

CITY OF STOCKTON



**REQUEST FOR PROPOSAL (RFP)
FOR OPERATION OF A MARINA, MORELLI PARK
BOAT LAUNCH AND DRY STACK STORAGE FACILITY
FOR THE CITY OF STOCKTON, CALIFORNIA
(PUR 09- 050)**

**A MANDATORY PRE-BID TOUR WILL BE HELD
MAY 19, 2009, AT 10:30 A.M. AT MORELLI PARK,
1025 WEST WEBER AVENUE, STOCKTON, CA**

**PROPOSALS WILL BE RECEIVED UNTIL THE HOUR OF
2:00 O'CLOCK P.M., THURSDAY, JUNE 4, 2009,
IN THE OFFICE OF THE CITY CLERK,
FIRST FLOOR, CITY HALL, 425 NORTH EL DORADO STREET,
STOCKTON, CALIFORNIA 95202-1997**



**CITY OF STOCKTON
REQUEST FOR PROPOSALS (RFP)
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STACK STORAGE FACILITY
(PUR 09-050)**

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NOTICE INVITING PROPOSALS

NOTICE IS HEREBY GIVEN that Request for Proposals (RFP) are invited by the City of Stockton, California for specifications for **OPERATION OF A MARINA, MORELLI PARK BOAT LAUNCH AND DRY STACK STORAGE FACILITY (PUR 09-050)** in strict accordance with the specifications.

The City of Stockton is seeking proposals from qualified operators experienced in the operation of a marina, boat launch facility and dry stack storage. A mandatory pre-bid tour will be held on May 19, 2009, at 10:30 a.m. at Morelli Park, 1025 West Weber Avenue, Stockton, California.

Proposal forms and specifications are available on the City's web site at <http://www.stockton.gov/business/bidflash.cfm> and must be delivered to the Office of the City Clerk, City Hall, 425 North El Dorado Street, Stockton, up to but not later than, Thursday, June 4, 2009, at 2:00 p.m.

The City reserves the right to reject any and/or all proposals received.

Information on Technical Data

Alex Halcon, Revitalization Department
(209)937-5359

E-mail: Alex.Halcon@ci.stockton.ca.us

Information on Bid Process/Clarification

Concepcion Gayotin, Senior Buyer
(209)937-8712

Concepcion.Gayotin@ci.stockton.ca.us

DISCLAIMER: The City does not assume any liability of responsibility for errors/omissions in any document transmitted electronically.

Dated: May 4, 2009

//s//KATHERINE GONG MEISSNER
CITY CLERK OF THE CITY OF STOCKTON

**PROPONENT'S CHECKLIST
CITY OF STOCKTON / PURCHASING DIVISION**

Did You:

- * ___ Sign and notarize by jurat certificate the "Non-Collusion Affidavit" form. An "All-Purpose Acknowledgment" form will not be sufficient.
 - * ___ Complete and sign the "Proponent's Fee Schedule" form, (under separate cover).
 - * ___ Sign the "Proponent's Agreement" form.
 - * ___ Include your **\$2,000** proponent's security, proponents bond, certified or cashier's check.
 - * ___ Include self-addressed, unstamped envelope with proponent's security.
 - * ___ Include with proposal, name and e-mail address for City contact.
 - * ___ Submit one (1) ORIGINAL and SIX (6) COPIES of all proposal documents.
 - * ___ Review all clarifications/questions/answers on the City's website at <http://www.stocktongov.com/business/bidflash.cfm> .
 - * ___ Deliver sealed proposal to City Hall, City Clerk's Office (1st floor), 425 North El Dorado Street, Stockton, CA 95202, before **June 4, 2009, at 2:00 p.m.** Sealed proposal shall be marked "Proposal" and indicate project name, number, and proposal opening date. Please note that some overnight delivery services do not deliver directly to the City Clerk's Office. This could result in the proposal arriving in the City Clerk's Office after the proposal opening deadline and therefore not being accepted.
- A) "RFP – TO PROVIDE FOR OPERATION OF A MARINA, BOAT LAUNCH AND DRY STACK STORAGE"**
- B) PUR 09-050**
- C) JUNE 4, 2009**

CONTACT INFORMATION:

Information on Technical Data	Information on Bid Process/Clarification
Alex Halcon, Revitalization Department (209) 937-5359 e-mail: Alex.Halcon@ci.stockton.ca.us	Concepcion Gayotin, Senior Buyer (209) 937-8712 e-mail: Concepcion.Gayotin@ci.stockton.ca.us

*If not completed as required, your proposal may be voided.

