



City of Wheatland

111 C Street – Wheatland, California 95692
Tel (530) 633-2761 – Fax (530) 633-9102

PLANNING COMMISSION MEETING STAFF REPORT

Date: August 20, 2019
Agenda Item: 1

Subject: Consideration to recommend City Council approval of a proposed Development Agreement amendment for the Bishop Pumpkin Farm between the City of Wheatland and William and Sandra Bishop.

Prepared by: Tim Raney, Community Development Director

Recommendation

Staff requests that the Planning Commission recommend approval of the Bishop's Pumpkin Farm Development Agreement Amendment No. 2 by the Wheatland City Council. The Development Agreement was originally executed between the City of Wheatland and William and Sandra Bishop, individuals and husband and wife in 2011 and amended in 2017.

Discussion

City staff has been working with representatives of the Bishop Pumpkin Farm to revise the Bishop Pumpkin Farm Development Agreement to address issues related to fees. The Bishop Pumpkin Farm currently provides the City of Wheatland an admissions fee collected as part of any fee-based activity at the farm. These fees have been used by the city for a variety of improvements providing support to the community during the heavy traffic periods during the pumpkin farm season.

The City of Wheatland has also collected development impact fees for the construction of additional buildings on the Bishop Pumpkin Farm property. However, the calculation of the development impact fees has been difficult because the city's current impact fees do not have an appropriate category for agricultural tourism related structures. Therefore, for each structure proposed for the Bishops site, the city and the Bishops have had to negotiate an appropriate impact fee amount.

As a measure to resolve the impact fee issues, this proposed development agreement amendment will waive the collection of any development impact fees related to the agricultural tourism activities on the Bishops Property for the proposed extended term of this development agreement of 20-years. However, the city will be allowed to continue to collect the 5% admissions fee for the next 20 years, which will provide the city with an adequate replacement of the development impact fees.

Because substantive changes, such as extension of the term of a development agreement, the Planning Commission is required to conduct a hearing and make a recommendation to City Council on the Development Agreement Amendment. The Amendment No. 2 to City of Wheatland Development Agreement between the City of Wheatland and William and Sandra Bishop concerning Bishop Pumpkin Farm is included as Exhibit 1 to Attachment 1.

On July 16, 2019, City staff presented the Bishop's Pumpkin Farm Development Agreement Amendment No. 2 to the Wheatland Planning Commission. During the public hearing, commission members raised several questions and requested the hearing be continued to August 6, 2019, Subsequently, staff continued the hearing to August 20, 2019.

The Planning Commission requested staff follow-up on the following issues:

- 1) Attach the Bishops Development Agreement (2011) and Amendment #1 (2017) to the staff report for Planning Commission's review.

Action: The 2011 Bishops Development Agreement and the 2017 Bishops Development Agreement Amendment are included as Attachments 2 and 3 respectively.

- 2) Confirm with the City Attorney that the Excise Tax would still be collected at the time of any building permit issuance.

Action: The City Attorney confirmed that the deletion of the Excise Tax Payment was an error. The City Attorney reviewed the DA amendment and concluded that this was the only error in the document. A revised DA Amendment No. 2 which includes the collection of the Excise Tax is included as Exhibit 1 to Attachment 1 to this staff report.

- 3) Provide more detailed information regarding the potential income stream that the city is estimated to receive with the extension of the Development Agreement term and provide an estimate of the amount of development impact fees that the city would forgo.

Action: Staff has included a spread sheet showing estimated development impact fees for potential buildings that may be constructed on the Bishops property. The spread sheet also provides an estimate for additional admission fees the city would receive over the 8 years added to the term of the agreement (see Attachment 4).

Alternatives

The Planning Commission could choose to recommend that the City Council not approve the amendment to the Development Agreement between the City of Wheatland and William and Sandra Bishop concerning Bishop Pumpkin Farm. The Planning Commission could also continue the public hearing to a future meeting date and direct staff to further revise the Development Agreement.

Attachments

1. Resolution recommending approval of Amendment No. 2 to City of Wheatland Development Agreement between the City of Wheatland and William and Sandra Bishop concerning Bishop Pumpkin Farm.

Exhibit 1: Revised Proposed Bishop Pumpkin Farm Amendment No. 2 Development Agreement between the City of Wheatland and William and Sandra Bishop concerning Bishop Pumpkin Farm.

2. 2011 Development Agreement between the City of Wheatland and William and Sandra Bishop concerning Bishop Pumpkin Farm.
3. 2017 Amendment No. 1 to City of Wheatland Development Agreement between the City of Wheatland and William and Sandra Bishop concerning Bishop Pumpkin Farm.
4. Estimated Fee Spreadsheet

**PLANNING COMMISSION
RESOLUTION NO. 2019-****

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WHEATLAND
RECOMMENDING APPROVAL OF AMENDMENT NO. 2 TO CITY OF WHEATLAND
DEVELOPMENT AGREEMENT BETWEEN THE CITY OF WHEATLAND AND WILLIAM AND
SANDRA BISHOP, INDIVIDUALS AND HUSBAND AND WIFE CONCERNING
BISHOP PUMPKIN FARM**

WHEREAS, the City received an application from William and Sandra Bishop, individuals and husband and wife, for approval of an Amendment No. 2 to City of Wheatland Development Agreement concerning Bishop Pumpkin Farm to waive the collection of any development impact fees related to the agricultural tourism activities on the Bishops Property, and the city will be allowed to continue to collect the five percent admissions fee for the proposed extended term of this development agreement of the next 20-years; and

WHEREAS, the City of Wheatland previously adopted a Development Agreement between the City of Wheatland and William and Sandra Bishop, individuals and husband and wife, concerning Bishop Pumpkin Farm on January 11th 2011; and

WHEREAS, the City of Wheatland previously adopted an Amendment No. 1 to the Development Agreement between the City of Wheatland and William and Sandra Bishop, individuals and husband and wife, concerning Bishop Pumpkin Farm on December 14th 2017; and

WHEREAS, the City and William and Sandra Bishop, individuals and husband and wife, have negotiated the Amendment No. 2 to City of Wheatland Development Agreement Concerning Bishop Pumpkin Farm attached as Exhibit 1 to this resolution; and

WHEREAS, the adoption of this Amendment No. 2 to City of Wheatland Development Agreement will not adversely affect the comprehensive General Plan and it is consistent with the General Plan and carries out the purposes of the General Plan.

NOW THEREFORE, BE IT RESOLVED that in recommending approval to the City Council of the Amendment No. 2 to City of Wheatland Development Agreement between the City of Wheatland and William and Sandra Bishop, individuals and husband and wife, the Planning Commission makes the following findings, which are based on its review and consideration of the entire record, including the recitals above and any oral or written testimony provided at the hearing:

1. There have been no substantial changes to the project through the Development Agreement. Therefore, the Bishop's Pumpkin Farm Initial Study/Mitigated Negative Declaration and MMP are the appropriate environmental documents for the proposed project.
2. The Development Agreement is consistent with the General Plan, as it carries out the purposes of the General Plan and is consistent with the land use and development designation in such plans.

NOW THEREFORE BE IT FURTHER RESOLVED that the Planning Commission recommends the City Council approve the Amendment No. 2 to City of Wheatland Development

Agreement between the City of Wheatland and William and Sandra Bishop, individuals and husband and wife, concerning Bishop Pumpkin Farm, in the form attached as Exhibit 1, subject to such changes as may be approved by the City Council.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was adopted by the Planning Commission of the City of Wheatland at a regular meeting thereof held on the 20th day of August 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

TIM RANEY
Community Development Director

EXHIBIT 1

AMENDMENT NO.2 TO CITY OF WHEATLAND DEVELOPMENT AGREEMENT

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.

