes mutually agreed upon information and items by CITY and FRRRC. Report schedule may be adjusted as mutually agreed upon by City and FRRRC.
- 1.9 "Y.A.C." means City of Stockton Youth Advisory Commission.

ARTICLE 2: TERM AND TERMINATION

- 2.1 Term: The term of this Agreement shall begin on July 1, 2011. This Agreement shall remain in effect for a period of five (5) years, with an option to renew annually for subsequent five (5) one year periods upon consent of both parties, and a written request from FIRC at least sixty days prior to the original expiration date, or unless sooner terminated.
- 2.2 Funding: Funding under this Agreement will terminate without penalty at the end of the fiscal year in the event funds are not appropriated for the next fiscal year. If funds are appropriated for a portion of the fiscal year, funding under this Agreement will terminate without penalty, at the end of the term for which funds are appropriated. If funds are not appropriated, FIRC shall be notified of that City Council action.
- 2.3 Unconditional Termination for Convenience: Either party shall have the right to terminate this Agreement, at any time, by providing the other party written notice of its intention to terminate sixty (60) calendar days prior to the effective date of said termination. Upon termination, CITY shall pay FIRC for all services satisfactorily performed pursuant to this Agreement up to the date of termination. However, CITY shall assume no liability for costs, expenses or lost profits resulting from contracts entered into by FIRC with third parties in reliance upon this Agreement.

ARTICLE 3: COMPENSATION AND SCHEDULE OF RECEIVABLES

- 3.1 Compensation: CITY will pay FIRC for the management and operation of the CENTER as follows;

- Year 1 - \$125,000.00
- Year 2 - \$106,250.00 (15% reduction from Year 1)
- Year 3 - \$85,000.00 (20% reduction from Year 2)
- Year 4 - Negotiable
- Year 5 - Negotiable

Should the option for five (5) additional one year periods be exercised, the sum of compensation will be negotiated at that time. It is the intent of CITY and FIRC to eliminate all subsidies from CITY after the first five (5) years of this agreement.

- 3.2 Payment Schedule: Payment will be made in quarterly installments. The first installment will be paid within ten (10) business days of the beginning of the term of this Agreement as long as contract has been executed within 20 days before the first day of the term. Thereafter, payment will be made every ten days after receipt and acceptance of invoice and required report(s).

ARTICLE 4: CENTER REVENUE

- 4.1 CENTER Revenue: The FRRC shall receive 100% of the proceeds from all income-producing activities associated with CENTER, including, but not limited to the following: rental fees, bowling, snack bar, membership fees, vacant space, fund raising, etc.

ARTICLE 5: OPERATION, MANGEMENT, AND STAFFING OF CENTER

- 5.1 Ultimate Management of CENTER: CITY has the ultimate responsibility to ensure management compliance, operation, and development of CENTER in accord with the policies and directives of CITY, and compliance of the Murray-Hayden Grant requirements.
- 5.2 Day to Day Management of CENTER: FRRC will have sole responsibility for the day-to-day management of CENTER operation and programming.
- 5.3 Adequate Oversight by FRRC: FRRC will provide an agreed upon minimum level of staffing, qualified management, other personnel and management policies and procedures to adequately operate CENTER.
- 5.4 New Hire, Recruitment, and Staffing Guidelines: FRRC shall hire all personnel necessary for the management, operation, and maintenance of CENTER. Any individual who has been convicted of certain criminal offenses (disqualifiers) is not eligible to work or volunteer at the CENTER under this Contract. In addition, if any of FRRC's employees or volunteers are subsequently found to have a disqualifying conviction, that employee shall be prohibited from the CENTER during FRRC's performance of its services under this Contract and shall not be allowed to perform any further work or volunteer activities under this Contract.

The disqualifying criminal convictions are as follows: Any of those offenses identified in Public Resources Code, section 5164 except for Penal Code, sections 211, 215, 236 and 240, provided, however, that any individual who has been convicted of violating Penal Code, sections 211, 215, 236 or 240 may, in the sole discretion of the FRRC or the CITY, nevertheless be ineligible to work or volunteer at the CENTER under this Contract.

