

## **FIRST AMENDMENT TO AGREEMENT**

THIS FIRST AMENDMENT TO AGREEMENT (Amendment) made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2019, is entered into between the CITY OF FRESNO, a California municipal corporation (CITY), and Kosmont and Associates, Inc., a California corporation, dba Kosmont Companies (CONSULTANT).

### **RECITALS**

WHEREAS, the CITY and CONSULTANT entered into an agreement dated June 5, 2019, for CONSULTANT to provide professional feasibility evaluation services for Tax Increment Financing (TIF), Enhanced Infrastructure Financing District (EIFD) and Community Revitalization and Investment Authority (CRIA) formation (Project); and

WHEREAS, the CITY and CONSULTANT now desire to modify the Agreement by revise the scope of the agreement, timeline for performance, and CONSULTANT's compensation, as set forth below.

### **AMENDMENT**

NOW, THEREFORE, in consideration of the above recitals, which recitals are contractual in nature, the mutual promises herein, and for good and valuable consideration hereby acknowledged, the parties hereby agree that the aforesaid Agreement is amended as follows:

1. CONSULTANT shall perform the balance of Phase One, Phase Two, and Phase Three services as set forth in Attachment A. The Term of Agreement and Time for Performance of the Agreement is extended to April 30, 2021.

2. The budgets for the balance of Phase One, Phase Two, and Phase Three services required or rendered pursuant to this Amendment shall be a total fee not to exceed \$85,000 as set forth in Attachment A. Such fee shall include all expenses incurred by CONSULTANT in performance of the services.

3. This Amendment shall become part of and subject to the terms and conditions of the Agreement, which except as modified herein, remains unchanged and in full force and effect.

4. Should any term or condition expressly set forth in this Amendment conflict with the terms and conditions of the Agreement, the terms and conditions expressly set forth in this Amendment will prevail.

5. By signing below, the undersigned certify that they have read and understand, and agree to be legally bound by, this Amendment.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO,  
a California municipal corporation

By: \_\_\_\_\_  
Nelson Esparza,  
District 7 Councilmember

APPROVED AS TO FORM  
DOUGLAS T. SLOAN  
City Attorney

By: Amanda Freeman  
Amanda Freeman Date 9/12/19  
Senior Deputy City Attorney

ATTEST:  
YVONNE SPENCE, MMC CRM  
City Clerk

By: \_\_\_\_\_  
Deputy

Addresses:

CITY:  
City of Fresno  
Attention: Councilmember Nelson  
Esparza,  
District 7  
2600 Fresno St. Room 2097  
Fresno, CA 93721  
Phone: (559) 621-8000  
FAX: (559) 498-2541

Kosmont & Associates, Inc., dba Kosmont  
Companies,  
a California corporation

By: Ken K. Hira  
Name: Ken K. Hira  
Title: President

By: Mark Persico

Name: Mark Persico  
Title: CFO/Sec. VP  
(CFO, Treasurer, Secretary or Assistant  
Secretary)

CONSULTANT:

Kosmont Companies  
Attention: Mark Persico,  
Chief Operating Officer  
1601 N Sepulveda Blvd #382  
Manhattan Beach, CA 90266  
Phone: 424-297-1070  
FAX: 424-286-4632

Attachment:

1. Attachment A – Scope, Schedule, and Budget for Balance of Tasks

## Attachment A

### Scope, Schedule, and Budget for Balance of Tasks Consultant Service Agreement between City of Fresno (CITY) and Kosmont Companies (CONSULTANT) TIF Feasibility Analysis

#### I. SCOPE OF SERVICES

Kosmont has begun Phase One Task 1 activity under an Agreement between the City of Fresno ("City") and Kosmont Companies ("Kosmont") dated June 5, 2019. This Scope of Services represents the balance of Phase One Tasks, as well as the portion of Phase Two and Phase Three Tasks that is expected to be completed in Fiscal Year 2019-2020. It is expected by Kosmont that additional implementation tasks, culminating in district formation, will likely be required in Fiscal Year 2020-2021, time and budget for which will be outlined for City consideration in advance.

