

**AGREEMENT TO FURNISH PROFESSIONAL CONSULTING SERVICES
ASSOCIATED WITH THE CITY OF REDLANDS' NEW SAFETY HALL PROJECT**

This agreement for the provision of professional consulting services associated with the City of Redlands' new Safety Hall Project ("Agreement") is made and entered into this 20th day of December 2011, by and between the City of Redlands, a municipal corporation ("City") and Kosmont & Associates, Inc. doing business as Kosmont Companies ("Consultant"). City and Consultant are sometimes individually referred to herein as a "Party" and, together, as the "Parties."

In consideration of the mutual promises contained herein, City and Consultant agree as follows:

ARTICLE 1 - ENGAGEMENT OF CONSULTANT

- 1.1 City hereby engages Consultant to perform specific professional consulting services relating to Redlands' Safety Hall ("the Services") which are more specifically identified in Exhibit "A," which is attached hereto and incorporated herein by this reference
- 1.2 The Services shall be performed by Consultant in a professional manner, and Consultant represents that it has the skill and the professional expertise necessary to provide the Services to City at a level of competency presently maintained by other practicing professional consultants in the industry providing like and similar types of Services.
- 1.3 Consultant shall comply with all applicable Federal, State and local laws and regulations in the performance of its obligations under this Agreement including, but not limited to, the Americans with Disabilities Act and the Fair Employment and Housing Act.

ARTICLE 2 - RESPONSIBILITIES OF CITY

- 2.1 City shall make available to Consultant public information in its possession that may assist Consultant in performing the Services. City shall also provide reasonable access to City facilities, as required by Consultant to perform its Services.

ARTICLE 3 - PAYMENT AND NOTICE

- 3.1 The total compensation for Consultant's performance of the Services shall not exceed One Hundred and Sixty Thousand Dollars (\$160,000). City shall pay Consultant on a time and material basis at the rates described in Exhibits "B."
- 3.2 Consultant shall submit monthly invoices to City describing the work performed during the preceding month. Consultant's invoices shall include a brief description of the Services performed, the dates the Services were performed, the number of hours spent and by whom, and a description of reimbursable expenses, if any. City shall pay Consultant no later than thirty (30) days after receipt and approval by City of

Consultant's invoice, provided the Services reflected in the invoice were performed to the reasonable satisfaction of City in accordance with the terms of this Agreement.

- 3.3 All notices shall be given in writing by personal delivery or by mail. Notices, sent by mail should be addressed as follows:

City: N. Enrique Martinez
City Manager
City of Redlands
P.O. Box 3005
Redlands, CA 92373

Consultant: Larry Kosmont
Kosmont & Associates, Inc.
dba Kosmont Companies
865 South Figueroa Street
35th Floor
Los Angeles, CA 90017

When so addressed, such notices shall be deemed given upon deposit in the United States Mail. Changes may be made in the names and addresses of the person to who notices and payments are to be given by giving notice pursuant to this section.

ARTICLE 4 - PERFORMANCE OF SERVICES

- 4.1 Consultant shall perform the Services in a prompt and diligent manner and in accordance with the schedule set forth in Exhibit "A."

ARTICLE 5 - INSURANCE AND INDEMNIFICATION

- 5.1 Insurance, Generally. All insurance required by this Agreement shall be maintained by Consultant for the duration of its performance of the Services. Consultant shall not perform any Services unless and until all required insurance listed below is obtained by Consultant. Consultant shall provide City with certificates of insurance and endorsements evidencing such insurance prior to commencement of the Services.
- 5.2 Workers' Compensation and Employer's Liability. Consultant shall secure and maintain Workers' Compensation and Employer's Liability insurance throughout the duration of this Agreement in accordance with the laws of the State of California, with an insurance carrier acceptable to City.
- 5.3 Hold Harmless and Indemnification. Consultant shall defend, indemnify and hold harmless City and its elected officials, employees and agents from and against any and all claims, losses or liability, including attorneys' fees, arising from injury or death to persons or damage to property occasioned by Consultant's and its officers', employees' and agents' sole negligent acts or sole negligent omissions in performing the Services.

