

REQUEST FOR PROPOSALS



GENERAL PLAN UPDATE

Issued on May 23, 2023

**Questions Due by June 2, 2023 at 5:00 P.M.
Responses Due by June 16, 2023 at 5:00 P.M.**

Submit Responses and Direct Questions to:

**Jim Goodwin, City Manager
City of Wheatland
111 C Street
Wheatland, CA 95692**

Phone: (530) 633-2761

Fax: (530) 633-9102

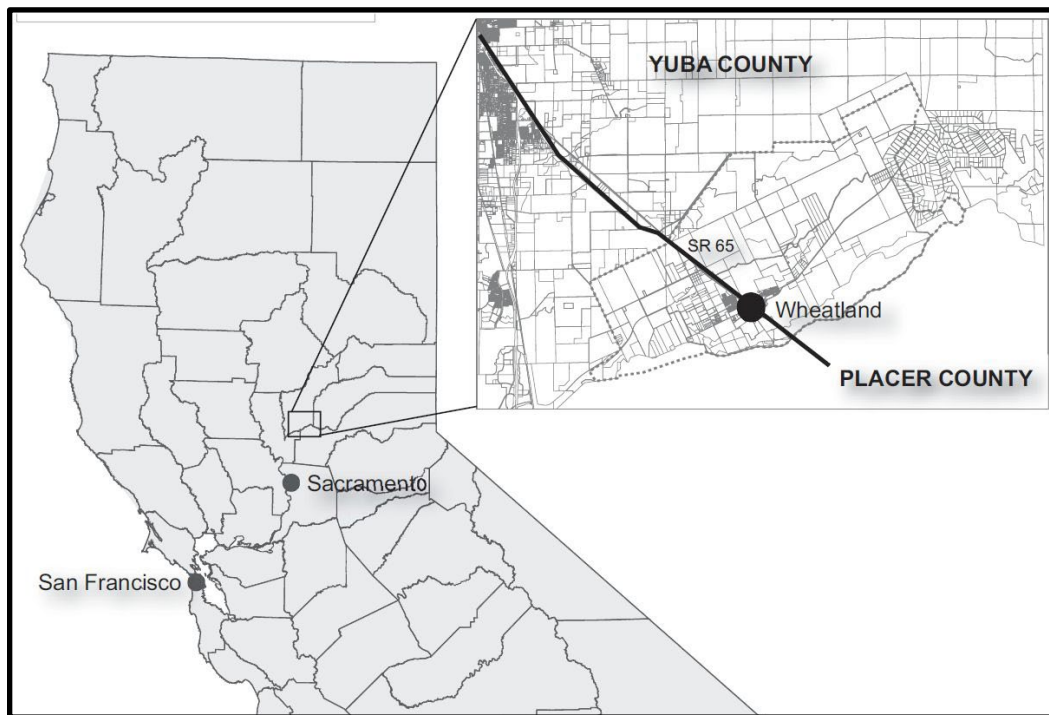
jgoodwin@wheatland.ca.gov

1.0 PURPOSE AND BACKGROUND

The City of Wheatland is requesting proposals from consultants to assist with the General Plan Update. The City of Wheatland is seeking the services of a qualified firm to provide assistance with the Update and subcontract as necessary for technical analysis. CEQA review is not part of this RFP and will be contracted separately.

The City of Wheatland (Wheatland) is one of two cities in Yuba County located in Northern California's Central Valley and is immediately north of the Bear River and is near the tri-county boundary of Sutter, Placer, and Yuba Counties (see Figure 1 below). The City of Wheatland is a growing, rural community located along State Route 65 (SR 65) and has a land area of 8.19 square miles. SR 65 runs northwest to southeast and divides the city into eastern and western sections.

Figure 1 – Regional Location Map



The 2006 General Plan projected the City's population to increase from 3,000 in 2004 to 30,100 in 2025, while employment was projected to increase from 500 to 11,080 during the same time period. However, the City of Wheatland has remained a small town and according to the City of Wheatland Housing Element 8-Year Update (2021-2029), the City has a current estimated population of 3,810.

