



# CITY OF WHEATLAND

## CITY COUNCIL MEETING STAFF REPORT

February 28, 2023

**SUBJECT:** Council discussion and consideration of forming a JPA Review Ad-hoc committee to discuss potential amendments to the Wheatland Fire Authority (WFA) Joint Powers Authority (JPA) agreement

**PREPARED BY:** Jim Goodwin, City Manager

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### **Recommendation**

Appoint a member of the City Council not currently serving on the WFA Board of Directors, and request Plumas Brophy Fire Protection District (PBFPD) appoint a member of their Board not currently serving on the WFA Board of Directors, to serve as an ad-hoc committee to meet with the WFA Chief and the Wheatland City Manager to review and make recommendations regarding potential amendments to the WFA Joint Powers Authority (JPA) agreement.

### **Background/Discussion**

The WFA was formed in 2006 as JPA between the City of Wheatland and Plumas Brophy Fire Protection District (PBFPD). With formation of the JPA, the WFA provides fire protection and emergency response services in the geographic area covered by the Wheatland city limits and the boundaries of PBFPD.

The original JPA agreement was reviewed and amended in 2010 and has not been revisited since that time. Recently, Wheatland received a letter from Bart Johnson, Chairman of the WFA Board, requesting a meeting. Mr. Johnson and I met on February 9, 2023, at which time he shared the WFA Board's desire to discuss the agreement. In that meeting, we agreed any future discussions should include representatives of both the PBFPD Board and the Wheatland City Council, as well as the WFA Chief and the Wheatland City Manager.

Currently, Mr. Johnson, a member of the PBFPD Board of Directors, serves as the Chair of WFA. Wheatland City Councilmember Pamela Shelton now serves as the Vice-Chair. Vice-Mayor Bob Coe is the other Council representative, and Martin Heatlie is the other BPFPD WFA Board member.

The City Manager is recommending the City Council appoint a member of City Council who is not serving on the WFA Board, and request the PBFPD Board of Directors to appoint a member of their board not currently serving as a WFA Board member, to serve as a JPA Review Ad-hoc

Committee. The committee would then meet with the WFA Chief and the City Manager to review the current status of WFA, review the JPA agreement, and make any recommendations the committee would deem appropriate.

Any recommendation(s) for revision to the agreement resulting from the discussions would be brought back to the Wheatland City Council and PBFPD Board of Directors for consideration.

### **Alternatives**

The City Council may choose not to form the JPA Ad-hoc Review Committee.

### **Fiscal Impact**

No fiscal impact.

### **Attachments**

1. 1.12.2023 Letter from WFA Chair Bart Johnson
2. Current WFA JPA agreement



# Wheatland Fire Authority

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4514 Dairy Road

Wheatland, California 95692

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January 12, 2023

**Jim Goodwin**

City of Wheatland, City Manager

111 C Street

Wheatland, CA 95692

Re: Request to meet and discuss Potential Amendments to Wheatland Fire Authority Joint Powers Agreement

The Wheatland Fire Authority ("Authority") Board of Directors, at its January 12, 2023 regular meeting, has directed me to meet with the City of Wheatland, City Manager to discuss the potential of amending several areas of the Joint Power Authority Agreement ("Agreement"). Please let me know the soonest that we can meet.

If you have any questions or would like to discuss this issue in further detail, please do not hesitate to contact me.

Sincerely,

Bart Johnson-Chairman  
Wheatland Fire Authority

[bntjohnson@gmail.com](mailto:bntjohnson@gmail.com)

530-755-7030

**FIRST AMENDED AND RESTATED  
WHEATLAND FIRE AUTHORITY  
JOINT POWERS AGREEMENT**

This Joint Powers Agreement was entered into on January 1, 2006 by and between the City of Wheatland, a municipal corporation ("City"), and the Plumas-Brophy Fire Protection District, a fire protection district ("District"), and is amended and restated as of November 30, 2010 as follows:

**1. Definitions.** For the purpose of this Agreement, the words and phrases below shall have the following meanings:

1.1. "Agreement" means this Joint Powers Agreement.