- 5.4 **Comprehensive General Liability Insurance.** Consultant shall secure and maintain in force throughout the term of this Agreement comprehensive general liability insurance with carriers acceptable to City. Minimum coverage of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate for public liability, property damage and personal injury is required. City shall be named as an additional insured. Such insurance shall be primary and non-contributing to any insurance or self-insurance maintained by City.
- 5.5 **Professional Liability Insurance.** Consultant shall secure and maintain professional liability insurance throughout the term of this Agreement in the amount of One Million Dollars (\$1,000,000) per claim made.
- 5.6 **Business Auto Liability Insurance.** Consultant shall secure and maintain business auto liability coverage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit for bodily injury liability and property damage liability throughout the term of this Agreement. This coverage shall include all Consultant owned vehicles used in connection with Consultant's provision of the Services, hired and non-owned vehicles, and employee non-ownership vehicles. Such insurance shall be primary and non-contributing to any insurance or self insurance maintained by City. City shall be named as an additional insured.

ARTICLE 6 - CONFLICTS OF INTEREST

- 6.1 **Consultant** covenants and represents that it does not have any investment or interest in any real property within the City of Redlands which would be affected in any manner or degree by the performance of Consultant's Services. Consultant further covenants and represents that in the performance of its duties hereunder, no person having any such interest shall perform any Services under this Agreement.
- 6.2 **Consultant** agrees it is not a designated employee within the meaning of the Political Reform Act because Consultant:
- A. Does not make or participate in:
- (i) the making or any governmental decisions regarding approval of a rate, rule or regulation, or the adoption or enforcement of laws;
 - (ii) the issuance, denial, suspension or revocation of permits, licenses, applications, certifications, approvals, orders or similar authorizations or entitlements;
 - (iii) authorizing City to enter into, modify or renew a contract;
 - (iv) granting City approval to a contract that requires City approval and to which City is a party, or to the specifications for such a contract;

- (v) granting City approval to a plan, design, report, study or similar item;
- (vi) Adopting, or granting City approval of, policies, standards or guidelines for City or for any subdivision thereof.

B. Does not serve in a staff capacity with City and in that capacity participate in making a governmental decision or otherwise perform the same or substantially all the same duties for City that would otherwise be performed by an individual holding a position specified in City's Conflict of Interest Code under Government Code section 87302.

- 6.3 In the event City officially determines that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Consultant shall file the Form 700 with the City Clerk's office pursuant to the written instructions provided by the City Clerk.

ARTICLE 7 - GENERAL CONSIDERATIONS

- 7.1 In the event any action is commenced to enforce or interpret any of the terms or conditions of this Agreement the prevailing Party shall, in addition to any costs and other relief, be entitled to the recovery of its reasonable attorneys' fees, including fees for use of in-house counsel by a Party
- 7.2 Consultant shall not assign any of the Services to be performed under this Agreement, except with the prior written approval of City and in strict compliance with the terms, provisions and conditions of this Agreement.
- 7.3 All documents, records, drawings, designs, cost estimates, electronic data files, databases, and other documents developed by Consultant pursuant to this Agreement, and any copyright interest in such documents, shall become the property of City and shall be delivered to City upon completion of the Services, or upon the request of City. Any reuse of such documents and any use of incomplete documents will be at City's sole risk.
- 7.4 Consultant is for all purposes an independent contractor. Consultant shall supply all tools and instrumentalities required to perform the Services. All personnel employed by Consultant are for its account only, and in no event shall Consultant or any personnel retained by it be deemed to have been employed by City or engaged by City for the account of, or on behalf of City.
- 7.5 This Agreement may be terminated by either Party, in its sole discretion and without cause, by providing ten (10) business days' prior written notice to the other Party (delivered by certified mail, return receipt requested) of intent to terminate.
- 7.6 If this Agreement is terminated by City, an adjustment to Consultant's compensation shall be made, but (1) no amount shall be allowed for anticipated profit or unperformed

services, and (2) any payment due Consultant at the time of termination may be adjusted to the extent of any additional costs to City occasioned by any default by Consultant.

- 7.7 Upon receipt of a termination notice, Consultant shall immediately discontinue all services affected, and within five (5) business days of the date of the termination notice, deliver or otherwise make available to City, copies (in both hard copy and electronic form, where applicable) of any data, reports, estimates, summaries and such other information and materials as may have been accumulated by Consultant in performing the Services required by this Agreement. Consultant shall be compensated on a pro-rata basis for work completed up until notice of termination.
- 7.8 This Agreement represents the entire agreement and understanding between the Parties as to the matters contained herein, and any prior negotiations, written proposals or verbal agreements relating to such matters are superseded by this Agreement. Any amendment to this Agreement shall be in writing, approved by City and signed by City and Consultant.
- 7.9 This Agreement shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, duly authorized representatives of the City and Consultant have signed in confirmation of this Agreement.

