



STAFF REPORT

DATE: APRIL 17, 2012
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: ROD FOSTER, CITY MANAGER
PREPARED BY: MARK TOMICH, DEVELOPMENT SERVICES DIRECTOR
SUBJECT: SECOND AMENDMENT TO REIMBURSEMENT AGREEMENT
BETWEEN THE CITY OF COLTON AND COLTON IRON AND
METAL

RECOMMENDED ACTION

It is recommended that the City Council approve Second Amendment to Reimbursement Agreement with Colton Iron and Metal, LLC to provide for planning and entitlement services in the amount of \$4,620.

GOAL STATEMENT

The proposed action will support the City's goals to attain financial viability and stability, and to provide knowledgeable and professional staff to assist developers and businesses.

BACKGROUND

On February 6, 2008, the City Council approved a Reimbursement Agreement in the amount of \$75,000 with Sims Hugo Neu West, which subsequently changed their corporate name to SA Recycling ("Applicant"), and continues to do business in Colton as Colton Iron and Metal (CIM). The Agreement specified that CIM would pay for all environmental and legal review associated with their application (DAP-000-648). The application is to modify a previously approved Conditional Use Permit in order to legalize un-permitted structures and improvements at their scrap metal salvage yard, located at 790 East "M" Street.

The Agreement was amended on August 19, 2008, to increase the authorized amount for legal and environmental services by \$29,000. This amendment was warranted by revisions to the project proposed by the Applicant, including expansion of the project site by 4.5 acres. In addition, two additional deposits of \$15,000 each have been deposited into the Reimbursement Account (No. 762-2320) to fund environmental studies. The Agreement permits additional deposits through mutual agreement between the City and Applicant. This second amendment is intended to add "planning and entitlement services" to the scope of services that can be funded through the Reimbursement Agreement, in an amount of \$4,620.

ISSUES/ANALYSIS

In order to present this complex application to the Planning Commission within a reasonable timeframe, the Development Services Department desires the technical skills and focused efforts of a planning consultant. We have solicited and received a proposal from The Altum Group to provide the entitlement services. The Altum Group was solicited due to their experience with projects of a similar nature (e.g. involving contaminated soils – Soil Safe), as well as familiarity with the City of Colton permit processing procedures. The proposal from The Altum Group has estimated that its services will cost the applicant up to \$4,560. With the addition of services by The Altum Group, cumulative costs to the applicant will increase to \$124,120. SA Recycling concurs with the additional services and charges. With the addition of planning and entitlement services, we estimate that the project can be heard by the Design Review Committee on May 14, 2012, and by the Planning Commission on June 12, 2012.

FISCAL IMPACTS

None. The City will be reimbursed by the Applicant (SA Recycling dba Colton Iron and Metal) for all work associated with this application (DAP-000-648), including planning and entitlement services.

ALTERNATIVES

1. Direct staff to complete processing of the application “in house” and without outside assistance.
2. Provide alternative direction to staff.

ATTACHMENTS

1. Second Amendment to Reimbursement Agreement with Colton Iron & Metal, LLC.

**SECOND AMENDMENT TO REIMBURSEMENT AGREEMENT
BETWEEN THE CITY OF COLTON
AND
COLTON IRON & METAL, LLC**

ARTICLE 1. PARTIES AND DATE

This Second Amendment to the Reimbursement Agreement (“Second Amendment”) dated as of the 17th day of April, 2012 is entered into by and between the City of Colton (“City”) and Colton Iron & Metal, LLC (the “Applicant”).

ARTICLE 2. RECITALS

2.1 In February 2007, City and Applicant, at that time known as “Sims Hugo Neu West” and doing business as Colton Iron & Metal, entered into that certain Reimbursement Agreement dated February 20, 2007 (“Agreement”), whereby Applicant agreed to reimburse the City for the costs of legal counsel for extraordinary legal services and an environmental consultant in order to provide the City with the legal services, expertise and information necessary to the City’s review process concerning the development of the Applicant’s property, located at 790 East “M” Street within the City of Colton, County of San Bernardino, California.