1.2. "Authority" means the Wheatland Fire Authority formed pursuant to this Agreement.

1.3. "Board" or "Board of Directors" means the governing body of the Authority as established by this Agreement.

1.4. "Effective Date" means the effective date of this Agreement and the Authority as provided in section 3.3.

1.5. "Fire Protection Services" means fire protection, prevention and suppression services; rescue services; emergency medical response services; hazardous material emergency response services; and, any other services relating to the protection of lives and property.

1.6. "Fiscal Year" means July 1 through June 30.

1.7. "Joint Exercise of Powers Law" means the statute at Government Code title 1, division 7, chapter 5, commencing with section 6500.

1.8. "Parties" means the City and District. "Party" means either one of the Parties.

1.9. "Wheatland/Plumas-Brophy Area" means that geographic area encompassing the total combined jurisdictional boundaries of the Parties, as currently existing and as may be expanded by annexation or otherwise lawfully changed from time to time.

**2. Recitals.** This Agreement is made with reference to the following background factual recitals:

2.1. The Parties to this Agreement each have the authority to provide Fire Protection Services within their respective jurisdictional areas.

2.2. Until the adoption and implementation of this Agreement, Fire Protection Services in the Wheatland/Plumas-Brophy Area have been provided under the following conditions:

2.2.1. The District has been responsible for Fire Protection Services in the unincorporated areas within the District boundaries, but not within the incorporated limits of the City. The City has been responsible for Fire Protection Services within the incorporated limits of the City.

2.2.2. The District has been governed by the Board of Directors of the District, and the Wheatland Volunteer Fire Department has been governed by the City Council of the City.

2.2.3. The Parties have shared and utilized a common fire chief and other Fire Department officers and volunteer fire fighters, trained together and work jointly to provide Fire Protection Services, and have assisted each other pursuant to mutual aid and similar agreements. The City utilizes its own vehicles, apparatus and equipment, and the District utilizes its own vehicles, apparatus and equipment.

2.3. Attached as Exhibit A and incorporated herein is a list of the property and assets owned by each Party at the Effective Date, and the property and assets held in common by the two Parties.

2.4. The Parties desire to consolidate and coordinate Fire Protection Services in the Wheatland/Plumas-Brophy Area and to provide for a common governing board.

2.5. The Parties desire to implement this goal by creating a joint exercise of powers authority to exercise those powers in common for their mutual benefit as provided in this Agreement.

2.6. Each of the Parties is authorized to contract with each other for the joint exercise of any common power under the Joint Exercise of Powers Law.

### **3. CREATION AND POWERS OF AUTHORITY.**

**3.1. Authority.** This Agreement is authorized by, and entered into pursuant to, the Joint Exercise of Powers Law and other applicable law.

**3.2. Authority Created.** There is hereby created a public entity to be known as the "Wheatland Fire Authority." The Authority is formed by this Agreement pursuant to the Joint Exercise of Powers Law. The Authority shall be a public entity separate from the Parties. The debts, liabilities and obligations of the Authority shall be the debts, liabilities and obligations of the Authority alone and not of the Parties.

**3.3. Effective Date.** The effective date of this Agreement and of the legal existence of the Authority shall be the date first set forth above, and this Agreement and the Authority shall continue in full force and effect until terminated as provided in this Agreement.

**3.4. Boundaries of the Authority.** The geographic boundaries of the Authority shall be coextensive with those of the Parties, as currently existing and as may be expanded by annexation or otherwise lawfully changed from time to time.

**3.5. Purpose of the Agreement.** The purpose of this Agreement is to coordinate and consolidate the provision of Fire Protection Services in the Wheatland/Plumas-Brophy Area, and to jointly exercise the common powers of the Parties regarding Fire Protection Services as provided below and for the exercise of such additional powers as may be authorized by law in the manner set forth in this Agreement.