DISCLAIMER: The City does not assume any liability or responsibility for errors/omissions in any document transmitted electronically.

THIS FORM IS FOR YOUR INFORMATION ONLY AND DOES NOT NEED TO BE SUBMITTED WITH YOUR PROPOSAL.

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REQUEST FOR PROPOSALS (RFP)
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1.0 GENERAL INFORMATION

1.1 REQUEST FOR PROPOSALS (RFP) PROCESS

The City of Stockton (City) is soliciting qualified firm(s) (Firm) with experience and interest to present their qualifications and capabilities to provide for the operation of a marina, boat launch, and dry stack storage facility. A pre-proposal/inspection tour will be held May 19, 2009.

1.2 The evaluation process shall include review of qualifications by a panel of City staff assigned by the City Manager and any other person(s) designated by the City. Oral interviews may be scheduled and the City may request further information and/or expansion on the qualifications of one or more Firms responding to this RFP.

1.3 You are invited to submit a proposal to:

**CITY CLERK
CITY OF STOCKTON
425 N. EL DORADO STREET
STOCKTON, CA 95202-1997**

DUE DATE: JUNE 4, 2009

Copies Required: Six (6) copies and one (1) unbound original of your response, signed by an authorized representative, and shall be delivered to: CITY CLERK, CITY OF STOCKTON, 425 N. EL DORADO STREET, STOCKTON, CA 95202-1997, **THURSDAY, JUNE 4, 2009, AT 2 P.M.** Any proposal received after the due date may not be accepted and may be rejected and returned, unopened, to the proponent.

Any request for clarification/questions/answers of this RFP shall be made in writing/e-mail and deliverable to:

CITY OF STOCKTON
ATTN: ALEX HALCON
REVITALIZATION DEPARTMENT
425 N. EL DORADO STREET
STOCKTON, CA 95202
(209)937-5359
Alex.Halcon@ci.stockton.ca.us

CITY OF STOCKTON
ATTN: CONCEPCION GAYOTIN
PURCHASING DIVISION
425 N. EL DORADO STREET
STOCKTON, CA 95202
(209)937-8712
Concepcion.Gayotin@ci.stockton.ca.us

Such request for clarification/questions/answers shall be delivered to the City at least ten (10) calendar days prior to the date for receipt of proposals. The proponent should await responses to inquiries prior to submitting a

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proposal. All questions and responses will be posted on the internet not later than five (5) calendar days prior to the due date.

1.4 TERM

To be negotiated.

1.5 CONTRACT BONDS

The successful proponent will be required to furnish the City of Stockton with a Faithful Performance Bond and a Fidelity Bond, of which amounts shall be negotiated and shall be furnished concurrently with the signing of the contract.

The surety which provides the bond(s) must be authorized by the Insurance Commissioner to transact business of insurance in the State of California.

Said bonds shall be executed by the surety and vendor concurrently with the signing of the contract. The form and content of said bonds must be approved by the appropriate City departments.

All alterations, extension of time, extra and additional work, and other charges authorized by these specifications or any part of the contract shall be made without securing the consent of the surety or sureties on the contract bonds.

1.6 UNCONDITIONAL TERMINATION FOR CONVENIENCE

The City may terminate the resultant agreement for convenience by providing sixty (60) calendar day advance notice, unless otherwise stated in writing.

