



Placentia Enhanced Infrastructure Financing District Public Financing Authority Agenda

Special Meeting

March 31, 2021

5:00 p.m.

City Council Chambers

401 E. Chapman Avenue, Placentia, CA 92870

SPECIAL PROCEDURES NOTICE DURING COVID-19 EMERGENCY

On March 4, 2020, Governor Newsom proclaimed a State of Emergency as a result of the threat of the COVID-19 virus.

On March 17, 2020, Governor Newsom issued Executive Order N-29-20, which temporarily suspends requirements of the Brown Act allowing public meetings to be held via teleconferencing and make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the Placentia Enhanced Infrastructure Financing District Public Financing Authority.

Given the health risks associated with COVID-19, please be advised that the City Council Chambers are closed to the public. Some, or all, of the Placentia Enhanced Infrastructure Financing District Public Financing Authority Members may attend this meeting telephonically. Those locations are not listed on the agenda and are not accessible to the public.

How to Observe the Meeting

To maximize public safety while maintaining transparency and public access, all Placentia Enhanced Infrastructure Financing District Public Financing Authority meetings are available to view live on AT&T U-verse (Channel 99), Spectrum (Channel 3), and online at www.placentia.org/pctv.

How to Submit Public Comment

Written comments must be directed to: Economic Development Division, 401 E. Chapman Avenue, Placentia CA 92870, Attn: Jeannette Ortega, Assistant to the City Administrator at jortega@placentia.org. Written comments must be emailed before 4:00 p.m. on March 31, 2021. Any person with oral comments may participate virtually at <https://zoom.us/j/83760419742> or by phone at 1-669-900-6833 (Webinar ID: 837 6041 9742).

If you are unable to provide your comments in person or in writing, please contact the Economic Development Division for assistance at (714) 993-8264.

Americans with Disabilities Act Accommodation

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at cityclerk@placentia.org or by calling (714) 993-8231. Notification 48 hours prior to the meeting will generally enable City Staff to make reasonable arrangements to ensure accessibility while maintaining public safety. (28 CFR 35.102.35.104 ADA Title II).

Until further notice the City will implement the guidelines of the California Department of Public Health regarding social distancing. The City of Placentia thanks you in advance for taking all precautions to prevent the spread of the COVID-19 virus. The City will return to normal public meeting procedures as soon as the emergency has ended.



Placentia Enhanced Infrastructure Financing District Public Financing Authority Agenda

Special Meeting

March 31, 2021

5:00 p.m.

City Council Chambers

401 E. Chapman Avenue, Placentia, CA 92870

Chad Wanke
Chair

Doug Chaffee
Vice Chair

Ward Smith
Authority Member

Rosalina Davis
Authority Member

Joe Rasic
Authority Member

City of Placentia
401 E Chapman Avenue
Placentia, CA 92870

Phone: (714) 993-8124
Fax: (714) 528-4640
Website: www.placentia.org

Procedures for Addressing the Authority

Any person who wishes to speak regarding an item on the agenda or on a subject within the Placentia Enhanced Infrastructure Financing District Public Financing Authority's jurisdiction during the "Oral Communications" portion of the agenda should fill out a "Speaker Request Form" and give it to the Authority Secretary BEFORE that portion of the agenda is called. Testimony for Public Hearings will only be taken at the time of the hearing. Any person who wishes to speak on a Public Hearing item should fill out a "Speaker Request Form" and give it to the Authority Secretary BEFORE the item is called.

The Authority encourages free expression of all points of view. To allow all persons the opportunity to speak, please keep your remarks brief. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of an entire group. To encourage all views, the Authority discourages clapping, booing or shouts of approval or disagreement from the audience.

PLEASE SILENCE CELL PHONES AND OTHER ELECTRONIC EQUIPMENT WHILE THE AUTHORITY IS IN SESSION.

Special Accommodations

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (714) 993-8231. Notification 48 hours prior to the meeting will generally enable City staff to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)

Copies of all agenda materials are available for public review in the Office of the City Clerk, Placentia Library Reference Desk and the internet at www.placentia.org/eifd under the Enhanced Infrastructure Financing District page. Persons who have questions concerning any agenda item may call the Economic Development Division at (714) 993-8264 to make inquiry concerning the nature of the item described on the agenda.

