



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT

August 23, 2022

SUBJECT: The City of Wheatland staff recommends City Council approve Amendment #1 to the contract with The Hatamiya Group for ongoing economic development consulting related to the Employment Zone.

PREPARED BY: Jim Goodwin, City Manager

Recommendation

Staff recommends the City Council approve the proposed Amendment #1 to the current contract with The Hatamiya Group and direct the City Manager to sign.

Discussion and Background

In October 2019, Applied Development Economics (ADE) was awarded a contract to complete the Wheatland Business Park Feasibility Study (now commonly referred to as the Employment Zone Feasibility Study) funded by a grant from SACOG. Lon Hatamiya, a sub-consultant of ADE, native of Yuba County and former Secretary of Technology, Trade and Commerce of California was actively involved in the project. The City Council accepted the final study last year.

The project opened the door for ongoing work with Beale Air Force Base, Yuba Water Agency, property owners and other potential partners to establish a University Affiliated Research Center (UARC) in Wheatland at a location within the employment zone study area. If successful, the UARC or other designated research facility sited in Wheatland, potentially would launch the growth of technical business investment in the community.

The Hatamiya Group was subsequently retained to provide ongoing economic development consulting related to the Employment Zone. Attached is a summary of work completed in FY 2022-2023. Staff is recommending the City Council amend the current contract to cover services to be provided in FY 2022-2023. The amendment is attached. The cost for the additional work is not to exceed \$25,000. Mr. Hatamiya will be present to discuss progress and the proposed services for FY 2022-2023.

In addition to pursuing the research facility, services would include assisting Wheatland with achieving other objectives outlined in the completed study.

Fiscal Impact

The contract amendment is for an amount not-to-exceed \$25,000 from the Economic Development Fund in the FY 2022/2023 budget. The project was anticipated as "Contracted Services."

Attachments

1. Proposed Amendment #1 to the contract with The Hatamiya Group including the Scope of Work.
2. Hatamiya Group Contract

**FIRST AMENDMENT TO AGREEMENT BETWEEN
THE CITY OF WHEATLAND AND THE HATAMIYA GROUP FOR ECONOMIC
DEVELOPMENT SERVICES**

THIS FIRST AMENDMENT TO THE AGREEMENT WITH THE HATAMIYA GROUP (AMENDMENT) is made and entered into effective August 1, 2022, by and between the **CITY OF WHEATLAND (CITY)** and **THE HATAMIYA GROUP (CONSULTANT)**, and is based on the Recitals and matters set forth herein.

RECITALS

- A. **CITY** approved a Professional Services Contract with **CONSULTANT** for services during FY 2021-2022 that expired July 12, 2022.
- B. In consideration of the good and valuable services **CONSULTANT** performed for **CITY** under the **AGREEMENT**, and **CITY**'s desire to retain **CONSULTANT** to continue to perform economic development services, the **PARTIES** desire to amend the **ORIGINAL AGREEMENT** to include the additional provisions stated below.
- C. Collectively, the **ORIGINAL AGREEMENT** and this **AMENDMENT** will be referred to hereafter as the "**AGREEMENT**" and will constitute the entire understanding and agreement of the **PARTIES**.

IN CONSIDERATION of the mutual covenants contained herein and for good and valuable consideration, the **PARTIES** agree as follows:

**SECTION 1
Amendment to Paragraphs 2 and 3**

Paragraph 2 of the **ORIGINAL AGREEMENT** is hereby amended to read as follows:

2. **Payment.** **CITY** shall pay Consultant a fee based on Exhibit A attached to this amendment. The total fee for the additional Work in Exhibit A to be performed between August 1, 2022 and July 31, 2023 shall not exceed \$25,000.

Paragraph 3 of the **ORIGINAL AGREEMENT** is hereby amended to read as follows:

3. **Term.** This Agreement shall remain in effect until July 31, 2023.

Except as specifically modified by the terms of this **AMENDMENT**, the provisions of the **ORIGINAL AGREEMENT** are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this **AMENDMENT** on the date set forth below.