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2.0 GENERAL PROJECT DESCRIPTION REQUIREMENTS/PROPERTY LOCATIONS

The site is located in the heart of downtown where the City has invested heavily in upgrading the area. The newly constructed 66 berth marina with guest docks along the north and south shore is located in Downtown Stockton in the Stockton Channel bounded by Fremont Street on the North, Weber Avenue on the South and Center Street on the East. Directly west of the marina is Morelli Park Boat Launch which was recently rehabilitated and expanded to a four (4) lane boat launch facility with plans to construct a Dry Stack Storage facility at the location. Morelli Park Boat Launch is located near the intersection of Weber Avenue and the I-5 Freeway, underneath the freeway bridge and along the southern shore of the Stockton Channel adjacent to Mormon Slough.

2.1 SCOPE OF SERVICES

Proposals must include, at a minimum:

- Operation summary outlining specific uses including additional revenue generating opportunities; social and public benefits of the proposed project; and any other pertinent information;
- Identify any interested project partners, if applicable;
- Preliminary operation plan to include Marina (permanent berths and guest docks), Morelli Park boat launch and future Dry Stack Storage facility to be located at Morelli Park; and management software to be used;
- Preliminary operation pro forma indicating operational costs and operating cash flow;
- Demonstrated Operator experience and financial statements as evidence of ability to perform on this project;
- Statement regarding means of ongoing project management;
- Names, résumés, references and outline of roles of project principals;
- Timelines;
- Potential sources of permanent financing.

2.2 OPERATING PLAN

The Operating Plan should describe, in detail, how the proponent would operate the marina, the boat launch and the dry stack storage facilities. Please include office hours and holiday schedule. Care should be taken to ensure that the operating plan complies with all appropriate Marina Rules and Regulations (to be developed along with the City), and Minimum Preferred Lease and Management Contract. Provide staffing plans, as well.

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2.3 MAINTENANCE PLAN

The Maintenance Plan should describe, in detail, the minimum periodic and preventive maintenance activities proposed as part of the operating agreement and the quality control measures contemplated to insure compliance. It should also specifically and concisely list any maintenance functions or obligations that would be retained by the City.

2.4 MARKETING PLAN

The Marketing Plan should describe in general terms both the short-term, as well as the long-term marketing strategies to improve overall occupancy and revenues. The plan should identify what the Proponent sees as the primary, as well as the secondary boater markets for the marina—by residence location and vessel size identify the existing marinas that the Proponent believes are currently competing for these markets, as well as any expansion plans currently planned for these marinas.

2.5 FINANCING

It is expected that the source of operational financing will be Operator equity, private financing sources and revenue generation. The City is not in a position to provide operational funding.

2.6 PAYMENT PROPOSAL

With respect to the lease agreement, the proponent should provide the following:

- The amount of the proposed up-front lease payment.
- The terms of the lease agreement including percentage of gross, length of term desired and the estimated annual payments anticipated to be made to the City during the term of the agreement.
- The amount of a base-guaranteed annual rent payment from the lease agreement that will be paid to the City regardless of occupancy levels.
- Any other contemplated payment of contribution towards offsetting the City's cost of the marina, the boat launch and the dry stack storage.

With respect to the operating agreement, the proponent should provide the following:

- Financial terms of the proposed management agreement, including proposed operating fee and proposed annual operating budget. In addition, please provide the estimated annual revenue to be realized by the City as a result of the proposed terms.
- Proposed incentive program, if any.

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2.7 ANTICIPATED NEW CHARGES/FEES

Describe, in detail, any new fees or charges anticipated to be implemented during the term of the agreement. One example of a potential new fee would be the sub-metering and charging for electrical consumption. Describe the reason for and the anticipated additional revenue associated with the proposed fee.