#### Phase One

##### **Phase One Task 1: Introduction of Potential Tools & Evaluation of Boundary & Strategic Considerations**

To facilitate initial education of potential public and private sector stakeholders (e.g., City team, County staff and Board, private sector property owners, developers), Kosmont will prepare a summary of potential funding and financing tools, with emphasis on EIFD, CRIA and complementary tools. As part of this task, Kosmont anticipates a kickoff meeting with the City team to discuss the overview of EIFD/CRIA, identification of eligible projects, and goals and objectives related to the potential implementation of said tools. Kosmont will evaluate key strategic considerations for implementation, including:

1. Property / land ownership and planned / proposed / potential future development (based on information to be provided by the City)
2. Infrastructure needs and estimated costs (to be provided by the City)
3. Potential public and private sector partners (e.g. City, County of Fresno, other affected taxing entities, developers / property owners)
4. Disadvantaged Community census tract designation
5. Opportunity Zone census tract designation
6. Existing special district (e.g. CFD) boundaries
7. Former redevelopment agency project area overlap.

##### **Phase One Task 2: Funding and Financing Analysis**

Kosmont will prepare a funding and financing analysis, including preliminary tax increment analysis, reflecting potential future development and potential public and private sector partners. Kosmont will incorporate readily available project / planning documents (e.g. general plan, relevant specific plans, existing market studies) to determine the general types and timing of development projects that are planned within the boundaries of the potential district. The analysis will identify:

- Potential assessed value generation by future development in the district
- Property tax increment funding capacity at select annual benchmarks and cumulatively over the estimated district lifetime(s)

- Initial estimates of potential bonding capacity (to be prepared by Kosmont Transactions Services, registered Municipal Advisor)
- Complementary economic development tools and funding resources (e.g. grants, I-Bank financing, other)
- Comparison of potential revenue generation to types and cost of infrastructure needed to serve the development
- As related to potential overlap of proposed district boundaries with former redevelopment agency project areas, analysis of corresponding relevant outstanding enforceable obligations and available revenue implications.

### **Phase One Task 3: Governance and Implementation Advisory**

Kosmont will evaluate and summarize feasible governance and implementation alternatives, including district governing board composition, voting / approval procedures, supporting environmental analysis approaches, formation milestones, and estimated timing, in order to provide potential public and private sector stakeholders with an illustrative “roadmap” for implementation.

### **Phase One Task 4: City Meeting / Workshop**

Kosmont anticipates a presentation of funding and financing analysis findings to City staff and/or Council in a meeting / workshop format. Kosmont will make itself available for additional meetings on an hourly, time-and-materials basis.

## **Phase Two**

### **Phase Two Task 5: Public and Private Stakeholder Outreach**

Kosmont will be available to assist with further outreach to public and private sector entity stakeholders, potentially including, but not limited to:

- City staff and Council
- County of Fresno Administrative Office / Auditor-Controller / Treasurer / Tax Collector / Property Tax Manager
- County Board of Supervisors
- State Board of Equalization / Department of Tax and Fee Administration
- Special districts (e.g. fire district, water districts, utilities agencies)
- Major district area developers, property owners, and/or registered voters.

Kosmont will assist with outreach to public and private sector entity stakeholders, potentially including assist with preparation and presentation of EIFD/CRIA analysis materials as appropriate. Based on continued stakeholder outreach, Kosmont will refine preliminary tax increment projections and related funding and financing analysis, in order to reflect proposed participating taxing entity tax increment dedications and supplementary funding sources and financing mechanisms. Kosmont will assist with final determination of final district boundaries and governing board composition. It is expected that portions of this Task (beyond budget allocation for Fiscal Year 2019-2020) will continue into Fiscal Year 2020-2021.

### **Phase Two Task 6: Fiscal and Economic Impact Analysis**

Kosmont will evaluate primary fiscal revenues (e.g. property tax, sales tax) and fiscal expenditure (e.g. police, fire, community service costs) impacts (and resulting net fiscal impact) to the City

from district implementation over time. Kosmont will additionally highlight construction-related economic benefits and economic benefits from ongoing operation (jobs, wages, economic output). Indirect and induced impacts will be evaluated. Kosmont will additionally comment on qualitative measures, such as affordable housing, infrastructure investments, and other potential public amenity benefits to the local community.

As part of potential negotiations with the County of Fresno and/or other potential taxing entity partners (e.g. special districts), Kosmont will additionally evaluate fiscal impacts for such jurisdictions to illustrate the potential “return on investment” for those jurisdictions to consider financial participation in the special district strategy. It should be noted that such fiscal impact analysis is required by EIFD/CRIA legislation as part of district formation. It is expected that portions of this Task (beyond budget allocation for Fiscal Year 2019-2020) will continue into Fiscal Year 2020-2021.