Current Issues Facing Wheatland

The City of Wheatland General Plan sets the framework for future growth and development within which Wheatland can expand while still maintaining the small-town feeling and quality of life that is so important to Wheatland residents. The major theme of the General Plan Update is to retain and build upon Wheatland's small-town and neighborhood qualities while achieving an

economically-healthy and self-sufficient community. Since the adoption of the 2006 General Plan, a number of new issues, challenges, and projects have occurred in Wheatland.

Wheatland's Development Potential

In 2014, Wheatland annexed approximately 4,500 acres extending the city limit line east, which included the Hop Farm Annexation area and the Johnson Rancho Annexation area. Between both annexation areas, a total of 14,396 dwelling units were proposed for the entire project area, consisting of 13,330 single-family dwelling units, 556 multi-family dwelling units, and an additional 500 dwelling units within non-residential land uses. The total approved acreage consisted of approximately 3,249 acres of residential, 131 acres of commercial, 274 acres of employment, 55 acres of elementary schools, 40 acres of middle schools, 24 acres of civic center, 50 acres of parks, 57 acres of linear parkway, approximately 238 acres of open space/drainage, and 31 acres for the proposed Wheatland Expressway. The city limits now cover an area directly south of Beale Air Force Base along routes leading to gates into the facility. However, development within the Hop Farm Annexation and Johnson Rancho Annexation areas has not occurred.

Active Agricultural Land

With the annexation of the Hop Farm and the Johnson Rancho areas, the City of Wheatland now includes more than 1,500 acres of active agricultural land. Active agricultural land is typically located within unincorporated county land and not within incorporated cities. Therefore, as the City continues to urbanize and develop, the City faces continuing planning challenges within the urban and agricultural interface. Agriculture has historically been an important industry in the City of Wheatland and a central part of the City's identity. Agriculture contributes to regional economic health and prosperity and defines much of the City's visual character, supports wildlife habitats, and provides open space and recreational amenities for residents and visitors. As a result, on September 28, 2021 the Wheatland City Council adopted Citywide Agricultural Goals, Objectives, and Implementation Measures to preserve the community's historical agricultural heritage, support agricultural production within the City, and protect the City's current and future residents. The General Plan Update will need to include and expand on the adopted Citywide Agricultural Goals, Objectives, and Implementation Measures.

Agricultural Tourism

Located in the City of Wheatland is the Bishop's Pumpkin Farm, a seasonal festival open from September through November. This agricultural tourism use is a regional draw for the community that provides many benefits to the City of Wheatland. However, during the open season access and circulation issues can arise impacting the local residents. The General Plan Update will need to include goals and policies focused around the continued operation and future growth of agricultural tourism in Wheatland.

Traffic and Circulation

Traffic congestion is among the most prominent challenges Wheatland is currently experiencing. Future plans to construct the Wheatland Expressway and the Wheatland SR 65 Bypass would help

lessen traffic congestion along the portion of SR 65 within the City. The Wheatland Express way is estimated to be constructed in approximately 5-10 years and would extend from the south of Wheatland to Spenceville Road to the east. The Wheatland SR 65 Bypass would be constructed in approximately 20 years and would serve as a four-lane freeway around the City of Wheatland with new local access on and off ramps along SR 65. Future construction of the Wheatland Expressway and the Wheatland SR 65 Bypass would be a regional effort in coordination with the South Yuba Transportation Improvement Authority.

