

**NEW BUSINESS**



AGENDA ITEM 15.01

December 13, 2011

TO: Mayor and City Council

FROM: Michael E. Locke, Deputy City Manager

SUBJECT: **IMPLEMENTATION OF THE CITY COUNCILS STRATEGIC INITIATIVES FOR DOWNTOWN REDEVELOPMENT AUTHORIZING A CONTRACT WITH THE URBAN LAND INSTITUTE FOR PROFESSIONAL AIVISORY SERVICES**

### RECOMMENDATION

It is recommended that the City Council adopt a resolution, with findings; authorizing a contract with the Urban Land Institute, Inc. in an amount not to exceed \$120,000; and authorizing the City Manager to make all necessary appropriations. The Urban Land Institute will perform an analysis to identify strategies focused on private sector initiatives for the creation of a Transit Oriented District for revitalizing the Greater Downtown Stockton Area.

### Summary

On May 17, 2011, the City Council confirmed its four goals for 2011-2012. One of these goals is Economic Development – Facilitate Investment and Job Creation. In addition, staff presented nine Strategic Plans to implement this goal and received direction from the Council in carrying out these plans for 2011-2012.

The proposed contract with the Urban Land Institute is the initial step in implementing the strategic initiative, "Downtown Revitalization Plan."

An informal review of consultants was undertaken based on the consultants applied experience, the experience of their staff and client reference interviews. Stockton Municipal Code Section 3.68.070 provides for "Exceptions to competitive bidding requirements for contracts over Twenty Thousand Dollars." Findings to support this exception to the normal bidding process are included for Council consideration.

The proposal for consultant services is \$120,000 and is funded through public/private support from our partners that include: the San Joaquin Rail Commission; Grupe Co.; A.G. Spanos Corp.; the Stockton Downtown Alliance, and the San Joaquin Council of Governments.

### Background

On May 17, 2011, the City Council confirmed its Goals and Work Plan for 2011-2012 (Attachment A), adopted the four goals and a series of strategic initiatives supporting each goal. The proposed contract for services with the Urban Land Institute is to

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implement one of these initiatives under the goal for Economic Development – Facilitate Investment and Job Creation.

Within this goal, it was recognized that:

“The City and San Joaquin County would benefit in bringing together experts in the areas of real estate, finance, urban planning and development fields to collaborate on complex land use and redevelopment projects....with the goal of preparing a study to identify strategies for revitalizing downtown Stockton that will result in “actionable” steps in the re-use of existing properties, identify key economic and management issues relating to land use projects in where an “outside point of view” is important in revitalizing downtown Stockton and produce jobs and economic recovery for our community.”

The development of the Strategic Initiative was specifically crafted to focus on creating new job opportunities, revitalize downtown Stockton with a specific emphasis on meeting the requirements of the Attorney General’s Settlement Agreement. It was recognized during this process that an independent consulting team, with the stature of the Urban Land Institute Advisory Panel has the proficiency and capacity to develop an Economic Strategic that contains “actionable” steps vital in our efforts for economic recovery and sustainability.

The Urban Land Institute was previously engaged in Stockton in 1997. The study was focused on building a vision for downtown and waterfront areas that met community goals and market realities. The emphasis was on the Waterfront District, North Shore District, Downtown Historic District, South Shore and Government Districts, and Small Business District. With much of the implementation focused on large public projects, private investment did not keep pace.

In the changing economic condition, as a result of the recession and mortgage crisis, economic reality dictates a shift away from public finance to private sector initiatives with an emphasis on public/private partnerships based on regulatory reform and process incentives to stimulate private activities. Given this fairly dramatic shift, the composition of the advisory panel will reflect a more pragmatic adaptive reuse philosophy coupled with linking the components of the Greater Downtown Stockton Area.

In our evaluation of organizations that have the ability to carry out this project, demonstrated expertise and a proven track record were key criteria in the informal review process. An additional component was demonstration that their prior work

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efforts resulted in successful implementation of recommendations. The Urban Land Institute clearly meets these objectives.

The Urban Land Institute is the only organization in the United States that has a proven track record of bringing together experienced real estate and land use professionals to develop innovative solutions for development challenges that include, but are not limited to:

- Downtown Revitalization
- Transit-Oriented Development
- Economic Development
- Sustainable Development
- Retail and Entertainment Development
- Neighborhood Revitalization
- Transportation
- Workforce and Market Rate Affordable Housing

For more than 60 years, the Urban Land Institute has assembled panels comprised of individuals with the expertise in real estate, finance, planning and various disciplines in the development fields. These individuals are not consultants but experienced practitioners not otherwise available. It is this independent nature that allows for the “candid advice” that is a signature of the Urban Land Institute. The result of this review was positive and provided the basis for the recommendation.

The proposal for consultant services is funded through public/private financial support from our partners that would include: the San Joaquin Rail Commission; Grupe Co.; A.G. Spanos Corp.; the Stockton Downtown Alliance; and the San Joaquin Council of Governments.