In compliance California Government Code Section 54957.5, any writings or documents provided to a majority of the Public Financing Authority regarding any item on this agenda that are not exempt from disclosure under the Public Records Act will be made available for public inspection at the City Clerk's Office at City Hall, 401 East Chapman Avenue, Placentia, during normal business hours.

Study Sessions are open to the public and held in the City Council Chambers.

SPECIAL MEETING
5:00 p.m. – City Council Chambers

CALL TO ORDER:

ROLL CALL: Authority Member Davis
Authority Member Rasic
Authority Member Smith
Vice Chair Chaffee
Chair Wanke

PLEDGE OF ALLEGIANCE: Vice Chair Chaffee

ORAL COMMUNICATIONS:

At this time the public may address the Public Financing Authority concerning any agenda item, which is not a public hearing item, or on matters within the jurisdiction of the Public Financing Authority. There is a five (5) minute time limit for each individual addressing the Public Financing Authority.

CONSENT CALENDAR: None

REGULAR AGENDA:

1. **Special Meeting to Establish a Regular Meeting Schedule for the Public Financing Authority of the Placentia Enhanced Infrastructure Financing District, to Authorize Preparation of an Annual Report, and to Discuss Potential Judicial Validation Action**

Recommended Actions: It is recommended that the Public Financing Authority take the following actions:

1. Adopt Resolution No. EIFD PFA-2021-02 establishing regular meeting dates, times, and locations; and
2. Authorize Kosmont Companies to prepare the EIFD Annual Report for review at the next regular meeting; and
3. Direct staff to prepare documents to proceed with the Judicial Validation action to be approved in conjunction with the second reading of the ordinance and authorize Nixon Peabody LLP and Jones & Mayer to serve as special counsel in connection with the Judicial Validation.

PUBLIC HEARING: None

NEW BUSINESS: **None**

OLD BUSINESS: **None**

PUBLIC FINANCING AUTHORITY REQUESTS

Authority members may make requests or ask questions of Staff. If an Authority member would like to have formal action taken on a requested matter, it will be placed on a future Authority Agenda.

ADJOURNMENT

The Placentia Enhanced Infrastructure Financing District Public Financing Authority will adjourn to a regular Authority meeting on Wednesday, May 12, 2021 at 5:00 p.m.

CERTIFICATION OF POSTING

I, Jeannette Ortega, Secretary to the Public Financing Authority of the City of Placentia, hereby certify that the Agenda for the March 31, 2021 Regular Meeting of the Public Financing Authority of the City of Placentia was posted on March 25, 2021.



Jeannette Ortega, Secretary



Public Financing Authority of the Placentia Enhanced Infrastructure Financing District **AGENDA REPORT**

TO: PUBLIC FINANCING AUTHORITY OF THE PLACENTIA ENHANCED
INFRASTRUCTURE FINANCING DISTRICT

VIA: CITY ADMINISTRATOR

FROM: DIRECTOR OF DEVELOPMENT SERVICES

DATE: March 31, 2021

SUBJECT: **SPECIAL MEETING TO ESTABLISH A REGULAR MEETING SCHEDULE FOR
THE PUBLIC FINANCING AUTHORITY OF THE PLACENTIA ENHANCED
INFRASTRUCTURE FINANCING DISTRICT, TO AUTHORIZE PREPARATION
OF AN ANNUAL REPORT, AND TO DISCUSS POTENTIAL JUDICIAL
VALIDATION ACTION**

FISCAL
IMPACT: \$4,500 for Annual Report Preparation and \$25,000 for Judicial Validation

SUMMARY:

The Placentia Enhanced Infrastructure Financing District ("Placentia EIFD") is being formed as a partnership between the City of Placentia and the County of Orange. The Placentia EIFD is being established as a means to fund critical infrastructure of communitywide and regional significance with a focus on the Old Town Placentia Revitalization Plan area, by providing a means to capture property tax increment revenue ("TI") generated by new development within the district. The City and County formed the Public Financing Authority of the Placentia Enhanced Infrastructure Financing District ("PFA") to act as the governing body of the Placentia EIFD in accordance with EIFD statutes.