Wastewater Treatment Capacity

The City's current wastewater treatment plant (WWTP) was constructed in 1967, and last updated in 1990 and has a capacity of 0.62 million gallons per day (MGD). The existing WWTP is designed to treat wastewater at a secondary level which is not consistent with the current State standards of tertiary treatment. The City's current WWTP has reached the end of its useful life. As a result, the City of Wheatland has recently approved the Wheatland Regional Sewer Project, which consists of the construction of a sewer pipeline alignment extending from an existing pump station near the existing City WWTP, north to a point of connection with Olivehurst Public Utility District's (OPUD) wastewater system. The pipeline alignment generally extends north/northeast along roadways within the City of Wheatland, and then along roadways and farmland in unincorporated Yuba County. The Regional Sewer Project also includes three sewer pump stations spaced along the pipeline alignment to convey all flows from existing and proposed planned development within the City to OPUD's point of connection. The City's existing WWTP is anticipated to be decommissioned at a later as a result of the Regional Sewer Project.

General Plan Update

The City is requesting proposals from qualified planning firms to develop an update to the General Plan. It is important to note that this update is not envisioned as a wholesale rewrite, but rather a "refresh" of the existing Plan intended to accommodate projected growth, address current community issues, and meet new statutory requirements. The current City of Wheatland General Plan is organized into chapters and addresses State-required Elements throughout. Reorganization of the City of Wheatland General Plan into Elements is not part of this scope of work.

The current City of Wheatland General Plan was adopted on July 11, 2006 and is comprised of the following chapters:

- Land Use and Community Character;
- Transportation and Circulation;
- Economic Development;
- Housing;
- Public Facilities and Services;
- Recreational, Educational, and Community Services;
- Historic Preservation;
- Environmental Resources;
- Health and Safety; and
- Administration and Implementation.

The General Plan Update will include updates to all the current chapters of the General Plan, as well as, the preparation of a new Environmental Justice chapter pursuant to SB 1000. The City anticipates that the existing General Plan will be utilized as much as possible and will only require smaller, necessary revisions in order to comply with new State legislation.

The City of Wheatland 2021-2029 Housing Element was recently updated and will not require any revisions as part of this scope of work. As a result of the existing agricultural production in the City, it is anticipated that the overall buildout of the City will generally remain the same as the 2006 buildout estimates.

City staff is currently completing the preliminary General Plan Background Report, which will be made available to the consultant team to assist with the preparation of the General Plan Update and community outreach.

The successful consultant team will have significant experience preparing general plan updates for small, rural communities located in primarily agricultural regions like Wheatland, as well as experience conducting community outreach, public engagement, and meeting facilitation. They will also be expected to deliver high-quality services and products, develop professional meeting and web-ready graphics, and work cooperatively with City staff, outside agencies, City Council members, and the public throughout development of the update.

The City intends to select a contractor to begin work as soon as possible, following completion of contract negotiations, award of a contract, and other City contracting requirements.

2.0 SCOPE OF SERVICES TO BE PROVIDED

The Scope of Services outlined below is preliminary and will be finalized as part of the negotiations between the selected Consultant and the City. However, at minimum, the selected Consultant will be required to complete the following tasks as part of the General Plan Update:

- Update all sections of the General Plan (with the exception of the Housing Element), including any updates as needed, as a result of changes in State law.
 - This will include preparation of a new Environmental Justice chapter pursuant to SB 1000.
- Prepare preliminary drafts, a final draft, and the final General Plan Update, in compliance with the requirements of State law.
- Revise the Wheatland General Plan in response to direction/comments from City staff, City Council, and the public/stakeholders.
- Prepare a public participation program and attend the following meetings/hearings:
 - one (1) “kick-off” meeting with the City Staff;
 - two (2) educational and public informational meetings with the public;
 - two (2) City Council work sessions;
 - at least two (2) stakeholder meetings;
 - at least one (1) Planning Commission hearing; and
 - at least one (1) City Council hearing.

- Assist in the preparation of public meeting presentation materials, letters, memos, and other documents as required by City Staff in paper and electronic forms. (City Staff will prepare Staff Reports and Resolutions, and prepare, post, mail, and publish public hearing notices.)
- Provide regular progress reports to Staff, as necessary, to communicate updates.

3.0 PROPOSAL FORMAT

The Consultant shall submit a complete Proposal in response to this RFP utilizing the format outlined below. The Proposal shall not exceed forty (40) single-sided pages, including the cover, back page, letter of transmittal, and table of contents. Font size shall be no smaller than eleven point. Company brochures shall not be included in the Proposal. All required forms and resumes are excluded from the 40-page limit.