There is an ongoing effort to understand and refine the funding level and process for participation by both the San Joaquin Rail Commission and the San Joaquin Council of Governments. Resolution of the procedural steps and related conditions may take several weeks to resolve. It is recommended that City Council authorize the contract with the Urban Land Institute and further authorize the City Manager to take such action as required subject to confirmation of full funding.

The proposed Contract for Professional Advisory Services between the City of Stockton and the Urban Land Institute is attached as Exhibit 1 to the Resolution and below is a brief summary of the scope of services to be performed.

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Scope of Work

The Urban Land Institute agrees:

1. To perform an analysis to identify strategies for revitalizing downtown with a specific emphasis on private sector investment requiring public-private partnership.
2. To assist in the San Joaquin Regional Rail Commission and the San Joaquin Council of Governments in the development of a planning document that focus's on how best to plan and position the neighborhood around the Cabral Rail Station for Transit Oriented Development as well as related improvements in anticipation of expanded passenger rail services and High Speed Rail and their linkage to Downtown Stockton.
3. To analyze the adaptive re-use potential of existing properties, identify key economic and management issues relating to land use projects, and assess overall development strategies and policies.
4. To provide a panel composed of members of the Urban Land Institute who collectively have a varied and broad experience and knowledge applicable to the particular problems to be considered.
5. To arrange for the panel members to visit the location upon which its recommendations are sought for a period of not less than five days, starting on February 5, 2012 and ending on February 10, 2012. During that time the panel, directly and through its staff, will study the designated area; consult with public and private officials, representatives of other relevant organizations, and other individuals familiar with the problems involved; and prepare its conclusions and recommendations which will be presented to the City and its invited guests in oral form at the close of the on-site assignment.
6. To arrange, insofar as possible, to have appropriate persons, including public and private officials, representatives of the relevant organizations, and others, available for the purpose of consulting with and furnishing information to the panel on specific matters relevant to the assignment as may be necessary and advisable during the period of the panel's visit.
7. To provide the City with a full-color written summary of its conclusions and recommendations and actionable steps, illustrated with photographs and drawings, as appropriate. The City will be provided 200 copies of the report.

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Also, as part of the scope of services, a five day schedule (Attachment B) details the specific activities that the Urban Land Institute will perform to develop the strategic plan for revitalizing downtown Stockton.

In undertaking this comprehensive effort, the City Management Team will be headed by Deputy City Manager Michael Locke whose background in local government, urban planning and economic development provides the expertise to lead this process.

As called out in the Project Scope, there are both formal and informal groups who will make up the stakeholders. These include, but are not limited to:

- Mayor and City Council
- San Joaquin Regional Rail Commission
- San Joaquin Council of Governments
- Development Oversight Commission
- Climate Action Plan Advisory Committee
- Building Industry Association
- Builders Exchange
- Downtown Stockton Alliance
- Property Owners
- Business Owners
- Financial Institutions
- City Administration
- County Administration
- Investor Developers
- Port of Stockton

Findings

Contracts for more than \$20,000 for professional services may be awarded without competitive bidding in cases where the City Council has made findings that support and justify exceptions to the competitive bidding process (Stockton Municipal Code Section 3.68.070).

The following findings support the exception as follows:

- There is an immediate need to undertake the comprehensive analysis to facilitate the city's competitive position and encourage private sector investment.
- The City of Stockton's current economic position reinforces the need for a more competitive environment. Given the current 19.3% (August 2011)

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unemployment rate, declining property values and the need for job development necessitate immediate action.

- The Urban Land Institute is the only organization with the diversity, applied knowledge and experience that can do this type of comprehensive study.

**FINANCIAL SUMMARY**

Funding will be received from public/private support to implement the strategic plan and a budget appropriation is needed in account number 642-0504 Trust Account Office of the City Manager.

Revenue	642-0504-379.10-00	\$120,000
Expenditures	642-0604-510.20-65	\$120,000

There is no impact to the General Fund as a result of taking the recommended actions.

Respectfully submitted,



MICHAEL E. LOCKE  
DEPUTY CITY MANAGER

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Attachment A – City of Stockton City Council Goals and Work Plan for 2011-2012  
Attachment B – The Urban Land Institute – Five Day Schedule

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## City of Stockton City Council Goals for 2011

As an outcome of the performance evaluation of the City Manager and the Annual Workshop of the City Council held on January 28, 2011, the Council has adopted the following work plan. Given these difficult times, and after much consideration, the Stockton Council has decided that less is more. Rather than trying to be all things to all people, it will have a greater impact to the community by focusing on a short list of key goals....some would say getting back to basics....in order to begin the true revival of the great City of Stockton.