**3.6. Powers.** The Authority shall have the power in its own name to do any of the following:

3.6.1. To study, plan and implement ways and means to provide reasonable, efficient and cost effective Fire Protection Services within the Wheatland/Plumas-Brophy Area.

3.6.2. To employ a Fire Chief and such other employees who may be necessary or appropriate to the full exercise of its powers.

3.6.3. To recruit, organize, utilize, train, supervise and equip volunteer and paid fire fighters to provide Fire Protection Services. Upon the effective date of this Agreement, the volunteer fire fighters on the rosters of City and District at that time shall become volunteer fire fighters of the Authority.

3.6.4. To make and enter contracts as it deems necessary or appropriate, including, but not limited to, contracts with a federal, state or local government agency and other joint powers agreements.

3.6.5. To contract for the services of contractors, engineers, attorneys, and other consultants, advisors and agents as it deems necessary or appropriate.

3.6.6. To plan for, design, finance, acquire, construct, manage, maintain, operate and/or replace any facilities, buildings or structures as it deems necessary or appropriate.

3.6.7. To acquire, by purchase, trade, eminent domain or otherwise, and to hold and dispose of real and personal property, as it deems necessary or appropriate.

3.6.8. To hold, manage, operate and maintain all Authority property, facilities, buildings, structures, vehicles, apparatus and equipment, including the separate and common property of the Parties listed on Exhibit A.

3.6.9. To adopt and enforce ordinances, rules and regulations for the administration, operation and maintenance of Fire Protection Services, and for the prevention and suppression of fires and the protection and preservation of life and property.

3.6.10. To incur debts, liabilities or obligations.

3.6.11. To issue bonds, certificates of participation, notes and other evidence of indebtedness, and to enter into leases, installment sale contracts and installment purchase contracts.

3.6.12. To sue and be sued.

3.6.13. To apply for, accept and receive state, federal or local licenses, permits, grants, loans or other aid from any federal, state or local government agency or private entity as it deems necessary or appropriate.

3.6.14. To purchase and maintain such bonds, insurance, self-insurance and/or insurance pooling as it deems necessary or appropriate.

3.6.15. To enter into mutual and automatic aid agreements with any federal, state or local government agency, and to provide mutual aid assistance pursuant to any mutual aid agreement involving either or both of the Parties and in existence at the Effective Date, or pursuant to any mutual aid agreement hereafter adopted or amended.

3.6.16. To exercise any other powers common to both Parties, including, but not limited to, the powers of a fire protection district set forth in the Fire Protection District Law of 1987 (Health and Safety Code division 12, part 2.7, commencing with section 13800).

3.6.17. To seek, levy and collect revenue and funding, as provided by law, as determined appropriate.

3.6.18. To perform all acts necessary or convenient to carry out fully the purposes of this Agreement.

**3.7. Manner of Exercise of Powers.** To the extent not specifically provided for in this Agreement or the Joint Exercise of Powers Law, the Authority shall exercise its powers in the manner and according to methods provided under the laws applicable to the City.

**3.8. Mutual Aid and/or Automatic Aid Agreements.** To the extent either or both Parties are subject to one or more mutual and or automatic aid agreements in existence at the Effective Date, the Authority shall continue to be bound by and entitled to the benefits of such pre-existing mutual aid agreements, to the extent such agreements are binding on successors in interest of the parties.

**3.9. Authority Facilities.** All facilities, buildings, structures, vehicles, apparatus, equipment and other property constructed or acquired by the Authority shall be held in the name of the Authority and for the benefit of the Authority in accordance with the terms of this Agreement. A Party's facilities, buildings, structures, vehicles, apparatus, equipment and other property as listed on Exhibit A shall continue to be that Party's property; however, during the term of this Agreement, that Property will be used by the Authority for the purposes of this Agreement, and the common property of the Parties as listed on Exhibit A will be used by the Authority during the term of this Agreement. Authority shall be responsible for the costs of operating and maintaining such property, including utilities.

**3.10. No Restriction on Other JPA.** Nothing in this Agreement shall prevent the Parties from entering into other joint powers agreements.