CITY OF REDLANDS

By: Pete Aguilar
Pete Aguilar, Mayor

KOSMONT & ASSOCIATES, INC.
dba KOSMONT COMPANIES

By: Larry Kosmont
Larry Kosmont, President & CEO

Attest:

Sam Irwin
Sam Irwin, City Clerk

Redlands Safety Hall Phase 1 Part D
Professional Services Agreement - Exhibit A

December 6, 2011 (Updated from Original Scope of Work dated January 26, 2010)

**REDLANDS SAFETY HALL
SCOPE OF WORK – PHASE I – PART D**

Kosmont & Associates, Inc. doing business as Kosmont Companies ("Consultant" or "Kosmont") is pleased to present this Scope of Services to the City of Redlands ("Client" or "City") in connection with Phase 1 Part D of the Redlands Public Safety Hall Project ("Project"). The Consultant Team includes Roth Sheppard Architects ("Roth Sheppard") and Newport Real Estate Services, Inc. ("NRES").

The Kosmont Team recognizes the challenges that City leaders will encounter in a public discussion by and among Redlands' voters regarding the need for and cost of a new Public Safety facility, particularly as related to supporting any form of additional taxation. The Kosmont Team supports the City's efforts to demonstrate project demand and various funding solutions on a transparent and comprehensive basis. This approach, which has been utilized during every phase of the project, will be particularly necessary to gain the confidence of the City's constituents if and when the Safety Hall facility financing program is placed before them for their consent. In accordance with the objective of identifying efficient and cost sensitive solutions, the Kosmont Team's efforts during this Part D Phase will include:

- Complete a more detailed baseline analysis of Police and Fire Department requirements to confirm, on a more precise basis than prior analyses, the size and scope of each component of the Project
- Ensure that the latest trends in shared-use facilities with other agencies are evaluated and applied if meritorious
- Assist the Police Department in quantifying potential operating cost savings, such as reception staff reduction or reallocation
- In conjunction with cost verification processes (Task 2), analyze potential design and construction cost-saving measures
- As possible, quantify intrinsic efficiencies of scale and benefits to constituent service levels that will be available once Police operations are combined into a single safety facility
- Identify the project prototype, including a specific site, basic possible design and layouts, costs and methods of financing sufficiently to engage the community in a reasonably informed process of discussion and ultimate decision on how best to complete the installation of a Safety Hall Project that meets the needs of the Department(s), City, and community

The primary deliverables for the Phase I – Part D Scope of Services are:

1. A defensible, quantitative understanding of Safety Hall demand parameters and development and operational cost implications based on an efficient space needs program that is aligned with the visions of the newly installed police chief and current fire chief as well as City Management and Council
2. Estimation of the City's financial capacity to self-fund these costs and with the use of viable outside funding sources (in part or whole)
3. To the extent that currently available internal and outside funding sources would not adequately address project costs, evaluation of the potential magnitude, structure, and political viability of an additional tax program with the purpose of addressing any such financial gap
4. Exploration of property acquisition strategies with respect to current acquisition opportunities and identification of other potential acquisition opportunities, as appropriate
5. Identification of preferred project delivery methods

Redlands Safety Hall Phase 1 Part D
Professional Services Agreement - Exhibit A

Tasks for Scope of Services are as follows:

**Task 1: Design-Based Quantitative Evaluation of Public Safety Hall Demand Parameters
(Roth Sheppard – Lead)**

Roth Sheppard will initiate Task 1 efforts in two phases. The first phase of Task 1 is interpreting the most recent revision of the existing numerical space needs program into a graphic program and confirming space standards for offices, workstations, conference rooms and other support spaces. The graphic program exhibits each division within the Department graphically, identifying existing and projected staff office spaces, support spaces and shared spaces with other divisions. It will identify space needs that can be shared, are excessive of the projected staffing etc. Included in this phase is a work session (1 to 2 days) in Redlands with the City's Police Department and Fire Department. This program verification phase will allow the new Police Department Chief an opportunity to incorporate his own thoughts on operational priorities.