### **1. Fiscal Sustainability--Getting our fiscal house in order.**

It has become clear there will not be a robust recovery in the City of Stockton's general fund revenue base for some time to come. Furthermore, the City does not have adequate reserves to weather these difficult times, and its compensation practices and employee benefit/insurance programs are not being administered using current best management practices. The estimated budget deficit for FY 2011-12 is \$34 million and growing. It grows even more, each year thereafter. The City must improve its cost of doing business and look beyond just the next year with a goal of providing multi-year fiscal sustainability.

As a start, the City Council adopted its Action Plan For Fiscal Sustainability on June 22, 2010 (see attachment at end of packet). This provides the framework for labor negotiations and concession bargaining for 2011. Labor costs represent 80 percent of the general fund. We have begun the negotiations process to effectuate the sustainability goals and to balance the next few years' budgets. Furthermore, we need an independent review of our employee benefits/insurance programs (medical, workers compensation, long term disability, life, etc.) to ensure they are administered in a cost effective manner and provide a benefit level that is generally supported in the labor market. Finally, we need to ensure our accounting and fiscal management practices are up to par to ensure the financial data that underlies our decisions is accurate and reliable. Finally, we need to begin the conversation about our unsustainable retiree health program.

### **2. Increase Public Safety, both real and perceived.**

The level of crime is unacceptable in the City of Stockton. The sense of safety by Stocktonians appears to have reduced in the recent past. The relative increase in crime from 2009 to 2010 is disconcerting and the total amount of crimes (on a per capita basis) is some of the highest in the nation. Violent crimes increased 9 percent overall while burglaries increased 13 percent this last year. Yet, the number of arrests went down 27 percent. This last figure is directly a result of fewer officers on the street.

While the data supports the assertion that much of the violent crime is associated with gangs and drugs, and the odds of being victim to a violent crime are low, we have

double the murder rate of Los Angeles and there are simply too many victims of violent and property crime in our City. Furthermore, we have direct evidence that our real or perceived sense of public safety is one key factor impacting our ability to attract new high wage employers to the City.

The sources of crime are complex and therefore the strategies of reducing it are equally complex and must come from multiple disciplines. Poverty, youth employment and activities outside school, gangs, school performance, parenting, substance abuse, mental health, faith based institutions, law enforcement and criminal justice system performance are just some of the causes and possible sources for reducing crime.

The City needs the equivalent of the Marshall Plan for addressing public safety in the City. Besides being a direct service provider in this area, the City needs to be a convener of stakeholders acting in concert with the various institutions that have a stake in the factors that impact public safety e.g. county, schools, state, faith based groups, non-profits, etc.

### **3. Economic Development—Facilitate Investment and Job Creation**

It is no secret that Stockton has been hit harder by the recent recession than other communities. Our current unemployment rate hovers around 20 percent. Our per capita income is 37% less than the statewide average. Our much publicized foreclosure rate is third in the nation. Our relative success in this area has an indirect impact on the previous (Public Safety) goal.

There are parts of the economy that we have no control over nor can we make an impact on them. However, as a regulatory and land use planning agency, we have a potentially great impact on businesses that wish to expand or locate here. Furthermore, many of our regulatory plans e.g. General Plan, Development Code, development fees, etc. were developed when the City was experiencing huge growth.

As a result, the City would benefit from a top down assessment of our regulatory plans, our fee structure, our departmental performance and the underlying factors that support it--all with the goal of retooling our organization to support economic activity that will produce jobs without unduly harming the environment. We need to completely rethink our regulatory role and organizational performance including organizational culture all through the "New Normal" lens.

Again, notwithstanding our direct service delivery role, we should support the convening of the various stakeholders that impact our economy e.g. San Joaquin Partnership, Port of Stockton, San Joaquin County, Council of Governments, etc. in order to develop an actionable Economic Development Plan. This project should assess the economic trends, our strengths and weaknesses, and develop street level plans to accentuate the strengths and minimize our weaknesses all with the goal of enhancing economic investment that produces jobs for our citizenry.

#### **4. Increase Organizational Capacity**

Besides the challenges associated with huge reductions in budget and layoffs, the City of Stockton organization has experienced a dramatic turnover rate at the City Council level and in the City Manager position. As a result, the direction of the City, in the eyes of staff has not been clear. The criteria for success, especially in mid and senior managers has been vague. The use of technology has been diminished. A high performing organization, even during lean times, still invests in its remaining staff to support the Council goals, continuous improvement, life long learning, etc. We may be doing less, but what we do, we should do well. A high performing organization also knows that the Council goals and priorities are translated through the City Manager, to the department heads and ultimately to every City staff member, so that all are "rowing" in the same direction.

As a result, the City Manager is directed to propose and implement measures to improve the City of Stockton organizational capacity and wherewithal to effectuate the Council goals and further an organizational culture that ultimately puts the City organization as a top tier employer in the state.

#### **Next Steps....Making Our Goals a Reality**

Given the above stated goals, the City Manager and staff have been directed to develop more specific business plans or strategic initiatives that are designed to further the four stated goals mentioned above.