2.8 PROPONENT DATA AND QUALIFICATIONS

Please provide the following information:

- a) Name, address and phone number of the firm(s).
- b) Name of owner or owners; if partnership, give names of partners; if corporation, give names of principal officers and shareholders who hold controlling interest; if joint venture, give names of firms and principals from each of the firms.
- c) Date Company (ies) established.
- d) Current number of employees.
- e) Gross operating revenues for the most current year (for all firms involved in the proposal).
- f) Net earnings or loss for most current year (for all firms involved in the proposal).
- g) Specific experience in:
 - Marina operations and maintenance;
 - Marina-related commercial activities;
 - Property management activities;
 - Other related customer service-oriented activities;
 - Other commercial activities; and
 - Other marina-related activities.
- h) Litigation history of the proponent. Please include legal actions for the past ten (10) years and include outline of the specific issues involved and the disposition of the action.

2.9 INSURANCE AND BONDING REQUIREMENTS

Please provide a statement that the proponent is aware of and can meet the insurance requirements and bonding requirements as outlined in this RFP.

2.10 EQUAL EMPLOYMENT, NON-DISCRIMINATION REQUIREMENTS

Please provide a statement that the proponent will operate in full accordance with all State and Federal laws pertaining to non-discrimination and equal employment.

2.11 REFERENCES

Please provide the following:

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- a) The names, addresses and phone numbers of three references that the City may contact to obtain information on your financial background.
- b) The names, addresses and phone numbers of three references that the City may contact to obtain information regarding your credit standing.
- c) The names, addresses and phone numbers of three references familiar with your operations of marinas, property management or related customer service-oriented facilities.
- d) The names, addresses and phone numbers of marinas or related facilities that you currently own and/or operate, if any, including the name of an appropriate contact.

2.12 OTHER INFORMATION

Please provide any other information that will be helpful to the City in evaluating your ability to successfully develop and operate facilities at the City of Stockton Marina, the Morelli Park Boat Launch and Dry Stack Storage.

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3.0 EVALUATION PROCEDURE AND CRITERIA

The City is interested in selecting the most qualified firm with the ability to operate the marina, the Morelli Park boat launch and dry stack storage. A key component for the successful firm will be the ability to meet the City's performance desires while minimizing the cost.

Following review of the qualifications, the Panel may invite one or more proponents to make an oral presentation. During these presentations, the proponent will be allowed to present such information as may be appropriate in order for the Panel to effectively and objectively analyze all materials and documentation submitted.

Each firm must be represented by an individual who will be the prime contact person to the City and any other individuals whom the firm may select. The most qualified response(s) will then be further scrutinized through financial analysis and reference checks.

To that end, the panel will evaluate the responses based on, but not limited to, the following criteria.

- Firm's demonstrated operational capabilities stressing the ability to operate the marina, the Morelli Park boat launch and dry stack storage;
- Firm's innovative approach to the project;
- Firm's references;
- Conformance with guidelines and format outlined in this Request for Proposal;
- Firm's verified history of customer satisfaction;
- Any other criteria as best suits the City of Stockton.

3.1 GENERAL TERMS AND CONDITIONS

3.1.1 Firm is not an Employee of City

It is understood that Firm will not act hereunder in any manner as an employee of City, but solely under this Agreement as an independent consultant, and City shall not under any circumstances be liable to Firm or any person or persons acting for or under it, or to any person injured, for any deaths, injuries, or property damage received or claimed, unless any such liability arises by virtue of negligence by City, its officers, agents, or employees, and Firm agrees to defend and hold City free and harmless from liability therefore which is not due to any fault of City, its officers, agents, or employees.

3.1.2 Hold Harmless Clause

The Firm shall indemnify and save harmless the City against all loss, cost or damage on account of any injury to persons or property, including employees or property of the City, occurring in the performance of the contract.

3.1.3 Insurance Requirements

Proponent, at proponent's sole cost and expense and for the full term of the resultant agreement or any extension, shall obtain and maintain at least all of the insurance requirements listed in Exhibit A.

All policies, endorsements, and certificates shall be subject to approval by the Risk Manager of the City of Stockton as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. Proponent agrees to provide City with a copy of said policies, certificates, and/or endorsements. The City of Stockton shall be named an additional insured by separate endorsement. Carrier shall provide notice to the City of any change in or limitation of coverage or of cancellation no less than 30 days prior to the effective date. Proof of Worker's Compensation coverage pursuant to statutory requirements shall also be provided.

