

**FIRST AMENDMENT TO AGREEMENT FOR
PROFESSIONAL SERVICES**

THIS FIRST AMENDMENT TO AGREEMENT is made and entered into this 20th day of DECEMBER, 2021, by and between the City of Merced, a California Charter Municipal Corporation ("City"), and Kristin Lowell, Inc., a California Corporation, whose address of record is 1420 E. Roseville Parkway #140-342, Roseville, California 95677, ("Consultant").

WHEREAS, City is undertaking a project to conduct a Tourism Business Improvement District in the City of Merced; and,

WHEREAS, City and Consultant have previously entered into an Agreement for Professional Services ("Agreement") dated November 6, 2020; and,

WHEREAS, City and Consultant desire to amend said Agreement to provide for additional services in connection with said project.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, agree as follows:

1. Section 22, "ADDITIONAL WORK," is hereby added to the Agreement to read as follows:

"SECTION 22. ADDITIONAL WORK. Consultant shall perform the additional work outlined in the proposal from Consultant to City dated September 9, 2021, attached hereto as Exhibit 1."

2. Section 23, "ADDITIONAL COMPENSATION," is hereby added to the Agreement to read as follows:

"SECTION 23. ADDITIONAL COMPENSATION. City shall pay to Consultant the not to exceed additional sum of Forty-Three Thousand Eight Hundred and Twenty-Five Dollars (\$43,825.00) for the additional work described in the proposal attached hereto as Exhibit 1 and in accordance with the rates set forth on Exhibit 1."

3. Except as herein amended, the Agreement dated November 6, 2020, shall remain in full force and effect.

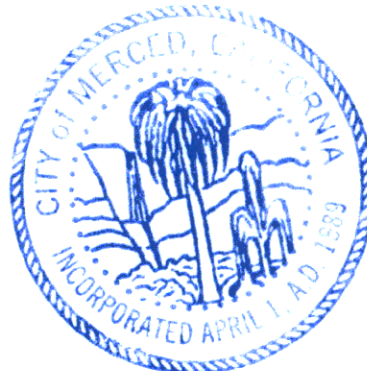
IN WITNESS WHEREOF, the parties have caused this First Amendment to Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal
Corporation

BY: Stephanie Dietz
City Manager

ATTEST:
STEPHANIE R. DIETZ, CITY CLERK

BY: [Signature]
Assistant/Deputy City Clerk



APPROVED AS TO FORM:

BY: K. Flores 10/12/21
City Attorney Date

301393 PO# 140239
ACCOUNT DATA:

BY: [Signature]

Verified by Finance Officer V-18609
Funds available contingent upon CC approval. 12/15/21
074-2002-572-17-00 FC 12/20/21
\$43,825.00

CONSULTANT
KRISTIN LOWELL, INC.,
A California Corporation

BY: Kristin Lowell
(Signature)

Kristen Lowell
(Typed Name)

Its: Chief Executive Officer
(Title)

BY: Kristin Lowell
(Signature)

Kristin Lowell
(Typed Name)

Its: Secretary
(Title)

Taxpayer I.D. No. 56-2491470

ADDRESS: 1420 E. Roseville Pkwy
#140-342
Roseville, CA 95661

TELEPHONE: (916) 786-9686

FAX: (916) 786-0529

E-MAIL: kristen@klifinance.com

CONSULTANT
KRISTIN LOWELL, INC.,
A California Corporation

BY: _____
(Signature)

Kristen Lowell
(Typed Name)

Its: _____
Chief Executive Officer
(Title)

BY: _____
(Signature)

(Typed Name)

Its: _____
(Title)

Taxpayer I.D. No. _____

ADDRESS: 1420 E. Roseville Pkwy
#140-342
Roseville, CA 95661

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FAX: (916) 786-0529

E-MAIL: kristen@klifinance.com



September 9, 2021

Maria Mendoza
City of Merced
678 W. 18th Street
Merced, CA 95340

RE: Proposal for the Merced Tourism Business Improvement District

Dear Maria:

On behalf of **Kristin Lowell, Inc. (KLI)**, and **Hormann & Associates**, I am pleased to submit this consulting proposal to assist the City of Merced in forming a Tourism Business Improvement District ("TBID").