**3.11. Building Code-Related Services.** Except as provided in section 3.13, for property within the City of Wheatland (as the same may be expanded from time to time by annexation or otherwise lawfully changed), City shall remain responsible for all construction- and building-related duties, responsibilities and services under the California Building Code, Uniform Fire Code and other applicable construction- and building-related codes and regulations, including compliance with fire safety-related codes, standards and regulations and including plan check and construction-related inspection services. Authority shall not have such duties and authority within the City limits, unless the City requests, and the City and the Authority mutually agree that the Authority will provide some or all of these duties.

**3.12. Development Fees.** Each Party retains the authority and discretion to levy, collect and spend development fees levied on new development.

**3.13. Fire Prevention.** For property within the City of Wheatland (as the same may be expanded from time to time by annexation or otherwise lawfully changed), City shall retain authority to conduct fire prevention activities (in addition to the Authority's prevention activities) and to collect fees necessary to support such activities unless the City, by written notice, delegates all or a portion of these duties to the Authority and the Authority agrees to assume responsibility for the delegated duties. In May of 2010, the City gave notice to the Authority and the Authority accepted responsibility for Fire Code enforcement activities.

#### **4. ORGANIZATION, BOARD AND OFFICERS.**



**4.1. Governing Body.** The Authority shall be governed by a legislative body known as the Board of Directors. The Board shall consist of four directors, with two appointed by each Party. Each Party shall also select one alternate.

4.1.1. For the Parties, each director and alternate director shall be appointed by and from the membership of the governing body of the respective Party. For the City, the director and alternate shall be appointed by and from the City Council in the manner that it deems appropriate. For the District, the director and alternate shall be appointed by and from the Board of Directors in a manner that it deems appropriate. The names of all directors and alternates shall be on file with the Board. Alternates shall assume all rights of the director representing the appointing entity and shall have the authority to act in the absence of a director or in the event that a director has a conflict of interest that precludes participation by the director in any decision-making process of the Authority.

4.1.2. Each director and alternate shall serve at the pleasure of his or her appointing Party. Each director and alternate shall hold office from the first meeting of the Board after his or her appointment by the Party he or she represents until a successor is appointed by the appointing Party and the Party so notifies the Authority.

4.1.3. If a City-appointed director or alternate ceases to be a member of the City Council or if a District-appointed director or alternate ceases to be a member of the District Board of Directors, then that position on the Authority Board shall be deemed vacated effective concurrent with the date that the person ceases to be a member of the City Council or Board of Directors, in which case the appointing entity will fill the vacancy by appointment.

4.1.4. A director may receive such compensation from the Authority for services as may from time to time be established by the Board, subject, though, to the limits of applicable law. In addition, a director may be reimbursed for necessary and actual expenses incurred by such director in the conduct of the Authority's business.

4.1.5. All the power and authority of the Authority will be exercised by the Board, subject, however, to the rights reserved by the Parties as set forth in this Agreement; provided, however, that the Board may delegate such powers and authority to the Fire Chief and others as the Board deems appropriate.

4.1.6. The Board may act only by ordinance, resolution or motion.

**4.2. Principal Office.** The initial principal office of the Authority shall be the existing fire station at 313 Main Street. The Board may change the principal office from time to time from one location to another within the boundaries of the Authority. Any change shall be noted by the Secretary, but shall not be considered an amendment to this Agreement.

**4.3. Meetings.** The Board shall meet at the principal office of the Authority or at such other place as may be designated by the Board. The time and place of regular meetings of the Board shall be determined by resolution adopted by the Board. Regular, adjourned and special meetings shall be called and held in the manner as provided in the Brown Act (California Government Code title 5, division 2, chapter 9, commencing at section 54950).

