

# REQUEST FOR QUALIFICATIONS



## CITY PLANNING SERVICES (Contract)

### **Response Due:**

**January 27, 2022  
4:00 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](mailto:jgoodwin@wheatland.ca.gov)**

## **1.0 PURPOSE AND BACKGROUND**

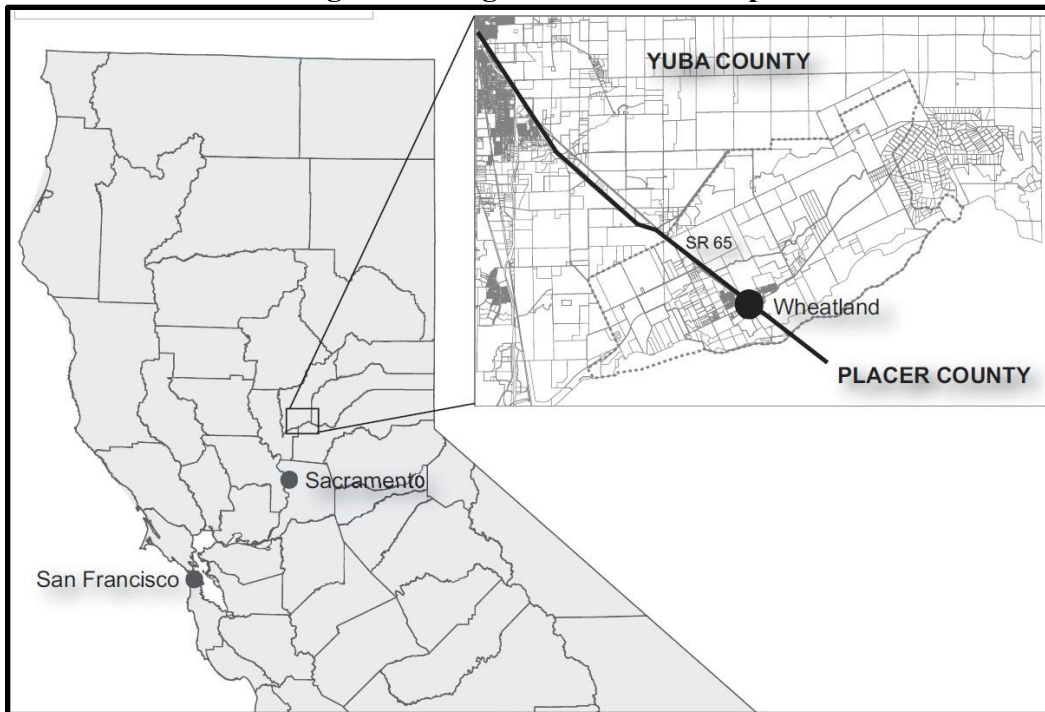
The City of Wheatland is requesting Statements of Qualifications (SOQ) from interested and qualified professional consulting firms to provide professional planning services and serve in the capacity of Community Development Director. The contract between the consultant and the City would be valid for a maximum of five (5) calendar years from the date of execution.

The City is seeking a contract planning firm with experience working with California Land Use and Planning laws, including but not limited to CEQA and the Subdivision Map Act, and who are familiar with the regulations and policies of the City of Wheatland. Experience with long range planning is desirable.

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.

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**



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.

## **2.0 SCOPE OF SERVICES TO BE PROVIDED**

The specific tasks for each project will vary based on the pertinent issues, but generally the consultant would be expected to provide advance-level professional planning services "as-needed," in support of the City, which may include:

1. Day to day planning services including zoning questions from the public, business license review, plan checks, intra-departmental coordination, and inter-agency coordination.
2. Management of entitlement process for complex land use or land development projects, or extensions or amendments to such projects, including but not limited to major and minor subdivisions, conditional use permits involving commercial or public service facilities, policy plan overlays, and variances, including:
  - a. Coordination with project proponents, City staff, other agencies, the public, and others.
  - b. Assist with planning grant writing and administration.
  - c. Environmental review - Preparation of Environmental Impact Reports, Environmental Assessments, Initial Studies, Negative Declarations and Mitigated Negative Declarations, Mitigation monitoring, pursuant to CEQA/NEPA. Includes Management of consultants and their contracts, as applicable. When necessary, prepare any technical studies needed to complete the environmental review.
  - d. Preparation and presentation of staff reports, including findings and recommendations, for Planning Commission, and/or City Council review and action. Preparation, noticing, and coordination of public hearings.
  - e. Attendance at public hearings, project coordination meetings, agency consultations, and other meetings as necessary.
  - f. Building permit plan check review for planning issues.
  - g. File all notices (including fees) with the Yuba County Clerk-Recorder and/or the State Clearinghouse.
3. Preparation of new plans, policies, or regulations, or amendments to such plans, policies, or regulations, including General Plans and/or Elements thereof, Zoning Ordinances, and Subdivision Ordinances.
4. Services shall be provided by the Consultant on projects as authorized and directed by the City under a duly executed and approved Professional Services Agreement. The Consultant shall, in the performance of the contract, maintain close communication with the City Manager or designee.
5. Attendance for weekly Department Head meetings.

6. Any other related services as determined by the City Manager.

### **3.0 STATEMENT OF QUALIFICATIONS FORMAT**

#### ***3.1 OVERVIEW***

Consultants shall submit a complete response to this Request for Qualifications (RFQ) utilizing the format outlined below. Statement of Qualifications (SOQ) shall not exceed twenty double-sided pages, including the cover, back page, letter of transmittal, table of contents, and required forms. Font size shall be no smaller than ten point. Company brochures shall not be included in the SOQ.

SOQ shall be submitted in hard-copy and PDF format on a USB flash drive in a sealed envelope clearly marked with the name and address of the business in the upper left-hand corner. “City of Wheatland Planning Services” shall be clearly marked in the lower right-hand corner of the envelope. These sealed SOQs will be accepted until the time and at the location specified within Section 6.0. Any SOQ not received by that time at that location will be removed from consideration. Any SOQ which does not conform to these requirements in its entirety will not be considered by the City.

#### ***3.2 LETTER OF TRANSMITTAL***

The SOQ shall include a brief letter of transmittal signed by an individual authorized to bind prospective contracts.

#### ***3.3 QUALIFICATIONS OF FIRM***

The SOQ shall include the history and organization of the firm, applicable certifications of recognition, and other pertinent information demonstrating qualifications to perform services. The firm shall provide a minimum of three descriptions of projects that demonstrate relevant experience. Each project description should include the project name, size of project, type of facility (municipal, residential, commercial, etc.), scope of services provided, and client contact by name, title, email, and phone number who may be contacted for verification. The firm shall be capable of providing services that meet federal and state funded project requirements. Firm experience with federal and state funded projects should be provided. Experience in rural, northern California municipalities like the City of Wheatland is highly desirable. The firm must have the capacity to provide the services required by the City in a timely manner.

#### ***3.4 QUALIFICATIONS OF PROJECT TEAM***

The SOQ 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. principle, project manager), reporting responsibilities, and if applicable, how sub-consultants fit into the team composition. The project manager must have experience in managing municipal projects of a similar nature. An organizational chart identifying each team member (including sub-consultants) and listing their roles and responsibilities shall

be provided. Resumes of 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. Key personnel (project manager and others listed by name in the SOQ) 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.

### **3.5 LEGAL ACTIONS AGAINST FIRM**

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

### **3.6 REFERENCES**

Firm shall submit a minimum of three (3) client references.

### **3.7 FEE SCHEDULE**

The firm shall be paid at an agreed and supported specific fixed hourly rates for each class of employee engaged directly in the work. Such rates of pay include the consultant's estimated costs and net fee (profit). Federal regulations require that profit be separately negotiated from contract costs. The specific rates of compensation, except for an individual acting as a sole proprietor, are to include an hourly breakdown, direct salary costs, fringe benefits, indirect costs, and net fee. Other direct costs may be included, such as travel and equipment rentals, if not already captured in the indirect cost rate.

Firm shall submit proposed rates for proposed key staff and a schedule of hourly rates for all other job classifications that may be used by the prime consultant. Rates and rate schedules must be provided in a separate, sealed envelope.

Submission of Caltrans Local Assistance Procedures Manual (LAPM) forms (including but not limited to Exhibits 10-H, 10-I and 10-U) as well as participation in A&E Consultant Audit and Review Process (LAPM Section 10.1.3) may be required during the course of the contract.