All employees and volunteers of FRRC who will be working/volunteering at the CENTER under this Contract are required to submit fingerprints in a manner authorized by the State of California Department of Justice and FRRC shall be responsible for all costs associated therewith. FRRC shall confirm in writing to CITY that its employees and volunteers who will be working/volunteering at the CENTER under this Contract are in compliance with this section prior to FRRC's first day of operation and shall confirm to CITY in writing that any new employees or volunteers at the CENTER are likewise in compliance with this section. Should this contract be extended beyond its original three year term, all employees and volunteers then working/volunteering at the CENTER under this Contract shall be required to resubmit fingerprints as provided in this section.

- 5.5 Volunteer Recruitment Guidelines: All volunteers are retained by FRRRC subject to their hiring policies and in accordance with 5.4 above. Volunteers shall be fingerprinted for background check under the same guidelines of section 5.4. Monthly, FRRRC shall report to CITY the total volunteers (adult and teen) and volunteer hours worked through the volunteer program.
- 5.6 Non-discrimination: FRRRC and CITY agree that the FRRRC will not unlawfully or illegally discriminate against any participant or employee or applicant for employment for work under this Agreement on the basis of race, color, religion, gender, age, national origin, creed, marital status, or the presence of any sensory, mental or physical handicap or any other impermissible classification, in employment or application for employment or in the administration of this Agreement.
- 5.7 Quarterly Meetings: DEPARTMENT and FRRRC representatives shall meet quarterly to ensure that CENTER functions as planned and all requirements of this agreement are fulfilled. Meeting schedule may be adjusted as mutually agreed upon by City and FRRRC.
- 5.8 CITY Participation in FRRRC Meetings: FRRRC will notice and invite a DEPARTMENT designee to attend and participate in regular meetings of the FRRRC (regarding CENTER).

ARTICLE 6: PROMOTION OF CENTER AND CENTER ACTIVITIES

- 6.1 CITY and FRRRC Cooperative Promotion: CITY will actively cooperate with FRRRC to promote CENTER and its educational and charitable programs, events, and activities at CENTER and will provide marketing assistance and information to the public through use of its resources (City website, Channel 97, etc.) to obtain support (financial and otherwise) from the public and private sources. CITY shall communicate marketing deadlines and opportunities so FRRRC can promote CENTER and its activities through the City's online magazine and other normal avenues used in promoting DEPARTMENT activities.
- 6.2 Use of Logos: CITY may use FRRRC's logo in addition to CITY logo in documents when describing and advancing the purposes of this Agreement with prior approval of each use by the FRRRC. FRRRC may use CITY logo on flyers and marketing items in addition to FRRRC logo with prior approval of each use by DEPARTMENT.

ARTICLE 7: CENTER REGULAR PROGRAMMING AND MONTHLY SCHEDULES

- 7.1 Weekly Teen Programming Schedule and Set Hours of Operation: CENTER shall set and maintain a weekly teen programming schedule where CENTER is regularly open to teens. Weekly hours shall be set in PROGRAM PLAN, and reported on in COMPLIANCE REPORT. CENTER hours are subject to change.

- 7.2 Monthly Calendar: FRRRC shall publish a monthly calendar of events which shall be available to the general public at CENTER upon request. FRRRC shall provide a copy of monthly calendar to DEPARTMENT with updates of changes.
- 7.3 Teen Programming is First Priority: Teen programming shall have first priority in CENTER, and all "other" programming shall not interfere with Teens ability to participate in FRRRC Teen programming activities (planned or ongoing) that advance the purpose of this Agreement. CITY requests that FRRRC work cooperatively with Senior Groups (Age 50+) for possible programming time at CENTER. Senior programming will not take precedence over teen programming.
- 7.4 CITY use for Related Meetings: In addition, CITY may use CENTER as a regular meeting place for teen related matters. There will be no charge to CITY for use of CENTER on these dates; provided such use is scheduled during normal operating hours.
- 7.5 Notice of Cancellation of CENTER Hours: If FRRRC must shut down CENTER during regularly scheduled hours; FRRRC must send a press release to DEPARTMENT at least 72 hours in advance unless closure is due to an emergency.

