

**AGREEMENT REGARDING ENVIRONMENTAL IMPACT REPORT FEES
FOR THE WAL-MART EXPANSION PROJECT
(PM 15-02, UP 15-10, UP 15-12, PDP 15-01, AR 15-16)**

THIS AGREEMENT is made on October 1, 2015, 2015, by Walmart Stores Inc, a Delaware corporation (“Applicant”), and the City of Chico, a municipal corporation (“City”).

W I T N E S S E T H:

WHEREAS, Applicant has applied to City for City’s approval of the discretionary project described in Exhibit “A” attached hereto and by this reference incorporated herein (the “Project”); and

WHEREAS, after completing an environmental assessment of the Project required by the California Environmental Quality Act, as set forth in Division 13 of the California Public Resources Code (“CEQA”), the State CEQA guidelines, as set forth in Title 14 of the California Code of Regulations, and the City of Chico Environmental Review Guidelines, as set forth in Chapter 1.40 of the Chico Municipal Code, City, acting by and through City’s Planning Director, has determined that City’s approval of the Project will require preparation and review of an environmental impact report, all in the manner provided for by CEQA and the CEQA guidelines; and

WHEREAS, in order to facilitate compliance with such requirements, City is contracting with a consultant (the “Consultant”) to prepare a draft environmental impact report and a final environmental impact report for the Project; and

WHEREAS, City selected the Consultant to undertake such work after conferring with Applicant in regard to the scope of the work to be performed by the Consultant, as well as the Consultant’s qualifications and experience to perform such work in a legally sufficient and timely manner; and

WHEREAS, pursuant to the provisions of CEQA and CEQA Guidelines, the City shall: (1) independently review and analyze the environmental impact report; (2) circulate draft documents that reflect the City’s independent judgment concerning the EIR; and (3) as part of the certification of the EIR, find that the report reflects the City’s independent judgment; and

WHEREAS, in accordance with Section 1.40.090 of the Chico Municipal Code and the provisions of the Planning Department Fee Schedule adopted by the City Council to implement Section 1.40.090, Applicant is required to pay to City the following fees for the preparation and processing of an environmental impact report for the Project:

1. A sum equal to all of the fees to be paid by City pursuant to City’s professional service agreement (PSA) with the Consultant as and for the Consultant’s services in connection with the preparation of a draft environmental impact report and a final environmental impact report for the Project;

2. A sum equal to all of City's actual costs for City's staff time and materials in administering the PSA with the Consultant and in participating in the preparation by the Consultant of the draft environmental impact report and final environmental impact report for the Project, the same to be initially paid by depositing a sum equal to fifteen percent of all of the fees to be paid by City pursuant to City's PSA with the Consultant; and

WHEREAS, by this Agreement, Applicant desires to provide for payment of such fees as well as for the performance of such other duties and obligations required for the preparation of the draft environmental impact report and the final environmental impact report for the Project.

NOW, THEREFORE, in accordance with the Planning Department Fee Schedule and in consideration of the preparation of the draft environmental impact report and the final environmental impact report for the Project, Applicant agrees with City as follows:

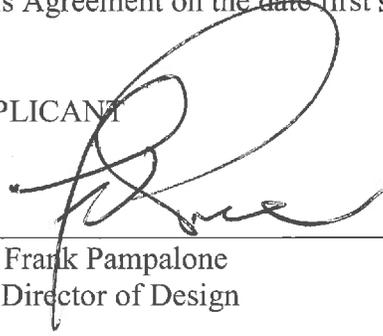
1. Applicant agrees to pay to City all of the fees for preparation of the draft environmental impact report and final environmental impact report for the Project which are set forth in Exhibit "B" attached hereto and by this reference incorporated herein. All such fees shall be due at the times required by Exhibit "B" and shall be paid at the office of City's Planning Director, 411 Main Street, Chico, CA 95928. Applicant understands that in the event such fees are not paid at the time and in the manner required herein, City may cause work on the preparation of the draft environmental impact report and final environmental impact report to be suspended until such time as the fees are paid.
2. Applicant also agrees that in the event the fees to be paid by City to Consultant for the preparation of a draft environmental impact report and final environmental impact report for the Project are increased, either by reason of a change in the Project, expansion of the Project, or an increase in the scope of work to be performed by the Consultant in order to prepare a legally sufficient environmental impact report for the Project, Applicant shall pay to City the full amount of such increased fees and shall deposit with City an additional sum equal to fifteen percent of such increased fees as and for the costs of City's staff services and materials to administer the Consultant's PSA and to participate in the preparation of the draft environmental impact report and final environmental impact report for the Project. Notwithstanding, Applicant shall not be obligated to pay any increased fees described in this Section 2 unless, prior to the incurrence of such fees: (a) City informs Applicant in writing of the reason and amount of the proposed fee increase; and (b) Applicant consents in writing to such fee increase. All such fees shall be paid in the manner and within the time required by any notice of fee increase hereinafter given by City to Applicant. Similarly, in the event of a decrease in the Consultant's fees for any reason whatsoever, Applicant understands that City will refund to Applicant the amount of such decreased fees plus an amount equal to that percentage of such decreased fees deposited by Applicant for the costs of City's staff services and materials to administer the Consultant's PSA and to participate in the preparation of the draft environmental impact report and final environmental impact report for the Project,

such refund to be made promptly following City's final action on the Project or at such earlier time as may be mutually agreed upon by Applicant and the City Manager.