### **3.8 AVAILABILITY**

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

## **4.0 CONTRACT PLANNING QUALIFICATIONS**

The City expects the successful firm(s) to have experience in the following areas:

1. Representing local governments in the environmental review of development project applications, to include preparation and/or review of pre-application studies, and environmental design recommendations.
2. Preparation and review of CEQA and NEPA documents, to include Environmental Impact Reports, Environmental Assessments, Mitigated Negative Declarations, Negative Declarations.
3. Representing local governments in the monitoring and enforcement of environmental mitigation requirements imposed as part of development project approvals (if requested).
4. Familiarity with, and be adept at working with, the requirements and standards of various local, state, and federal agencies, as well as the funding mechanisms of these agencies (grants, loans, etc.).
5. Possession of American Institute of Certified Planners (AICP) certification.

## **5.0 CRITERIA FOR EVALUATION OF STATEMENT OF QUALIFICATIONS**

The City will evaluate and rank SOQ according to the Weighted Evaluation Matrix (WEM) in *Attachment A*. From this the City will 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. A final ranking will be developed from the WEM and, if conducted, from interviews. In the case of a tie in rankings, the final decision will be made by the City Manager based on a determination of which firm best fits the culture of the City of Wheatland.

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. 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 sub-consultants, 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 RFQ does not commit the City to award an agreement, to pay any costs incurred in preparation of the SOQ, or to procure or contract services and supplies. The City reserves the right to accept or reject any or all SOQ received, to negotiate with any qualified source, or to cancel in part or in its entirety this RFQ, 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 proposal as may result from negotiations. All SOQ shall remain firm for 90 days following the submittal date per Section 6.0. The City reserves the option to retain all SOQ, 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 sub-consultants 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 individual/firm to obtain insurance as 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.

### ***6.5 PROFESSIONAL SERVICES AGREEMENT***

A sample professional services agreement has been included in *Attachment B* 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 SOQ it will be assumed that the consultant is willing to enter into the agreement as it is written.

## **7.0 SOQ SUBMITTAL AND COMMUNICATION GUIDELINES**

Respondents shall provide three sealed copies of their SOQ. All submittals must be received by the City no later than 4:00 p.m., January 27, 2022, at the address below:

City of Wheatland  
Attn: Jim Goodwin, City Manager  
111 C Street  
Wheatland, CA 95692  
[jgoodwin@wheatland.cca.gov](mailto:jgoodwin@wheatland.cca.gov)

Any submittal received after this time shall not be considered. Submittals sent by facsimile or email will not be accepted.

All questions shall be directed in writing to the person specified above. Any addendums or clarifications to this RFQ 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 RFQ. Any changes to the RFQ will be in writing and issued to all firms.



Attachment A

Criteria for Evaluation of Statement of Qualifications  
Weighted Evaluation Matrix (WEM)

**WEIGHTED EVALUATION MATRIX FOR**

**CITY PLANNING SERVICES RFQ**

Firm Name: \_\_\_\_\_

Sub-Category I ► Understanding Objectives and City Requirements	Maximum Weighting Factor = 25%		Points
	Points Available	Points Scored	
Completeness & Conformance with Request for Qualifications Requirements	40	40	
Clarity and Logic of Statement of Qualifications	30	30	
Professional Appearance of Statement of Qualifications	30	30	
Total =	100	100	
Weighted Total ( <i>Total Points Scored * Weighting Factor</i> ) =			25

Sub-Category II ► Qualifications	Maximum		Points
	Points Available	Points Scored	
Qualifications, Experience and Availability of Firm	20	20	
Qualifications and Experience of Project Team	20	20	
Relevant Project Experience, Including Projects in Wheatland and Yuba County	30	30	
Familiarity with State and Federal Procedures	30	30	
Total =	100	100	

**Weighted Evaluation Matrix Summary**

\_\_\_\_\_  
Signature of Reviewer                      Date of Evaluation

\_\_\_\_\_  
Printed Name, Title                      Total (*Total Points Scored \* Weighting Factor*) =

75
----

## 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:

9.2.1.1 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.

9.2.1.2 “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 Indemnitee, then in no event shall Contractor’s total costs incurred pursuant to its duty to defend Indemnitees exceed Contractor’s proportionate percentage of fault as determined by a final judgment of a court or final decision of arbitrator.

## 11 Insurance

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