The consultant firms, Kristin Lowell, Inc. and Hormann & Associates ("Consultant Team") are the project team to assist the City of Merced staff and hospitality leaders in public outreach, education and formation of the TBID and the positive impacts it will have on the tourism industry. Kristin Lowell will be the prime consultant responsible for the TBID formation and project management. Nancy Hormann and Terry Madeksza will be responsible for public outreach and consensus building.

This is an exciting project, and we thank you for the opportunity to submit our proposal for your consideration. Please contact me at if I may provide any additional information. I look forward to hearing from you.

Sincerely,

Kristin Lowell

Kristin Lowell,
President



CONSULTANT TEAM

The Consultant Team has unmatched history in successfully forming BIDs throughout the state. The consultant team of industry leaders, consists of:

Kristin Lowell, Inc.

KRISTIN LOWELL has over 30 years of experience helping public agencies fund over \$800 million of capital improvement projects, maintenance and operations, and revenue monitoring. Kristin has extensive knowledge of various public financing laws, including assessment districts, business improvements districts, community facilities districts, and school facilities improvement districts. Kristin is a recognized expert in public finance formations to fund capital improvement projects and operations and maintenance activities. Kristin will oversee all aspects of the project and be the main point of contact for the City. Kristin will also serve as the assessment engineer that will work with the City and tourism industry leaders in creating an assessment formula that is tailored to the unique needs of their industry.

Hormann and Associates

NANCY HORMANN with over 30 years of experience in developing, marketing and management of downtown programs, Nancy brings a depth and breadth of successful, hands-on experience in business district formation and management; downtown revitalization; tourism and hospitality management and promotion, and marketing and event design and execution. Nancy will oversee the community outreach, TBID sales and marketing as well as determining the needs and wants of the tourism practitioners.

TERRY MADEKSZA has over 25 years of experience helping to revitalize downtowns. She currently serves as the Executive Director for the Flagstaff Downtown Business Alliance, a non-profit organization dedicated to enhancing the vibrancy and economic vitality of downtown Flagstaff. She is responsible for overseeing the day-to-day management of the downtown area, including oversight of public space enhancements, community building and promoting downtown as a destination. Terry also serves as the primary conduit to property and business owners, city staff, elected officials; and is the lead advocate and spokesperson for the downtown community. Terry will work with Nancy and will help coordinate the community outreach, TBID sales and marketing as well coordinating the outreach and being the liaison to the Hotel Motel Association.



1.5 Assessment Methodologies

Using the information obtained in the above steps, the Consultants will calculate up to 3 assessment methodologies that will equitably assess each hotel for the TBID services.

1.6 Draft Management District Plan Summary

Consultants will prepare the draft Management District Plan Summary Report that will outline the parameters of the TBID; including district boundary, TBID services and activities, budget, assessment rates, governance, and district duration.

1.7 Stakeholder Review (Go/No Go)

Consultants will present the draft Management District Plan Summary Report to the Steering Committee and hotel operators to obtain consensus. Upon Steering Committee direction to proceed, Consultants will move into Phase Two to prepare the final documents and legal formation.

Phase Two: Management Plan and Engineer's Report

Deliverable: Final Reports and Formation Documents

2.1 Prepare Final Management District and Legal Review

Using the Management District Plan Summary Report, Consultants will craft the final Management District Plan. The City Attorney will undertake a final review of the Management District Plan and initiate preparations for the hotel operator petition drive, including review of the draft petition and petition collection procedure. *Note: The City will be responsible for preparing the requisite map.*

2.2 Petition Preparation and Distribution

The Consultants will prepare the petition and a summary newsletter that communicates the parameters and benefits of the TBID. The newsletter will summarize the Management District Plan and will be distributed with petitions. The actual petition package for hotel operators will consist of several items, including a summary of the TBID Management District Plan, petition, and newsletter. The Consultant will work with the district to ensure that these materials are assembled and prepared properly. It is the responsibility of the client and steering committee to distribute the petition packets.

2.3 Campaign Strategy and Training

In concert with steering committee, Consultants will develop a campaign strategy and timetable to complete the petition drive. Elements of campaign strategy will include individual hotel



Project Timeline

The Consultant shall work with the steering committee to make sure that all necessary steps and procedures are completed by Summer 2022. The following is the estimated timeline for such completion.

