

AMENDMENT NO. 1

**AGREEMENT REGARDING ENVIRONMENTAL IMPACT REPORT FEES
BARBER YARD SPECIFIC PLAN**

AMENDMENT NO.1 items (in bold)

THIS AGREEMENT is made on APRIL 28, 2023, by Barber Yard Enterprises, LLC, a California limited liability company (“Applicant”), and the City of Chico, a municipal corporation (“City”).

WITNESSETH:

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 Community Development 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, in accordance with Section 1.40.090 of the Chico Municipal Code and the provisions of the City of Chico 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; and

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 15 percent of all of the fees to be paid by City pursuant to City's PSA with the Consultant.

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 City Of Chico 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 Community Development 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 15 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. 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. 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 Community Development 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 Community Development 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.

CITY OF CHICO:



Mark Sorensen, City Manager


APPLICANT:



By: Dan Gonzales

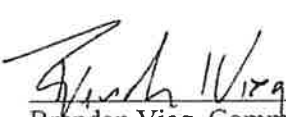
*Authorized pursuant to Section 3.08.060
of the Chico Municipal Code

APPROVED AS TO FORM:



Vincent C. Ewing, City Attorney*

APPROVED AS TO CONTENT:



Brendan Vieg, Community Development
Director

*Pursuant to The Charter of the
City of Chico, Section 906(D)

REVIEWED AS TO CONTENT:



Barbara Martin, Administrative Services Director*

*Reviewed by Finance and Information Systems

EXHIBIT "A"

AGREEMENT REGARDING ENVIRONMENTAL IMPACT REPORT FEES BARBER YARD SPECIFIC PLAN

DESCRIPTION OF PROJECT

Barber Yard Specific Plan project (Project) includes redevelopment and adaptive reuse of the former Diamond Match International Factory site in Chico (AP Nos. 039-400-022, 039-400-023, 039-400-027 and 039-400-031), as well as portions of parcels located south for stormwater purposes (AP Nos. 039-410-025 and 039-410-039). The Project site will include single family and multi-family residential, residential mixed-use, a sports facility, parks and open space, and public right-of-way.

AMENDED EXHIBIT "B"

**AGREEMENT REGARDING ENVIRONMENTAL IMPACT REPORT FEES
BARBER YARD SPECIFIC PLAN**

FEE PAYMENT SCHEDULE

AMENDMENT NO. 1 (in bold)

FEE DEPOSIT:

Environmental Impact Report PSA, Consultant- \$ 611,048.00
FCS, International, Inc.

AMENDMENT #1 - SERVICES \$ 36,520.00

City staff costs & material costs, 15% \$ 91,657.20

Additional City Staff Costs & Materials

Amendment No. 1 \$ 5,478.00

Amended Total \$ 744,703.20

Less EIR Fee Deposit – received 10/31/22 (100,000.00)

AMENDED Total Balance Due Upon Agreement \$644,703.20

Execution

PAYMENT TERMS:

1. Total balance due upon execution of this agreement.
2. City shall contract with Consultant to prepare an Environmental Impact Report and will incur City staff costs and material costs.
3. Invoices received from Consultant will be paid by the City. The City in-turn will invoice Applicant monthly for Consultant invoices, City staff costs, and City material costs. The monthly invoices must be paid by Applicant within 30 days of mailing.
4. Applicant invoices not paid timely to the City will result in the City suspending the work of Consultant.

EXHIBIT "C"

AGREEMENT REGARDING ENVIRONMENTAL IMPACT REPORT FEES
BARBER YARD SPECIFIC PLAN

ENVIRONMENTAL IMPACT REPORT (EIR) AGREEMENT

See Amended Professional Services Agreement, attached.