Meeting Date: 7/10/07

AGENDA REPORT

City of Santa Clara, California

Agenda Item # SC-2

Santa Clara

DATE: July 2, 2007

TO: City Manager/Executive Director for Council/Redevelopment Agency Action

FROM: Assistant City Manager

SUBJECT: Additional Legal and Fiscal Consulting Services Needed for the Completion of the 49ers Stadium Feasibility Study

EXECUTIVE SUMMARY:

At their February 6, 2007 meeting the Agency authorized the use of $200,000 of Agency appropriations for specialized legal and consulting services to support City/Agency staff in completing the 49ers feasibility study. These monies come from Redevelopment Agency tax increment revenues and can only be used to support redevelopment activities in the North Bayshore Area. General Fund monies were not used in engaging consulting services for the stadium proposal. At the April 24, 2007 Council meeting, the 49ers presented their stadium financing proposal. To date, there has been significant effort by staff, Agency consultants and 49ers representatives in understanding and evaluating the stadium proposal and in exploring options to certain concepts in the proposal as determined by staff and/or the Agency Board. This work effort is ongoing and is not yet completed.

Additionally, it was recently determined that Cedar Fair, LP, ground lessee of Great America Theme Park, is not comfortable with the stadium proposal, given the limited exposure they have had to it to date. Staff and 49ers representatives have planned a series of meetings with Cedar Fair to provide them details of the stadium proposal and elicit Cedar Fair's questions and concerns with the intent of seeking resolution and/or options to address their issues.

Given that both the City/Agency guidelines and the 49ers guidelines directing the course of the stadium feasibility study concur that the City has existing responsibilities to Cedar Fair, and that in order to move forward Cedar Fair needs to understand, concur with, and give their approval and cooperation to any proposed stadium project sited on existing City-owned lands leased or committed to the Theme Park, it is imperative that the Feasibility Study be extended beyond its originally planned mid-summer wrap-up date to ensure that Cedar Fair has the opportunity to evaluate and participate in the stadium proposal discussions.

For the above stated reasons it is necessary to extend the contract length and funding for two key consulting services: the Agency's external legal counsel, Goldfarb and Lipman and its fiscal and economic consultant, Keyser Marston and Associates. (Contract amendments in Council Offices for review.)

ADVANTAGES AND DISADVANTAGES OF ISSUE:

Extending the contract length and funding for the Agency's external legal counsel and fiscal and economic consultant will allow staff the opportunity to continue with the stadium feasibility study, employing resources that have been critical in the evaluation effort to date. The time needed to resolve the 49ers stadium proposal and Cedar Fair's issues is not known, but staff anticipates additional effort necessary to complete the feasibility study, possibly through the end of September 2007.

ECONOMIC/FISCAL IMPACT:
These two amendments increase the contractual not to exceed in the two agreements by $115,000. Appropriations are available in the Agency's 2007/2008 administration budget (901-9011-87870).

Of the $200,000 initially authorized for the stadium feasibility study in FY0506, approximately $50,000 remains. These funds are earmarked for sports industry consulting specialties, as an example, a consultant with experience in NFL league and team financing structures. This type of specialized consulting service will be necessary before the feasibility study is completed, but has not been needed to date. In addition, approximately $7,000 has been expended to date to support legal or financial advisor reviews of various financing options proposed through the course of the stadium analysis. Therefore, staff is recommending this additional $115,000 for external legal services and fiscal and economic consulting services. In addition to the Cedar Fair issues, staff continues to explore options to various stadium proposal components, requiring ongoing legal review and fiscal/economic impact analysis.

RECOMMENDATION:
It is recommended that the Council/Agency:

1. Approve a consulting contract amendment with Goldfarb Lipman to increase the contract amount by $50,000.00, bringing the contract not to exceed amount to $118,000 (901-1012-87870-(I)2290-(A)04949) for legal, redevelopment law, land use, and negotiating expertise to assist staff in the 49er stadium feasibility study;
2. Approve a consulting contract amendment with Keyser Marston, Inc. to increase the contract amount by $65,000.00, bringing the contract not to exceed amount to $140,000 (901-1012-87870-(I)2292-(A)04949) for fiscal and economic land use issues, economic benefits analysis and stadium financing options analysis to assist staff in the 49er stadium feasibility study.