October 2021:	Initial review
Nov-Dec:	Assessment scenarios; Draft Management District Plan (MDP) for review; Public Outreach to build consensus
January 2022:	Final MDP upon City review Prepare petitions and petition packets to include Management District Plan Summary, TBID newsletter, official petition and petition instructions
February-April:	Petition kick-off (allow 3 months)
May:	City Council approves Resolution of Intention and calls for public hearing; Assessment ballots mailed to all assessed hotel operators
June:	City Council public hearing, tabulate ballots (45 days later)
Fall 2022:	TBID organizational structure and TBID services begin



BUDGET

Below is the estimated budget for the TBID formation.

TASK	LOWELL		HORMANN		MADEKSZA		Travel and Expenses*	TOTAL
		Rate		Rate		Rate		
	Hrs	175	Hrs	175	Hrs	125		
PHASE ONE: INITIAL ANALYSIS AND DOCUMENT PREPARATION								
1.1 Initial Review	8	1,400	8	1,400	6	750	650	4,200
1.2 Database Development	20	3,500	0	0	4	500		4,000
1.3 Consensus Building/Education	10	1,750	10	1,750	18	2,250	1,050	6,800
1.4 District Priorities and Budget	4	700	5	875	2	250		1,825
1.5 Assessment Methodologies	15	2,625	2	350	0	0		2,975
1.6 Draft MDP Summary	15	2,625	2	350	2	250		3,225
1.7 Stakeholder Review (Go/No-Go)	4	700	4	700	4	500	1,050	2,950
Phase One Sub-Total	76	13,300	31	5,425	36	4,500	2,750	25,975
PHASE TWO: MANAGEMENT PLAN AND FORMATION								
2.1 Management Plan and Legal Review	40	7,000	5	875	2	250		8,125
2.2 Petition Prep and Distribution	10	1,750	0	0	0	0	250	2,000
2.3 Campaign Strategy and Training	0	0	5	875	10	1,250	400	2,525
2.4 Ballots, Notice and Resolutions	10	1,750	0	0	0	0		1,750
2.5 Public Hearing	8	1,400	8	1,400	0	0	650	3,450
Phase Two Sub-Total	68	11,900	18	3,150	12	1,500	1,300	17,850
TOTAL	144	25,200	49	8,575	48	6,000	4,050	43,825

* Note: Estimate 5 trips for Lowell @ \$250/trip, and 5 trips for Hormann @ \$400, and 3 trips for Madeksza @ \$400/trip.



CITY OF MERCED

Merced Civic Center
678 W. 18th Street
Merced, CA 95340

ADMINISTRATIVE REPORT

File #: 21-974

Meeting Date: 12/20/2021

Report Prepared by: Maria Mendoza, Economic Development Associate

SUBJECT: Approval of a Supplemental Appropriation from the Economic Development Opportunity Fund (074) for \$43,825.00, and Approval of a First Amendment to the Professional Service Agreement with Kristin Lowell, Inc in the Amount of \$43,825.00 to Initiate the Process of Forming a Tourism Business Improvement District in the City of Merced

REPORT IN BRIEF

Considers appropriating \$43,825.00 from the Economic Development Opportunity Fund for a proposed first amendment to the professional service agreement with Kristin Lowell, Inc. to start the process of establishing a Tourism Business Improvement District.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving a supplemental appropriation in the amount of \$43,825.00 from the unreserved, unencumbered fund balance of the Economic Development Opportunity Fund (074) to account 074-2002-572-1700 (professional Services - Economic Development Opportunity Fund); and,
- B. Approving the first amendment to the professional services agreement with Kristin Lowell, Inc., in the amount of \$43,825.00; and,
- C. Authorizing the City Manager or Deputy City Manager to execute the necessary documents.

ALTERNATIVES

- 1. Approve as recommended by staff; or
- 2. Approve, subject to conditions as specified by the City Council; or
- 3. Deny the request; or
- 4. Refer back to staff for reconsideration of specific items as requested by the Council; or
- 5. Defer action until a specified date

AUTHORITY

Charter of the City of Merced, Section 200

CITY COUNCIL PRIORITIES

City of Merced 2021-2022 Adopted Budget, Section 7, Economic Development and Airport, Economic Development, Goals - "Increase visitor spending and stays in Merced by becoming a go to

community instead of a go through community.”

City Council Goals & Priorities FY 2021-2022, #2.b.v. Tourism - marketing that focuses on the benefit staying in and traveling to Yosemite through Merced (TBID or marketing funding).