On January 1, 2020, California EIFD legislation was revised to incorporate Assembly Bill 116 ("AB 116"), which modified both the process by which EIFDs are formed and the requirements to achieve approval to issue debt secured by EIFD revenues. Pursuant to the revised EIFD statute, the PFA conducted a series of public meetings and hearings from August 2020 through January 2021. On January 6, 2021, a majority protest opportunity was conducted during the final public hearing as required, and no protests were filed. An ordinance was then introduced to culminate the Infrastructure Financing Plan ("IFP") approval and EIFD formation process.

The second reading of the ordinance introduced on January 6, 2021 is required to occur at a "regular meeting" of the PFA. For this reason, among others, it is recommended that the PFA establish a regular meeting schedule.

A regular meeting schedule will additionally facilitate the annual EIFD reporting process required by EIFD statute. The PFA is required to review the IFP at least annually and make any

amendments that are necessary and appropriate. The PFA is required to adopt an annual report (“Annual Report”) on or before June 30 of each year after holding a public hearing to present the report. The report shall contain information on the projects undertaken by the EIFD, revenues and expenditures of the EIFD, and other related information. If the PFA fails to adopt the Annual Report, the PFA may not authorize expenditure of any EIFD funds until the PFA has adopted the report. A notice must be mailed advising residents and property owners within the EIFD of the availability of the draft report. The Annual Report will be available for public inspection on the EIFD website at www.placentia.org/EIFD and on file in the office of the City Clerk located at 401 East Chapman Avenue, Placentia, California. Consulting firm Kosmont Companies has submitted a proposal to complete and present the Annual Report for consideration by the PFA at its first regular meeting (targeting May 2021).

Lastly, under EIFD law, the authority for the City and County to transfer property tax increment to the EIFD on an ongoing basis is statutory, not constitutional. A challenge could be made that such transfers amount to a “debt” and are therefore unconstitutional as the California Constitution requires “debt” to be approved by 2/3 of the voters. In order to issue bonds, investors require an “unqualified legal opinion” from a law firm recognized as an expert in such matters that the bonds are valid and legally binding obligations. Under current circumstances, such legal opinion would contain a qualification that the outcome of any challenge to the constitutionality of the transfer of tax increment would be uncertain. Bond counsel, staff, and the finance team are recommending that the PFA “validate” the authority of the City and County to make transfers of tax increment to the EIFD. Validation would enable the issuance of such unqualified legal opinion and clear the way for a variety of financing approaches, to be discussed in the future. A validation action must be brought to Superior Court within 60 days of the adoption by the PFA of the EIFD approval ordinance proposed for adoption at a future meeting (targeting May 2021).

The validation proceedings require a 7-step sequential process (assuming default judgement), which can take approximately 90 days or more. The process and estimated timeline are outlined below:

1. File Validation Action with Orange County Superior Court
2. Receive Order for Publication of Summons from the Court – 1-2 weeks
3. Publication in the local newspaper once a week for 3 successive weeks
4. Waiting period to file petition – minimum of 10 days, typically 2-3 weeks
5. Court Clerk enters hearing for a default judgement, schedules a hearing 15 days
6. Hearing for default judgement
7. 30-day Appeal Period

RECOMMENDATION:

It is recommended that the PFA take the following actions:

1. Adopt Resolution No. EIFD PFA-2021-02 establishing regular meeting dates, times, and locations; and

2. Authorize Kosmont Companies to prepare the EIFD Annual Report for review at the next regular meeting; and
3. Direct staff to prepare documents to proceed with the Judicial Validation action to be approved in conjunction with the second reading of the ordinance and authorize Nixon Peabody LLP and Jones & Mayer to serve as special counsel in connection with the Judicial Validation.

FISCAL IMPACT:

The fiscal impact includes \$4,500 for Kosmont Companies' Annual Report Preparation and Public Hearing Presentation and \$25,000 for Nixon Peabody LLP and Jones & Mayer for the Judicial Validation. These expenses are payable from EIFD tax increment funding.