The Proposal shall include the following sections, which are discussed in additional detail below:

1. Letter of Transmittal;
2. Firm History and Organization;
3. Qualifications and Experience of Project Team;
4. References;
5. Scope of Work, Approach, and Deliverables;
6. Preliminary Budget and Billing Rates;
7. Legal Actions Against Firm; and
8. Availability.

3.1 LETTER OF TRANSMITTAL

The Proposal shall include a brief letter of transmittal signed by an individual authorized to bind prospective contracts. The transmittal letter shall be addressed to:

Jim Goodwin, City Manager
City of Wheatland
111 C Street
Wheatland, CA 95692

The letter shall include the name, title, telephone number, and email address of the individual who may be contacted during the period of RFP evaluation.

The letter shall also include a statement of willingness to sign the City's Professional Services Agreement (Attachment A of this RFP). Any objections or exceptions to the agreement must be noted in the RFP.

The City shall research any additional forms that will need to be completed by the Consultant based on the anticipated funding source for the General Plan Update Project.

3.2 FIRM HISTORY AND ORGANIZATION

The Proposal shall include the history and organization of the firm, applicable certifications of recognition, and other pertinent information demonstrating qualifications to perform services. The Consultant shall provide descriptions of a minimum of three (3) projects that demonstrate relevant experience preparing General Plans or other similar long-range planning policy documents. Each project description should include the following:

- Project name;
- Type of project;
- Client, including contact information (name, title, email address, and phone number);
- Approved Budget; and
- Scope of services provided.

The Consultant shall be capable of providing services that meet federal and State-funded project requirements. Experience in rural, northern California municipalities like the City of Wheatland is highly desirable. The Consultant must have the capacity to provide the services required by the City in a timely manner.

3.3 QUALIFICATIONS AND EXPERIENCE OF PROJECT TEAM

The Proposal shall identify a project team consisting of experienced professional and technical staff. The composition of the project team shall be provided, including leadership (i.e., principals, project manager), reporting responsibilities, and if applicable, how subconsultants fit into the team composition. The project manager must have experience in managing long-range planning projects of a similar nature. Please provide a brief summary of qualifications for each proposed subconsultant, if applicable.

The Proposal shall include an organizational chart, which identifies each team member (including subconsultants) and lists their roles and responsibilities.

Resumes of the Consultant's key team members shall be included and shall be limited to one page per person. Resumes shall include educational background and work experience including employer names for all work experience. If applicable, resumes for subconsultants shall be included.

Key personnel (project manager and others listed by name in the Proposal) shall not be substituted during the contract term without written approval from the City. The consultant shall request and justify the need for substitutions and the proposed substituted person shall be as qualified as the original and at the same or lower cost.

3.4 REFERENCES

The Proposal shall include a minimum of three (3) client references for the prime Consultant.

3.5 SCOPE OF WORK, APPROACH, AND DELIVERABLES

The Proposal shall include a preliminary scope of work, which includes detailed description of each appropriate component of the project and how each task outlined in *Section 2.1 Scope of Services* of this RFP will be completed, including all appropriate deliverables. Based on the Consultant's experience preparing similar long-range planning policy documents, the Consultant is encouraged to include any additional tasks that are not listed in *Section 2.1 Scope of Services*, but may be needed to adequately assist the City with the General Plan Update.

The approach shall outline the Consultant's understanding of the relevant issues to be addressed in the General Plan Update. If the Consultant proposes to utilize subconsultants to complete any portion of the *Scope of Services*, include a discussion of the proposed subconsultant(s) and the services they will provide.

The preliminary scope of work included in the Proposal will be finalized during negotiations between the City and the selected Consultant. The finalized scope of work will be incorporated into the Professional Services Agreement for the General Plan Update.