DISCUSSION

The City Council identified forming a Tourism Business Improvement District (TBID) as part of their Fiscal Year 2021-2022 Goals and Priorities (Attachment 1).

As part of the Agreement for Services with Kristen Lowell, Inc. for the formation of a Property Based Improvement District (PBID), a series of stakeholder meetings were held in June of 2021. One of the meetings was with the Hotel/Motel Association to go over the formation of a TBID. The Hotel/Motel Association expressed their support and partnership in the endeavor.

The Merced Hotel/Motel Association and staff have agreed that the consultant team, Kristin Lowell Inc. should lead the effort working with the hotel property owners and stakeholders in forming a TBID for the City of Merced. The consultant, Kristin Lowell Inc. agrees to the terms contained in the First Amendment (Attachment 2) to the existing Professional Service Agreement (Attachment 3).

Background

The establishment of a Tourism Based Improvement District (TBID) in the City of Merced is an important step as there are tremendous opportunities to capture tourism dollars to assist in promoting Merced as a destination while allowing the city to remain competitive in a crowded global marketplace.

Prescribed under the Property and Business Improvement District Law of 1994; Street and Highways Code Section 36600-36671; property or business assessments are levied in exchange for services not currently provided by the City. While the services depend on the needs of the specific businesses of the area, typical TBID services include print and internet advertising, sales lead generation, destination marketing and development to bring more visitors to the City.

In California, TBIDs and similar improvement areas are governed by two State laws: the Parking and Business Improvement Area Law of 1989 (which allows assessments to be levied on businesses within a district) and the Property and Business Improvement District Law of 1994 (which allows assessments to be levied on owners of real property within a district).

These laws set the general procedures for establishment, assessment and public review of TBIDs. Proposition 218, approved by the California voters on November 6, 1996, which became part of the California Constitution (Articles XIII C and XIII D) adds additional requirements for establishing property-based assessment districts.

Scope of Work

Successful TBID's depend on the active involvement of its property owners with support from the City.

In order to establish a Tourism Business Improvement District (TBID), Kristin Lowell, Inc., proposes to guide a strategically led process that includes facilitating stakeholder education and consensus building, developing a TBID management district plan, preparing for, and managing a petition drive, and securing adoption of the TBID by City Council.

The consultant team proposes a two phase approach in order to complete the TBID formation process, which includes 1) Initial Review and Document Preparation, and 2) Management Plan and Engineer's Report. For more details about the TBID formation process and scope of services, please see Attachment 2.

TBID Frequently Asked Questions

How is a TBID funded?

TBIDs are funded through an assessment on certain lodging stays. The amount of the assessment is determined by the business owners at the formation of the district, within particular legal guidelines. Certain types of stays can be exempt from the assessment if they are not procured as a result of district activities. Funds raised through the assessment must be spent for the benefit of the businesses paying the assessment. Funds raised through a TBID cannot be diverted to government programs.

Who manages a TBID?

A new non-profit corporation can be formed to manage district funds, or an existing corporation can fill this role. The businesses forming the TBID decide how the corporation will be structured and who will manage it.

Why should I support forming a TBID?

As the economy struggles, marketing efforts are an increasingly important aspect of maintaining a popular destination. TBID's provide stable funding for the necessary marketing to keep a destination competitive in a difficult economy. As cities and countries are forced to sacrifice tourism promotion funds, TBIDs provide funding to supplement or replace those monies. Because TBID funds are not controlled by a government entity, they cannot be subjected to the budget cuts municipalities have been forced to make.

What are the advantages of a TBID?

- They provide a stable funding source for tourism promotion
- They are designed and created by those who pay the assessment
- They are governed by those who pay the assessment
- Funds cannot be diverted for government programs

(Source: Civitas Introduction to California Tourism Business Improvement Districts flyer)

IMPACT ON CITY RESOURCES

Given need to market Merced and keep it on the forefront as a destination city, combined with the support from the Hotel/Motel association for the formation of a TBID, staff recommends appropriating \$43,825.00 from Fund 074 (Economic Development Opportunity Fund) unreserved, unencumbered fund balance for consultant services relative to establishing a Tourism Business Improvement District (TBID).

ATTACHMENTS

1. Council Goals & Priorities FY 2021-2022.
2. First Amendment to Agreement for Professional Services with Kristin Lowell, Inc.
3. Professional Services Agreement with Kristen Lowell, Inc.