Prepared by:

Reviewed and approved:



Jeannette Ortega
Assistant to the City Administrator/
Economic Development Manager



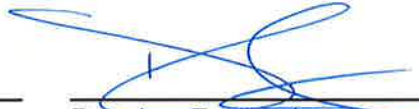
Joseph M. Lambert
Director of Development Services

Reviewed and approved:

Reviewed and approved:



Jessica Brown
Director of Finance



Damien R. Arrula
City Administrator

Attachments:

1. Resolution No. EIFD PFA-2021-02
2. Kosmont Companies' Proposal for Annual Report Preparation and Public Hearing Presentation
3. Nixon Peabody's Proposal for Judicial Validation

RESOLUTION NO. EIFD PFA-2021-02

A RESOLUTION OF THE PUBLIC FINANCING AUTHORITY OF THE PLACENTIA ENHANCED INFRASTRUCTURE FINANCING DISTRICT ESTABLISHING REGULAR MEETING DATES, TIMES AND LOCATIONS

A. Recitals

(i). Pursuant to Chapter 2.99 of Part 1 of Division 2 of Title 5 of the California Government Code (commencing with Section 53398.50) (the "EIFD Law"), the City Council of the City of Placentia formed a Public Financing Authority (the "Authority"); and

(ii). The Authority has prepared an Infrastructure Financing Plan; and

(iii). The Authority now desires to establish and set a schedule and location for regular meetings of the Authority to conduct the business of the Authority and implement the Infrastructure Financing Plan; and

(iv). The Authority, pursuant to this Resolution, shall set aside a time period for closed session before or after the open session portion of each regular meeting.

B. Resolution

NOW, THEREFORE, BE IT RESOLVED that the PUBLIC FINANCING AUTHORITY FOR THE PLACENTIA ENHANCED INFRASTRUCTURE FINANCING DISTRICT does hereby resolve as follows:

1. Setting of Regular Meeting Time of the Authority. The Authority hereby establishes 5:00 p.m. as the regular meeting time for each regular meeting. Closed sessions may be held between one hour before the regular meeting time, or one hour after the regular meeting is adjourned. No closed session of the regular meeting will be held during those time periods unless the posted agenda of the regular meeting indicates that such closed session will take place at a particular time in that time period. In the absence of such notification on the agenda, the open session portion of the regular meeting shall commence at 5:00 p.m.

2. Regular Meeting Dates and Location Established for the Authority. The Authority hereby establishes and sets the second Wednesday in the month of May each calendar year as the regular meeting of the Authority, said meetings to be held at 401 E. Chapman Avenue, Placentia, CA - City Council Chambers.

3. Special Meetings to be Called as Necessary. The Authority may call special meetings to conduct the business of the Authority from time to time and as necessary pursuant to California law.

4. Modifications to Meeting Schedule. With proper notice during the year, meetings may be cancelled, rescheduled, or added as necessary pursuant to California law.

5. Effective Date. This Resolution shall become effective upon adoption.

6. Certification. The Chairperson shall sign and the Authority Secretary shall certify to the passage and adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 31st day of March 2021.

Chad P. Wanke, Chairman

ATTEST:

Robert S. McKinnell, Secretary

STATE OF CALIFORNIA
COUNTY OF ORANGE

I, Robert S. McKinnell, Secretary of the Public Financing Authority for the Placentia Enhanced Infrastructure Financing District, do hereby certify that the foregoing Resolution was adopted at a special meeting of the Members of the Public Financing Authority for the Placentia Enhanced Infrastructure District, held on the 31st day of March 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Robert S. McKinnell, Secretary

APPROVED AS TO FORM:

Christian L. Bettenhausen, Authority Counsel



February 23, 2021

Placentia Enhanced Infrastructure Financing District
Public Financing Authority

c/o Damien Arrula
City Administrator
City of Placentia
401 E. Chapman Avenue
Placentia, CA 92870

Cc: Susanne Luster
Public Finance Director
County of Orange
333 W. Santa Ana Blvd., 3rd Floor
Santa Ana, CA 92701-4062

Re: Proposal for Enhanced Infrastructure Financing District (“EIFD”) Annual Reporting Services

Dear Mr. Arrula,

Kosmont & Associates, Inc. doing business as Kosmont Companies (“Consultant” or “Kosmont”) is pleased to present this proposal to the Public Financing Authority (“PFA” or “Client”) of the Placentia Enhanced Infrastructure Financing District (“Placentia EIFD”) for annual reporting services. This proposal serves as an Agreement when executed and returned by Client to Kosmont.

