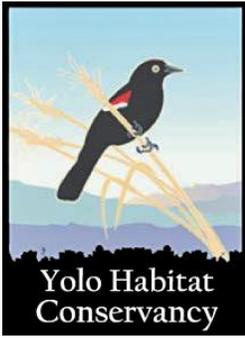


# Yolo Habitat Conservancy Policy Binder Part 3

Click in any row in the Table of Contents to link to the relevant materials.

Indexed Number	Reference Letter	Action	Date Adopted
27	A	Approve revisions to investment policy	September 16, 2016 Item 15
28	A	Adopt ordinance establishing mitigation fees on new public and private developments in Yolo County	June 18, 2018, Item 14 May 20, 2019, Item 15 <i>Adopt ordinance amending existing fee ordinance</i>
29	A	Approve Special Participating Entities (SPE) policy	January 28, 2019, Item 23 September 16, 2019, Item 12 <i>Approve amendment to SPE Policy</i>
29	B	Approve stewardship donation policy	January 28, 2019, Item 24
30	A	Approve early payment of Yolo HCP/NCCP mitigation fees policy	March 18, 2019, Item 11
30	B	Approve mitigation receiving site land in lieu of land cover fees policy	March 18, 2019, Item 13 July 15, 2019 Item 14 <i>Approve updated land in lieu of fees policy</i>
31	A	Approve contingency policy	July 15, 2019, Item 10
31	B	Approve easement monitoring policy, easement violation and enforcement policy, and easement amendment policy	July 15, 2019, Item 13
31	C	Approve land/easements in lieu of land cover fees policy	July 15, 2019, Item 14



# Yolo Habitat Conservancy

*County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis*

To: Jim Provenza, Chair  
Members of the Board

From: Petrea Marchand  
Executive Director

Chris Alford  
Deputy Director

Re: Receive FY2015-16 easement endowment report, receive update on options to move endowment funds from the County Treasury, and approve revisions to investment policy

Date: September 19, 2016

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## REQUESTED ACTIONS:

1. Receive FY2015-16 easement endowment report
2. Receive update on options to move endowment funds from the County Treasury
3. **Approve revisions to investment policy**

## BACKGROUND:

### **Easement Endowment Report:**

Conservancy staff present annual reports on the status of the endowments for existing easements purchased by the Conservancy to the Conservancy Board and the member agencies as part of the financial transparency policies implemented in December 2013. The attached easement endowment report summarizes endowment account expenses and income for fiscal years: 2013-2014, 2014-2015, and 2015-16.

The Conservancy has agreements with the Yolo Land Trust and the California Waterfowl Association to annually monitor the Conservancy's easements for compliance with restrictions on land use. During this reporting period, the California Waterfowl Association monitored Chickahominy Creek Ranch 1 and Chickahominy Creek Ranch 4 and the Yolo Land Trust monitored ten conservation easements: Bogle, Lara East & West, Los Rios Farms, Schmid Ranch, Merritt Ranch, Sacramento River Ranch, Virgin Farm, Kerr, and Tule Ranch. These easements are primarily managed for Swainson's hawk foraging habitat. Currently, all easements are in compliance and maintaining the conservation values for which they were selected.

The following conservation easement properties have endowments that are currently held in the Conservancy's Easement Endowment Fund to pay for annual monitoring expenses: Lara East and West, Los Rios, Schmid Ranch, Virgin Farm, Bogle, Tule Ranch, and Chickahominy Creek Ranch 1. The financial account summary for endowment funds associated with these properties are shown in Attachment A. Currently, some of the endowments are not generating sufficient income, meaning the cost of monitoring the easements exceeds the fund's investment return. For example, monitoring costs in FY15-16 for Tule Ranch I were \$284.45, while the endowment earned \$255.99 in interest. The proposed investment policy revision and process for moving endowment funds, described below, are intended to address this issue.

**Update on options to move endowment funds from the County Treasury and Investment Policy Revision:**

The Conservancy's current investment policy was approved by the Board on February 22, 2016. The policy was developed by Yolo County Department of Financial Services staff with the input of Conservancy staff and legal counsel and based on an investment policy recently adopted by the Santa Clara Valley Habitat Agency. The policy clarifies that the Conservancy has the authority under state law to seek a return on investment suited for long-term habitat conservation endowments outside of the Yolo County Investment Pool and also establishes other policies important to financial oversight and management. It is anticipated that moving the Conservancy's endowment funds from the Yolo County Investment Pool, which is intended for short-term investments, to an investment fund that is more appropriate for long-term investments will improve the overall rate of return for these funds and reduce the future likelihood that budgeted monitoring costs will exceed investment returns.