Property Owner further agrees to pay the excise tax on all new development on the Property in accordance with Wheatland Municipal Code chapter 3.30.

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:

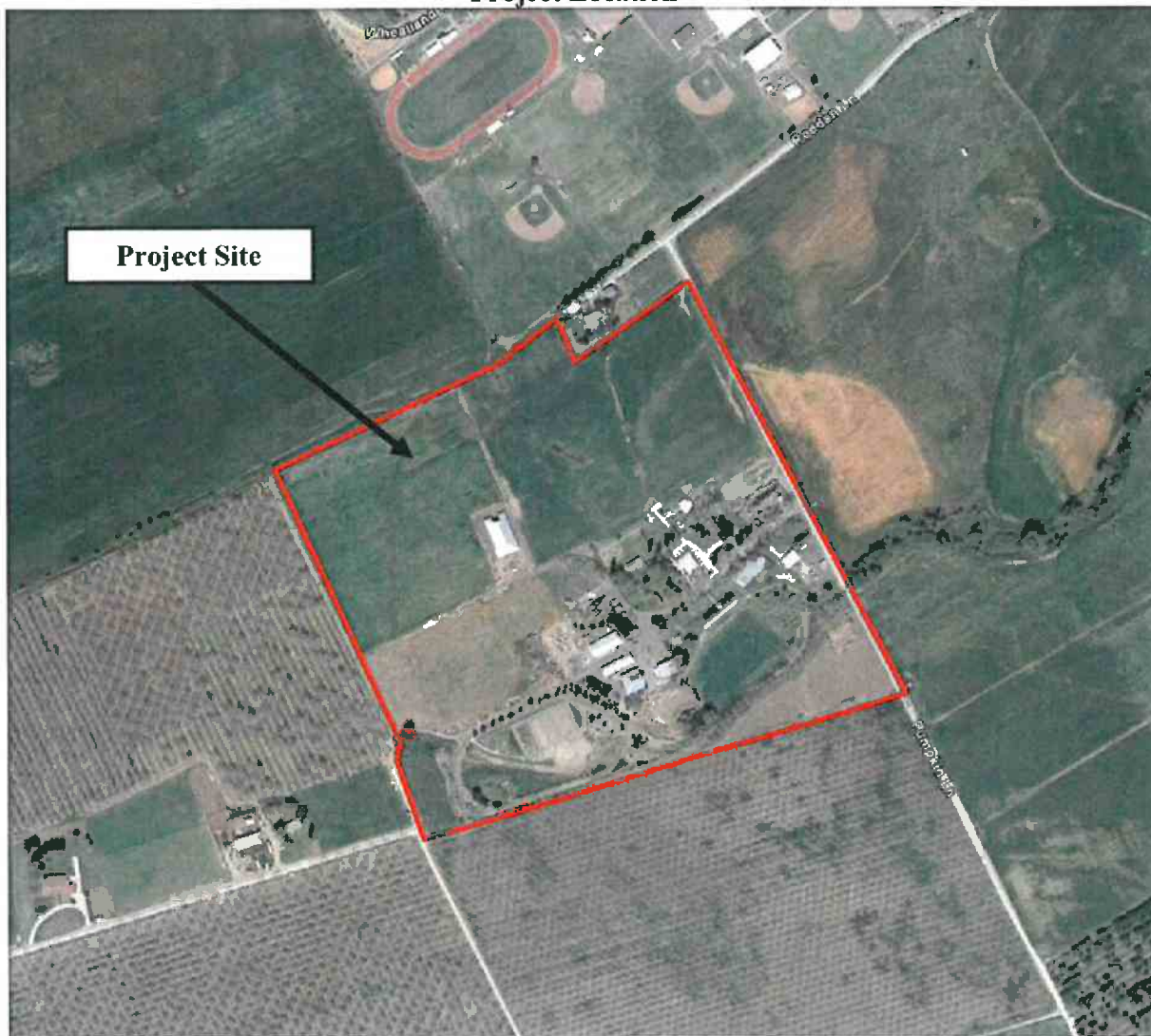
James Goodwin
City Manager

By:

William Bishop

Sandra Bishop

**Figure
Project Location**



TERRY A. HANSEN
 YUBA COUNTY RECORDER
 MARYSVILLE, CA
 RECORDED ON
 02/22/2011 02:00PM
 REC FEE: 0.00
 PAGE 1 OF 17
 DEPUTY INITIALS: JCE

Recording requested by, and
 When recorded return to:

City of Wheatland
 111 C Street
 Wheatland, CA 95692

Exempt from recording fees (Government Code sections 6103 & 27383)

**CITY OF WHEATLAND
 DEVELOPMENT AGREEMENT
 CONCERNING BISHOP PUMPKIN FARM**

This Development Agreement (the "Agreement") is made and entered into this 11th day of January 2011, 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 Agreement is made with reference to the following background recitals:

1.1. Authorization. Government Code section 65864 et seq. (the "Development Agreement Law") authorizes the City and a property owner to enter into a development agreement to establish certain development rights in the real property that is the subject of the Agreement. This Agreement is entered into pursuant to the authority of the Development Agreement Law and City's development agreement ordinance.

1.2. Property. The subject of this Agreement is the annexation, use and development of that certain parcel of land located within the City, consisting of approximately 43.57 acres as described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property"). Property Owner owns the Property in fee.

1.3. Approval of Agreement. On November 16, 2010, the City Planning Commission, in a duly noticed and conducted public hearing, considered this Agreement and recommended that the City Council approve this Agreement. On January 11, 2011, after a duly noticed and conducted public hearing, the City Council adopted this Agreement pursuant to Ordinance No. 427.

1.4. CEQA. City caused a mitigated negative declaration to be prepared and approved pursuant to the California Environmental Quality Act (CEQA) for the Project described below. See City Council Resolution No. 20-10 (the "Mitigated Negative Declaration").

1.5. Entitlements. The City Council has approved the following land use entitlements for the Property, which entitlements are the subject of this Agreement:

1.5.1. The City's General Plan as it exists on the Effective Date;

1.5.2. The rezoning of the Property pursuant to the Bishop's Pumpkin Farm Planned Development Zone as approved by Ordinance No. 426, adopted on January 11, 2011;

1.5.3. Such other ordinances, rules, regulations and official policies governing and applicable to the use and development of the Property in force on the Effective Date, except as they may be in conflict with a provision of this Agreement; and,

1.5.4. This Development Agreement as approved by Ordinance No. 427 (the "Adopting Ordinance"), adopted on January 11, 2011 (the "Approval Date") and as effective on February 11, 2011, (the "Effective Date").

The approvals described above are referred to as the "Entitlements." The "Project" for purposes of this Agreement is the annexation, use and development of the Property in accordance with the Entitlements.

1.6. General Plan. Use and development of the Property in accordance with this Agreement and the other Entitlements will provide orderly growth and development of the area in accordance with the policies set forth in the General Plan. Having duly examined and considered this Agreement and the Entitlements and having held properly noticed public hearings, the City finds that this Agreement is consistent with the City General Plan.

1.7. Need for Services and Facilities. Development of the Property will result in a need for municipal services and facilities, which services and facilities will be provided by City to such development, subject to the performance of the obligations of Property Owner under this Agreement. Property Owner agrees to contribute to the costs of such public facilities and services as are required to mitigate impacts of the development of the Property on the City, and City agrees to provide such public facilities and services to assure that Property Owner may proceed with the use and development of the Property in accordance with the terms of this Agreement. City and Property Owner recognize and agree that but for Property Owner's contributions to mitigate the impacts from the Project, City would not approve the annexation and development of the Property as provided by this Agreement and that, but for City's covenant to provide the facilities and services necessary for annexation and development of the Property, Property Owner would not commit to provide the mitigation and obligations as set forth in this Agreement. City's support for annexation and vesting of the right to use and develop the Property is in reliance upon and in consideration of the agreement of Property Owner to make contributions toward the cost of public improvements and services as provided in this Agreement to mitigate the impacts of the Project.