### **Phase Three**

#### **Phase Three Task 7: Infrastructure Financing Plan (IFP) / CRIA Plan Template**

If based on Phase One and Phase Two efforts, the City (and potential taxing entity partners) determine to move forward with special district formation, Kosmont will be available to prepare an IFP / CRIA Plan document template to be populated by City staff in collaboration with Kosmont and appropriate third-party consultants (e.g. special counsel, engineering / environmental consultants). The Plan template will include a table of contents and delineated sections for required information, including, but not limited to, a legal description of district boundaries, public improvements to be implemented, location, timing, and costs of development and financial assistance, finalized tax increment projections, intention to incur debt (e.g. bonds), district termination date, taxing entity fiscal impact analysis, and replacement housing obligations. It is expected that portions of this Task (beyond budget allocation for Fiscal Year 2019-2020) will continue into Fiscal Year 2020-2021.

#### **Phase Three Task 8: Meeting / Presentation Assistance**

Kosmont will be available to assist with preparation and presentation of special district analysis and governing documentation to required public/private stakeholders, including mandated public hearings as identified in EIFD / CRIA authorizing legislation. Kosmont anticipates participating in up to three (3) public meetings as part of this task. It is expected that portions of this Task (beyond budget allocation for Fiscal Year 2019-2020) will continue into Fiscal Year 2020-2021.

## **II. SCHEDULE**

Consultant has already commenced work pursuant to the Agreement between the City and Kosmont dated June 5, 2019. A summary PowerPoint presentation characterizing findings from Phase One Tasks 1 through 3 is anticipated to be delivered by October 31, 2019. Task 4 meeting timing will be contingent upon availability of City staff / Council stakeholders.

Timing of Phase Two and Phase Three Tasks 5 through 8 are difficult to predict, given dependence on availability of required public and private stakeholders. For purposes of expectation setting, it should be noted that previous similar district formation assignments have occurred over periods of approximately 12 to 18 months following completion of a Phase One initial feasibility evaluation.

Given that the Phase One initial feasibility evaluation for Fresno is expected to be completed in October 2019, it can be expected that Phases Two and Phase Three will be completed between October 2020 and April 2021.

### III. COMPENSATION FOR FISCAL YEAR 2019-2020

Fiscal Year 2019-2020 compensation is estimated below for professional services (hourly) fees for the balance of Tasks 1 through 8 not already completed under the original Agreement between Kosmont and the City dated June 5, 2019. Consultant's billing rates are included in the original Agreement between Kosmont and the City dated June 5, 2019.

<b>Phase One Tasks</b>	<b>Estimated Budget</b>
1) Intro of Potential Tools & Evaluation of Strategic Considerations	\$3,000
2) Funding and Financing Analysis	\$12,500
3) Governance and Implementation Advisory	\$7,500
4) City Meeting / Workshop	\$6,500
<b>Estimated Total Professional Services (Hourly) Fees</b>	<b>\$29,500</b>

<b>Phase Two Tasks</b>	<b>Estimated Budget</b>
5) Public and Private Stakeholder Outreach	\$15,500
6) Fiscal and Economic Impact Analysis	\$17,500
<b>Estimated Total Professional Services (Hourly) Fees</b>	<b>\$33,000</b>

<b>Phase Three Tasks</b>	<b>Estimated Budget</b>
7) IFP / CRIA Plan Template	\$7,500
8) Meeting / Presentation Assistance	\$15,000
<b>Estimated Total Professional Services (Hourly) Fees</b>	<b>\$22,500</b>

<b>Estimated Total for Fiscal Year 2019-2020</b>	<b>\$85,000</b>
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This Scope of Services and estimated budget represents the balance of Phase One Tasks, as well as the portion of Phase Two and Phase Three Tasks that is expected to be completed in Fiscal Year 2019-2020. It is expected by Kosmont that additional implementation tasks, culminating in district formation, will likely be required in Fiscal Year 2020-2021, time and budget for which will be outlined for City consideration in advance.

Budget may be re-allocated between Phases and Tasks as may be needed to provide adequate services to Client. Budget may be increased by Client at any time.