Dated: _____
Lon Hatamiya, CONSULTANT

Dated: _____
Jim Goodwin, City Manager

ATTEST:

Lisa Thomason, City Clerk

APPROVED AS TO FORM:

Jennifer Buckman, City Attorney

EXHIBIT A

The Hatamiya Group

5322 Rogers Street
Davis, CA 95618-7203
Phone 530-758-7424
lon@hatamiyagroup.com

MEMORANDUM

To: James Goodwin, City Manager, City of Wheatland, California

From: Lon Hatamiya, President and CEO, The Hatamiya Group

Date: July 25, 2022

Re: Proposal for Continued Economic Development Consulting – August 2022 to July 2023

On behalf of the Hatamiya Group, including subcontractors Applied Development Economics and Two Blue Aces (collectively “Consultants”), we are pleased to submit the following proposal to continue our work on economic development strategies for the City of Wheatland.

SCOPE OF WORK

Consultants will prepare an ongoing analysis that highlights strategies and facilitates economic development opportunities under the following specific Tasks.

TASK 1: CONTINUED DEVELOPMENT AND CREATION OF AN OFF-BASE COORDINATING AUTHORITY/ENTITY BETWEEN BEALE AIR FORCE BASE, THE YUBA WATER AGENCY, THE UNIVERSITY OF CALIFORNIA SYSTEM, AND THE CITY OF WHEATLAND WITH A FOCUS ON THE CREATION OF A JOINT RESEARCH CENTER IN THE CITY OF WHEATLAND

Consultants will continue to facilitate the development of an off-base entity/coordinating authority through a combined effort of networking with the United States Air Force, the Department of Defense, and the Memorandum of Understanding (“MOU”) between UC CITRIS, the Yuba Water Agency, the City of Wheatland, and any and all interested parties. This effort will include the possible development of an off-base research facility located upon the AKT property at Jasper Lane and Spenceville Road.

Deliverable: Build upon the MOU to develop the appropriate coordinating authority/entity to be created by the City of Wheatland for facilitation of an off-base joint research center and resulting future economic development opportunities. Identify appropriate federal, state, local and philanthropic funding options to expedite planning.

TASK 2: FACILITATE, DEVELOP, AND COORDINATE THE POTENTIAL SITING OF APPROPRIATE COMMERCIAL AND RETAIL FACILITIES IN THE CITY OF WHEATLAND, WITH AN EMPHASIS ON THE EMPLOYMENT ZONE AND AREA ADJACENT TO THE JOINT RESEARCH CENTER

Consultants will facilitate, develop, and coordinate a plan to attract the appropriate commercial and retail facilities that create a sense of place and attractive economic vibrancy

within the City of Wheatland. This effort will identify beneficial projects, priorities, and opportunities complimentary to job creation, housing, education, and/or quality of life.

Deliverable: Develop a list of beneficial commercial and retail projects, priorities, and opportunities within the City of Wheatland. Identify appropriate federal and state funding options to expedite planning.

TASK 3: CONTINUE TO IDENTIFY, ANALYZE, AND FACILITATE DEVELOPMENT OF ADDITIONAL AGRICULTURAL TECHNOLOGY, AND FOOD AND BEVERAGE PRODUCTION OPPORTUNITIES

Consultants will work with existing agricultural leaders and businesses to evaluate and analyze the potential development of agricultural technology opportunities, including any additional food and beverage production, processing, and marketing options that are related to the existing agricultural base of the area.

Deliverable: Develop a list of potential agricultural production and marketing opportunities that could be created within the City of Wheatland and/or the proposed Employment Zone. Identify appropriate federal and state funding options to expedite planning.

BUDGET AND SCHEDULE

Consultants propose a fee not to exceed \$25,000 for twelve months beginning in August 2022 and ending in July 2023. Consultants will make every reasonable effort to perform the assignment in a cost-effective manner and will bill on a monthly basis at a rate of \$200/hour. The specific scope of work will be agreed to in regular collaboration and approval of the City Manager.