1.8. Property Owner's Faithful Performance. The Parties agree that Property Owner's performance in using and developing the Project on the Property and in complying with the Entitlements and the terms of this Agreement will fulfill substantial public needs. The City agrees that there is good and valuable consideration to the City resulting from Property Owner's assurances and faithful performance of this Agreement, and that the same is in balance with the benefits conferred by the City on the Project. The Parties further agree that the exchanged consideration is fair, just and reasonable.

2. GENERAL PROVISIONS.

2.1. Annexation--Condition Precedent. The Parties acknowledge that, as of the Effective Date, the Property is not located within the City boundaries, but that the City has adopted a resolution approving the filing of an application to annex the Property with the Yuba County Local Agency Formation Commission. Therefore, pursuant to Government Code section 65865(b), this Agreement shall not become operative until annexation proceedings annexing the Property to the City are completed. If the annexation is not completed by December 31, 2011 (or such later date as may be approved by the Parties in writing), then this Agreement shall be null and void.

2.2. Property Description and Binding Covenants. The Property is that real property described and shown in Exhibit A. It is intended and determined that the provisions of this Agreement shall constitute covenants that shall run with the Property for the term of the Agreement and the benefits and burdens of this Agreement shall bind and inure to all successors in interest to the Parties.

2.3. Term.

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 thereafter, unless the term is terminated, modified or extended as provided by this Agreement or by mutual written consent of the Parties.

2.3.2. Amendment of Agreement. This Agreement may be amended from time to time by mutual written consent of the Parties in accordance with the Development Agreement Law. Amendment by City requires approval by the City Council of City. If the proposed amendment affects less than the entire Property, then such amendment need only be approved by the owner(s) in fee of the portion(s) of the Property that is(are) subject to or affected by such amendment. The parties acknowledge that under the City Zoning Code and applicable rules, regulations and policies of the City, the Planning Director has the discretion to approve minor modifications to approved land use entitlements without the requirement for a public hearing or approval by the City Council. Accordingly, the approval by the Planning Director of any minor modifications to the Entitlements that are consistent with this Agreement shall not constitute nor require an amendment to this Agreement to be effective.

2.3.3. Recordation. Except when this Agreement is automatically terminated due to the expiration of its term, the City shall cause any amendment to it or any other termination of it to be recorded, at Property Owner's expense, with the County Recorder within 10 days of the date of the amendment or termination becoming effective. Any amendment or termination of the Agreement to be recorded that affects less than all the Property shall describe the portion that is the subject of such amendment or termination.

2.3.4. Effect of City Admissions Tax. If City, during the term of this Agreement, adopts a City-wide admissions tax (i.e., a tax on the right or privilege to enter or occupy entertainment, amusement, recreational or sport related property and to observe or participate in any entertainment, amusement, recreational or sport event or activity), then upon the effective date of the tax, this Agreement shall terminate and Property Owner thereafter shall pay an admissions

tax as may be required by the City admissions tax ordinance. However, any such City-wide admissions tax shall provide that, as applied to the Property, section 4.2.6 of this Agreement concerning City use of the admission tax revenue shall apply to any tax revenue generated from the Property for the duration of the term of the Agreement. If the City adopts an admissions tax that does not so provide, then this Agreement shall not terminate upon the effective date of the tax, Property Owner shall continue to pay the Admissions Fee to City until expiration or termination of the Agreement, and Property Owner shall be exempt from the admissions tax until expiration or termination of the Agreement.

3. CITY COMMITMENTS.

3.1. Development of the Property.

3.1.1. Permitted Uses. The permitted uses of the Property, the density and intensity of use, setback requirements, maximum height and size of buildings and structures, and other terms and conditions of use and development of the Property shall be those set forth in this Agreement and the other Entitlements.

3.1.2. Vested Entitlements. Subject to the provisions of this Agreement, City hereby grants a fully vested entitlement and right to use and develop the Property in accordance with the terms and conditions of this Agreement and the other Entitlements. The Project land uses allowed by the Entitlements are permitted to be continued and developed in accordance with the Entitlements, as such Entitlements provide on the Effective Date of this Agreement. With the consent of Property Owner and City, nothing in this Agreement shall preclude the City from processing and approving amendments to the vested Entitlements. Regarding the future development of the Property, such development shall be subject to subsequent City land use and building approvals (other than the Entitlements) that may be required for the development of the Property. Property Owner’s vested right under this Agreement is limited to the Entitlements as described above.

3.1.3. Future City Rules and Regulations. To the extent any future City rules, ordinances, regulations or policies applicable to development of the Property are inconsistent with the permitted uses, density and intensity of use, or maximum building height and size under the Entitlements as provided in this Agreement, the terms of the Entitlements and this Agreement shall prevail, unless the parties agree otherwise in writing or agree to amend this Agreement. To the extent any future rules, ordinances, fees, regulations or policies applicable to development of the Property are not inconsistent with the permitted uses, density and intensity of use, or maximum building height and size under the Entitlements or under any other terms of this Agreement, such rules, ordinances, fees, regulations or policies shall be applicable.

3.1.4. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal.3d 465 that failure of the parties to provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over the parties’ agreement, it is the intent of the Property Owner and City to cure that deficiency by acknowledging and providing that Property Owner shall have the right (without the obligation) to develop the Property in such order and at such rate and at such time as it deems

appropriate within the exercise of its subjective business judgment, subject to the terms of this Agreement.

3.2. Exceptions; Application of Changes. This Agreement shall not preclude, prohibit or limit the application of any of the following to the Property or Project:

3.2.1. Any new or amended City-wide ordinance, resolution, rule, regulation or policy that does not conflict with the Entitlements or those ordinances, resolutions, rules, regulations and policies in effect at the Effective Date, and that is generally applied equally to all real property in the City with similar zoning designations and/or land uses.

3.2.2. Any new or amended City ordinance, resolution, rule, regulation or policy that is mandated by changes in federal or state law or regulation that may be applicable to the Property or Project.

3.2.3. Any new or amended building codes, including, but not limited to, the California Building Code, Uniform Fire Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electrical Code, and Uniform Housing Code, that generally apply equally to all buildings, structures and real property in City.

3.2.4. Any new or amended City-wide public works improvement standards that are generally applied equally to all real property and public improvements in the City.

3.2.5. Any growth limitation ordinance, resolution, rule, regulation or policy (including, but not limited to, a City sewer or water connection moratorium or limitation) that is adopted on a uniformly applied, City-wide or area-wide basis and is necessary to prevent a condition injurious to the health, safety or welfare of City residents, in which case City shall treat Property Owner in a uniform, equitable and proportionate manner with all properties, public and private, which are impacted by that public health, safety or welfare issue.

3.3. Annexation. City agrees to apply to Yuba County Local Agency Formation Commission for annexation of the Property to the City and to cooperate with Property Owner and the Local Agency Formation Commission in annexing the Property to the City.

4. PROPERTY OWNER OBLIGATIONS. Property Owner at its sole cost and expense shall comply with the following obligations.

4.1. City Fees.

4.1.1. Processing Fees and Charges. Property Owner shall pay those processing, inspection, plan checking, and monitoring fees and charges required by City under the then current and applicable regulations (including any post-Effective Date increases in such fees and charges and new fees and charges) for processing applications and requests for City permits, approvals and other entitlements, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions.