ARTICLE 8: CENTER SPECIAL EVENTS, PRIVATE RENTALS, AND SPECIAL PROGRAMMING

- 8.1 No Cancellation of Scheduled Events for Private Rental: FRRRC retains the right to rent out CENTER, however, Teen programming shall have first priority in CENTER, and "other" programming shall not interfere with Teens ability to participate in FRRRC Teen programming (planned or ongoing) that advance the purpose of this Agreement. Scheduled Teen Programming shall not be canceled for private rental use (excluding fund raising events or teen special events).
- 8.2 Special Event Permits: FRRRC shall abide by municipal and policy requirements for special events, permits, etc.
- 8.3 Reporting of all CENTER Activities: FRRRC agrees to report monthly all activities at CENTER: regular programming, fundraising events, special events, rentals, civil or criminal activity impacting operations, and use agreements of any type. Included in the report, FRRRC agrees to report CENTER closures or adjusted hours.
- 8.4 Priority of Teen Special Events: CITY and FRRRC agree that teen special events (especially during weekend and school holidays or vacations) are a priority and would advance the purpose of this agreement.
- 8.5 FRRRC right to Fundraising Use: FRRRC shall have the right to use CENTER for the purpose of fundraising events.

- 8.6 CITY Right to CENTER Use: CITY shall have the right to use CENTER for up to 6 (six) special events. The date for the above-mentioned events will be mutually determined by CITY and FRRRC. There will be no charge to CITY for use on these dates. CITY is entitled to all revenues generated from the above-listed events.
- 8.7 CITY Use before Community Agencies: CITY use of the facility shall have preference in scheduling before other community agencies.

ARTICLE 9: SECURITY AND SPECIAL EVENT PERMIT REQUIREMENTS

- 9.1 CENTER Security: FRRRC shall be responsible for determining the security needs for CENTER and, if applicable, for providing said security services. FRRRC shall be responsible to enforce security requirements of special events and private rentals as detailed in special event permits and/or communication with CITY representatives.
- 9.2 Special Event Permits: FRRRC shall be responsible to enforce special event permit requirements by special event and private rentals at least 45 days prior to event date. When assistance is requested by FRRRC, CITY will work with FRRRC to obtain any and all necessary permits from CITY, Health Department or other agencies as required.

ARTICLE 10: PROGRAM PLAN AND REPORTS

- 10.1 Program Plan Approval by CITY: FRRRC will submit PROGRAM PLAN as defined above in Section 1.7 for CITY review and approval by CITY before FRRRC operations begin. Measurable Items listed in PROGRAM PLAN will be included in the COMPLIANCE REPORT.

ARTICLE 11: COMPLIANCE REPORTS

- 11.1 Compliance Report: FRRRC will present CITY with a monthly compliance report unless schedule is adjusted as mutually agreed upon by FRRRC and CITY. The Executive Director of FRRRC or designee(s) will meet with DEPARTMENT or designee(s) quarterly to discuss the report, upcoming events, and address any issues promptly. The FRRRC will be subject to financial and/or programmatic audit by CITY at any point with a seven calendar day notice.

ARTICLE 12: STAKEHOLDER GROUPS, TEEN CENTER ADVISORY GROUP AND YOUTH ADVISORY COMMISSION

- 12.1 Teen Center Advisory Group: FRRRC shall set up a Teen Advisory Group to provide advocacy, organizing and programming advice to FRRRC. Any teen from 13-18 may become a member of the group and attend monthly programming meetings. The meetings will be public-noticed, open to the public, and shall incorporate all interested Stockton youth groups. FRRRC will provide notice to Y.A.C. representatives for attendance at regularly scheduled Teen Advisory Group meetings.

ARTICLE 13: CLUB MEMBERSHIP

- 13.1 Membership Guidelines, Usage and Reporting: FRRC will manage CENTER membership, and maintain statistics on usage and membership of CENTER. FRRC will submit to CITY and CITY shall approve membership guidelines and recruitment procedures for annual and monthly memberships prior to first day of term of contract. CITY shall audit procedures at least one time during the contract.
- 13.2 Notice to DEPARTMENT: FRRC shall include the DEPARTMENT in any mailing list to receive copies of newsletters and other information provided regularly by the FRRC to its membership.

