June 28, 2005

TO: Mayor and Council

FROM: Mark Lewis, City Manager

SUBJECT: RESOLUTION: ADOPT A CONTRACT FOR PROJECT MANAGEMENT SERVICES – STOCKTON EVENTS CENTER

RECOMMENDATION

It is recommended that the City Council adopt a resolution authorizing the City Manager to enter into a Contract for Consulting Services with GCI, an LLC (a limited liability corporation), at the rate of $105 per hour to perform project management services as directed by the City Manager.

Summary

The City Council has previously approved the Stockton Events Center Project (SEC). Projects of this complexity require constant monitoring and review of complex construction and financing issues by professionals that have extensive experience in municipal finance and construction activities.

DISCUSSION

Background

On March 2, 2004 and again on December 14, 2004, the City Council and the Redevelopment Agency approved the SEC Project which authorized a series of actions that resulted in the commencement of the construction of an indoor arena, a ball park and various site improvements along Fremont Street.

Present Situation

Since January of 2005, the City Manager has placed as the Project Manager of the SEC Project Gary Ingraham. Mr. Ingraham was previously employed by the City of Stockton and retired in April of 2004. In addition to being retired from the City of Stockton, Mr. Ingraham is licensed by the State of California as a General Contractor, License No. 826460.
Mr. Ingraham can only work a limited number of hours for an agency that is a member of the Public Employees Retirement System. Therefore, in order to maintain Mr. Ingraham's employment, the City of Stockton has to retain his services as an independent contractor. In contemplation of this, Mr. Ingraham through his lawyer has filed with the Secretary of State to form a limited liability corporation known as GCI. A copy of the contract for GCI, an LLC, has been attached.

Financial Summary

Funds are available in the SEC Project Budget, Account No. 399-9811.

MARK LEWIS
CITY MANAGER

ML:GCI:pcv

Attachment
CONTRACT FOR CONSULTING SERVICES

ARTICLE 1

PARTIES & PURPOSES

Section 1.1. Parties

This agreement is entered into as of July 1, 2005, by and between the City of Stockton ("City"), a municipal corporation, and GCI, LLC (the managing member of the LLC being Gary Ingraham, "Consultant").

Section 1.2. Purpose

The City wishes to retain consultant as a Project Manager to provide project management and generally related services for City Capital Projects and municipal activities at the direction of the City Manager or as designated by the City Manager.

ARTICLE 2

SCOPE OF SERVICES

Section 2.1 Services To Be Provided By Consultant

The CONSULTANT, for the benefit and at the direction of the City Manager shall perform the scope of services as set forth in the attached Exhibit “A”.

Section 2.2 Term

Consultant’s employment with the City is for no specified term and is at the mutual consent of both Consultant and the City. Specifically, Consultant employment will be on at “at will” basis, meaning that either Consultant or the City may terminate the employment relationship with or without cause at any time, with notice.

Section 2.3 Meetings

The consultant shall attend all meetings as directed by the City.

Section 2.4 Changes To Scope of Services

The City reserves the right to modify, suspend or discontinue any and all of the described services or assignments to the Consultant by issuing a
revision in the terms and conditions of this Contract for Consulting Services which will become effective immediately.

Section 2.5 Subcontracting

The Consultant with the concurrence of the City Manager or his designee may subcontract out authorized services to other parties provided that any subcontractor is added to perform authorized services only after City has approved in writing the addition of the subcontractor. Consultant shall remain fully responsible for the complete and full performance of said subcontractor and shall pay all such subcontractors.

ARTICLE 3

COMPENSATION

Section 3.1 Compensation/Independent Contractor

Consultant’s compensation shall be at the rate of $105.00 per hour and it is understood that the Consultant is not acting hereunder in any manner as an employee of the City, but solely under this Contract as an independent contractor. The City shall not under any circumstances be liable to the Consultant or any person or claimed, unless any such liability arises by virtue of negligence by the City, its officers, agents, or employees, and the Consultant agree to defend and hold harmless from liability therefore which is not due to any fault of the City, its officers, agents, or employees.