3.6 BUDGET AND FEE SCHEDULE

The Proposal shall include a preliminary budget, which details the costs for each task, including the cost of any reimbursable items (e.g., printing, mileage, etc.). The budget shall include all work to be completed by the Consultant and subconsultant(s).

The Consultant shall submit the proposed billing rates for key staff and all other job classifications that may be used by the Consultant. Billing rates for any proposed subconsultants must also be included. The billing rates provided as part of the Proposal shall remain in place for the duration of the contract.

3.7 LEGAL ACTIONS AGAINST FIRM

The Proposal shall include a list of any legal judgments against the consultant, subconsultants, or any project team members associated with project performance or professional liability that have occurred within the past five (5) years. Upon request of the City, additional information may be requested regarding legal judgments.

3.8 AVAILABILITY

The Proposal shall indicate the earliest date the Consultant is available to provide services under contract, and demonstrate the depth necessary to provide required services in a timely manner.

4.0 REQUEST FOR PROPOSALS PROCEDURES AND COMMUNICATION GUIDELINES

4.1 NOTICE OF INTENT TO RESPOND TO RFP INSTRUCTIONS

To ensure receipt of notifications regarding the RFP, and to have the Proposal considered valid, the Consultant must email the City to relay their intention to respond to the RFP. Consultants must email Jim Goodwin, City Manager at jgoodwin@wheatland.ca.gov with the subject line stating “Notice of Intent to Respond to RFP for General Plan Update”.

4.2 SUBMITTAL INSTRUCTIONS

Respondents shall submit one copy of the Proposal in electronic, PDF format via email to Jim Goodwin, City Manager at jgoodwin@wheatland.ca.gov with the subject line stating “Proposal for General Plan Update”.

All Proposals must be received by the City by or before June 16, 2023 at 5:00 P.M. (“Proposal Deadline”). Any Proposals not received by the Proposal Deadline will be removed from consideration. Any Proposals which do not conform to these requirements in its entirety will not be considered by the City.

4.3 REQUEST FOR INFORMATION AND ADDENDA

All questions shall be directed in writing to Jim Goodwin, City Manager at jgoodwin@wheatland.ca.gov by or before June 2, 2023 at 5:00 P.M. (“Request for Information Deadline”). Any questions not received by the Request for Information will be removed from consideration.

Any addendums or clarifications to this RFP will be issued to all firms in writing. No oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in this RFP. Any changes to the RFP will be in writing and issued to all firms.

5.0 CRITERIA FOR EVALUATION OF QUALIFICATIONS

The City will evaluate and rank the Proposals and establish a short list of consultants who are best qualified to perform the contract work. Interviews of consultants on the short list may occur at the option of the City. If interviews are held, consultants will be given interview requirements a minimum of one week prior to the interview.

The highest ranked consultant will be contacted by the City to determine an acceptable and agreeable method of payment. If an agreement as to charges cannot be reached with the highest ranked consultant that consultant will be removed from the process and the next highest ranked consultant will be contacted to discuss an acceptable and agreeable method of payment. This process will be repeated until the consultant and the City reach an agreement.

The selected consultant shall be required to enter into a written contract with the City in a form approved by the City Attorney. A copy of the City’s Standard Professional Services Agreement is available in Attachment A of this RFP. Any executed contract for services or agreement by and

between the City and consultant requires formal City Council approval to authorize the City Manager to sign the contract.

The selected consultant, and any subconsultants, shall obtain a valid and current City of Wheatland Business License from the City on or before commencement of work on the project.

6.0 TERMS AND CONDITIONS

6.1 LIMITATIONS

All reports and pertinent data or materials shall become the property of the City. This RFP does not commit the City to award an agreement, to pay any costs incurred in preparation of the qualifications, or to procure or contract services and supplies. The City reserves the right to accept or reject any or all qualifications received, to negotiate with any qualified source, or to cancel in part or in its entirety this RFP, if it is in the best interest of the City to do so. The City may require the consultants to participate in negotiations and to submit such price, technical, or other revisions of their qualifications as may result from negotiations. All qualifications shall remain firm for 90 days following the submittal date per Section 6.0. The City reserves the option to retain all qualifications, whether selected or rejected.