ARTICLE 14: MURRAY-HAYDEN GRANT REQUIREMENTS

- 14.1 Committee Membership: Prior to FRRC operation under this agreement, CITY and FRRC shall set a review committee (comprised of CITY and FRRC representatives) to review programming to ensure compliance with State of California Murray-Hayden Grant requirements.
- 14.2 Compliance: Ongoing, and as needed, CITY will work with FRRC to ensure that programs will comply and provide for the provisions as stated in the Murray-Hayden grant documents.

ARTICLE 15: AGREEMENT AUTHORITY AND RESPONSIBILITIES

- 15.1 CITY Authority: The City Manager may delegate authority for carrying out certain responsibilities relative to the administration of this Agreement to a City Representative.
- 15.2 FRRC Authority: The Executive Director of FRRC may delegate authority for carrying out certain responsibilities relative to the administration of this Agreement to a FRRC Representative.
- 15.3 Non Discrimination: FRRC and CITY agree to comply fully with all applicable federal, state or local laws, ordinances, executive orders and regulations which prohibit discrimination.

ARTICLE 16: INDEMNITY AND INSURANCE

- 16.1 FRRC Insurance Requirements: FRRC shall comply with the insurance requirements as set forth in Exhibit A.
- 16.2 FRRC Proof of Insurance: FRRC shall provide to the City's Risk Manager prior to the first day of operation evidence that it has complied with the insurance requirements set forth in Exhibit A.
- 16.3 FRRC Indemnity: The indemnification provisions set forth in paragraph 2 of Exhibit A (Indemnification) shall apply.

ARTICLE 17: REAL PROPERTY, FIXED, ATTACHED, OR UNATTACHED

- 17.1 CITY Ownership: CITY shall retain ownership of CENTER and adjoining real property.
- 17.2 Attached and Unattached Personal Property: All attached or unattached personal property (equipment, furnishings, etc.) purchased or provided for CENTER shall remain under control and on the premises of CENTER.
- 17.3 Inventory: CITY and FRRRC shall inventory all property including attached or unattached personal property prior to and during operation by FRRRC.
- 17.4 Removal of Property at Termination of Agreement: Personal property transferred to CENTER by either party may be removed by that party at the termination of this Agreement. This includes property acquired by FRRRC through activities defined in paragraph 4.1 above after execution of this Agreement. These acquisitions will be recorded as part of the inventory identified at paragraph 17.3 and may be removed by FRRRC at termination of this Agreement.

ARTICLE 18: CENTER MAINTENANCE AND EXPENSES

- 18.1 CITY Responsibilities: CITY acknowledges that the CENTER is in good order and repair, unless otherwise indicated herein. CITY shall provide major maintenance for CENTER to include, but not limited to HVAC/Heating, plumbing, electrical, structural, and other major and/or long-term maintenance needs.
- 18.2 FRRRC Responsibilities: FRRRC shall keep CENTER in clean and sanitary condition, perform routine daily maintenance, cleaning of bathrooms floors, sinks, and toilets; pick up trash and litter in and around the building and other routine maintenance to assure total cleanliness of the entire CENTER inside and out. Group rental agreements shall require internal and external clean up by the group.

ARTICLE 19: AUTHORITY AND STATUS OF FRRRC

- 19.1 FRRRC Status: FRRRC is a not-for-profit organization whose primary function under this Agreement is to provide day-to-day management of CENTER operation in accordance with policies and directives of CITY. FRRRC must maintain non profit status throughout the duration of this Agreement. Should status change, FRRRC must notify DEPARTMENT immediately.
- 19.2 Not an Agent of CITY: FRRRC is not an agent or instrumentality of CITY and has no authority to take any action or execute any documents on behalf of CITY.

ARTICLE 20: AUDITING

- 20.1 CITY Right to Audit: CITY reserves the right to periodically audit the services and charges made by FRRRC for services rendered under this Agreement. Upon

request and within seven calendar days, FRRRC agrees to furnish CITY, or a designated representative, with necessary information and assistance.