As directed by the Board on February 22, 2016, Conservancy staff initiated the process of identifying a financial management entity that is qualified to manage endowment funds so that the Conservancy's endowment funds could be moved out of the County Treasury and into other qualified investment vehicles with the oversight of a qualified investment manager. While eligible entities were identified, none responded to the request for qualifications that was distributed through the County's BidSync system. Feedback received by one potential respondent was that the Conservancy's investment policy identified the interest in having an investment advisor as opposed to an investment manager as indicated by the request for qualifications. They also mentioned that the role of the financial advisory committee, as described in the investment policy, was unclear. Conservancy staff subsequently developed a revised draft investment policy to address these issues. This revised investment policy has undergone review by Yolo County Department of Financial Services staff and legal counsel and is provided as Attachment B for board review and approval. Conservancy staff have also initiated a second effort to solicit letters of interest and summaries of qualifications from investment managers that are qualified to manage the Conservancy's endowment funds. The Conservancy is accepting responses through October 6<sup>th</sup> and staff intend to coordinate with the financial advisory committee to review responses and conduct interviews in October.

**ATTACHMENTS:**

Attachment A: FY 2015-16 Easement Endowment Report

Attachment B: Revised Investment Policy (showing proposed changes)



## **I. Introduction and Scope**

This document is known as the annual investment policy and represents the policies of the board of the Yolo Habitat Conservancy (“Conservancy”) related to the investment of funds under the control of the Conservancy.

This policy shall be reviewed and approved annually by the Board of Directors in accordance with the California Government Code and prudent asset management principles.

The funds under control of the Conservancy include the operational (cash management) funds as well as certain endowment funds. The Conservancy is legally required to maintain the operational funds in the County of Yolo Investment Pool, as the Treasurer for the Conservancy in the Joint Powers Agreement is the County Treasurer (presently the Chief Financial Officer).

- Operational Funds – Funds of the Conservancy including funds used by the general operations of the organization, including mitigation funds, and other funds that do not meet the definition of endowment funds.
- Endowment Funds – Endowment Funds are those funds set aside for the costs of long-term management and stewardship of the mitigation property pursuant to a specific endowment agreement.

This policy focuses on certain endowment funds that can be withdrawn from the County Treasury and can be invested by the Conservancy in accordance with Government Code 65965.

## **II. Objectives**

The primary objectives, in descending priority order of the investment activities of the County pool (Operational Funds) are:

Safety. Safety of principal is the foremost objective of the investment program. Investments of the Conservancy shall be undertaken in a manner that seeks to ensure preservation of capital in the portfolio.

Liquidity. The investment portfolio shall be maintained in such a manner as to provide sufficient liquidity to meet the operating requirements.

Return on Investment. The investment portfolio of the Conservancy shall be designed with the objective of attaining a market rate of return on its investments consistent with the constraints imposed by its safety objective and cash flow considerations.

The primary objectives of the investment activities of the Conservancy endowment Funds is:

Endowment fund investments will primarily focus on generating a rate of return sufficient to fund the annual cost of management and monitoring of Conservancy lands at the lowest possible investment risk, and without impact to the corpus.

Yolo Habitat Conservancy  
**Investment Policy**  
**(Draft Revisions - September 2016)**

**III. Permitted Investment of Operational Funds**

The County Treasurer will invest and maintain the operating funds of the Habitat Conservancy following the County of Yolo Investment Policy that is adopted annually by the Board of Supervisors of the County and subject to the maturity, diversification, and percentage requirements of the California Government Code (including Section 53601 et seq.)

**IV. Investment of Endowment Funds**

Endowments may be held managed, invested, disbursed and governed as described in subdivision (a) of Section 65965 consistent with the Uniform Prudent Management of Institutional Funds Act ((Part 7) commencing with Section 18501) of Division 9 of the Probate Code). Authorized investments may also include those permitted investments allowed by Government Code 53601 et seq. as well as specialty investments created for endowments subject to Government Code 65965 et seq.

Investment vehicles utilized will be based on the recommendation of the Finance Advisory Committee. Subject to 65966(m), the Conservancy may at the direction of the Board of Directors contract with a community foundation, congressionally chartered foundation, or other qualified financial institution authorized by Government Code Section 65965 et seq. to hold, manage and invest the endowments.