4.1.2. Development Fees. For any future development and building on the Property, Property Owner agrees to pay (a) the City development impact fees in accordance with

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Wheatland Municipal Code chapter 2.27, as the same may be amended from time to time, and the resolutions adopted pursuant to chapter 2.27, in the applicable fee types and amounts in effect at the time of building permit issuance (the "City Development Fees"), and (b) the excise tax on new development in accordance with Wheatland Municipal Code chapter 3.30.

4.1.3. Nothing in this Agreement shall apply to, limit or restrict, applicable development fees and similar fees imposed by governmental agencies other than City, including, but not limited to, local school districts, reclamation districts, joint powers authority, County of Yuba, and/or regional agencies.

4.1.4. Property Owner agrees not to oppose, protest or challenge the City Development Fees to be imposed and collected pursuant to this Agreement. Except as otherwise provided by this Agreement, nothing in this section shall be construed to limit the right of Property Owner to oppose, protest or challenge any proposal to adjust existing fees or charges or to adopt new fees or charges. In addition, nothing in this Agreement shall prevent or preclude the City from adopting assessments, fees and charges (other than fees imposed on new development) or special taxes on property within the City to fund capital facilities, public improvements and/or services.

4.2. Admissions Fee.

4.2.1. Background. The parties acknowledge that (a) the Property's annexation to the City and subsequent use and development of the Property will require City to provide police, street maintenance and other municipal services to and for the Property and its guests and invitees, and (b) the property tax, sales tax and other revenue from the Property to be received by City will be inadequate to cover the costs of the services. In order to help pay for these services and in exchange for the vested rights conferred by this Agreement, Property Owner agrees to collect and pay to City an Admissions Fee as provided in this section 4.2.

4.2.2. Definitions. For purposes of this section 4.2, the following definitions apply:

4.2.2.1. "Admission Charge" means any charge (whether or not so designated) to a Patron for the right or privilege to enter or occupy the Property or to participate in any Event on the Property. It shall also mean group sales, subscription, advance sales/payments and season passes.

4.2.2.2. "Admissions Fee" means the fee to be imposed and collected by Property Owner pursuant to this section.

4.2.2.3. "Event" means any entertainment, amusement, recreational or sport event or activity that a person may participate in or observe and for which an Admission Charge is imposed, and shall include, but shall not be limited to, train and amusement rides, corn maze, petting zoo, circus, movies and shows of all kinds, theatrical and musical performances, sporting and athletic contests and events, miniature golf, fairs, carnivals, and any other form of entertainment, amusement, recreation or sport.

4.2.2.4. "Patron" shall mean any person who pays or on account of whom is paid any Admission Charge.

4.2.3. Collection of Admissions Fee. Property Owner agrees to impose and collect an Admissions Fee in an amount equal to five percent of the price of the Admission Charge on any Admission Charge collected by Property Owner or its employees, officers, agents, licensees or concessionaires. Property Owner shall collect the Admissions Fee from any Patron when he or she pays an Admission Charge or purchases an admission ticket, subscription, advance sales or season pass/ticket. Property Owner shall collect and hold the Admissions Fee revenue in trust until the same is remitted to the City as provided below.

4.2.4. Exemptions. Parking fees, food sales, produce sales, and merchandise sales shall be exempt from the Admissions Fee. If any Admissions Charge for a package deal or arrangement includes payment for entry and/or an Event or Events together with an exempt item or items, then Property Owner shall fairly and reasonably segregate the Admissions Charge into amounts for exempt and non-exempt items based on relative value, and Property Owner shall impose, collect and remit the Admissions Fee on only the non-exempt portion.

4.2.5. Reporting and Remitting. Within 15 days after the end of each month, Property Owner shall prepare and file a return with the City showing the monthly Admission Charges collected per Event or entry, the total Admission Charges collected, and the amount of the Admission Fee revenue collected from Patrons. At the time the return is filed, the full amount of the collected Admissions Fee revenue shall be remitted to the City. Those amounts not paid shall immediately become delinquent. Returns and payments are due and payable immediately upon cessation of business by the Property Owner for any reason.

4.2.6. City Use of Admissions Fee Revenue. City may use the Admissions Fee revenue as follows: 50% of the collected revenue shall be deposited in the City General Fund and may be used by City for any General Fund purpose; and, 50% of the collected revenue shall be deposited by City in a special fund and may be used for any public project that that is approved in writing by City and Property Owner.

4.2.7. Delinquency. If Property Owner fails to timely file an Admissions Fee return or remit collected Admissions Fee revenue, it shall pay a penalty of ten percent of the Admissions Fee amount. In addition to the penalty, if Property Owner fails to timely remit any Admissions Fee, it shall pay interest at the rate of one and one-half percent per month or fraction thereof on the amount of fee, exclusive of penalties, from the last day of the month following the monthly period for which the amount or any portion thereof should have been paid until the date of payment.

4.2.8. Records. Property Owner shall keep and preserve all records sufficient in nature to determine the paid Admission Charges collected and the Admissions Fee amount that is due to the City. Records that shall be kept include, but are not limited to, daily cash receipts, admission records, cash register tapes. City may examine and audit the books, papers, records and equipment of Property Owner and may investigate Property Owner's Property-related business in order to verify the accuracy of Admissions Fee returns and remittances.

4.3. CEQA Mitigation Measures and Zoning Regulations. The City Council adopted a mitigated negative declaration for the annexation of the Bishop's Pumpkin Farm property to the City, which incorporated mitigation measures that are identified in the approved Mitigation

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Monitoring Plan (“MMMP”). Property Owner agrees to be bound by, and shall perform, all mitigation measures that are identified in the MMP as being a responsibility of Property Owner, and the regulations and conditions of the Bishop’s Pumpkin Farm Planned Development Zone, which was adopted by its Ordinance No. 426.

4.4. Compliance with Laws. Property Owner shall comply with all applicable federal, state, City (except as otherwise provided by this Agreement), and other governmental statutes, regulations, codes, ordinances and other laws (including permit and license requirements) relating to the use and development of the Property.

5. DEFAULT, REMEDIES, TERMINATION.

5.1. Default.

5.1.1. Subject to extensions of time by mutual consent in writing, failure or unreasonable delay by either party to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any term or condition of this Agreement, the party alleging such default or breach shall give the other party not less than 30 days notice in writing specifying the nature of the alleged default and the manner in which the default may be satisfactorily cured. During any such 30-day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings. Nothing in this section shall preclude the City from imposing penalties and interest as may be permitted under section 4.2.7.

5.1.2. After notice and expiration of the 30-day period, if the default has not been satisfactorily cured or remedied, the non-defaulting party at its option may institute legal proceedings pursuant to section 5.2 or give notice of intent to terminate the Agreement pursuant to the Development Agreement Law and implementing City ordinance. Following notice of intent to terminate, the matter shall be scheduled for consideration and review by the City Council within 30 days as provided by the Development Agreement Law and implementing City ordinance.

5.1.3. Following consideration of the evidence presented in the review before the City Council, either party alleging the default by the other party may give written notice of termination of this Agreement to the other party.

5.2. Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, to enjoin any threatened or attempted violation, or to compel specific performance. In no event shall City or its officers, employees or agents be liable in damages for any breach of this Agreement, it being expressly understood and agreed that the sole remedy available to Property Owner for a breach of this Agreement by City shall be a legal action in mandamus, specific performance, injunction or declaratory relief to enforce the Agreement.

5.3. Effect of Termination. If this Agreement is terminated following any event of default by Property Owner or for any other reason, such termination shall not affect the validity of any building or improvement within the Property that is completed as of the date of termination, provided that such building or improvement has been constructed pursuant to a valid building

permit issued by the City or County of Yuba. Furthermore, no termination of this Agreement shall prevent Property Owner from completing and occupying any building or other improvement authorized pursuant to a valid building permit previously issued by the City or County of Yuba that is under construction at the time of termination, provided that any such building or improvement is completed in accordance with the building permit in effect at the time of such termination.