Ronald E. Garratt
Assistant City Manager

Certified as to Availability of Funds:
901-9011-87870 $ 115,000.00

Mary Ann Parrot
Redevelopment Agency Treasurer

APPROVED:

Jennifer Sparacino
City Manager/Executive Director for
Redevelopment Agency

Documents Related to this Report:
- Contract Amendments for Goldfarb Lipman and Keyser Marston, Inc.

CITY OF SANTA CLARA

AGENDA MATERIAL ROUTE SHEET

Council Date: July 10, 2007

SUBJECT: Contract Amendments for Goldfarb Lipman. LLP and Keyser Marston and Associates, Inc., to provide legal and professional consulting services to Agency staff re: the 49ers stadium feasibility study.

CERTIFICATION

The proposed Amendments regarding the base contracts for Goldfarb Lipman and Keyser Marston are necessary to continue the feasibility study process an additional two months, through September, 2007, has been reviewed and is hereby certified.

PUBLICATION REQUIRED:

The attached Notice/Resolution/Ordinance is to be published _____ time(s) at least _____ days before the scheduled meeting/public hearing/bid opening/etc., which is scheduled for _____, 200__.

AUTHORITY SOURCE FOR PUBLICATION REQUIREMENT:

Federal Codes:
Title _____ *U.S.C. §* _____
(Titles run 1 through 50)

California Codes:
Code _____ *§* _____
(i.e., Government, Street and Highway, Public Resources)

Federal Regulations:
Title _____ *C.F.R. §* _____
(Titles run 1 through 50)

California Regulations:
Title _____ *California Code of Regulations §* _____
(Titles run 1 through 28)

City
City Charter § _____ *(i.e., 1310. Public Works Contracts. Notice published at least once at least ten days before bid opening)*
City Code § _____

1. As to City Functions, by _____
Department Head

2. As to Legality, by _____
City Attorney's Office

3. As to Environmental Impact Requirements, by — N/A —
Director of Planning and Inspection

4. As to Substance, by _____
City Manager

AMENDMENT NO. 1 TO THE LEGAL SERVICES AGREEMENT BY AND BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA AND GOLDFARB & LIPMAN LLP

This agreement ("Amendment No. 1") is made and entered into on this ____ day of July, 2007, ("Effective Date") by and between The Redevelopment Agency of the City of Santa Clara, a redevelopment agency, a public body, corporate and politic, organized and existing in the County of Santa Clara, under and by virtue of the laws of the State of California (California Health and Safety Code section 33000, et seq.) ("Agency") with its primary business address at 1500 Warburton Avenue, Santa Clara, CA 95050, and Goldfarb & Lipman LLP, a limited liability partnership ("Firm") with its primary business address at 1300 Clay Street, 9th Floor, Oakland, CA 94612. Agency and Firm may be referred to herein individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

A. The Parties previously entered into an agreement entitled "Legal Services Agreement by and between the Redevelopment Agency of the City of Santa Clara and Goldfarb & Lipman LLP," dated April 3, 2007 (the "Original Agreement"); and

B. The Parties entered into the Original Agreement for the purpose of having Contractor provide legal services, and the Parties now wish to amend the Original Agreement to increase the not-to-exceed amount of sixty-eight thousand dollars ($68,000.00) by fifty thousand dollars ($50,000.00), bringing the total not-to-exceed amount to one hundred eighteen thousand dollars ($118,000.00).

In consideration of the above Recitals and the following mutual covenants and obligations, the Parties agree as follows:

AGREEMENT PROVISIONS

1. That the paragraph entitled "Maximum Not to Exceed Contract Amount" of Exhibit A, entitled "Scope of Work and Schedule of Fees and Charges" of the Original Agreement, is hereby amended to read as follows:

   "**Maximum Not to Exceed Contract Amount**.

   In no event shall the total amount paid to the Firm for services, including all fees, cost and/or expenses, under this Agreement exceed one hundred eighteen thousand dollars ($118,000.00) per fiscal year, subject to budgetary appropriations."