**CITY OF WHEATLAND
SERVICES AGREEMENT**

THIS AGREEMENT is entered into as of the date last signed and dated below by and between City of Wheatland, a California municipal corporation ("City"), and The Hatamiya Group, a California Corporation ("Contractor"), who agree as follows:

1. Scope of Work. Contractor shall perform the work and render the services described in the attached Exhibit A (the "Work"). Contractor shall provide all labor, services, equipment, tools, material and supplies required or necessary to properly, competently and completely perform the Work. Contractor shall determine the method, details and means of doing the Work.

2. Payment.

a. City shall pay to Contractor a fee based on:

The fee arrangement described on the attached Exhibit A.

The total fee for the Work shall not exceed \$30,000. There shall be no compensation for extra or additional work or services by Contractor unless approved in advance in writing by City. Contractor's fee includes all of Contractor's costs and expenses related to the Work.

b. At the end of each month, Contractor shall submit to City an invoice for the Work performed during the preceding month. The invoice shall include a brief description of the Work performed, the dates of Work, number of hours worked and by whom (if payment is based on time), payment due, and an itemization of any reimbursable expenditures. If the Work is satisfactorily completed and the invoice is accurately computed, City shall pay the invoice within 30 days of its receipt.

3. Term.

a. This Agreement shall take effect on the above date and continue in effect until July 12, 2022, unless sooner terminated as provided below. Time is of the essence in this Agreement. If Exhibit A includes a Work schedule or deadline, then Contractor must complete the Work in accordance with the specified schedule or deadline, which may be extended by City for good cause shown by Contractor. If Exhibit A does not include a Work schedule or deadline, then Contractor must perform the Work diligently and as expeditiously as possible, consistent with the professional skill and care appropriate for the orderly progress of the Work.

b. This Agreement may be terminated at any time by City upon 10 days advance written notice to Contractor. In the event of such termination, Contractor shall be fairly compensated for all work performed to the date of termination as calculated by City based on the above fee and payment provisions. Compensation under this subsection shall not include any termination-related expenses, cancellation or demobilization charges, or lost profit associated with the expected completion of the Work or other such similar payments relating to Contractor's claimed benefit of the bargain.

4. Professional Ability of Contractor. Contractor represents that it is specially trained and experienced, and possesses the skill, ability, knowledge and certification, to competently perform the Work provided by this Agreement. City has relied upon Contractor's training, experience, skill, ability, knowledge and certification as a material inducement to enter into this Agreement. All Work performed by Contractor shall be in accordance with applicable legal requirements and meet the standard of care and quality ordinarily to be expected of competent professionals in Contractor's field.

5. Conflict of Interest. Contractor (including principals, associates and professional employees) represents and acknowledges that (a) it does not now have and shall not acquire any direct or indirect investment, interest in real property or source of income that would be affected in any manner or degree by the performance of Contractor's services under this agreement, and (b) no person having any such interest shall perform any portion of the Work. The parties agree that Contractor is not a designated employee within the meaning of the Political Reform Act and City's conflict of interest code because Contractor will perform the Work independent of the control and direction of the City or of any City official, other than normal contract monitoring, and Contractor possesses no authority with respect to any City decision beyond the rendition of information, advice, recommendation or counsel.

6. Contractor Records.

a. Contractor shall keep and maintain all ledgers, books of account, invoices, vouchers, canceled checks, and other records and documents evidencing or relating to the Work and invoice preparation and support for a minimum period of three years (or for any longer period required by law) from the date of final payment to Contractor under this Agreement. City may inspect and audit such books and records, including source documents, to verify all charges, payments and reimbursable costs under this Agreement.

b. In accordance with California Government Code section 8546.7, the parties acknowledge that this Agreement, and performance and payments under it, are subject to examination and audit by the California State Auditor for three years following final payment under the Agreement.