The proponent shall satisfy these insurance requirements concurrently with the signing of the contract prior to commencement of work. Please contact City of Stockton Risk Services at (209) 937-8682.

3.1.4 Right of Rejection

The City reserves the right to select the successful response and negotiate an agreement as to the schedule for performance and duration of the services with proponent(s) whose response(s) is/are most responsive to the needs of the City. Further, the City reserves the right to reject any and all responses, or alternate responses, or waive any informality or irregularity in the response as is in the City's best interest.

The City reserves the right to reject any and all responses, or portions thereof, received in response to the RFP or to negotiate separately with any source whatsoever, in any manner necessary, to serve the best interests of the City. Additionally, the City may, for any reason, decide not to award an agreement(s) as a result of this RFP.

Non-acceptance of any response shall not imply that the response was deficient. Rather, non-acceptance of any response will mean that another response was deemed to be more advantageous to the City or that the City decided not to award an agreement as a result of this RFP.

3.1.5 Product Ownership

Any documents or drawings resulting from the contract will be the property of the City of Stockton.

3.1.6 Licensing Requirements

Any professional or business licenses required will be the sole cost and responsibility of the Firm.

3.1.7 Development Costs

The cost of preparing and submitting a response is the sole responsibility of the proponent and shall not be chargeable in any manner to the City.

PROPONENT'S AGREEMENT

In submitting this proposal, as herein described, the proponent agrees that:

1. They have carefully examined the Scope of Work and all other provisions of this document and understand the meaning, intent and requirements of same.
2. They will enter into contract negotiations and furnish the services specified.
3. They have signed and notarized the attached Non-Collusion Affidavit form, whether individual, corporate or partnership. Must be 'A Jurat' notarization.
4. They have reviewed all clarifications/questions/answers on the City's website at <http://www.stocktongov.com/business/bidflash.cfm> .
5. Confidentiality: Successful Proponent hereby acknowledges that information provided by the City of Stockton is personal and confidential and shall not be used for any purpose other than the original intent outlined in the Request for Proposal. Breach of confidentiality shall be just cause for immediate termination of contract agreement.

FIRM

ADDRESS

SIGNED BY

TITLE OR AGENCY

TELEPHONE NO./FAX NO.

DATE

E-MAIL ADDRESS

NON-COLLUSION

No. 1 AFFIDAVIT FOR INDIVIDUAL PROPONENT

STATE OF CALIFORNIA, _____)ss.

County of _____)
(insert)

_____ being first duly sworn, deposes and says: That on behalf of any person not named herein; that said Bidder has not colluded, conspired, connived or agreed, directly or indirectly with, or induced or solicited any other bid or person, firm or corporation to put in a sham bid, or that such other person, firm or corporation shall or should refrain from bidding; and has not in any manner sought by collusion to secure to themselves any advantage over or against the City, or any person interested in said improvement, or over any other Bidder.

(Signature Individual Bidder)

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20_____
by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Seal _____

Signature _____

No. 2 AFFIDAVIT FOR CORPORATION PROPONENT

STATE OF CALIFORNIA, _____)ss.

County of _____)
(insert)

_____ being first duly sworn, deposes and says: That they are the _____ of _____ a corporation, which corporation is the party making the foregoing bid, that such bid is genuine and not sham or collusive, or made in the interest or behalf of any person not named herein; that said Bidder has not colluded, conspired, connived or agreed, directly or indirectly with, or induced or solicited any other bid or person, firm or corporation to put in a sham bid, or that such other person, firm or corporation shall or should refrain from bidding; and has not in any manner sought by collusion to secure to themselves any advantage over or against the City, or any person interested in said improvement, or over any other Bidder.

(Signature Corporation Bidder)

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20_____
by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Seal _____

Signature _____

No. 3 AFFIDAVIT FOR FIRM, ASSOCIATION, OR CO-PARTNERSHIP

STATE OF CALIFORNIA, _____)ss.