**4.4. Quorum and Votes.** Three directors of the Board shall constitute a quorum for the purpose of transacting business. The affirmative vote of a majority of all the directors (i.e., at least three votes) shall be required for the Authority to take action, except where different voting requirements are provided for in this Agreement or by law. Approval of the following actions of the Authority shall require four affirmative



votes: approval of the annual budget and budget adjustments in excess of \$5,000; purchase of real property; expenditures in excess of \$5,000; and, construction of a new or additional fire station.

**4.5. Minutes.** The Secretary of the Authority shall cause to be kept minutes of all meetings of the Board.

**4.6. Bylaws and Rules.** The Board may adopt from time to time such bylaws, rules and regulations for the conduct of its meetings and affairs of the Authority as may be necessary or appropriate.

**4.7. Officers.** The Board shall appoint the following officers: Chair, Vice Chair, Secretary, Treasurer, Fire Chief and such additional officers as it deems necessary or appropriate. The Chair and Vice Chair shall be selected from the directors of the Board. The Secretary and Treasurer may but are not required to be a director. The Fire Chief shall not be a director. The office of Secretary, Treasurer and Fire Chief, or any two of these offices, may be held by the same person. The Chair and Vice Chair shall hold office for a period of one year commencing January 1 and ending December 31 of each year; provided, however, that the first Chair and Vice Chair appointed shall hold office from the date of their appointment to December 31 of the ensuing year. All officers shall serve at the pleasure of the Board. The duties of the various officers shall be established by bylaws adopted by the Board, or other Board action.

**4.8. Treasurer.** The Treasurer of the Authority shall be the depository of funds and shall have custody of all money of the Authority, from whatever source. The Treasurer shall perform the duties specified in Government Code section 6505.5, and shall also serve as the auditor of the Authority and draw all warrants and pay demands against the Authority approved by the Board. The officer or officers or persons who have charge of any funds or securities of the Authority shall be bonded and the amount of their bond shall be determined by the Board.

**4.9. Fire Chief.** The Fire Chief of the Authority shall be the chief administrative officer of the Authority, shall serve at the pleasure of the Board, and shall be responsible to the Board for the proper and efficient administration of the Authority as is or hereafter may be placed in his or her charge, or under his or her jurisdiction or control, pursuant to the provisions of this Agreement, or of any ordinance, resolution, bylaw or minute order of the Board.

## **5. FINANCIAL PROVISIONS.**

**5.1. Initial Advance.** Upon the Effective Date, each Party shall forthwith advance to the Authority the sum set forth below as initial start-up funding for the Authority to be used until the adoption of the initial budget and payment of invoices as provided below. These amounts shall be applied as advances toward a Party's contribution for the first year's budget.

City	\$8,600
District	\$8,889

**5.2. Budget.** Within 60 days after the first meeting of the Board, and thereafter prior to the commencement of each Fiscal Year, the Board shall adopt a budget for expenditures and revenues of the Authority under this Agreement for the ensuing fiscal year. The budget shall comply with sections 5.3 and 5.8. Each Party shall be provided with a copy of the proposed budget at least 20 days before the Authority Board's approval, and within this period shall have the opportunity to review the proposed budget and submit comments on it to the Authority.

### 5.3. Party Contributions.

5.3.1. For the first fiscal year, each Party shall contribute the following amounts for the operation of the Authority:

City	\$77,800.00/year	\$6,483.00/mo.	49.30%
District	\$80,003.70/year	\$6,666.98/mo.	50.70%

For subsequent years, each Party shall make a contribution to the Authority to pay the Party's proportionate share of expenses under the approved budget based on the percentages in the table set forth above; provided, however, that a Party's annual contribution amount shall not exceed the dollar amount in the table as adjusted (commencing July 1, 2006 and each July 1 thereafter) based on the percent change for the previous year in the Consumer Price Index for All Urban Consumers for the west urban area, as reported by the U.S. Bureau of Labor Statistics.