7. Ownership of Documents. All works of authorship and every report, study, spreadsheet, worksheet, plan, design, blueprint, specification, drawing, map, photograph, computer model, computer disk, magnetic tape, CAD data file, computer software and any other document or thing prepared, developed or created by Contractor under this Agreement and provided to City ("Work Product") shall be the property of City, and City shall have the rights to use, modify, reuse, reproduce, publish, display, broadcast and distribute the Work Product and to prepare derivative and additional documents or works based on the Work Product without further compensation to Contractor or any other party. Contractor may retain a copy of any Work Product and use, reproduce, publish, display, broadcast and distribute any Work Product and prepare derivative and additional documents or works based on any Work Product; provided, however, that Contractor shall not provide any Work Product to any third party without City's prior written approval, unless compelled to do so by legal process. If any Work Product is copyrightable, Contractor may copyright the same, except that, as to any Work Product that is copyrighted by Contractor, City reserves a royalty-free, nonexclusive and irrevocable license to use, reuse, reproduce, publish, display, broadcast and distribute the Work Product and to prepare derivative and additional documents or works based on the Work Product. If City reuses or modifies any Work Product for a use or purpose other than

that intended by the scope of work under this Agreement, then City shall hold Contractor harmless against all claims, damages, losses and expenses arising from such reuse or modification. For any Work Product provided to City in paper format, upon request by City at any time (including, but not limited to, at expiration or termination of this Agreement), Contractor agrees to provide the Work Product to City in a readable, transferable and usable electronic format generally acknowledged as being an industry-standard format for information exchange between computers (e.g., Word file, Excel spreadsheet file, AutoCAD file).

8. Confidentiality of Information.

a. Contractor shall keep in strict confidence all confidential, privileged, trade secret, and proprietary information, data and other materials in any format generated, used or obtained by the City or created by Contractor in connection with the performance of the Work under this Agreement (the "Confidential Material"). Contractor shall not use any Confidential Material for any purpose other than the performance of the Work under this Agreement, unless otherwise authorized in writing by City. Contractor also shall not disclose any Confidential Material to any person or entity not connected with the performance of the Work under this Agreement, unless otherwise authorized in advance in writing by City. If there is a question if Confidential Material is protected from disclosure or is a public record or in the public domain, the party considering disclosure of such materials shall consult with the other party concerning the proposed disclosure.

b. Contractor, and its officers, employees, agents, and subcontractors, shall at all times take all steps that are necessary to protect and preserve all Confidential Material. At no time shall Contractor, or its officers, employees, agents, or subcontractors in any manner, either directly or indirectly, use for personal benefit or divulge, disclose, or communicate in any manner, any Confidential Material to any person or entity unless specifically authorized in writing by the City or by order of a court or regulatory entity with jurisdiction over the matter. Contractor, and its officers, employees, agents, and subcontractors shall protect the Confidential Material and treat it as strictly confidential in accordance with applicable law, City policies and directives, and best industry security practices and standards.

c. If any person or entity, other than City or Contractor, requests or demands, by subpoena, discovery request, California Public Records Act request or otherwise, Confidential Material or its contents, the party to whom the request is made will immediately notify the other party, so that the parties may collectively consider appropriate steps to protect the disclosure of those materials. The parties agree to take all steps reasonably necessary to preserve the confidential and privileged nature of the Confidential Material and its content. In the event that the parties cannot agree whether to oppose or comply with a disclosure demand, the opposing party may oppose the demand at its sole cost and expense, in which event the party favoring disclosure will refrain from disclosing the demanded Confidential Material until such time as a final agreement regarding disclosure is reached or, if an agreement is not reached, a judicial determination is made concerning the demand.

d. Unless otherwise directed in writing by the City, upon contract completion or termination, Contractor must destroy all Confidential Materials (written, printed and/or electronic) and shall provide a written statement to the City that such materials have been destroyed.

