

Recording requested by, and when recorded return to:

City of Wheatland
111 C Street
Wheatland, CA 95692

Exempt from recording fees (Government Code §§ 6103, 27383)

**AMENDMENT NO. 2 TO
CITY OF WHEATLAND DEVELOPMENT AGREEMENT
CONCERNING BISHOP PUMPKIN FARM**

This Amendment No. 2 to the Development Agreement (the “Amendment”) is made effective _____, 2019 by and between the City of Wheatland, a general law city (“City”), and William and Sandra Bishop, individuals and husband and wife (“Property Owner”) (“collectively the “Parties”), who agree as follows.

1. Recitals. This Amendment is made with reference to the following background recitals:

1.1. On January 11, 2011, the parties entered into the *City of Wheatland Development Agreement Concerning Bishop Pumpkin Farm* (the “Agreement”), a copy of which is on file in the City Clerk’s office. The Agreement was recorded in the Yuba County Recorder’s Office on February 22, 2011 as Document No. 2011R–002191.

1.2. On September 26, 2017, the Parties entered into an Amendment No. 1 to the Agreement. The Amendment No. 1 was recorded in the Yuba County Recorder’s Office on _____, 2017 as Document No. _____.

1.3. City and Property Owner desire that the Agreement be amended to reflect the new agreed-upon terms concerning Property Owner’s use and development of the Property.

1.4. On _____, 2019, the City Planning Commission, in a duly noticed and conducted public hearing, considered this Amendment No. 2 and recommended that the City Council approve this Amendment No. 2.

1.5. On _____, 2019, City approved a Notice of Exemption pursuant to the California Environmental Quality Act (“CEQA”) for this Amendment No. 2.

1.6. On _____, 2019, after a duly noticed and conducted public hearing, the City Council adopted this Amendment No. 2 pursuant to Ordinance No. _____.

2. Defined Terms. Defined terms in this Amendment No. 2 shall have the same meaning as their definitions in the Agreement and Amendment No. 1.

3. Amendments to Agreement. The Agreement is hereby amended as follows:

3.1. Section 2.3.1 is deleted in its entirety and replaced with the following:

2.3.1. Commencement; Expiration. The term of this Agreement shall commence upon the Effective Date and shall extend for a period of 20 years after the effective date of Amendment No. 2 to this Agreement, unless the term is terminated, modified or extended as provided by this Agreement or by mutual written consent of the Parties.

3.2. Section 2.3.5 is added to state the following:

2.3.5 Effect of Sales Tax on Admissions. If sales tax is ever imposed on the Admission Charge (as defined in Section 4.2.2.1), then the Parties agree to enter into negotiations within 90 days regarding the terms of an amendment to this Agreement that revises the Admissions Fee amount described in section 4.2.3 to keep the amount fair and equitable to both Parties in light of the sales tax imposed. Notwithstanding the preceding sentence, nothing in this section shall be construed to require the parties to execute an amendment to this Agreement.

3.3. Section 2.3.6 is added to state the following:

2.3.6 Effect of Change in Use. The terms of Amendment No. 2 to this Agreement will automatically terminate if Property Owner ceases to use the Property for Events, or no longer charges Admission Charges, for a continuous period of twelve months or longer. A termination of Amendment No. 2 under this section shall have no effect on the terms or validity of the Agreement or any amendment thereof, other than Amendment No. 2.

3.4. Section 2.3.7 is added to state the following:

2.3.7 Effect of City's Lack of Water or Sewer Capacity. The terms of Amendment No. 2 to the Agreement will automatically terminate if Property Owner applies to the City for a building permit and the City determines that permit cannot be issued because of a current lack of water system or sewer system capacity. A termination of Amendment No. 2 under this section shall have no effect on the terms or validity of the Agreement or any amendment thereof, other than Amendment No. 2. City and Property owner further agree that a termination of Amendment No. 2 under this section shall not obligate City to refund any Admission Fee revenue it received under section 4.2, regardless of the date that Property Owner paid the Admission Fee.

3.5. Section 4.1.2, as amended, is deleted in its entirety and replaced with the following:

4.1.2 Development Fees. During the term of this Agreement, City waives development impact fees for development, construction and building on any property owned by Property Owner that is located within the City limits and within the Bishop Farm Planned Development zone at the time the development impact fees would be due.

3.6. Section 4.2.6, as amended, is deleted in its entirety and replaced with the following:

4.2.6 City Use of Admissions Fee Revenue. City shall use the Admissions Fee revenue as follows: 60% of the collected revenue shall be deposited in the City General Fund and may be used by the City for any General Fund purpose; and 40% of the collected revenue shall be deposited by City in a special fund and expended by City for street maintenance and improvements benefitting the lands described on Exhibit A.

4. No Effect on Other Provisions. Except for the amendments in Section 3, the remaining provisions of the Agreement shall be unaffected and remain in full force and effect.

CITY OF WHEATLAND

PROPERTY OWNER

By: _____
James Goodwin
City Manager

By: _____
William Bishop

Sandra Bishop