3. Applicant further agrees that in the event City incurs costs for City's staff services and materials to administer the Consultant's PSA or to participate in the preparation of the draft environmental impact report and final environmental impact report for the Project which are in addition to the sum deposited by Applicant as and for such costs, Applicant shall pay to City a fee equal to such additional costs. Notwithstanding, Applicant shall not be obligated to pay any increased fees described in this Section 3 unless, prior to the incurrence of such fees: (a) City informs Applicant in writing of the reason and amount of the proposed fee increase; and (b) Applicant consents in writing to such fee increase. All such additional fees shall be paid in the manner and within the time required by a notice of fee increase hereinafter given by City to Applicant. Similarly, if after City's final action on the Project, it appears that City's actual costs for City's staff services and materials to administer the Consultant's PSA and to participate in the preparation of the draft environmental impact report and final environmental impact report for the Project are less than the sum deposited by Applicant for such costs, City shall promptly refund such excess deposit to Applicant.
4. Applicant understands that it will be responsible for providing City and/or the Consultant with all information in regard to the Project as may be requested by City or the Consultant in order to properly complete the draft environmental impact report and/or final environmental impact report for the Project. All such information shall be provided by Applicant to City or the Consultant within 10 days following the date City or Consultant requests such information, or such longer period of time as may be mutually agreed upon by Applicant, Consultant, and the Planning Director of City. Applicant understands that a failure to provide such information in a timely manner may result in delays in the preparation of a draft environmental impact report and/or final environmental impact report for the Project.
5. Applicant may terminate this Agreement upon withdrawing any application heretofore filed with City for approval of the Project and by filing with the Planning Director a notice to terminate further consideration of the Project. In such event, City shall promptly terminate the PSA with the Consultant which provides for the preparation of a draft environmental impact report and final environmental impact report for the Project. Applicant will be relieved of any further obligation to pay to City that portion of the Consultant's fee which City is no longer obliged to pay to the Consultant by reason of such termination, together with any percentage of such fees to be deposited by Applicant as and for the costs of City's staff services and materials in administering the PSA with the Consultant and in participating in the preparation by the Consultant of the draft environmental impact report and final environmental impact report for the Project, and City shall promptly refund to Applicant all or any portion of such excess Consultant fees and deposit heretofore paid by Applicant to City.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

APPLICANT



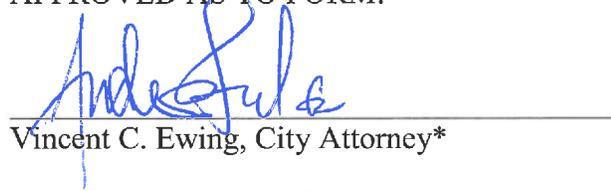
By: Frank Pampalone
Director of Design

CITY OF CHICO



By: Mark Orme, City Manager

APPROVED AS TO FORM:



Vincent C. Ewing, City Attorney*

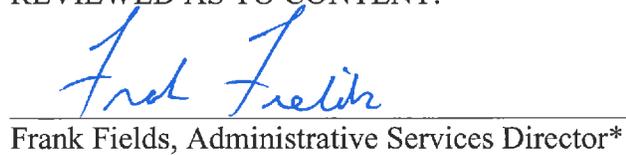
APPROVED AS TO CONTENT:



Mark Wolfe
Community Development Director

*Approved pursuant to The Charter of the City of Chico § 906(D)

REVIEWED AS TO CONTENT:



Frank Fields, Administrative Services Director*

*Reviewed by Risk Management, Human Resources, Finance and Information Systems

EXHIBIT "A"

AGREEMENT REGARDING ENVIRONMENTAL IMPACT REPORT FEES FOR THE WAL-MART EXPANSION PROJECT (PM 15-02, UP 15-10, UP 15-12, PDP 15-01, AR 15-16) Project Title/Budget Account No. 863-000-5400/72189-4750

DESCRIPTION OF PROJECT

The Project consists of the expansion and alteration of the existing Walmart store in the City of Chico, California. The project will include the addition of approximately 64,386 square feet of building area to the existing 125,889-square-foot store, for a total building area of 190,275 square feet. The expanded store will include additional food and general merchandise sales floor area; additional stockroom, office, and support areas; a new pharmacy/merchandise drive through and a new fueling station.

The Project's requested entitlements consist of a tentative parcel map, two use permits, site plan and architectural review, and a planned development permit.

The parcel map would result in the creation of three parcels: one parcel of approximately 22 acres for the Walmart store and gas station, and two smaller parcels, each approximately 2.6 acres in size, for future development consistent with the existing zoning.

EXHIBIT "B"

**AGREEMENT REGARDING ENVIRONMENTAL IMPACT REPORT FEES
FOR THE WAL-MART EXPANSION PROJECT
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ENVIRONMENTAL IMPACT REPORT FEES AND FEE PAYMENT SCHEDULE

Applicant shall pay to the City the following fees concurrently with execution of this agreement:

(i)	Fees to be paid by City pursuant to City's contract with the Consultant as and for the City's services in connection with the preparation of a draft Environmental Impact Report for the Project	\$378,300.00
(ii)	Cost of City's estimated staff time and materials in negotiating and preparing the contracts for the Consultant's services, in administering the contract with the Consultant and participating in the preparation by the Consultant of the Draft Environmental Impact Report and Final Environmental Impact Report (15% of total EIR cost)	<u>\$ 56,745.00</u>
	TOTAL	<u>\$435,045.00</u>
(iii)	Less Monies already deposited	< <u>\$13,422.00</u> >
(iv)	Remaining Monies due by Applicant	<u>\$421,623.00</u>

ALL FEES ARE DUE AND PAYABLE PRIOR TO THE COMMENCEMENT OF WORK ON THE ENVIRONMENTAL IMPACT REPORT FOR THE PROJECT