9. Compliance with Laws.

a. General. Contractor shall perform the Work in compliance with all applicable federal, state and local laws and regulations. Contractor shall possess, maintain and comply with all federal, state and local permits, licenses and certificates that may be required for it to perform the Work. Contractor shall comply with all federal, state and local air pollution control laws and regulations applicable to the Contractor and its Work (as required by California Code of Regulations title 13, section 2022.1). Contractor shall be responsible for the safety of its workers and Contractor shall comply with applicable federal and state worker safety-related laws and regulations.

b. Contractor may perform some of the Work pursuant to funding provided to the City by various federal and/or state grant and/or loan agreement(s) that impose certain funding conditions on City and its sub-recipients (the "Funding Conditions"). For any such Work, if City informs Contractor about the Funding Conditions, then Contractor agrees to determine, comply with and be subject to the Funding Conditions that apply to City's Contractors and contractors performing the Work, including, but not limited to, provisions concerning record keeping, retention and inspection, audits, state or federal government's right to inspect Contractor's work, nondiscrimination, workers' compensation insurance, drug-free workplace certification, and, compliance with the Americans with Disabilities Act and related State laws.

10. Indemnification.

a. Contractor shall indemnify, defend, protect, and hold harmless City, and its officers, employees and agents ("Indemnitees") from and against any claims, liability, losses, damages and expenses (including attorney, expert witness and Contractor fees, and litigation costs) (collectively a "Claim") that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Contractor or its employees, agents or subcontractors. The duty to indemnify, including the duty and the cost to defend, is limited as provided in this section. However, this indemnity provision will not apply to any Claim arising from the sole negligence or willful misconduct of City or its employees or agents. Contractor's obligations under this indemnification provision shall survive the termination of, or completion of Work under, this Agreement.

b. This subsection (b) applies if the Contractor is a "design professional" as that term is defined in Civil Code section 2782.8. If a court or arbitrator determines that the incident or occurrence that gave rise to the Claim was partially caused by the fault of an Indemnitee, then in no event shall Contractor's total costs incurred pursuant to its duty to defend Indemnitees exceed Contractor's proportionate percentage of fault as determined by a final judgment of a court or final decision of arbitrator.

11. Insurance.

Types & Limits. Contractor at its sole cost and expense shall procure and maintain for the duration of this Agreement the following types and limits of insurance:

Type	Limits	Scope
Commercial general liability	\$2,000,000 per occurrence & \$5,000,000 aggregate <i>4,000,000</i>	at least as broad as ISO CG 0001

LSH 8/20/21
[Signature]

Automobile liability	\$2,000,000 per accident <i>1,000,000 limit 8/20/21</i>	at least as broad as ISO CA 0001, code 1 (any auto)
Workers' compensation	Statutory limits	<i>Not applicable as sole proprietorship</i>
Employers' liability	\$1,000,000 per accident	" " "
Professional liability*	\$1,000,000 per claim	

*Required only if Contractor is a licensed engineer, land surveyor, geologist, architect, doctor or attorney.

a. **Other Requirements.** The general and automobile liability policy(ies) shall be endorsed to name City, its officers, employees, volunteers and agents as additional insureds regarding liability arising out of the Work. Contractor's coverage shall be primary and apply separately to each insurer against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. City's insurance or self-insurance, if any, shall be excess and shall not contribute with Contractor's insurance. Each insurance policy shall be endorsed to state that coverage shall not be canceled, except after 30 days (10 days for non-payment of premium) prior written notice to City. Insurance is to be placed with admitted insurers with a current A.M. Best's rating of A:VII or better unless otherwise acceptable to City. Workers' compensation insurance issued by the State Compensation Insurance Fund is acceptable. Contractor agrees to waive subrogation that any insurer may acquire from Contractor by virtue of the payment of any loss relating to the Work. Contractor agrees to obtain any endorsement that may be necessary to implement this subrogation waiver. The workers' compensation policy must be endorsed to contain a subrogation waiver in favor of City for the Work performed by Contractor.

b. **Proof of Insurance.** Upon request, Contractor shall provide to City the following proof of insurance: (a) certificate(s) of insurance evidencing this insurance; and (b) endorsement(s) on ISO Form CG 2010 (or insurer's equivalent), signed by a person authorized to bind coverage on behalf of the insurer(s), and certifying the additional insured coverage.