Phase Two of Task 1 consists of development of scaled floor plans and site plan with sufficient notation to assist NRES in developing a more accurate cost estimate. The plans will be developed to schematic design level; i.e. showing walls, doors, furniture and equipment. The design will be in keeping with the previously presented concept design as amended by the previous work task. We anticipate a preliminary review in a 1-day on-site work session of the space planning phase with both departments prior to finalizing the plans for cost estimating.

Deliverables:

- Updated space needs report
- Graphic program
- Scaled annotated floor plan and site plan

Task 2: Cost Verification (NRES – Lead)

Utilizing the validated architectural information developed during Task 1, Consultant will confirm, modify and validate the initial project cost projections as appropriate. This Task will include providing the police and fire departments with discreet pricing for individual components within the Project scope, in order to allow critical evaluation of the cost/benefit for each phase. Additionally, this function-by-function cost breakdown can be used to provide a cost comparison between dedicated facilities and shared agency facilities (i.e. firing range).

As part of this Task, Consultant will initiate a more detailed analysis of alternative mechanical, electrical, security, structural and essential services components of the project in order to determine the most effective systems. The updated facilities construction cost analysis performed as part of this Task will be utilized to analyze the impact on the overall project cost and the various financing alternatives.

The key goal of this Task will be to ensure that the City Staff/Kosmont Team has developed the most cost-efficient model for constructing and financing the facility. We recognize that there will be significant public scrutiny in the following areas:

Deliverables:

- Cost verification analysis based on:
 - A detailed, supportable Needs Analysis
 - Working with Police Staff, a peer group Needs Analysis comparing the proposed facility with similar facilities occupied by comparable full-service police and fire agencies

Redlands Safety Hall Phase 1 Part D
Professional Services Agreement - Exhibit A

- o "Best Practices" construction cost methodology and life-cycle value engineering analysis

Task 3: Analysis of Project Funding & Financing Program Alternatives (Kosmont – Lead)

Part A: Internal Funding Capacity

Based on results obtained from Tasks 1 and 2, Consultant will work with the City's Finance Department to determine additional current and future internal capacity for project funding based on the payment/maturation and refinancing of existing debt.

Part B: Outside Funding Sources (i.e. Grants)

Based on results of Task 2, Part A, Consultant will further explore the potential availability and viability of grant programs to assist in closing any funding gap unmet by internal City funding capacity. Consultant may conduct further analysis on additional possible funding sources.

Part C: Additional Tax Program (Parcel Tax and other potential constituent measures)

To the extent that currently available internal and outside funding sources would not adequately address project costs, Consultant will assist with an evaluation of the potential magnitude, structure, and political viability of an additional tax program with the purpose of addressing a residual financial gap.

In California's November 2011 election throughout California, there were six city parcel tax measures and seven special district parcel tax measures placed on the ballot statewide. Nine of these measures were for safety related programs, primarily fire and emergency medical transport (EMS) services, with seven passed. Two measures proposed an increase in current tax levels for police and/or fire/EMS service. In general, parcel tax requests ranged from \$60 to \$150 per parcel (California City voters rejected the proposal at \$150 per parcel).

Consultant will collaborate with the City's political consultant to review results and discuss conclusions from previous political surveys and evaluate the practicality and cost of an additional political survey to determine likelihood for support of a parcel tax in Redlands to pay for a safety facility.

Deliverables:

- Preliminary assessment of necessity of and political viability of a parcel or similar constituent ballot measure, including additional research on structure of measure
- Evaluation of parcel tax including preliminary sensitivity analysis as to possible costs and funding levels available from a parcel tax or alternative constituent measure(s)
- Summary analysis of estimated internal and external funding capacity and potential additional tax program to be included in Summary Presentation Materials

Task 4: Evaluation of Property Acquisition Strategies (Kosmont – Lead)

In order to advance the potential property acquisition process, and consistent with results from previous Tasks, Consultant will conduct initial, high-level discussions with appropriate representatives of the preferred potential Project properties to evaluate potential acquisition timing and opportunities for the City to secure the properties with as minimal cost and exposure as possible. Consultant will concurrently conduct outreach to interested parties to identify potential community contributory/financial support to assist in land acquisition.