6.2 EMPLOYMENT OF CITY PERSONNEL

The Consultant shall not employ any persons whose services with the City have been terminated for whatever reason except retirement within the last two years preceding the date of the contract or during the life of the contract, without the written permission of the City. This stipulation shall also apply to any subconsultants employed by the consultant.

6.3 SUBCONTRACTING

The Consultant shall not assign, sublet, or transfer any or all of the interest in the work without prior written approval of the City. If subcontracting is approved by the City, the prime consultant shall do a minimum of 30% of the work.

6.4 INSURANCE REQUIREMENT

The City requires the Consultant to obtain insurance as will be described in the Professional Services Agreement. The required insurance certificates must comply with all requirements of the standards as described in the contract and must be provided to the City prior to commencement of work.

ATTACHMENTS:

Attachment A – City’s Standard Professional Services Agreement

PROFESSIONAL SERVICES AGREEMENT

A sample professional services agreement has been included in **Attachment A** for review by consultants. Exceptions to any of the terms and conditions contained within this agreement should be specifically identified by the consultant. If no exceptions are noted within the proposals it will be assumed that the consultant is willing to enter into the agreement as it is written.

Attachment A _____

Sample Professional Services Agreement

City of Wheatland
Services Agreement

This Agreement is entered into as of the date last signed and dated below by and between City of Wheatland, a local government agency ("City"), and _____, a **[Insert type and jurisdiction of entity]** ("Contractor"), who agree as follows:

1 Scope of Work

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

2 Payment

2.1 City shall pay to Contractor a fee based on [check one]:

____ Contractor's time and expenses necessarily and actually expended or incurred on the Work in accordance with Contractor's fee schedule on the attached Exhibit B.

____ The fee arrangement described on the attached Exhibit B.

The total fee for the Work shall not exceed \$_____**[delete this sentence if not applicable]**. There shall be no compensation for extra or additional work or services by Contractor unless approved in advance in writing by City. Contractor's fee includes all of Contractor's costs and expenses related to the Work.

2.2 At the end of each month, Contractor shall submit to City an invoice for the Work performed during the preceding month. The invoice shall include a brief description of the Work performed, the dates of Work, number of hours worked and by whom (if payment is based on time), payment due, and an itemization of any reimbursable expenditures. If the Work is

satisfactorily completed and the invoice is accurately computed, City shall pay the invoice within 30 days of its receipt.

3 Term

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

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

4 Professional Ability of Contractor

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

[The paragraphs in section 4.2 can be replaced with "Intentionally omitted" if the City is not requiring the Contractor to designate key personnel.]

4.2 The following individuals are designated as key personnel and are considered to be essential to the successful performance of the work hereunder: [Describe Contractor's key personnel by name or by reference, e.g. the individuals whose resumes are included in Exhibit A.]. Contractor agrees that these individuals may not be removed from the Work or replaced without compliance with the following sections:

4.2.1 If one or more of the key personnel, for whatever reason, becomes, or is expected to become, unavailable for work under this contract for a continuous period exceeding 30 work days, or is expected to devote substantially less effort to the work than indicated in the proposal or initially anticipated, Contractor shall immediately notify City and shall, subject to City's concurrence, promptly replace the personnel with personnel of at least substantially equal ability and qualifications.

4.2.2 Each request for approval of substitutions must be in writing and contain a detailed explanation of the circumstances necessitating the proposed substitutions. The request must also contain a complete resume for the proposed substitute and other information requested or needed by City to evaluate the proposed substitution. City shall evaluate Contractor's request and City shall promptly notify Contractor of its decision in writing.