5.4. Force Majeure. Performance by either party under this Agreement shall not be deemed to be in default where delays or default are due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation (including litigation and appeals brought by any third party challenging City approval of any or all of the Entitlements), or similar bases for excused performance. If written notice of such delay is given to City within 30 days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

5.5. Annual Review. At least every 12 months during the term of this Agreement, City shall review the extent of good faith substantial compliance by Property Owner with the terms of this Agreement. Such periodic review shall be limited in scope to compliance with the terms of this Agreement pursuant to Government Code section 65865.1 and the monitoring of CEQA mitigation measures. Property Owner shall be responsible for the cost reasonably and directly incurred by the City to conduct such annual review, the payment of which shall be due within 30 days after conclusion of the review and receipt from City of the bill for such costs. Upon written request by the City Planning Director, Property Owner shall provide such information as may be necessary or appropriate in order to ascertain compliance with this Agreement.

6. INDEMNIFICATION AND HOLD HARMLESS.

6.1. Indemnity. Property Owner and its successors-in-interest and assigns shall indemnify, defend, protect and hold harmless City, 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 performance and actions under this Agreement by Property Owner and/or its contractors, subcontractors, consultants, agents or employees, or failure to perform or act under this Agreement, except such loss or damage that was caused by the sole negligence or willful misconduct of City or except as otherwise limited by law. Property Owner also shall defend, indemnify and hold harmless City, and its officers, employees, agents and volunteers from any lawsuit, claim or liability arising out of the execution, adoption or implementation of this Agreement and/or the Entitlements. The indemnification obligations under this section 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.

6.2. Waiver. In consideration of the benefits received pursuant to this Agreement, Property Owner, on behalf of itself and its successors-in-interests and assigns, waives and covenants not to sue City or any of its officers, employees, agents or volunteers for any and all causes of action or claims that it might have under City ordinances or the laws of the State of California or the

United States with regard to any fees and payments provided by this Agreement or other conditions imposed by this Agreement.

6.3. Defense of Agreement. City and Property Owner agree to cooperate, and to timely take all actions necessary or required to uphold the validity and enforceability of this Agreement and the Entitlements, subject to the indemnification provisions of Section 6.1. The City and Property Owner shall promptly notify one another of any claim, action, or proceeding brought forth within this time period. Property Owner and City shall select joint legal counsel to conduct such defense and which legal counsel shall represent both the City and Property Owner in defense of such action (unless, under the circumstances, single legal counsel could not represent both Parties because of a conflict of interest).

7. DEEDS OF TRUST AND MORTGAGES.

7.1. Mortgagee Protection. This Agreement shall be superior and senior to all liens placed upon the Property or any portion of it after the date on which this Agreement is recorded, including the lien of any deed of trust or mortgage (“Mortgage”). Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against all persons and entities, including all deed of trust beneficiaries or mortgagees (“Mortgagees”) who acquire title to the Property or any portion thereof by foreclosure, trustee’s sale, deed in lieu of foreclosure or otherwise.

7.2. Mortgagee Obligations. Upon receipt of a written request from a foreclosing Mortgagee, City shall permit the Mortgagee to succeed to the rights and obligations of Property Owner under this Agreement, provided that all defaults by Property Owner under this Agreement that are reasonably susceptible of being cured are cured by the Mortgagee as soon as is reasonably possible. The foreclosing Mortgagee shall comply with all of the provisions of this Agreement.

7.3. Notice of Default to Mortgagee. If City receives notice from a Mortgagee requesting a copy of any notice of default given to Property Owner and specifying the address for sending notice, City shall endeavor to deliver to the Mortgagee, concurrently with notice to Property Owner, all notices given to Property Owner describing all claims by the City that Property Owner has defaulted under this Agreement. Each Mortgagee shall have the right during the same period available to Property Owner to cure or remedy, or to commence to cure or remedy, the condition of default claimed, or the areas of noncompliance set forth in City’s notice.

8. MISCELLANEOUS PROVISIONS.

8.1. Estoppel Certificate. Either party may from time to time deliver written notice to the other party requesting such party to certify in writing that, to the knowledge of the certifying party, (a) this Agreement is in full force and effect and a binding obligation of the parties, (b) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (c) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, to describe the nature of such default. The party receiving a request under this Agreement shall execute and return such certificate within 30

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days following the receipt thereof. City acknowledges that transferees and mortgagees of Property Owner may rely upon a certificate under this Agreement.

8.2. Successors. This Agreement runs with the Property. From and after recordation of this Agreement against the Property, the burdens of the Agreement shall bind, and the benefits of the Agreement shall inure to, successor owners of the Property or any portion of the Property. (Government Code section 65868.5.) Upon transfer of the Property or any portion of it, the transferee shall be the Property Owner with all rights and obligations under this Agreement with respect to such conveyed property.

8.3. 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.

8.4. Construction and Interpretation. The parties agree and acknowledge 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.

8.5. 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. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought.

8.6. Severability. If any term, covenant or condition of this Agreement or the application of the Agreement to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall remain valid and enforceable to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a party of an essential benefit of its bargain under this Agreement, then such party so deprived shall have the option to terminate this entire Agreement from and after such determination.

8.7. Relationship of Parties. Nothing in this Agreement shall be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation, or liability on or with regard to any one or more of the parties.

8.8. 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, their respective successors and permitted 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.

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8.9. Governing Law. Except as otherwise required by law, this Agreement shall be interpreted, governed by, and construed under the laws of the State of California.

8.10. Notices. Any notice, demand, invoice or other communication required or permitted to be given under this Agreement, the Development Agreement Law or implementing ordinance shall be in writing and either served personally or sent by prepaid, first class U.S. mail and addressed as follows:

City: Property Owner:

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

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

CITY OF WHEATLAND

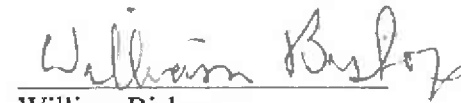
By:



Stephen L. Wright
City Manager

PROPERTY OWNER

By:



William Bishop



Sandra Bishop

EXHIBIT A

January 4, 2011

The tract of land as described in the Grant Deed to William W. and Sandra L. Bishop, Trustees under the Bishop Family Living Trust, recorded in Document Number 99000798, Official Records of Yuba County, located in Sections 9, 10, 11 & 12, Johnson Rancho, Yuba County, California, being more particularly described as follows:

Commencing at the intersection of the East right of way line of Pumpkin Lane and the North right of way line of Roddan Lane, being a point on the Wheatland City Limits Line; thence from the Point of Commencement, South 52°50'29" West along the Wheatland City Limits Line for a distance of 480.00 feet to the Point of Beginning, being an angle point in the northerly line of Parcel 2 as shown and designated on Parcel Map Number 91-57, filed in Book 58 of Maps, at Page 40, Yuba County Records; thence from the Point of Beginning along the northerly, easterly and southerly lines of said Parcel 2 for the following five (5) consecutive courses and distances:

- Course 1. South 34°22'04" East along said northerly line for a distance of 150.00 feet,
- Course 2. North 52°33'05" East along said northerly line for a distance of 460.00 feet to the northerly most point of said Parcel 2,
- Course 3. South 26°40'07" East along said easterly line for a distance of 1407.21 feet to the easterly most point of said Parcel 2,
- Course 4. South 72°43'51" West along said southerly line for a distance of 958.26 feet, and
- Course 5. South 71°28'46" West along said southerly line for a distance of 541.57 feet to the southerly most point of said Parcel 2;

thence along the southerly, westerly and northerly lines of above described lands of Bishop for the following six (6) consecutive courses and distances:

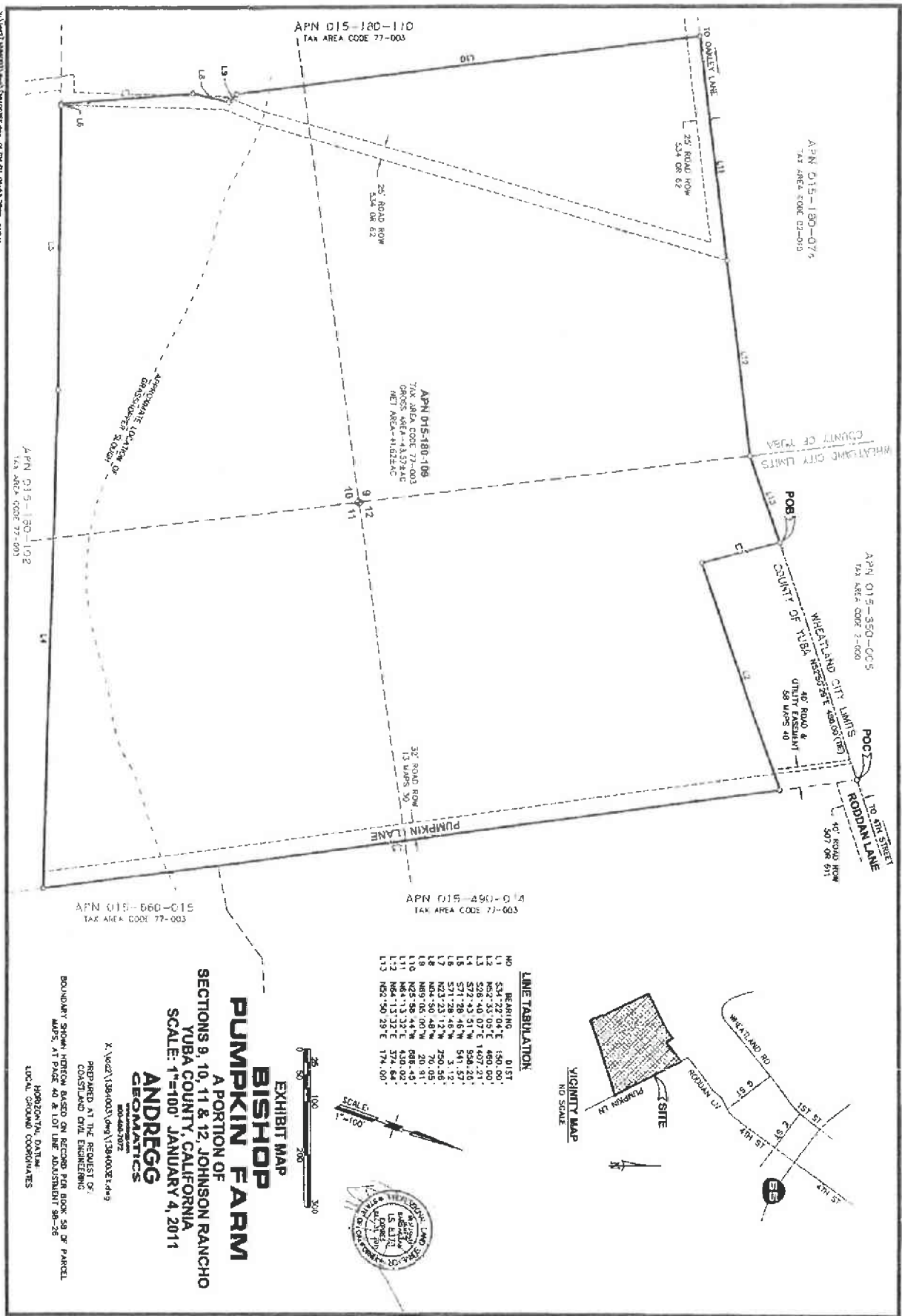
- Course 6. South 71°28'46" West along said southerly line for a distance of 3.12 feet to the southerly most point of said lands of Bishop,
- Course 7. North 23°23'12" West along said westerly line for a distance of 250.56 feet,
- Course 8. North 04°50'48" West along said westerly line for a distance of 70.05 feet,
- Course 9. North 69°05'00" West along said westerly line for a distance of 20.91 feet,
- Course 10. North 25°58'44" West along said westerly line for a distance of 886.45 feet to the westerly most point of said lands of Bishop, and
- Course 11. North 64°13'32" East along said northerly line for a distance of 430.02 feet to the northerly most corner of said lands of Bishop;

thence along the above described northerly line of Parcel 2 for the following two (2) consecutive courses and distances:

- Course 12. North 64°13'32" East for a distance of 374.64 feet to an angle point in the Wheatland City Limits Line, and
- Course 13. North 52°50'29" East along said Wheatland City Limits Line for a distance of 174.00 feet to the Point of Beginning.

Contains a gross area of 43.57 acres, more or less, and a net area of 41.62 acres.





LINE TABULATION

NO	BEARING	DIST
L1	S34°22'04"E	150.00'
L2	N52°33'05"E	460.00'
L3	S26°40'07"E	1,697.21'
L4	S72°42'01"W	538.20'
L5	S71°42'01"W	571.12'
L6	S71°28'46"W	571.12'
L7	N23°23'12"W	250.58'
L8	N04°50'48"W	70.05'
L9	N09°06'00"W	20.91'
L10	N09°06'00"W	20.91'
L11	N64°13'27"E	430.02'
L12	N64°13'27"E	377.84'
L13	N52°50'29"E	174.00'

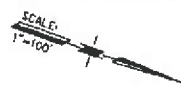
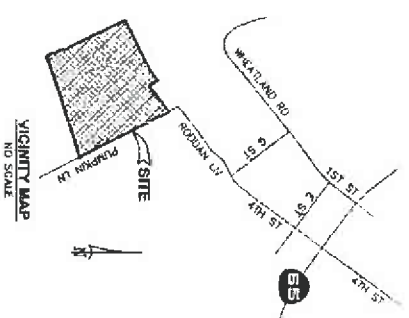


EXHIBIT MAP
BISHOP
PUMPKIN FARM
 A PORTION OF
 SECTIONS 9, 10, 11 & 12, JOHNSON RANCHO
 YUBA COUNTY, CALIFORNIA
 SCALE: 1"=100' JANUARY 4, 2011
ANDREGG
GEOMATICS

X:\valdez\1384003\Valdez\1384003E1.dwg
 06-04-2012
 PREPARED AT THE REQUEST OF:
 CONSULTING CIVIL ENGINEERS
 BOUNDARY SHOWN HEREON BASED ON RECORD FOR BOOK 58 OF PARCEL
 MAPS, AT PAGE 40 & LOT LINE ADJUSTMENT 98-26
 HORIZONTAL DATUM
 LOCAL GRID COORDINATES

24. Valdez\1384003\Valdez\1384003E1.dwg, 07/24/11 08:13:29am, print

ACKNOWLEDGEMENT BY NOTARY PUBLIC
[Cal. Civ. Code, '1189]

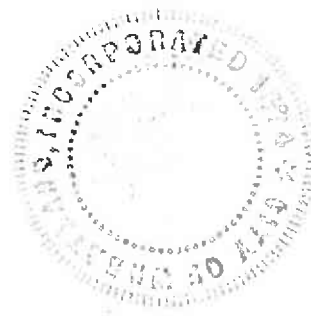
State of California
County of Yuba

On January 13, 2011, before me, Lisa J. Thomason, City Clerk, personally appeared Stephen L. Wright, City Manager, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/~~their~~ authorized capacity(ies), and that by his/~~her~~/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Lisa J. Thomason (Seal)



ACKNOWLEDGEMENT BY NOTARY PUBLIC
[Cal. Civ. Code, '1189]

State of California
County of Yuba

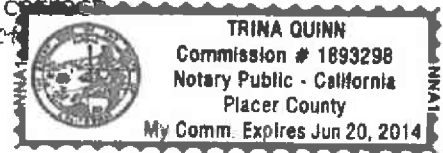
January 26th, 2011

On ~~January 26th of 2011~~ before me, Trina Quinn, Notary Public Personally appeared William Bishop and Sandra Bishop, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Correct

WITNESS my hand and official seal.