5.3.2. Each Party agrees to pay and advance to the Authority its share of the budget expenses in accordance with section 5.3.1. Upon completion of the initial budget, and thereafter every three months (or at such other intervals as determined appropriate by the Board), the Authority shall determine the amount of the budget expenses payable during the ensuing three month period (or other appropriate interval), and each Party's share of such amount, based on section 5.3.1 and the budget approved by the Board. The Authority shall submit to each Party an invoice showing the Party's share for the applicable period together with a calculation of the Party's share. Each Party shall pay to the Authority the amount invoiced within 30 days after the date of the invoice. Any amount not paid within 30 days of the date of an invoice shall be delinquent.

5.3.3. The Board may agree to reimburse any Party for any costs related to this Agreement incurred prior to the Effective Date.

**5.4. Default.** Any Party which defaults in its obligation to pay or advance any amounts due pursuant to this Agreement after such amounts have become delinquent shall be deemed to have waived and relinquished any rights and benefits it may have under this Agreement. Any defaulting Party shall pay to the Authority interest on the unpaid amount at the rate of 10% per annum, or the maximum rate allowed by law if it is less than 10% per annum, until the overdue invoice amount is paid in full. In the event of a default, the non-defaulting Party may immediately terminate this Agreement. If the Agreement is terminated pursuant to this section, then the defaulting Party shall remain liable for payment of its share of debts, liabilities and obligations under this Agreement incurred prior to the date of termination, plus interest. Section 7.3 shall apply to any default and termination under this section.

**5.5. Accounting.** The Authority shall maintain strict accountability of all funds, receipts and expenses, and shall keep and maintain appropriate records and accounts of all funds, receipts and expenses under this Agreement in accordance with generally accepted accounting practices for California public agencies. The Authority shall allow any Party, or any of its employees, accountants, attorneys or agents to review, inspect, copy and audit any such records and accounts.

**5.6. Assets.** The Authority shall maintain records of all vehicles, apparatus, equipment and other assets and property contributed by each Party.

**5.7. Audit.** The records and accounts of the Authority shall be audited annually by an independent certified public accountant and copies of such audit reports shall be filed with the State Controller and each Party within six months of the end of the fiscal year under examination.

**5.8. Expenditures.** The Board shall establish and comply with a system and procedure for the review and approval of Authority expenditures and claims and the drawing and signing of Authority warrants or checks. All expenditures shall be consistent with the approved budget, except as otherwise determined by the Board. As annexations to the City are approved without the concurrent detachment from the District, the Parties acknowledge that there will be portions of the District located within the City limits (the "District-in-City Area"). In approving the Authority budget and expenditures, the Board shall ensure that at least 90% of the District's allocation of ad valorem property tax revenue from the District-in-City Area shall be spent on or allocated toward Authority facilities, buildings, structures, apparatus, equipment and/or services that directly benefit or further Fire Protection Services within the City.

## **6. INDEMNIFICATION.**

**6.1. By Authority.** The directors, officers, employees and volunteers of the Authority shall be entitled to defense and indemnification by the Authority as provided under Government Code title 1, division 3.6, part 2, chapter 1, article 4 (commencing with section 825) and title 1, division 3.6, part 7 (commencing with section 995). The Authority shall indemnify, defend, protect, and hold harmless each Party, and its officers, employees, agents and volunteers, from and against any and all liability, losses, claims, damages, expenses, and costs (including attorney, expert witness and consultant fees, and litigation costs) of every nature arising out of or in connection with the Authority's performance under this Agreement or failure to perform under this Agreement.

**6.2. By City.** The City shall indemnify, defend, protect, and hold harmless the Authority and the District, and their respective officers, employees, agents and volunteers, from and against any and all liability, losses, claims, damages, expenses, and costs (including attorney, expert witness and consultant fees, and litigation costs) of every nature arising out of or in connection with an act or omission of the City or its officer, employee, agent or volunteer beyond the scope of this Agreement.

**6.3. By District.** The District shall indemnify, defend, protect, and hold harmless the Authority and the City, and their respective officers, employees, agents and volunteers, from and against any and all liability, losses, claims, damages, expenses, and costs (including attorney, expert witness and consultant fees, and litigation costs) of every nature arising out of or in connection with an act or omission of the District or its officer, employee, agent or volunteer beyond the scope of this Agreement.