2. All other terms of the Original Agreement which are not in conflict with the provisions of this Amendment No. 1, shall remain unchanged in full force and effect. In case of a conflict in the terms of the Original Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 1 as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Amendment No. 1 shall become operative on the Effective Date first set forth above.

REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA,
a redevelopment agency, a public body, corporate and politic,
organized and existing in the County of Santa Clara,
under and by virtue of the laws of the State of California

APPROVED AS TO FORM:

HELENE L. LEICHTER
Agency General Counsel

JENNIFER SPARACINO
Executive Director

ATTEST:

1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax Number: (408) 241-6771

ROD DIRIDON, JR.
Agency Secretary

"Agency"

GOLDFARB & LIPMAN LLP
a California limited liability partnership

By:

LEE C. ROSENTHAL
Partner
1300 Clay Street, 9th Floor
Oakland, CA 94612
Telephone: (510) 836-6336
Fax Number: (510) 836-1035

"Firm"

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AMENDMENT NO. 1 TO THE
LEGAL SERVICES AGREEMENT
BY AND BETWEEN
THE REDEVELOPMENT AGENCY
OF THE
CITY OF SANTA CLARA
AND
KEYSER MARSTON ASSOCIATES, INC.

This agreement ("Amendment No. 1") is made and entered into on this ____ day of July, 2007, ("Effective Date") by and between The Redevelopment Agency of the City of Santa Clara, a redevelopment agency, a public body, corporate and politic, organized and existing in the County of Santa Clara, under and by virtue of the laws of the State of California (California Health and Safety Code section 33000, et seq.) ("Agency") with its primary business address at 1500 Warburton Avenue, Santa Clara, CA 95050, and Keyser Marston Associates, Inc., a California corporation ("Consultant"), with its primary business address at Golden Gateway Commons, 55 Pacific Avenue Mall, San Francisco, CA 94111. Agency and Consultant may be referred to herein individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

A. The Parties previously entered into an agreement entitled "Agreement for Professional Services by and between the Redevelopment Agency of the City of Santa Clara and Keyser Marston Associates, Inc.," dated April 3, 2007 (the "Original Agreement"); and

B. The Parties entered into the Original Agreement for the purpose of having Contractor provide fiscal, economic and land use analysis services, and the Parties now wish to amend the Original Agreement to increase the not-to-exceed amount of seventy-five thousand dollars ($75,000.00) by sixty-five thousand dollars ($65,000.00), bringing the total not-to-exceed amount to one hundred forty thousand dollars ($140,000.00).

In consideration of the above Recitals and the following mutual covenants and obligations, the Parties agree as follows:

AGREEMENT PROVISIONS

1. That the paragraph entitled "Maximum Not to Exceed Contract Amount" of Exhibit A, entitled "Scope of Work and Schedule of Fees and Charges" of the Original Agreement, is hereby amended to read as follows:

   "**Maximum Not to Exceed Contract Amount**.
   In no event shall the total amount paid to the Consultant for services, including all fees, cost and/or expenses, under this Agreement exceed one hundred forty thousand dollars ($140,000.00) per fiscal year, subject to budgetary appropriations."

2. All other terms of the Original Agreement which are not in conflict with the provisions of this Amendment No. 1, shall remain unchanged in full force and effect. In case of a conflict in the terms of the Original Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 1 as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Amendment No. 1 shall become operative on the Effective Date first set forth above.

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a redevelopment agency, a public body, corporate and politic,
organized and existing in the County of Santa Clara,
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APPROVED AS TO FORM:

HELENE L. LEICHTER
Agency General Counsel

JENNIFER SPARACINO
Executive Director

ATTEST:

1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax Number: (408) 241-6771

ROD DIRIDON, JR.
Agency Secretary

"Agency"

Keyser Marston and Associates, Inc.
a California corporatation

By:

A. JERRY KEYSER
Chairman of the Board
55 Pacific Avenue Mall
San Francisco, CA 94111
Telephone: (415) 398-3050
Fax Number: (415) 397-50655

"Consultant"

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