**City of Stockton  
2011 City Council Work Plan  
Defining Our Role**

What government should know by now, by reviewing a bit of history, given the complexity of both our opportunities and challenges at the local, statewide and federal level, there is not one institution that has a monopoly on creating or implementing solutions. Our federal and state government's history reflects the pendulum swinging from periods of strong centralized authority and solutions to decentralization with mixed success. The state is now going through another self assessment and considering realigning services to the local level. One constant the federal and state governments have come to realize is that local government is closer to the people, more agile and better able to respond to the community's unique social needs or values.

At the local level, we have many opportunities and challenges. Similar to what the federal and state levels figured out, very few of these can be tackled by just one institution, let alone the City of Stockton. The City cannot address the four goals found its 2011 Work Plan all alone. As just one example, San Joaquin County expends much more resources than the City in addressing and responding to crime activity. Their success is tied to ours.

As a result, the role the City of Stockton defines for itself in achieving its 2011 Work Plan, must be strategic and done in light of the various institutions that have a stake in the same issues.

Our role(s) will fall into one of three categories for each Business Plan or strategic initiative that is designed to achieve or make an impact on Council Goals.

**Direct Service Delivery Role**

There are indeed certain activities where City of Stockton is commonly understood to be the direct service provider, either through the use of staff or contractors. Some examples include: police law enforcement, fire suppression, etc. Thus, a project proposal that involves the use of City resources to provide a service directly would fall into this category.

**Convener Role**

There are certain complex issues related to our 2011 Work Plan where there are multiple institutions or agencies that have a piece or stake in the opportunity or challenge. For example, an agency may be a direct service provider in addressing one aspect of the crime issue. Their relative success may have a direct impact on our success or challenges. There is little benefit of trying to replicate what other agencies are already doing. However, there is a benefit of planning and coordinating our efforts if they are providing services to, or interacting with, the same population.

When we see a need or benefit to convening the stakeholders to address common or mutually dependent goals or to develop new plans that may affect each other, an outcome of this collaboration may have limited impact on our methods of service delivery activities. However, there may be a big impact on demands for services. Thus, we may have a big stake in ensuring we are all working collaboratively.

### **Support or Advocacy Role**

As we refine our Business Plans and implement the 2011 Work Plan, there will be opportunities or activities borne by other entities, that support our goals or create new challenges to them, typically in other venues e.g. at the state or federal levels. The venues might be local, but involve other agencies such as non-profits or for-profit organizations.

At times we may want to advocate or support the goals or activities of others, when they are pursuing things that will likely impact our 2011 Work Plan goals. Rather than expend precious few resources in the direct service delivery or convener areas, we will support or advocate for others to step forward or modify their plans.

City of Stockton  
2011 Business Plans

**Economic Development--Facilitate Investment and Job Creation**

Summary of Strategic Initiatives

1. Management Review of Community Development
2. Evaluation of City General Plan 2035
3. Review/Reduce Development Fees--Mitigation and Processing Fees
4. Regional Wastewater Control Facility Capital Improvement and Energy Management Plan
5. Downtown Revitalization Plan
6. Small Business Development
7. Economic Development Strategic Plan
8. Complete Infrastructure Projects
  - a. Sperry Road Extension & French Camp/I-5 Interchange
  - b. Delta Water Supply Project

## City of Stockton 2011 STRATEGIC INITIATIVES

### III. ECONOMIC DEVELOPMENT – FACILITATE INVESTMENT AND JOB CREATION

#### III.5 Downtown Revitalization Plan

Lead Department and Lead Manager	Specific Division	Supporting Departments, Additional Stakeholders	Staff Assigned
Economic Development Wendy Saunders	Economic Development	Downtown Alliance Rail Commission	Mike Locke Wendy Saunders Greg Folsom Janice Miller

**Description:**

Commission the Urban Land Institute (ULI) to perform an updated study to identify strategies for revitalizing downtown with a specific emphasis on meeting the requirements of the Attorney General's Settlement Agreement. ULI offers an Advisory Panel that works over a 5-day period bringing expertise in real estate, finance, planning and development fields together to collaborate on complex land use and redevelopment projects. ULI has been conducting Advisory Panels since 1947 providing sponsors with detailed advice on difficult local land use issues where an "outside point of view" is an important step in realizing a vision.

This effort should be integrated with a similar proposal being developed by the San Joaquin Regional Rail Commission (SJRRCC) and San Joaquin Council of Governments (SJCOG) that focus's on how best to plan and position the neighborhood around the Cabral Rail Station for Transit Oriented Development (TOD) as well as rail related improvements in anticipation of High Speed Rail. A successful TOD program is essential to obtaining bond proceeds to make improvements to support High Speed Rail. ULI has been approached to assist in the development of this plan.