**6.4. Survival.** These indemnification obligations shall survive and continue in full force and effect after termination of this Agreement for any reason with respect to any actions or omissions that occurred before the date of termination.

**6.5.** The indemnification and hold harmless provisions of this section 6 shall apply in lieu of the joint and several liability and right of contribution provisions at Government Code sections 895-895.8.

**6.6.** The debts, liabilities and obligations of each Party in existence or accrued at the Effective Date shall remain the debts, liabilities and obligations of that Party and shall not be assumed by or transferred to the Authority. After the Effective Date, any debt, liability or obligation of the Authority must be expressly approved or accepted by the Authority, and a Party's post-Effective Date debts, liabilities, obligations and

assets shall remain that Party's debts, liabilities, obligations and assets unless expressly transferred to and accepted by the Authority.

## **7. TERM AND TERMINATION.**

**7.1. Term.** This Agreement shall continue until terminated as set forth in section 7.2. Each year, during the review of the Authority's budget for the next fiscal year, the Board shall review the terms of this Agreement and the services provided to the Parties in order to determine whether the Authority is meeting the service needs of the Parties. The Board may seek input from the Parties regarding the Authority as part of this review.

**7.2. Termination.** This Agreement shall terminate upon the earlier of the following: (a) termination for default pursuant to section 5.4; (b) upon unanimous written consent of the Parties to terminate the Agreement expressed by resolution of the governing board of each Party; or (c) upon at least six months prior written notice of termination from one Party to the other. However, during the outstanding term of any Authority bonds, certificates of participation or other indebtedness, this Agreement and the Authority shall not be terminated unless (i) the indebtedness is first paid off in full before the effective date of the termination, or (ii) the indebtedness is assigned to one or both of the Parties and there is alternate security for the indebtedness in a form and manner approved by bond counsel selected by the Authority as lawful and adequately protecting the interests of any holders of evidence of indebtedness of the Authority.

**7.3. Disposition of Property upon Termination.** Upon termination of this Agreement, the assets and property of the Authority shall be utilized and distributed as follows:

7.3.1. First, if either Party is in default of its obligation to pay or advance any amounts due pursuant to this Agreement, then any funds or assets of the defaulting Party shall be applied to the Authority in satisfaction of any such delinquency.

7.3.2. Second, any other funds on hand shall be used to liquidate and wind-up the affairs of the Authority.

7.3.3. Any surplus funds on hand remaining after satisfaction of section 7.3.1 and 7.3.2 shall then be returned to the Parties in proportion to their contributions made to the Authority.

7.3.4. Any pre-Agreement assets and property as shown on Exhibit A that are still owned by the Authority shall be returned to the Party who owned the property before the creation of the Authority; provided, however, that if any such property has been substantially improved, repaired or modified, it shall be distributed pursuant to section 7.3.6.

7.3.5. Any public improvement related to Fire Protection Services, such as a fire station, that is constructed by a third party as a condition of receiving authorization to develop property shall be retained by the Party who has jurisdiction over the location where the improvement is constructed.

7.3.6. Any remaining property and assets shall be divided and distributed pursuant to separate agreement of the Parties entered into at that time. If such subsequent agreement is not successfully negotiated and agreed to within a reasonable period of time, then the remaining property and assets shall be sold and the net proceeds from any sale shall be distributed among the Parties in proportion to their contributions.

## **8. GENERAL PROVISIONS.**

**8.1. Integration.** This Agreement constitutes the sole, final, complete, exclusive and integrated expression and statement of the terms of this contract among the Parties concerning the subject matter addressed herein, and supersedes all prior negotiations, representations or agreements, either oral or written, that may be related to the subject matter of this Agreement, except those other documents that are expressly referenced in this Agreement.

**8.2. Construction and Interpretation.** It is agreed and acknowledged by the Parties that this Agreement has been arrived at through negotiation, and that each Party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not apply in construing or interpreting this Agreement.