20.2 Availability of Records: FRRRC agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to the performance of this Agreement. FRRRC 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 inspection and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement.

20.3 Three Year Retention Period: FRRRC further agrees to maintain such records for a period of three (3) years after termination of this Agreement.

ARTICLE 21: RESOLUTIONS OF DISPUTES, FORUM, AND ATTORNEYS' FEES:

The laws of the State of California shall govern the interpretation of and the resolution of disputes under this Agreement. Any dispute arising from this Agreement shall be adjudicated in the courts of San Joaquin County in the State of California. If any claim, at law or otherwise is made by either party to this Agreement, the prevailing party shall be entitled to its costs and reasonable attorneys' fees.

ARTICLE 22: NOTICES:

All notices, requests, demands and other communications hereunder shall be deemed given only if in writing signed by an authorized representative of the sender and delivered by facsimile with a hard copy mailed first class, postage prepaid, or when sent by a courier or express services guaranteeing overnight delivery to the receiving party, and addressed to the respective party as follows:

To City: City of Stockton
Community Services DEPARTMENT
Deputy Director, Adolfo Cruz
605 North El Dorado Street
Stockton, California 95202

With a Copy to: City of Stockton
City Attorney
425 North El Dorado Street
Stockton, California 95202

To FRRRC: Family Resource & Referral Center of San Joaquin
Attn: Executive Director
Kay Ruhstaller
509 W. Weber Ave. Ste. 101
Stockton, CA 95203

(209) 461-2996
KRuhstaller@frrcsj.org

ARTICLE 23: ENTIRE AGREEMENT:

This document, including all exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement.

ARTICLE 24: SEVERABILITY:

If any portion of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

ARTICLE 25: ASSIGNMENT, AND WAIVER:

Neither party to this Agreement shall assign its duties and obligations hereunder without the prior written consent of the other party. A waiver of any party or any provision or a breach of this Agreement must be provided in writing and shall not be construed as a waiver of any other provision or any succeeding breach of the same or any other provisions herein.

ARTICLE 26: CAPTIONS

The captions of the sections of this Contract are for convenience only and shall not be deemed to be relevant in resolving any questions of interpretation or intent.

ARTICLE 27: INTEGRATION AND MODIFICATION:

This Agreement represents the entire integrated agreement between FRRC 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 FRRC and City Manager.

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 shall prevail.

ARTICLE 28: AUTHORITY AND EXECUTION:

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts constitute one and the same instrument.

ARTICLE 29: 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.

ARTICLE 30: APPLICABLE LAW

The provisions of this Contract and any and all disputes arising there in shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, CITY and FRRRC have executed this Agreement as of the date first above written.

CITY OF STOCKTON,
A Municipal Corporation

By: *Bob Deis*
BOB DEIS
CITY MANAGER

FAMILY RESOURCE & REFERRAL OF
SAN JOAQUIN

By: *Kay Ruhstaller*

Kay Ruhstaller,
Executive Director

ATTEST:

By: *Katherine Gong Meisner*
KATHERINE GONG MEISNER
City Clerk of the City of Stockton



APPROVED AS TO FORM:
JOHN LUEBBERKE
CITY ATTORNEY

By: *[Signature]*

EXHIBIT A - INSURANCE REQUIREMENTS

College shall procure and maintain for the duration of the Agreement, insurance against all claims for injuries to persons or damages to property which may arise from or in connection with the performance of the services under this Agreement by the College, its agents, representatives, volunteers, or employees.