I. BACKGROUND AND OBJECTIVE

The Placentia EIFD and its Infrastructure Financing Plan (“IFP”) were originally reviewed and approved by the PFA, the City of Placentia (“City”) City Council, and the County of Orange (“County”) Board of Supervisors under the original guidelines in 2019 as the first City/County EIFD in the state. In 2021, the EIFD and its IFP were “re-approved” pursuant to current (post Assembly Bill 116) statutory guidelines.

Pursuant to current EIFD statute, the PFA is required to adopt an Annual Report on or before June 30 of each year after holding a public hearing. Written copies of the draft Report shall be made available to the public 30 days before the public hearing. The PFA shall cause the draft Report to be posted in an easily identifiable and accessible location on the EIFD’s internet website and shall mail a written notice of the availability of the draft Report on the internet website to each owner of land and each resident within the area

ATTACHMENT 2

covered by the EIFD and to each taxing entity that has adopted a resolution pursuant to Government Code Section 53398.68.

Kosmont proposes the following Scope of Services accordingly to assist with annual reporting requirements.

II. SCOPE OF SERVICES

Approach to Scope of Services: The prospective assignment and consulting services that Kosmont will provide will be of a relatively limited scope and duration, and advisory in nature. Kosmont will be making recommendations only, which advise the Client, including its elected officials, appointed officials and staff, which they can accept or reject. None of Kosmont's staff will act in a capacity as an elected official, nor appointed official, nor as staff, nor as serving in a "designated" position.

Task 1: Annual Report

Kosmont will prepare the required Annual Report pursuant to Government Code Section 53398.66(j), including the following information:

1. A description of the projects undertaken in the fiscal year, including any rehabilitation of structures, and a comparison of the progress expected to be made on those projects compared to actual progress.
2. A chart comparing the actual revenues and expenses, including administrative costs, of the public financing authority to the budgeted revenues and expenses.
3. The amount of tax increment revenues received.
4. An assessment of the status regarding completion of the EIFD's projects.
5. The amount of revenues expended to assist private businesses.

Kosmont will additionally assist Client staff with preparation of the requirement meeting notice announcing the location of the draft Annual Report for public review. Client will be responsible for compilation of the list of recipients of the required meeting notice and the actual distribution of said notice.

Task 2: PFA Presentation

Kosmont will assist with the preparation and presentation of the Annual Report at a public hearing of the PFA. Kosmont will additionally assist staff with review/preparation of the corresponding staff report and resolution.

III. SCHEDULE AND REQUIRED DATA

Consultant is prepared to commence work upon receipt of executed Agreement. Client will provide or assist Consultant with obtaining the most recent property tax increment apportionment accounting from the office of the local County Auditor-Controller.

Delivery of a draft Annual Report is anticipated within four (4) weeks of receipt of executed Agreement and property tax increment apportionment accounting from the office of the local County Auditor-Controller.

IV. COMPENSATION

Compensation for Tasks 1 and 2 is estimated below for professional services (hourly) fees at Consultant's billing rates as shown on Attachment A.

Tasks	Estimated Budget
1) Annual Report	\$3,000
2) PFA Presentation	\$1,500
Estimated Total Professional Services (Hourly) Fees	\$4,500

Budget may be re-allocated between Tasks as may be needed to provide adequate services to Client. Future increases in budget will require approval by Client in advance. Budget may be increased by Client at any time.

Consultant anticipates a single consolidated round of Client comments and revisions on draft work product before Kosmont provides a final version of work product. If necessary, additional rounds of comments and revisions can be accommodated on an hourly basis.