ULI has identified the following products for the TOD project:

- A market assessment
- Future land use plans for the neighborhood
- Circulation analyses
- Perspective (typical) renderings
- Implementation Toolkit
- Ridership projections for both SJRRCC and the Bus Rapid Transit (BRT) line

ULI would also analyze the re-use potential of existing properties, identify key economic and management issues relating to land use projects, and assess overall development strategies and policies. It is easy to see that this scope could be logically expanded and further tailored to include a larger downtown effort.

**How the project impacts the Council goal:**

This project addresses the Council goal by providing implementation strategies based on changing economic conditions. In addition, developers will have a better understanding of the costs of infill development if the market analysis is appropriately scoped.

**Deliverables:**

- Funding acquisition
- Commitment of project participants
- ULI contract execution
- Downtown Stockton revitalization action plan

**Milestones and Timeline leading to project completion:**

Milestone	Target Date
Complete funding commitments	Sept 2011
Identify project participants. Develop this project as a private/public project, not a City project. Engage both the Rail Commission and Downtown Stockton Alliance as responsible partners. Include others who would benefit from a successful outcome	Oct 2011
Prepare a Project Description	Nov 2011
Identify historic obstacles to downtown development – both governmental, financial (lending), community perceptions, demographics, infrastructure, environmental (brownfields), etc.	Dec 2011
Meet with ULI. Coordinate any mutually beneficial efforts for the greater Stockton Downtown, including the TOD project.	Jan 2012
Prepare draft study or studies	Apr 2012
Define implementation strategies for both the City and Rail Commission, as well as for non-profits and private sector investors	Jun 2012
Finalize the plan	July 2012
Implement the plan	Ongoing

**Risks:**

The primary risks would be acquiring adequate financial support to be able to fund the project. Recent successful Advisory Panel outcomes have involved a substantial amount of background work and analysis on the part of the City or Redevelopment Agency prior to the panel undertaking their review and analysis.

Risks would occur if the City is unable to commit resources and/or money to successfully implement specific recommendations. Similar risks may come from the private sector if they are unable or unwilling to commit to a fair-share implementation role, or to invest in meaningful development projects.

**Resources:**

Can this be accomplished within current budgeted resources?  Yes  No  
 If no, identify one-time or on-going resources: Funding is not available from the Economic Development Department budget. It is anticipated that funding partnerships may include private sector investors, San Joaquin Regional Rail Commission, San Joaquin Council of Governments, and non-profit organizations.

**City Role:**

Direct Service Delivery       Convener       Support/Advocacy

**Current Status:**

On Schedule       Behind Schedule       Complete

If the project is behind schedule, please explain:

**Status Description:**

Mike Locke is in the process of securing funding for the project.

**Next Steps:**

Prepare background information and project description for ULI.

## ULI – FIVE DAY AGENDA

1. Sunday – Arrival and Orientation
  - a. Panelists arrive at hotel mid-afternoon
  - b. Later in afternoon panelists and staff meet
  - c. Review project/scope/assignment
  - d. Go over 5 day agenda
  - e. Breakout into working teams.
2. Monday – Briefing and Tour
  - a. Sponsor (City) opens the day with a briefing session to review project/scope/assignment, study area and other information contained in the briefing binder
  - b. Following briefing, City leads a tour of the study area via foot, bus etc.
  - c. After tour meet for lunch and to review the list of stakeholders to interview on Tuesday
  - d. City to arrange for a night reception for panelists and resource persons and stakeholders who will be interviewed
3. Tuesday - Interviews
  - a. Panel divides into teams and interviews stakeholders for the full day.
  - b. City selects staff who can provide helpful information and insight into the panel's assignment/scope
  - c. Each panel team usually interviews either one –on –one each stakeholders (this ensures quality information gathering). However, City can decide a maximum of three at a time  
Each interview will last approximately 1 hour
4. Wednesday – Panel Deliberations and Report Preparation
  - a. Panel breaks into teams and starts preparing the report
  - b. Panelists may follow-up with resource staff, revisit study area or ask for the City to provide additional information.
  - c. Chair sets times for the panel to meet, to review drafts of the report and to think about and discuss issues together
5. Thursday – Report Presentation
  - a. Panel continues preparing a draft report and deliberating the issues
  - b. During the day staff prepares powerpoint presentation
  - c. Panel rehearses its final presentation
6. Friday – Presentation of the Panel's Findings
  - a. Panel presents findings
  - b. City may choose a public or private forum

- c. Following presentation, the panel gives the City an electronic copy of the powerpoint slides and departs.
- d. Within 30 days of the panel's presentation, ULI will provide City with a manuscript of the final report for comment

# STOCKTON CITY COUNCIL

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**RESOLUTION APPROVING FINDINGS, AUTHORIZING IMPLEMENTATION OF THE CITY COUNCIL'S STRATEGIC INITIATIVES FOR DOWNTOWN REDEVELOPMENT, AND APPROVING A PROFESSIONAL ADVISORY SERVICES CONTRACT WITH THE URBAN LAND INSTITUTE FOR PROFESSIONAL ADVISORY SERVICES**