1. **INSURANCE** Throughout the life of this Agreement, the College shall pay for and maintain in full force and effect with an insurance company admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A: VII" in Best Insurance Key Rating Guide, the following policies of insurance:
 - A. **COMMERCIAL (BUSINESS) AUTOMOBILE LIABILITY** insurance, endorsed for "any auto" with combined single limits of liability of not less than \$1,000,000 each occurrence. (CA 0001)
 - B. **WORKERS' COMPENSATION** insurance as required under the California Labor Code and Employers Liability Insurance with limits not less than \$1,000,000 per accident/injury/disease.
 - C. **COMMERCIAL OR COMPREHENSIVE GENERAL LIABILITY AND MISCELLANEOUS SUPPLEMENTARY INSURANCE;**

FOR **ADDITIONAL** REQUIREMENT(S):

- (i) **COMMERCIAL OR COMPREHENSIVE GENERAL LIABILITY** insurance which shall include Contractual Liability, Products and Completed Operations coverage's, Bodily Injury and Property Damage Liability insurance (also including coverages for discrimination, and ADA violations, and sexual molestation) with combined single limits of not less than \$1,000,000 per occurrence, and if written on an Aggregate basis, \$2,000,000 Aggregate limit (CG 0001).
- (ii) **EXCESS LIABILITY:** \$2,000,000 Excess Liability.
- (iii) **PROPERTY INSURANCE:** full replacement cost with no co-insurance penalty provision.

Deductibles and Self-Insured Retentions must be declared and are subject to approval by the CITY.

The Policy(s) shall also provide the following:

- 1 The Commercial General Liability and Automobile Liability insurance shall be written on ISO approved occurrence form (see item 1 and 2 above) and include: *City of Stockton, its Mayor, Council, officers, representatives, agents, and employees are additional insureds.* ISO form CG 20 37 10 01 edition shall be used as the Additional Insured Endorsement. This form **must be used with** either ISO form CG 20 10 10 01, or CG 20 33 10 01 (or earlier editions of these forms).
2. All insurance required by this Agreement shall be with a company acceptable to the CITY and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required

herein shall continue in effect for a period of three years following the date College completes its performance of services under this Agreement.

3. Each insurance policy required by this clause shall have a provision that coverage shall not be cancelled by either party, except after thirty (30) days' prior to written notice by certified mail, return receipt requested, has been given to the City. Further, the thirty (30) day notice shall be unrestricted, except for workers' compensation, or non-payment of premium, which shall permit ten (10) days advance notice. The Insurer shall provide the City with notification of any cancellation, major change, modification or reduction in coverage.
4. Regardless of these contract minimum insurance requirements, the College and its insurer shall agree to commit the College's full policy limits and these minimum requirements shall not restrict the College's liability or coverage limit obligations.
5. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the California Civil Code.
6. College shall furnish the City with the Certificates and Endorsement for all required insurance, prior to the City's execution of the Agreement.
7. Proper address for mailing certificates, endorsements and notices shall be:

City of Stockton
Attention: Risk Services
425 N. El Dorado Street
Stockton, CA 95202
8. Upon notification of receipt by the City of a Notice of Cancellation, major change, modification, or reduction in coverage, College shall immediately file with the City a certified copy of the required new or renewal policy and certificates for such policy.

Any variation from the above requirements shall only be considered by and be subject to approval by the City's Risk Manager (209) 937-8682; fax number is (209) 937-8833.

If at any time during the life of this Agreement or any extension, College fails to maintain the required insurance in full force and effect, City's providing animals to College shall be discontinued immediately until acceptable replacement coverage notice is received by the City. Any failure to maintain the required insurance shall be sufficient cause for the City to terminate this Agreement.

2. **INDEMNIFICATION**

- a) The Operator shall indemnify, hold harmless and defend the City of Stockton (CITY) and each of its Mayor, Council, officers, officials, employees, volunteers and agents from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by CITY the Operator or any other person and from any and all claims, demands an actions in law or equity (including reasonable attorney's fees and litigation expense), arising or alleged to have arisen directly or indirectly out of the active or passive negligence of the Operator or any of its employees or agents in the performance of this contract. The Operator's obligations under the preceding sentence shall apply regardless of whether the CITY or any of its Mayor, council, officers, officials, employees, volunteers or agents are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the active negligence or by the willful misconduct of the CITY.

- b) If the Operator should subcontract all or any portion of the work to be performed under this agreement, the Operator shall require each sub-contractor to indemnify, hold harmless and defend the CITY, its officers, officials, employees and agents in accordance with the terms of the preceding paragraph.