Section 3.2 Reimbursable Expenses

Consultant, if directed to attend or represent City at any meetings, will be entitled to receive reimbursement from City for actual expenses only. Consultant is not to be reimbursed for mileage provided that the meetings are conducted in the general metropolitan area of the City of Stockton, if not, then Consultant is entitled to mileage reimbursement at the rate as authorized by the Internal Revenue Service. Consultant’s phone costs, accept for City related office phone usage, is to be at the Consultant’s expense with no reimbursement. The City is to provide office space for Consultant to conduct City related business which includes necessary office equipment and miscellaneous office machines and supplies including access to the City’s management information systems.

Section 3.3 Method of Payment

Consultant is to invoice City on a monthly basis in a form that is acceptable to the City and City agrees to reimburse Consultant is a manner that follows standard payment practices.
ARTICLE 4
MISCELLANEOUS PROVISIONS

Section 4.1 Insurance Requirements

Consultant shall submit proof of insurance coverage for personal injury and property damage with limits not less than $500,000 per occurrence, naming the CITY as additional insured and in a form acceptable to CITY. Carrier(s) shall provide notice to the CITY of any change in or limitation of coverage or of cancellation of the policy no less than thirty (30) days prior to the effective date of the change, limitation, or cancellation. The Consultant shall also carry worker’s compensation insurance pursuant to statutory provisions and professional liability coverage in the amount of $1 million and shall submit proof of such coverage in a form acceptable to the City prior to the effective date of this Contract.

Section 4.2 Attorney’s Fees

In the event any dispute between the parties under this contract, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney’s fees from the party who does not prevail as determined by the court.

Section 4.3 Successors

The CITY and the Consultant each bind themselves, their partners, successors and legal representatives to this Contract without the written consent of others. Consultant shall not assign or transfer any interest in this Contract without the prior written consent of the CITY. Consent to any such transfer shall be at the sole discretion of the City.

Section 4.4 Notices

Any notice required to be given by the terms of this Contract shall be deemed to have been given when the same is personally served or sent by certified mail or express or overnight delivery, postage prepaid, addressed to the respective parties as follows:

City of Stockton
425 No. El Dorado Street
Stockton, Ca. 95202
Attn: City Manager
GCI, LLC
3441 Gleneagles Dr.
Stockton, Ca. 95219
Attn: Gary Ingraham

Section 4.5 Severability

The invalidity in whole or in part of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

Section 4.6 Entire Agreement

This Contract represents the entire and integrated Contract between the City and the Consultant and supersedes all prior negotiations, Representations, or agreements, either written or oral. This Contract may be amended only by written instrument signed by the City and the Consultant.

Section 4.7 Applicable Law

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

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

ATTEST: CITY OF STOCKTON

BY: MARK LEWIS, ESQ.
CITY MANAGER

APPROVED AS TO FORM: GCI, LLC

OFFICE OF THE CITY ATTORNEY BY:
Gary Ingraham Consultant

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1. Consultant agrees to consult with the City Manager or City employees as necessary to perform the assignments and tasks as necessary to carry out the direction of the City Manager or City representative as designated by the City Manager.

2. Attend any meetings with the public, staff, consultants, profession organizations or policy makers as directed to by the City Manager or City employees and to represent the City as necessary to carry out the direction as provided to Consultant.

3. Prepare written documents, staff reports, agenda items, and make presentations to City Manager, staff members, public or policy makers as necessary to carry out the duties and tasks as directed.

4. Represent the City's position or direction in any public or private meeting with various individuals or groups as directed by the City Manager or City representative as designated by the City Manager.

5. Attend meetings with contractors, sub-contractors, and staff representatives for contractors regarding construction or project issues that are necessary.

6. Prepare project cost projections on a monthly basis for the City Manager and project total build out costs as requested by the City Manager.