Redlands Safety Hall Phase 1 Part D
Professional Services Agreement - Exhibit A

Deliverables:

- Summary evaluation of property acquisition strategies to be included in Summary Presentation Materials

Task 5: Identification of Other Potential Land Acquisition Opportunities (Kosmont – Lead)

Consultant will identify other potential land acquisition properties to the extent these exist and are deemed relevant by Consultant.

Deliverables:

- Relevant additional acquisition opportunities to be included in Summary Presentation Materials

Task 6: Identification of Preferred Project Delivery Method(s) (NRES – Lead)

Based on budgetary and timing constraints and other financial and political information analyzed, Consultant will assist in the identification of preferred potential project delivery model (e.g. Construction Manager at-Risk, Design-Build).

Deliverables:

- Recommendations for preferred project delivery method(s) to be included in Summary Presentation Materials

Task 7: Summary Presentation Materials including Project Recommendations (All Tasks)

Based on research, analysis, and outreach conducted in Tasks 1 through 6, Consultant will provide recommendations to Client for project implementation in the form of a Summary Memorandum.

Deliverables:

- Summary Presentation Materials

Redlands Safety Hall Phase 1 Part D
Professional Services Agreement - Exhibit A

Estimated Budget

Task 1: Design-Based Quantitative Evaluation of Public Safety Hall Demand Parameters (Roth Sheppard – Lead)	\$50,000 to \$55,000
Task 2: Cost Verification (NRES – Lead)	\$5,500 to \$6,500
Task 3: Analysis of Project Funding & Financing Program Alternatives (Kosmont – Lead)	\$16,500 to \$27,000
Task 4: Evaluation of Property Acquisition Strategies (Kosmont – Lead) – Time & Materials Estimate – Ultimately on commission basis through Kosmont Realty Corporation, a licensed California brokerage firm that is registered with the Securities Exchange Commission (SEC) as a municipal advisor	\$11,000 to \$16,000
Task 5: Identification of Other Potential Land Acquisition Opportunities (Kosmont – Lead) – Time & Materials Estimate – Ultimately on commission basis through Kosmont Realty Corporation, a licensed California brokerage firm that is registered with the Securities Exchange Commission (SEC) as a municipal advisor	\$10,000 to \$13,000
Task 6: Identification of Preferred Project Delivery Method(s) (NRES – Lead)	\$2,000 to \$2,500
Task 7: Summary Presentation Materials Including Project Recommendations (All Tasks) – Time & Materials Estimate	\$28,000 to \$34,500
Estimated Total Professional Services Fee:	\$123,000 to \$164,500
Estimated Travel and other Expenses:	\$6,000



EXHIBIT
'B'

**Kosmont Companies
2011 Public Agency Fee Schedule**

Professional Services

President & CEO	\$275.00/hour
Partner/Senior Vice President/Senior Consultant	\$225.00/hour
Vice President/Associate	\$185.00/hour
Project Analyst / Project Manager	\$150.00/hour
GIS Mapping/Graphics Service/Research	\$ 95.00/hour
Clerical Support	\$ 60.00/hour

• Additional Expenses

In addition to professional services (labor) fees:

- 1) An **administrative fee** for in-house copy, fax, phone and postage costs 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.

• 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 December 31, 2011.

**Newport Real Estate Services ("NRES")
Redlands Public Safety Hall Project**

Hourly Rate Schedule

Glen Allen	\$225 / hr
Dave Anderson	\$200 / hr
Anthony Vaccaro	\$150 / hr
All Project Analysts	\$150 / hr

Roth Sheppard Architects

<u>Architectural Hourly Rates</u>	<u>Rate</u>
Partner In Charge	\$200.00
Project Architect	\$150.00
Project Manager	\$125.00
Technician / Designer	\$ 95.00
Technician	\$ 60.00
Administration	\$ 50.00

<u>Architectural Reimbursable Category</u>	<u>Rate</u>
In House Xerox Copies:	\$0.15
In House Color Prints:	\$1.50
In House Color Plots:	\$7.00
Outsourced Printing Per Square Foot:	\$0.06
Outsource Per Sheet at 30 x 42	\$0.54
Edge Bound	\$0.25
Local Courier Services:	At Cost
Deliveries (FedEx, DHL, UPS):	At Cost
Local Mileage (Per IRS current guidelines)	\$0.55 per mile
Renderings, Models, Mock-Ups, Professional	
Photography and Presentation Materials	At Cost
Travel: airfare, hotel, car rental or cab	At Cost