Signature Trina Quinn (Seal)
2-9-2011

RECORDED

IAN 04 2018

CITY OF
WHEATLAND

2017-016376

12/14/2017 01:31 PM Page 1 of 7

Total Fee: \$0.00

Recorded in Official Records
County of Yuba State of CA
Terry A. Hansen
County Clerk and Recorder

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. 1 TO
CITY OF WHEATLAND DEVELOPMENT AGREEMENT
CONCERNING BISHOP PUMPKIN FARM**

This Amendment No. 1 to the Development Agreement (the "Amendment") is made and entered into this September 26, 2017 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. Property Owner submitted to the City plans for an 1,880-square foot addition to the cider mill on the Bishop Pumpkin Farm property located at 1415 Pumpkin Lane, Wheatland, California 95692 (the "Property") and, following discussions with City staff concerning the development impact fees applicable to the addition, submitted a request to the City Council on March 22, 2016 for a waiver of said development impact fees.
- 1.3. On May 31, 2016, following a duly noticed public hearing on the requested waiver, City Council denied Property Owner's waiver request and, recognizing that City's current development impact fee program does not take into account agricultural uses and Property Owner's significant contributions to the community, directed City staff and Property owner to negotiate new terms and conditions respecting the payment of City fees by Property Owner for future construction on the Property.
- 1.4. City and Property Owner desire that the Agreement be amended to reflect the new agreed-upon terms concerning City fees that Property Owner is obligated to pay for future construction on the Property.

2. **Amendments to Agreement.** The Agreement is hereby amended as follows:

2.1. A new Section 3.4 (Access to Property) is added to Section 3 (City Commitments) of the Agreement to read as follows:

3.4. Access to Property. City agrees to prepare a traffic plan, as the same may be amended from time to time, that provides at least two access points to the Property to alleviate traffic impacts to the City caused by Events (as defined in Section 4.2.2.3) on the Property during the months of September and October. The plan shall designate the City roads, streets, and lanes to be used by vehicular traffic to access the Property during peak and non-peak periods; the locations of additional signage and barricades for directing such traffic; the locations of additional ticket booths for facilitating access to the Property's parking lot; the locations of police officers assigned to monitor and direct vehicular traffic to and from the Property; and such other elements identified by City as necessary to reduce traffic impacts caused by Events on the Property. The plan shall require at least two police officers to direct vehicular traffic to and from the Property during peak periods of the Events season; provided, however, that City may, in consultation with Property Owner, require additional police officers during such peak periods.

Property owner agrees to pay for expenses relating to the construction of additional ticket booths on the Property. Expenses relating to additional signage, barricades, and City services other than police services required to annually implement the traffic plan shall be paid by City using the Admission Fee revenues in the special fund described in Section 4.2.6. Expenses relating to police services required by the traffic plan shall be paid by City using Admission Fee revenues deposited in City's general fund as described in Section 4.2.6; provided, however, that special fund revenues may be used for additional police services if approved by City and Property Owner in writing.

2.2. Section 4.1.2 (Development Fees) of Section 4 (Property Owner Obligations) of the Agreement shall be amended to read as follows:

4.1.2. Development Fees. City waives development impact fees for the cider mill addition and construction of a retail barn on the Property; provided, however, that Property Owner agrees to pay the City development impact fees for any other future development, construction, and building on the Property in accordance with Wheatland Municipal Code chapter 3.26, as the same may be amended from time to time, and the resolutions adopted pursuant to chapter 3.26, in the applicable fee types and amounts in effect at the time of building permit issuance. Development impact fees to be paid by the Property Owner in the future shall be established pursuant to an updated development impact fee study, prepared by the City pursuant to the Mitigation Fee Act (commencing with Government Code section 66000), that takes into account agricultural entertainment land uses within the City. Property Owner further

agrees to pay the excise tax on all new development on the Property in accordance with Wheatland Municipal Code chapter 3.30.

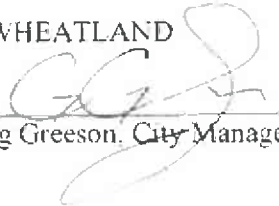
2.3. Section 4.2.6 (City Use of Admissions Fee Revenue) of the Agreement shall be amended to read as follows:

4.2.6 City Use of Admissions Fee Revenue. City may 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 may be used for any public project that is approved in writing by City and Property Owner.

3. No Effect on Other Provisions. Except for the amendments in Section 2, the remaining provisions of the Agreement shall be unaffected and remain in full force and effect.

CITY OF WHEATLAND

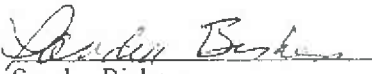
By:

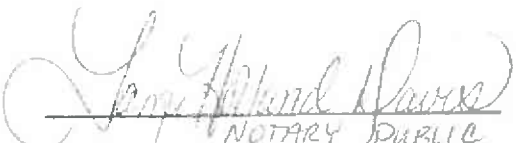

Greg Greeson, City Manager

PROPERTY OWNER

By:


William Bishop


Sandra Bishop


NOTARY PUBLIC



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Yuba

On September 29, 2017 before me, Lisa J. Thomason, City Clerk
(insert name and title of the officer)

personally appeared Greg Greeson
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Lisa J. Thomason



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

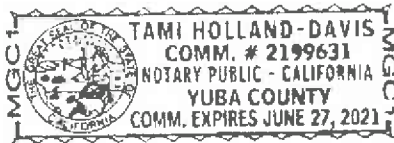
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Yuba)

On November 27, 2017 before me, Tami Holland Davis, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared William Bishop & Sandra Bishop
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Tami Holland-Davis
Signature of Notary Public

Place Notary Seal Above

OPTIONAL:

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

4

January 4, 2011

The tract of land as described in the Grant Deed to William W. and Sandra L. Bishop, Trustees under the Bishop Family Living Trust, recorded in Document Number 99000798, Official Records of Yuba County, located in Sections 9, 10, 11 & 12, Johnson Rancho, Yuba County, California, being more particularly described as follows:

Commencing at the intersection of the East right of way line of Pumpkin Lane and the North right of way line of Roddan Lane, being a point on the Wheatland City Limits Line; thence from the Point of Commencement, South 52°50'29" West along the Wheatland City Limits Line for a distance of 480.00 feet to the Point of Beginning, being an angle point in the northerly line of Parcel 2 as shown and designated on Parcel Map Number 91-57, filed in Book 58 of Maps, at Page 40, Yuba County Records; thence from the Point of Beginning along the northerly, easterly and southerly lines of said Parcel 2 for the following five (5) consecutive courses and distances:

- Course 1. South 34°22'04" East along said northerly line for a distance of 150.00 feet,
- Course 2. North 52°33'05" East along said northerly line for a distance of 460.00 feet to the northerly most point of said Parcel 2,
- Course 3. South 26°40'07" East along said easterly line for a distance of 1407.21 feet to the easterly most point of said Parcel 2,
- Course 4. South 72°43'51" West along said southerly line for a distance of 958.26 feet, and
- Course 5. South 71°28'46" West along said southerly line for a distance of 541.57 feet to the southerly most point of said Parcel 2;

thence along the southerly, westerly and northerly lines of above described lands of Bishop for the following six (6) consecutive courses and distances:

- Course 6. South 71°28'46" West along said southerly line for a distance of 3.12 feet to the southerly most point of said lands of Bishop,
- Course 7. North 23°23'12" West along said westerly line for a distance of 250.56 feet,
- Course 8. North 04°50'48" West along said westerly line for a distance of 70.05 feet,
- Course 9. North 69°05'00" West along said westerly line for a distance of 20.91 feet,
- Course 10. North 25°58'44" West along said westerly line for a distance of 886.45 feet to the westerly most point of said lands of Bishop, and
- Course 11. North 64°13'32" East along said northerly line for a distance of 430.02 feet to the northerly most corner of said lands of Bishop;

thence along the above described northerly line of Parcel 2 for the following two (2) consecutive courses and distances:

- Course 12. North 64°13'32" East for a distance of 374.64 feet to an angle point in the Wheatland City Limits Line, and
- Course 13. North 52°50'29" East along said Wheatland City Limits Line for a distance of 174.00 feet to the Point of Beginning.

Contains a gross area of 43.57 acres, more or less, and a net area of 41.62 acres.

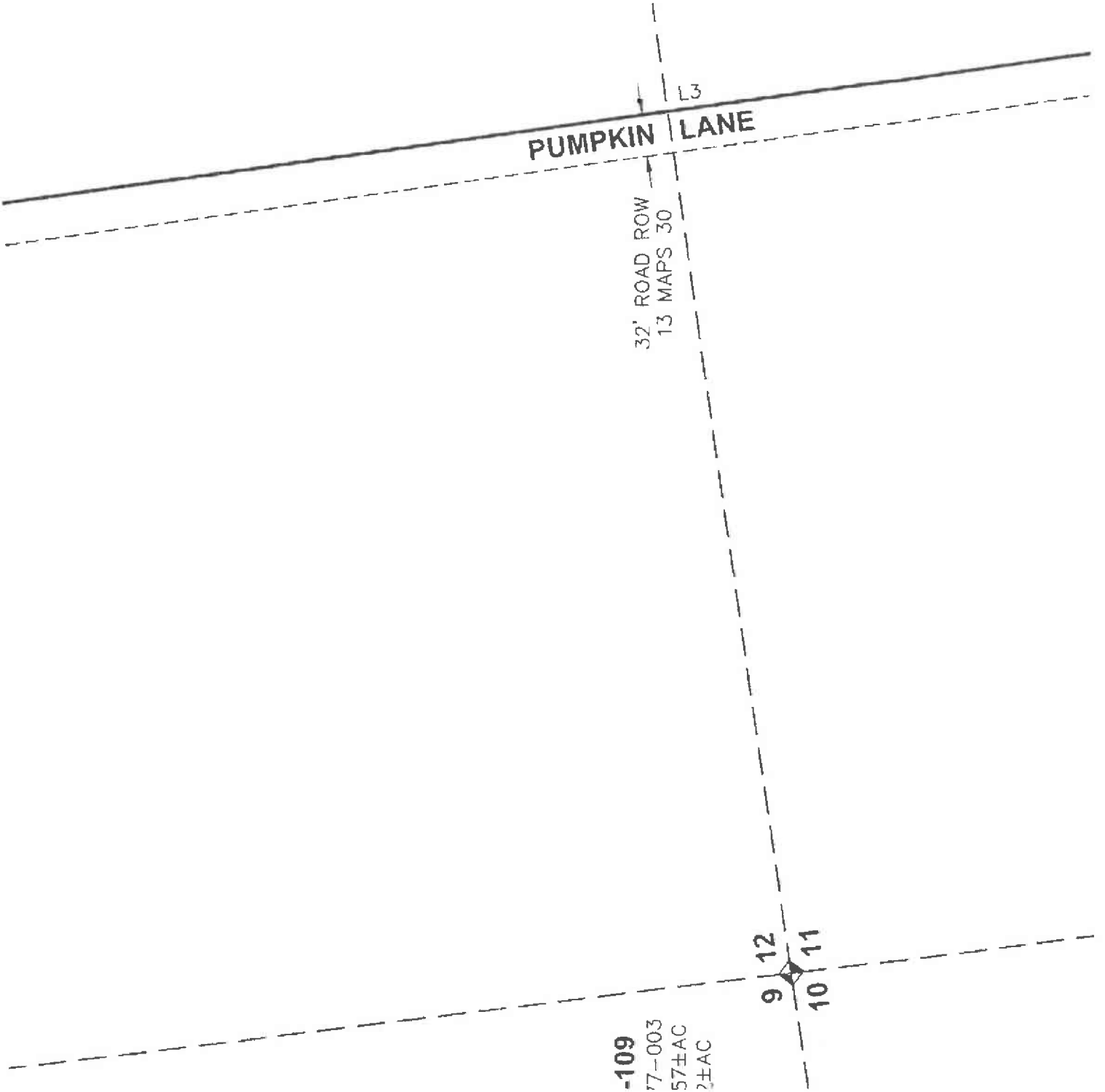




LINE TAI

NO	BEAR I
L1	S34°22'
L2	N52°33'
L3	S26°40'
L4	S72°43'
L5	S71°28'
L6	S71°28'
L7	N23°23'
L8	N04°50'
L9	N69°05'
L10	N25°58'
L11	N64°13'
L12	N64°13'
L13	N52°50'

APN 015-490-014
TAX AREA CODE 77-003



-109
77-003
57±AC
2±AC

Bishop Pumpkin Farm Impact Fee Revenue (10 Year Estimate)

Potential New Buildings	Building Square Feet	Estimated Future Impact Fees
Warehouse	5,000-sf	\$112,050
Commercial Kitchen #1	1,200-sf	\$27,660
Storage	400-sf	\$8,964
Retail Hut	400-sf	\$11,122
Retail Building	1,500-sf	\$41,708
Retail Building	2,000-sf	\$55,610
Retail Building	800-sf	\$22,244
Maintenance Shop	2,000-sf	\$46,100
Commercial Kitchen #2	3,000-sf	\$69,150
Restroom--retail	1,064-sf	\$29,585
Total	17364-sf	\$424,193

Past City Portion of Admission Fees

Year	Past City Revenue
2011	\$21,000
2012	\$29,000
2013	\$31,000
2014	\$42,000
2015	\$49,000
2016	\$42,000
2017	\$69,000
2018	\$75,000

Expected City Portion of Admission Fees

Year	Bishop Pumpkin Farm Proposal of 5% of Admission Fees
2019	\$78,750
2020	\$82,688
2021	\$86,822
2022	\$91,163
2023	\$95,721
2024	\$100,507
2025	\$105,533
2026	\$110,809
2027	\$116,350
2028	\$122,167
2029	\$128,275
2030	\$134,689

Note: The Bishop Pumpkin Farm proposal of five percent of admission fees predicts an annual growth rate of approximately 10 percent. The City of Wheatland would be expected to receive approximately \$134,689 in the year 2030.

Expected City Portion of Admission Fees with Extension of DA Term	
Year	Bishop Pumpkin Farm Proposal of 5% of Admission Fees
2031	\$141,424
2032	\$148,495
2033	\$155,920
2034	\$163,716
2035	\$171,901
2036	\$180,496
2037	\$189,521
2038	\$198,997
Total	\$1,350,470

Note: With extentsion of the Development Agreement term, the City of Wheatland is projected to receive a total of \$1,350,470 by the year 2038 compared to the estimated total impact fee revenue of \$424,193.