The City Council has adopted goals for Fiscal Year 2011-2012, one of which is Economic Development - Facilitate Investment and Job Creation; and

One of the adopted Business Plans (Strategic Initiatives) is the Downtown Revitalization Plan; and

Stockton Municipal Code (SMC) section 3.68.070 provides for an exception to the competitive bidding process for professional services. The findings as presented support and justify exceptions to the bidding process; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. Pursuant to the requirements of SMC section 3.68.070, the City Council approves the following findings to support authorization of a Professional Advisory Services Contract with the Urban Land Institute:

- There is an immediate need to undertake the comprehensive analysis to facilitate the City of Stockton's competitive position and encourage private sector investment.
- The City of Stockton's current economic position reinforces the need for a more competitive environment. The current 19.3% (August 2011) unemployment rate, declining property values, and need for job development necessitate immediate action.
- The Urban Land Institute is the only organization with the diversity, applied knowledge, and experience that can do this type of comprehensive study.

2. The services provided by the Urban Land Institute are consistent with the City Council's adopted Goals and Business Plan and it possesses the capability to address the required actions.

3. The Professional Advisory Services Contract between the City of Stockton and Urban Land Institute, in an amount not to exceed \$120,000, is approved and the

City Manager is authorized to execute it on behalf of the City of Stockton, a copy of which is attached hereto as Exhibit 1 and incorporated by this reference.

4. The City Manager is authorized and directed to take such other actions as are appropriate to carry out the purpose and intent of this Resolution.

PASSED, APPROVED, and ADOPTED December 13, 2011.

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ANN JOHNSTON, Mayor  
of the City of Stockton

ATTEST:

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BONNIE PAIGE, City Clerk  
of the City of Stockton

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**PROFESSIONAL ADVISORY SERVICES CONTRACT  
BETWEEN THE CITY OF STOCKTON AND  
ULI-THE URBAN LAND INSTITUTE**

THIS CONTRACT constitutes a binding contract between the CITY OF STOCKTON, a municipal corporation, hereinafter referred to as "CITY" and ULI-the Urban Land Institute (Institute or ULI)., hereinafter referred to as "ULI". As part of its purpose, the ULI maintains an Advisory Services Department for the purpose of benefiting the general public through improved planning and utilization of urban land.

**WITNESSETH:**

WHEREAS, ULI submitted a proposal, is licensed in the State of California to perform such services, and is capable of provide such services;

NOW, THEREFORE, CITY and ULI, for the consideration and upon the terms and conditions hereinafter specified agrees as follows:

**Section 1  
SCOPE OF SERVICES**

Pursuant to this Agreement, the ULI agrees:

1. To perform an analysis to identify strategies for revitalizing downtown with a specific emphasis on private sector investment requiring public-private partnership.
2. To assist in the San Joaquin Regional Rail Commission and the San Joaquin Council of Governments in the development of a planning document that focus's on how best to plan and position the neighborhood around the Cabral Rail Station for Transit Oriented Development as well as related improvements in anticipation of High Speed Rail and their linkage to the downtown regulatory constraints.
3. To analyze the adaptive re-use potential of existing properties, identify key economic and management issues relating to land use projects, and assess overall development strategies and policies.
4. To provide a panel composed of members of the Urban Land Institute who collectively have a varied and broad experience and knowledge applicable to the particular problems to be considered.

5. To arrange for the panel members to visit the location upon which its recommendations are sought for a period of not less than five days, starting on February 5, 2012 and ending on February 10, 2012. During that time the panel, directly and through its staff, will study the designated area; consult with public and private officials, representatives of other relevant organizations, and other individuals familiar with the problems involved; and prepare its conclusions and recommendations which will be presented to the CITY and its invited guests in oral form at the close of the on-site assignment.
6. To arrange, insofar as possible, to have appropriate persons, including public and private officials, representatives of the relevant organizations, and others, available for the purpose of consulting with and furnishing information to the panel on specific matters relevant to the assignment as may be necessary and advisable during the period of the panel's visit.
7. To provide the CITY with a full-color written summary of its conclusions and recommendations and actionable steps, illustrated with photographs and drawings, as appropriate. The CITY will be provided 200 copies of the report.