County of _____)
(insert)

_____,
each being first duly sworn, depose and say: That they are a member of the firm, association or co-partnership,
designated as _____ who is the party making the foregoing bid; that the other partner, or partners, are _____ that such bid is genuine and not sham or collusive, or made in the interest or behalf of any person not named herein; that said Bidder has not colluded, conspired, connived or agreed, directly or indirectly with, or induced or solicited any other bid or person, firm or corporation shall or should refrain from proposing; and has not in any manner sought by collusion to secure to themselves any advantage over or against the City, or any person interested in said improvement, or over any other Bidder.

(Signature)

(Signature)

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20_____
by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Seal _____

Signature _____

INSURANCE REQUIREMENTS
MARINA OPERATOR

MARINA OPERATOR 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 work hereunder by the MARINA OPERATOR, its agents, representatives, volunteers, or employees.

1. **INSURANCE**

Throughout the life of this Contract, the Marina Operator shall pay for and maintain in full force and effect with an insurance company(s) (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 OR COMPREHENSIVE GENERAL LIABILITY** insurance which shall include Contractual Liability, Products and Completed Operations coverage's, Bodily Injury and Property Damage Liability insurance with combined single limits of not less than \$5,000,000 per occurrence, and if written on an Aggregate basis, \$10,000,000 Aggregate limit (CG 0001).
- B. **PROTECTION and INDEMNITY LIABILITY** insurance, endorsed for "any auto" with combined single limits of liability of not less than \$5,000,000 each occurrence. (CA 0001)
- C. **WORKERS' COMPENSATION** insurance as required under the United States Longshore and Harbors Workers' Compensation Act and Jones Act for the Maritime

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 Protection and Indemnity Liability insurance shall be written on ISO approved occurrence form (see item 1 and 2 above) and endorsed to name: CITY OF STOCKTON (CITY), its officers, agents, employees and volunteers as additional insured's. ISO Endorsement CG 20 11 11 85 (or equal) is acceptable.
- 2. For any claims related to products provided under this contract, the Marina Operator's insurance coverage shall be primary insurance as respects the City of Stockton its officers, agents, employees and volunteers. Any coverage maintained by the CITY shall be excess of the Marina Operator's insurance and shall not contribute with it. Policy shall waive right of recovery (waiver of subrogation) against the CITY.
- 3. Each insurance policy required by this clause shall be endorsed to state 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, 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 Marina Operator's and its insurer shall agree to commit the Marina Operator's full policy limits and these minimum requirements shall not restrict the Marina Operator'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. The Company shall furnish the City of Stockton with the Certificates and Endorsement for all required insurance, prior to the CITY's execution of the Agreement and start of work.
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, the Marina Operator 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 contract requirements shall only be considered by and be subject to approval by the CITY's Risk Services (209) 937-8629. Our fax is (209) 937-8833.

If at any time during the life of the Contract or any extension, the Marina Operator fails to maintain the required insurance in full force and effect, all work under the Contract shall be discontinued immediately, and all payments due or that may become due to the Marina Operator shall be withheld 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 Contract. In the event of insurance cancellation, the CITY reserves the right to purchase insurance or insure or self-insure) for the above required coverage's at the Marina Operator's full expense.

If the Marina Operator should subcontract all or any portion of the work to be performed in this contract, the Marina Operator shall cover the sub-operator, and/or require each sub-Operator to adhere to all subparagraphs of these Insurance Requirements section. Similarly, any cancellation, lapse, reduction or change of sub-Operator's insurance shall have the same impact as described above.

2. **INDEMNIFICATION**

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

INSURED:

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

ADDITIONAL INSURED- -OWNERS, LESSEES OR CONTRACTORS (FORM B)

This endorsement modifies insurance provided under the following

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization:

CITY OF STOCKTON
425 N. El Dorado Street
Stockton, CA 95202-1997

(if no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.