12. Entire Agreement; Amendment. The parties intend this writing to be the sole, final, complete, exclusive and integrated expression and statement of the terms of their contract concerning the Work. This Agreement supersedes all prior oral or written negotiations, representations, contracts or other documents that may be related to the Work, except those other documents (if any) that are expressly referenced in this Agreement. This Agreement may be amended only by a subsequent written contract approved and signed by both parties.

13. Independent Contractor. Contractor's relationship to City is that of an independent contractor. All persons hired by Contractor and performing the Work shall be Contractor's employees or agents. Contractor and its officers, employees and agents are not City employees, and they are not entitled to City employment salary, wages or benefits. Contractor shall pay, and City shall not be responsible in any way for, the salary, wages, workers' compensation, unemployment insurance, disability insurance, tax withholding, and benefits to and on behalf of Contractor's employees. Contractor shall, to the fullest extent permitted by law, indemnify City, and its officers, employees, volunteers and agents from and against any and all liability, penalties, expenses and costs resulting from any adverse determination by the federal Internal Revenue Service, California Franchise Tax Board,

other federal or state agency, or court concerning Contractor's independent contractor status or employment-related liability.

14. Subcontractors. No subcontract shall be awarded nor any subcontractor engaged by Contractor without City's prior written approval. Contractor shall be responsible for requiring and confirming that each approved subcontractor meets the minimum insurance requirements specified in Section 11 of this Agreement. Any approved subcontractor shall obtain the required insurance coverages and provide proof of same to City in the manner provided in Section 11 of this Agreement.

15. Assignment. This Agreement and all rights and obligations under it are personal to the parties. The Agreement may not be transferred, assigned, delegated or subcontracted in whole or in part, whether by assignment, subcontract, merger, operation of law or otherwise, by either party without the prior written consent of the other party. Any transfer, assignment, delegation, or subcontract in violation of this provision is null and void and grounds for the other party to terminate the Agreement.

16. No Waiver of Rights. Any waiver at any time by either party of its rights as to a breach or default of this Agreement shall not be deemed to be a waiver as to any other breach or default. No payment by City to Contractor shall be considered or construed to be an approval or acceptance of any Work or a waiver of any breach or default.

17. Severability. If any part of this Agreement is held to be void, invalid, illegal or unenforceable, then the remaining parts will continue in full force and effect and be fully binding, provided that each party still receives the benefits of this Agreement.

18. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of California. The county and federal district court where City's office is located shall be venue for any state and federal court litigation concerning the enforcement or construction of this Agreement.

19. Notice. Any notice, demand, invoice or other communication required or permitted to be given under this Agreement must be in writing and delivered either (a) in person, (b) by prepaid, first class U.S. mail, (c) by a nationally-recognized commercial overnight courier service that guarantees next day delivery and provides a receipt, or (d) by email with confirmed receipt. Such notices, etc. shall be addressed as follows:

City:

City of Wheatland
Attn: City Manager
City of Wheatland
111 C Street
Wheatland, CA 95692
E-mail: jgoodwin@wheatland.ca.gov

Contractor:

Lon Hatamiya, President
The Hatamiya Group
5322 Rogers Street
Davis, CA 95618-7203
E-mail: lon@hatamiyagroup.com

Notice given as above will be deemed given (a) when delivered in person, (b) three days after deposited in prepaid, first class U.S. mail, (c) on the date of delivery as shown on the overnight courier service receipt, or (d) upon the sender's receipt of an email from the other party confirming the delivery of the notice, etc. Any party may change its contact information by notifying the other party of the change in the manner provided above.

20. Signature Authority. Each party warrants that the person signing this Agreement is authorized to act on behalf of the party for whom that person signs. The Parties may execute and deliver this Agreement and documents necessary to perform it, including task orders and amendments, in any number of original or facsimile counterparts. When each Party has signed and delivered at least one counterpart to the other Party, each counterpart shall be deemed an original and, taken together, the counterparts shall constitute one and the same document, which shall be binding and effective.

City of Wheatland:

Dated: 8/25/2021

By: 

Jim Goodwin
City Manager

The Hatamiya Group:

Dated: 8/20/21

By: 

Lon Hatamiya, President