5 Conflict of Interest

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

6 Contractor Records

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

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

7 Ownership of Documents

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

Work Product that is copyrighted by Contractor, City reserves a royalty-free, nonexclusive and irrevocable license to use, reuse, reproduce, publish, display, broadcast and distribute the Work Product and to prepare derivative and additional documents or works based on the Work Product. If City reuses or modifies any Work Product for a use or purpose other than that intended by the scope of work under this Agreement, then City shall hold Contractor harmless against all claims, damages, losses and expenses arising from such reuse or modification. For any Work Product provided to City in paper format, upon request by City at any time (including, but not limited to, at expiration or termination of this Agreement), Contractor agrees to provide the Work Product to City in a readable, transferable and usable electronic format generally acknowledged as being an industry-standard format for information exchange between computers (e.g., Word file, Excel spreadsheet file, AutoCAD file).

8 Confidentiality of Information

[The paragraphs in this section can be replaced with the phrase “Intentionally omitted” if the District will not provide any confidential information to the Contractor.]

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

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

8.3 If any person or entity, other than City or Contractor, requests or demands, by subpoena, discovery request, California Public Records Act request or otherwise, Confidential Material or its contents, the party to whom the request is made will immediately notify the other party, so that the parties may collectively consider appropriate steps to protect the disclosure of those materials. The parties agree to take all steps reasonably necessary to preserve the confidential and privileged nature of the Confidential Material and its content. In the event that the parties cannot agree whether to oppose or comply with a disclosure demand, the opposing party may oppose the demand at its sole cost and expense, in which event the party favoring disclosure will

refrain from disclosing the demanded Confidential Material until such time as a final agreement regarding disclosure is reached or, if an agreement is not reached, a judicial determination is made concerning the demand.

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

9 Compliance with Laws

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

9.2 California Labor Code Compliance for Pre- and Post-Construction Related Work and Maintenance.

9.2.1 This section 9.2 applies if the Work includes either of the following:

921.1 Labor performed during the design, site assessment, feasibility study and pre-construction phases of construction, including, but not limited to, inspection and land surveying work, and labor performed during the post-construction phases of construction, including, but not limited to, cleanup work at the jobsite. (See California Labor Code section 1720(a).) If the Work includes some labor as described in the preceding sentence and other labor that is not, then this section 9.2 applies only to workers performing the pre-construction and post-construction work.

921.2 “Maintenance” work, which means (i) routine, recurring and usual work for the preservation, protection and keeping of any City facility, plant, building, structure, utility system or other property (“City Facility”) in a safe and continually usable condition, (ii) carpentry, electrical, plumbing, glazing, touchup painting, and other craft work designed to preserve any City Facility in a safe, efficient and continuously usable condition, including repairs, cleaning and other operations on City machinery and equipment, and (iii) landscape maintenance. “Maintenance” excludes (i) janitorial or custodial services of a routine, recurring or usual nature, and (ii) security, guard or other protection-related services. (See California Labor Code section 1771 and 8 California Code of Regulations section 16000.) If the Work includes some “maintenance” work and other work that is not “maintenance,” then this section 9.2 applies only to workers performing the “maintenance” work.

9.2.2 Contractor shall comply with the California Labor Code provisions concerning payment of prevailing wage rates, penalties, employment of apprentices, hours of work and overtime, keeping and retention of payroll records, and other requirements applicable to public

works as may be required by the Labor Code and applicable state regulations. (See California Labor Code division 2, part 7, chapter 1 (sections 1720-1861), which is incorporated in this Agreement by this reference.) The state-approved prevailing rates of per diem wages are available at <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>. Contractor also shall comply with Labor Code sections 1775 and 1813, including provisions that require Contractor to (a) forfeit as a penalty to City up to \$200 for each calendar day or portion thereof for each worker (whether employed by Contractor or any subcontractor) paid less than the applicable prevailing wage rates for any labor done under this Agreement in violation of the Labor Code, (b) pay to each worker the difference between the prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof for which the worker was paid less than the prevailing wage, and (c) forfeit as a penalty to City the sum of \$25 for each worker (whether employed by Contractor or any subcontractor) for each calendar day during which the worker is required or permitted to work more than 8 hours in any one day and 40 hours in any one calendar week in violation of Labor Code sections 1810 through 1815.