Consultant's attendance or participation at any **publicly noticed** meeting, whether such participation is in person, digital, video and/or telephonic (e.g., *City Council, Planning Commission, Public Agency Board, other*), as requested by Client in addition to Task 2 Public Hearing is in addition to compensation for Tasks 1 and 2 and will be billed at the professional services (hourly) fees as shown on Attachment A.

Services will be invoiced monthly at Consultant's standard billing rates, as shown on Attachment A. In addition to professional services (hourly) fees, invoices will include reimbursement for out-of-pocket expenses such as travel and mileage (provided that there shall be no overnight travel without the Client's prior approval and that mileage shall be reimbursed at the current IRS mileage reimbursement rate), professional printing, conference calls, and delivery charges for messenger and overnight packages at actual cost. Unless otherwise agreed to in advance, out-of-area travel, if any, requires advance funding of flights and hotel accommodations.

Consultant will also include in each invoice an administrative services fee to cover in-house copy, fax, telephone and postage costs equal to four percent (4.0%) of Consultant's monthly professional service fees incurred. Any unpaid invoices after 30 days shall accrue interest at the rate of 10% per annum.

For the convenience of Kosmont's clients, we offer a secure credit card payment service. The credit card payment link is: <https://kosmont.paidyet.com> and there are two ways to make a secure credit card payment:

1. Fill in the "**Make a Payment**" form when you go to the link (<https://kosmont.paidyet.com>), or
2. Call Kosmont Companies' accounting desk (Ms. Charo Martinez; (424) 297-1072) to make a credit card payment

Consultant is prepared to commence work upon receipt of executed Agreement.

DISCLOSURE: Compensation for possible future transaction-based services or brokerage services.

The following is being provided solely as an advance disclosure of possible real estate brokerage and finance services and potential compensation for such services. This disclosure is not intended to commit the Client.

When assignments involve real estate/property brokerage services, such transaction-based services are typically provided by Kosmont Real Estate Services, Inc. dba Kosmont Realty ("KR") is licensed by the State of California Department of Real Estate (License# 02058445). Compensation to KR is typically paid through commissions for property sale transactions, lease transactions and success/broker fees. KR also provides Broker Opinions of Value ("BOV") services on a fixed fee basis.

When assignments involve public finance services on behalf of a public agency, such municipal advisory services are provided by Kosmont Transactions Services, Inc. ("KTS"). KTS is registered with the Securities and Exchange Commission (CIK# 0001769359) and the Municipal Securities Rulemaking Board as a Municipal Advisor (ID# K1256).

SEC registration does not constitute an endorsement of the firm by the Commission or state securities regulators.

V. OTHER PROVISIONS

A. Termination. Client or Consultant shall have the right to terminate this Agreement at any time upon written notification to the other party. Payment for fees accrued through the date of termination shall be remitted in full.

B. Arbitration. Any controversy or claim arising out of or in relation to this Agreement, or the making, performance, interpretation or breach thereof, shall be settled by arbitration at JAMS in Los Angeles, California. Each of the parties to such arbitration proceeding shall be entitled to take up to five depositions with document requests. The provisions of Section 1283.05 (except subdivision (e) thereof) of the California Code of Civil Procedure are incorporated by reference herein, except to the extent they conflict with this Agreement, in which case this Agreement is controlling. If the matter is heard by only one arbitrator, such arbitrator shall be a member of the State Bar of California or a retired judge. If the matter is heard by an arbitration panel, at least one member of such panel

shall be a member of the State Bar of California or a retired judge. The arbitrator or arbitrators shall decide all questions of law, and all mixed questions of law and fact, in accordance with the substantive law of the State of California to the end that all rights and defenses which either party may have asserted in a court of competent jurisdiction shall be fully available to such party in the arbitration proceeding contemplated hereby. The arbitrator and arbitrators shall set forth and deliver their findings of fact and conclusions of law with the delivery of the arbitration award. Judgment upon the award rendered shall be final and non-appealable and may be entered in any court having jurisdiction.