**8.3. Waiver.** The waiver at any time by any Party of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

**8.4. Remedies Not Exclusive.** The remedies provided in this Agreement are cumulative and not exclusive, and are in addition to any other remedies that may be provided by law or equity. The exercise by either Party of any remedy under this Agreement shall be without prejudice to the enforcement of any other remedy.

**8.5. Severability.** The invalidity, illegality or unenforceability of any provision of this Agreement shall not render the other provisions unenforceable, invalid or illegal.

**8.6. Successors and Assigns.** Except as otherwise provided by law or legally ordered by the Yuba County Local Agency Formation Commission as part of a local government organization or reorganization proceeding, the rights and duties of the Parties under this Agreement shall not be assigned or delegated without the prior written consent of the other Party. Any attempt to assign or delegate such rights or duties in contravention of this Agreement shall be null and void. Any approved assignment or delegation shall be consistent with the terms of any contracts, resolutions, indemnities and other obligations of the Authority then in effect, and may be subject to such additional reasonable conditions of approval imposed by the Party approving the assignment or delegation.

**8.7. No Third Party Beneficiaries.** This Agreement shall not be construed to create any third party beneficiaries. This Agreement is for the sole benefit of the Parties, and their permitted successors, transferees and assignees, and no other person or entity shall be entitled to rely upon or receive any benefit from this Agreement or any of its terms.

**8.8. Amendment.** This Agreement may be modified or amended only by a subsequent written agreement approved by the governing board of each Party and executed by both Parties.

**8.9. Governing Law and Venue.** Except as otherwise required by law, this Agreement shall be interpreted, governed by, and construed under the laws of the State of California. The County of Yuba shall be venue for any state court litigation and the Eastern District of California shall be venue for any federal court litigation concerning the enforcement or construction of this Agreement.



**8.10. Attorney Fees.** In the event any legal action is brought to enforce or construe this Agreement, the prevailing party shall be entitled to an award of reasonable attorney fees, expert witness and consulting fees, litigation costs and costs of suit.

**8.11. Notice.** Any notice, demand, invoice or other communication required or permitted to be given under this Agreement shall be in writing and either served personally or sent by prepaid, first class U.S. mail and addressed as follows:

City:

District:

City Council  
City of Wheatland  
111 C Street  
Wheatland, CA 95692

Board of Directors  
Plumas Brophy Fire Protection Dist.  
4514 Dairy Road  
Wheatland, CA 95692


Any Party may change its address by notifying the other Party in writing of the change of address.

**8.12. Counterparts.** This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

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**CITY OF WHEATLAND**

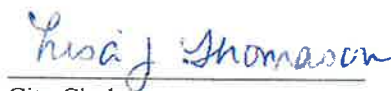
**PLUMAS-BROPHY FIRE PROTECTION  
DISTRICT**

  
Mayor

\_\_\_\_\_  
Chair

Attest:


Attest:

  
City Clerk

\_\_\_\_\_  
Secretary

Approved as to form:

Approved as to form:

  
City Attorney  
Richard P. Shanahan  
12/17/10

\_\_\_\_\_  
Attorney for District



**8.10. Attorney Fees.** In the event any legal action is brought to enforce or construe this Agreement, the prevailing party shall be entitled to an award of reasonable attorney fees, expert witness and consulting fees, litigation costs and costs of suit.

**8.11. Notice.** Any notice, demand, invoice or other communication required or permitted to be given under this Agreement shall be in writing and either served personally or sent by prepaid, first class U.S. mail and addressed as follows:

City:

District:

City Council  
City of Wheatland  
111 C Street  
Wheatland, CA 95692

Board of Directors  
Plumas Brophy Fire Protection Dist.  
4514 Dairy Road  
Wheatland, CA 95692

Any Party may change its address by notifying the other Party in writing of the change of address.

**8.12. Counterparts.** This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

**CITY OF WHEATLAND**

**PLUMAS-BROPHY FIRE PROTECTION  
DISTRICT**


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