2.2 In 2007, the Applicant, then known as Sims Hugo Neu West, along with other divisions of the Sims Group Ltd., merged with Adams Steel LLC and is now known as SA Recycling LLC dba Colton Iron & Metal.

2.3 In August 2008, the City Council approved the First Amendment to the Agreement which increased the aggregate costs from \$75,000 to \$89,500.

2.4 In addition, two subsequent deposits to the reimbursement account have further increased the aggregate costs from \$89,500 to \$119,500.

2.5 City and Applicant now desire to amend the Agreement a second time to provide for planning and entitlement consultant services from The Altum Group, estimated to cost four thousand six hundred and twenty dollars (\$4,620), and further described in Exhibit A.

ARTICLE 3. TERMS

3.1 Section 4 of the Agreement is hereby deleted in its entirety and replaced with a new Section 4 to read as follows:

“4. City’s Selection of Consultants. The City has retained the following as Consultants pursuant to this Agreement:

- (i) **Legal Counsel – Best Best & Krieger LLP**
- (ii) **Environmental Consultant – Tom Dodson & Associates**
- (iii) **Planning & Entitlement Consultant – The Altum Group”**

3.2 Section 5, first paragraph, of the Agreement is hereby deleted and replaced with a new Section 5, first paragraph, to read as follows:

“5. Applicant’s Reimbursement of Costs and Expenditures. The applicant shall reimburse the City for one hundred percent (100%) only of the actual costs and expenditures incurred by the City relative to the Consultant costs (“Costs”). The City has preliminarily reviewed the scope of work required and estimated the aggregate Costs to be approximately **One-Hundred Twenty-Four Thousand One-Hundred Twenty Dollars (\$120,120)** (“Estimated Costs”).”

3.3 Continuing Effect of Agreement. Except as amended by this Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement as amended by this Amendment.

3.4 Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

3.5 Counterparts. This Amendment may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

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[SIGNATURES ON FOLLOWING PAGE]

CITY OF COLTON

**SA RECYCLING LLC dba COLTON IRON &
METAL**

Rod Foster, City Manager

By: _____

Its: _____

Date: _____

Date: _____

ATTEST:

Eileen C. Gomez, CMC
City Clerk

APPROVED AS TO FORM:

Best Best & Krieger LLP
City Attorney

EXHIBIT A



73-255 El Paseo Drive, Suite 15
Palm Desert, California 92260
760.346.4750 Tel
760.340.0089 Fax

The Altum Group

March 9, 2012

Mark Tomich, Development Services Director
City of Colton
659 North La Cadena Drive
Colton, CA 92324

Subject: Proposal to Provide Staff Services to the City of Colton for the Colton Iron and Metal Project

Dear Mr. Tomich:

At your request *The Altum Group* has prepared this letter proposal to provide staff services for the processing of the Colton Iron and Metal Conditional Use Permit and CEQA documentation. We understand that Tom Dodson and Associates is the applicant's consultant and is in the process of finalizing the responses to comments on the Draft Notice of Intent to Adopt a Mitigated Negative Declaration and that the next steps are to hold an ERC meeting, prepare the staff report, and present the project to the Planning Commission. Our scope of work and estimated budget are as follows:

Task	Hours (\$130/hr)	Total
Prepare Staff Report (including Findings and Conditions of Approval (includes attendance at the ERC meeting)	20	\$2,600
Attend and Present at the Planning Commission Meeting	4	\$520
Project Management	2	\$260
Direct Costs (printing, mileage, etc.)		\$200
Subtotal	26	\$3,580
Optional Task (City Council Staff Report and Meeting)	8	\$1,040
TOTAL	34	\$4,620

We look forward to discussing the project with you in further detail. If you have any questions about our proposed scope of work or cost estimate please do not hesitate to give me a call.

Sincerely,

Nancy M. Ferguson
Senior Project Manager