## **Section 2** **COMPENSATION**

The ULI agrees to:

1. At its expense to absorb the travel and living expenses of its panel and staff while on site.

The CITY agrees to:

1. To furnish the each panel member, not less than 10 days in advance of the panel meeting, such pertinent background data in the form of reports, plans, charts, etc., as may be presently available or readily developed for the preliminary study of the panel, prior to its inspection on site. Two copies are to be sent to the ULI Project Manager.
2. In return for the advice and recommendations of the ULI, CITY is to pay the ULI the total sum of ONE HUNDRED AND TWENTY THOUSAND DOLLARS (\$120,000). The first installment of SIXTY THOUSAND (\$60,000) will be paid upon signing of this Contract. The second installment of FIFTY-FIVE THOUSAND (\$55,000) will be paid upon presentation of the panel's recommendations. The third and final payment of FIVE THOUSAND (\$5,000) will be paid when the CITY receives the final report. In the event the CITY cancels the panel assignment, the initial

payment is non-refundable and CITY shall be responsible for any additional costs incurred by ULI up to the date of cancellation.

3. It is understood that the fee paid by the CITY to the ULI is to be used to cover the costs of the panel assignment and to support and encourage the ULI's scientific and educational programs.
4. The CITY may make such noncommercial use of the report as it may deem desirable. It is further understood that the ULI may make such noncommercial use of the report prepared of the panel's findings and recommendations as it may deem desirable, and the CITY herewith specifically agrees that the ULI may publish and disseminate such report or any part thereof in conjunction with its research and educational programs.

### **Section 3** **TERM**

The term of this Contract shall be from the date of execution until actual completion and delivery of the agreed upon Scope of Services as described in the above Section 1.

### **Section 4** **RIGHTS AND DUTIES OF CITY**

CITY shall make available to ULI all data and information in the possession of CITY which both parties deem necessary to complete the Project, and CITY shall actively aid and assist ULI in obtaining such information as may be deemed necessary from other agencies and individuals.

The Deputy City Manager that provides oversight to the Economic Development Department may authorize a staff person, as a representative, to confer with ULI relative to ULI's services hereunder. The Project hereunder shall be reviewed from time to time by CITY at the discretion of CITY or upon the request of ULI. If the services are satisfactory, they will be approved. If the services are not satisfactory, CITY will inform ULI in writing of the changes or revisions necessary to secure approval.

The Deputy City Manager, on behalf of CITY, reserves the right to approve any change in the project manager assigned by ULI to said Project, and any discretion or right to approve exercised by or on behalf of CITY shall be exercised in a reasonable manner.

Upon payment for the services performed, all work product, or other instruments of service are and shall remain the property of CITY whether the

entire project for which they are made is finished or not. ULI shall be permitted to retain copies for purposes of marketing professional services, publications in professional journals, and presentations.

**Section 5**  
**RIGHTS AND DUTIES OF ULI**

ULI represents and acknowledges that it has or will have at the time this Contract is executed, all licenses (including a City of Stockton Business License), permits, qualifications, insurance, and approvals of whatsoever nature are legally required for the ULI to practice its profession, and that ULI shall, at its own cost and expense, keep in effect during the life of this Contract all such licenses, permits, qualifications, insurance, and approvals.

ULI shall meet with the Deputy City Manager or other personnel of CITY or third parties as necessary on all matters connected with the carrying out of ULI's services. Such meetings shall be held at the request of either party hereto.

**Section 6**  
**TERMINATION OF CONTRACT**

Either party shall have the right to terminate this Contract at any time upon giving the other party written notice of its intention to terminate thirty (30) days prior to the effective date of said termination. Upon termination, ULI shall turn over to CITY all documents, records, plans, and instruments of service produced by ULI in connection with its performance of services pursuant to this Contract. CITY shall pay ULI for all services satisfactorily performed pursuant to this Contract up to the date of termination.

**Section 7**  
**NOTICES**

Any notice, tender, delivery, or requests for payment to be given to any party herein in connection with this Contract may be effected by personal delivery, in writing or by mail, and shall be deemed communicated as of the date of actual receipt. Mailed notices shall be addressed as set forth below:

To CITY:	<p><b>Michael E. Locke</b>  <b>Deputy City Manager</b>  City of Stockton  425 N. El Dorado Street.  Stockton, CA 95202</p>
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To ULI: **Patrick Phillips**  
**Chief Executive Officer**  
 1025 Thomas Jefferson Street, N.W.  
 Suite 500 West  
 Washington, D.C. 20007-5201

**Section 8**  
**INDEPENDENT CONTRACTOR**

Nothing in this Contract shall be interpreted so as to cause ULI to be considered an employee of CITY. ULI is employed solely as an independent contractor to render a professional service and is responsible for all obligations consistent with that status.

The persons engaged in the services will be considered employees of the ULI. ULI shall be responsible for the services of Subcontractors, which shall be subject to the provisions of this Contract. ULI is responsible to the CITY for the acts and omissions of its Subcontractors and persons directly or indirectly employed by them.

**Section 9**  
**WORKERS' COMPENSATION**

In accordance with the provisions of Section 3700 of the California Labor Code, ULI shall secure at its own expense and maintain during the life of this Contract, workers' compensation coverage for its employees as necessary to protect ULI and its employees under the Workers' Compensation Insurance and Safety Act. Such insurance shall be in a standard form and shall relieve CITY of all responsibility for such claims and/or liability. ULI shall, prior to undertaking the work contemplated herein, supply CITY with a certificate of insurance evidencing that said coverages are in full effect.