C. Attorneys' Fees. In the event of any legal action, arbitration, or proceeding arising out of an alleged breach of this Agreement, the party prevailing in such legal action, arbitration, or proceeding shall be entitled to recover reasonable attorneys' fees, expenses and costs, as well as all actual attorneys' fees, expenses and cost incurred in enforcing any judgment entered.

D. Authority. Each of the parties executing this Agreement warrants that persons duly authorized to bind each such party to its terms execute this Agreement.

E. Further Actions. The parties agree to execute such additional documents and take such further actions as may be necessary to carry out the provisions and intent of this Agreement.

F. Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be assigned by either party without the prior written consent of the other party.

G. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

H. Entire Agreement; Amendments and Waivers. This Agreement contains the entire agreement between the parties relating to the transactions contemplated hereby and any and all prior discussions, negotiations, commitments and understanding, whether written or oral, related hereto are superseded hereby. No addition or modification of any term or provision of this Agreement shall be effective unless set forth in writing signed by both parties. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver of such provisions unless otherwise expressly provided. Each party to this Agreement has participated in its drafting and, therefore, ambiguities in this Agreement will not be construed against any party to this Agreement.

I. Severability. If any term or provision of this Agreement shall be deemed invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and in force to the fullest extent permitted by law.

J. Notices. All notices, requests, demands and other communications which may be required under this Agreement shall be in writing and shall be deemed to have been received when transmitted; if personally delivered, if transmitted by telecopier, electronic

or digital transmission method, upon transmission; if sent by next day delivery to a domestic address by a recognized overnight delivery service (e.g., Federal Express), the day after it is sent; and if sent by certified or registered mail, return receipt requested, upon receipt. In each case, notice shall be sent to the principal place of business of the respective party. Either party may change its address by giving written notice thereof to the other in accordance with the provisions of this paragraph.

K. Titles and Captions. Titles and captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision herein.

L. Governing Law. The statutory, administrative and judicial law of the State of California (without reference to choice of law provisions of California law) shall govern the execution and performance of this Agreement.

M. Confidentiality. Each of the parties agrees not to disclose this Agreement or any information concerning this Agreement to any persons or entities, other than to their attorneys and accountants, or as otherwise may be required by law.

N. Counterparts. This Agreement may be executed in one or more counterparts, each of which constitutes an original, and all of which together constitute one and the same instrument. The signature of any person on a telecopy of this Agreement, or any notice, action or consent taken pursuant to this Agreement shall have the same full force and effect as such person's original signature.

O. Disclaimer. Consultant's financial analysis activities and work product, which may include but is not limited to pro forma analysis and tax projections, are projections only. Actual results may differ materially from those expressed in the analysis performed by Consultant due to the integrity of data received, market conditions, economic events and conditions, and a variety of factors that could materially affect the data and conclusions. Client's reliance on Consultant's analysis must consider the foregoing.

Consultant services outlined and described herein are advisory services only. Any decisions or actions taken or not taken by Client and affiliates, are deemed to be based on Client's understanding and by execution of this Agreement, acknowledgement that Consultant's services are advisory only and as such, cannot be relied on as to the results, performance and conclusions of any investment or project that Client may or may not undertake as related to the services provided including any verbal or written communications by and between the Client and Consultant.

Client acknowledges that Consultant's use of work product is limited to the purposes contemplated within this Agreement. Consultant makes no representation of the work product's application to, or suitability for use in, circumstances not contemplated by the scope of work under this Agreement.

P. Limitation of Damages. In the event Consultant is found liable for any violation of duty, whether in tort or in contract, damages shall be limited to the amount Consultant has received from Client.

Q. Force Majeure. Consultant shall not be liable for failure or delay in performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by significant circumstances beyond its reasonable control, including, without limitation: epidemic; acts of God; earthquakes; fires; floods; wars; civil or military disturbances; acts of terrorism; sabotage; strikes; riots; wide-spread power failures and wide-spread internet failure. Contractual performance and deadline(s) shall be extended for a period equal to the time lost by reason of the delay.

R. Expiration of Proposal for Services. If this Agreement is not fully executed by the parties within thirty (30) days from the date of this letter, this proposal shall expire.