9.2.3 If the Work includes labor during pre- or post-construction phases as defined in section 9.2.1.1 above and the amount of the fee payable to Contractor under section 2 of this Agreement exceeds \$25,000, Contractor must be registered and qualified to perform public work with the Department of Industrial Relations pursuant section 1725.5 of the Labor Code.

Contractor's Public Works Contractor Registration Number: _____

9.2.4 If the Work includes maintenance as defined in section 9.2.1.2 above and the amount of the fee payable to Contractor under section 2 of this Agreement exceeds \$15,000, Contractor must be registered and qualified to perform public work with the Department of Industrial Relations pursuant section 1725.5 of the Labor Code.

Contractor's Public Works Contractor Registration Number: _____

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

10 Indemnification.

10.1 Contractor shall indemnify, defend, protect, and hold harmless City, and its officers, employees and agents ("Indemnitees") from and against any claims, liability, losses, damages and expenses (including attorney, expert witness and Contractor fees, and litigation costs) (collectively a "Claim") that arise out of, pertain to, or relate to the negligence, recklessness, or

willful misconduct of Contractor or its employees, agents or subcontractors. The duty to indemnify, including the duty and the cost to defend, is limited as provided in this section. However, this indemnity provision will not apply to any Claim arising from the sole negligence or willful misconduct of City or its employees or agents. Contractor's obligations under this indemnification provision shall survive the termination of, or completion of Work under, this Agreement.

10.2 This section 10.2 applies if the Contractor is a "design professional" as that term is defined in Civil Code section 2782.8. If a court or arbitrator determines that the incident or occurrence that gave rise to the Claim was partially caused by the fault of an Indemnatee, then in no event shall Contractor's total costs incurred pursuant to its duty to defend Indemnitees exceed Contractor's proportionate percentage of fault as determined by a final judgment of a court or final decision of arbitrator.

11 Insurance

Types & Limits. Contractor at its sole cost and expense shall procure and maintain for the duration of this Agreement the following types and limits of insurance: [The general liability and automobile coverage limits may be adjusted depending on the Work's overall risks, cost and complexity.]

<i>Type</i>	<i>Limits</i>	<i>Scope</i>
Commercial general liability	\$2,000,000 per occurrence & \$4,000,000 aggregate	at least as broad as Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 00 01) including products and completed operations, property damage, bodily injury, personal and advertising injury
Automobile liability	\$1,000,000 per accident	at least as broad as ISO Business Auto Coverage (Form CA 00 01)
Workers' compensation	Statutory limits	
Employers' liability	\$1,000,000 per accident	
Professional liability*	\$1,000,000 per claim	

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

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

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

12 General Provisions

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

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

12.3 **Subcontractors.** No subcontract shall be awarded nor any subcontractor engaged by Contractor without City's prior written approval. Contractor shall be responsible for requiring and confirming that each approved subcontractor meets the minimum insurance requirements specified in section 11 of this Agreement. Any approved subcontractor shall obtain the required

insurance coverages and provide proof of same to City in the manner provided in section 11 of this Agreement.

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

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

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

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

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

City:

City of Wheatland

Attn: _____

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

E-mail: _____

Contractor:

Attn: _____

E-mail: _____

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

the delivery of the notice, etc. Any party may change its contact information by notifying the other party of the change in the manner provided above.

12.9 Signatures and Authority. Each party warrants that the person signing this Agreement is authorized to act on behalf of the party for whom that person signs. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument. Counterparts may be delivered by facsimile, electronic mail (including PDF or any electronic signature complying with California's Uniform Electronic Transactions Act (Cal. Civ. Code, §1633.1, et seq.) or any other applicable law) or other transmission method. The parties agree that any electronic signatures appearing on the Agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

City of Wheatland:

Dated: _____

By: _____

[Name]
[Title]

[Name of Contractor]:

Dated: _____

By: _____

[Name/Title]

Exhibit A

Scope of Work

Exhibit B
Schedule of Fees