**Section 10**  
**INSURANCE**

ULI shall at all times maintain at ULI's expense professional liability insurance coverage in the amount of \$1 million. ULI shall provide thirty (30) days written notice to CITY prior to canceling or changing the terms of such coverage.

In addition to Workers' Compensation Insurance and Professional Liability Insurance, ULI shall comply with the insurance requirements set forth in Exhibit A, which is attached to this Contract and incorporated by this reference.

**Section 11**  
**INDEMNIFICATION**

ULI shall indemnify, defend, and hold harmless CITY, its officers, agents, and employees, from any claim, expense, liability, or payment for any injury or damage to any person or property to the extent caused by ULI's willful misconduct or negligent performance of its duties pursuant to this Contract.

ULI is acting in the capacity of an independent contractor hereunder and not as an employee, or agent of, or joint venturer with CITY.

The performance of this Agreement by either party is subject to acts of God, war or threat of war, government regulation, acts of terrorism, disaster, fire, strikes, civil disorder, public health crises, curtailment of transportation facilities or other circumstance beyond the control of the parties unreasonably delaying or making it inadvisable, illegal or impossible for either party to perform its obligations hereunder. This Agreement may be terminated without penalty for any one (1) or more of such reasons by written notice from one party to the other; provided that the party delayed or unable to perform shall promptly advise the other party of such delay or impossibility of performance, and provided further that the party so delayed or unable to perform shall take reasonable steps to mitigate the effects of any such delay or nonperformance.

**Section 12**  
**ATTORNEY'S FEES**

Any claims, disputes or controversies arising out of, or in relation to, the interpretation, application or enforcement of this Contract may be submitted to non-binding mediation through the auspices of the American Arbitration Association prior to the initiation of any suit or other litigation. The cost of said mediation shall be split equally between the parties.

In the event that legal action is brought by either party against the other, the prevailing party shall be reimbursed by the other for the prevailing party's legal costs, in addition to whatever other judgments or settlement sums, if any, may be due. Such legal costs shall include, but not be limited to, reasonable attorney's fees, court costs, expert witness fees and other documented expenses.

**Section 13**  
**NON-DISCRIMINATION**

In performing services under this Contract, ULI shall not discriminate in the employment of its employees or in the engagement of any Subcontractors on

the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

**Section 14**  
**ASSIGNMENT**

ULI shall neither assign nor delegate its rights and/or duties under this Contract without first obtaining CITY's written consent to the assignment and/or delegation. Any such assignment or delegation made by ULI without prior written consent of CITY will render this Contract voidable at sole discretion of CITY.

**Section 15**  
**AUDITS**

CITY reserves the right to periodically audit all charges made by ULI to CITY for services under the Contract. Upon request, ULI agrees to furnish CITY, or a designated representative, with necessary information and assistance.

ULI agrees that CITY or its delegate shall have the right to review, obtain, and copy all records pertaining to performance of the Contract. ULI 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 inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purposes of determining compliance with this Contract. ULI further agrees to maintain such records for a period of three (3) years after final payment under this Contract.

**Section 16**  
**APPLICABLE LAW**

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

**Section 17**  
**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.

**Section 18**  
**INTEGRATION AND MODIFICATION**

The response by ULI to the Request for Proposals and the Request for Proposals on file with the City Clerk are hereby incorporated herein by reference to the extent that such documents do not differ from the provisions and terms of this Contract, and if a difference does exist the provisions and terms of this Contract shall supersede such response or Request for Proposals.

This Contract represents the entire integrated agreement between ULI 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 ULI and CITY.

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.

**Section 19**  
**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.

**Section 20**  
**THIRD PARTY RIGHTS**

Nothing in this Contract shall be construed to give any rights or benefits to anyone other than CITY and ULI.

**Section 21**  
**AUTHORITY**

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

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IN WITNESS WHEREOF, the parties have executed this Contract the day and year first hereinabove written.

ATTEST:

CITY OF STOCKTON, a Municipal Corporation

\_\_\_\_\_  
BONNIE PAIGE  
City Clerk of the City of Stockton

BY: \_\_\_\_\_  
BOB DEIS  
City Manager

APPROVED AS TO FORM:  
JOHN LUEBBERKE  
CITY ATTORNEY

“ULI”

ULI-the Urban Land Institute

BY: *Sam D. Petzold*  
Deputy City Attorney

BY: \_\_\_\_\_  
PATRICK PHILLIPS  
Chief Executive Officer

BY: \_\_\_\_\_  
GALYE BERENS  
SENIOR VICE PRESIDENT  
Education and Advisory Group

BY: \_\_\_\_\_  
TOM EITLER  
VICE PRESIDENT  
Advisory Services