S. Not an agreement for Legal Services or Legal Advice. This Agreement does not constitute an agreement for the performance of legal services or the provision of legal advice, or legal opinion. Client should seek independent legal counsel on matters for which Client is seeking legal advice.

[signature page follows]

VI. ACCEPTANCE AND AUTHORIZATION

If this Agreement is acceptable to Client, please execute two copies of the Agreement and return both originals to Kosmont Companies. Upon receipt of both signed contracts, we will return one fully executed original for your files. Kosmont will commence work upon receipt of executed Agreement.

Read, understood, and agreed to this

____ Day of _____ 2021

**Placentia Enhanced Infrastructure
Financing District Public Financing
Authority**

Kosmont & Associates, Inc.
doing business as "Kosmont Companies"

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Print Name)

Name: Ken K. Hira

Its: _____
(Title)

Its: President

ATTACHMENT A

Kosmont Companies 2021 Public Agency Fee Schedule

Professional Services

Chairman & CEO	\$375.00/hour
President	\$345.00/hour
Senior Vice President/Senior Advisor	\$305.00/hour
Vice President	\$210.00/hour
Senior Project Analyst	\$195.00/hour
Project Analyst/Project Research	\$165.00/hour
Assistant Project Analyst/Assistant Project Manager	\$125.00/hour
Project Promotion/Graphics/GIS Mapping Services	\$ 95.00/hour
Clerical Support	\$ 70.00/hour

• Additional Expenses

In addition to professional services (labor fees):

- 1) An **administrative fee** for in-house copy, fax, phone, postage costs, digital/technological support and related administrative expenses will be charged, which will be computed at four percent (4.0 %) of monthly Kosmont Companies professional service fees incurred; **plus**
- 2) **Out-of-pocket expenditures**, such as travel and mileage, professional printing, and delivery charges for messenger and overnight packages will be charged at cost.
- 3) If Kosmont retains **Third Party Vendor(s)** for Client (with Client's advance approval), fees and cost will be billed to Client at 1.1X (times) fees and costs.
- 4) Consultant's **attendance or participation at any public meeting**, whether such participation is in person, digital, video and/or telephonic (*e.g., City Council, Planning Commission, Public Agency Board, other*) requested by Client and are beyond those specifically identified in the Scope of Work will be billed at the professional services (hourly) fees as shown on this Attachment A.

• Charges for Court/Deposition/Expert Witness-Related Appearances

Court-related (non-preparation) activities, such as court appearances, depositions, mediation, arbitration, dispute resolution and other expert witness activities, will be charged at a court rate of 1.5 times scheduled rates, with a 4-hour minimum.

Rates shall remain in effect until June 30, 2021.

FEE PROPOSAL TO THE CITY OF PLACENTIA TO PROVIDE SPECIAL COUNSEL SERVICES

Nixon Peabody LLP

March 23, 2021

Contact:

Danny Kim

Partner

300 South Grand Avenue

Suite 4100

Los Angeles, CA 90071-3151





Danny Kim
Partner
T 213-629-6077
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Nixon Peabody LLP
300 South Grand Avenue, Suite 4100
Los Angeles, CA 90071-3151
213-629-6000

Via Email

March 23, 2021

Robert Torrez
Jessica Brown
City of Placentia

RE: Placentia EIFD

Dear Placentia Team:

On behalf of Nixon Peabody LLP, I would like to express our appreciation for the opportunity to submit our written proposal to serve as special counsel in connection with the judicial validation relating to the Placentia EIFD.

I would provide my services in coordination with attorneys at Jones & Mayer.

Fee Proposal. We propose a fee of \$25,000, which would be allocated amongst Nixon Peabody LLP and Jones & Mayer based on our respective contributions.

This quote assumes that the validation action is not contested. If the validation action is contested and the City determines to abandon the validation action, we would be expected to receive a fee of \$10,000.

Thank you for this opportunity to present our fee proposal.

Sincerely,

A handwritten signature in blue ink, appearing to read "Danny Kim".

Danny Kim
Partner

Agreed and accepted:

City of Placentia

City Administrator