The selection of the financial investment manager ~~investment vehicles~~ should include consideration of Government Code 65968(b)(1)(B) including the qualifications of an endowment holder, capitalization rate, return objectives, spending rule and disbursement policies.

The Conservancy's Finance Advisory Committee, which has been established to provided general oversight of the Conservancy budget and finances at-large, shall participate in the review and selection of a qualified financial investment manager. ~~The Finance Advisory Committee shall~~ consists of the Executive Director, a representative from the Yolo County Department of Financial Services, 1-2 members of the Conservancy Board of Directors, and 1-2 investment professionals appointed by the Conservancy Board of Directors. The Executive Director shall discuss recommendations of the Finance Advisory Committee with the Chair and Vice Chair of the Conservancy prior to bringing items to the full Board of Directors.

**V. Standard of Care and Public Trust**

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment,

Yolo Habitat Conservancy  
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considering the probable safety of their capital as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the "prudent investor" standard which states that "when investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency".

This standard shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

All participants in the investment process shall seek to act responsibly as custodians of the public trust. Investment officials shall avoid any transaction that might impair public confidence in the Conservancy's ability to govern effectively.

## **VI. Ethics and Conflict of Interest**

Officers and employees involved in the investment process shall refrain from personal business activities that could conflict with proper execution of the investment program, or which could impair their ability to make impartial decisions.

## **VII. Internal Controls**

Internal control procedures shall be established and maintained by the Executive Director that provide reasonable assurance that the investment objectives are met and to ensure that the assets are protected from loss, theft, misuse, or mismanagement. The controls and procedures shall be designed to prevent employee error, misrepresentations by third parties, and imprudent or illegal actions by employees or officers.

## **VIII. Reporting Requirements**

The Executive Director shall submit an annual report within three months of the end of the fiscal year to the Board of Directors on the status of the Conservancy's endowment investments. The report shall furnish detailed information as to the types of investments, the amount of money invested with various institutions, purchase and maturity dates, and interest rate yields on investments in accordance with the California Government code and a review of investment of investment

Yolo Habitat Conservancy  
**Investment Policy**  
**(Draft Revisions - September 2016)**

performance of the past fiscal year. The annual report should include a discussion on the achievement of the investment objectives and any proposed adjustments to the investment strategy.

The Executive Director should review the quarterly reports on the performance of the County Treasury pool which includes the operating funds of the Conservancy. Annually, the Executive Director should provide a report on the investment performance of the operating funds to the Board of Directors.

# YOLO HABITAT CONSERVANCY

September 19, 2016

## MINUTES

The Yolo Habitat Conservancy Board met on the 19th day of September, 2016, starting at 5:30 p.m. in regular session in the Board of Supervisors' Chambers in the Erwin W. Meier Administration Building, 625 Court Street, Woodland, California.

Present: Jim Provenza  
Don Saylor  
Chris Ledesma  
Pierre Neu  
Sean Denny  
Marjorie Dickinson

Absent: Lucas Frerichs

Staff Present: Petrea Marchand, Executive Director  
Chris Alford, Deputy Director  
Phil Pogledich, County Counsel  
Shawna Stevens, Assistant to Director

### 5:30 P.M. CALL TO ORDER

1. Approval of the Agenda Order

Minute Order No: 16-31: Approved agenda order.

MOTION: Provenza. SECOND: Denny. AYES: Denny, Ledesma, Neu, Provenza, Saylor.

2. Public Comment: This is time reserved for the public to address the Conservancy Board on matters not on the agenda.

There was no public comment.

3. Board Correspondence

## CONSENT CALENDAR

Minute Order No: 16-32: Approved consent agenda item nos. 4-9.

MOTION: Denny. SECOND: Neu. AYES: Denny, Ledesma, Neu, Provenza, Saylor.

4. Approved July 25, 2016 meeting minutes.
5. Approved Alford Environmental contract amendment.
6. Approved \$5,000 contract with Santa Clara Valley Habitat Agency for state advocacy services subject to review and approval by County Counsel.
7. Approved 18-month lease renewal for 611 North Street and authorize rent increase of \$75/month.
8. Approved Yolo County Resource Conservation District contract amendment for California tiger salamander grant.
9. Approved revised 2016-17 budget resolution.

## REGULAR AGENDA

10. Received quarterly grant tracking report.
11. Approved Municipal Resource Group recommendations related to current staffing, received and filed 2017-18 transitional staffing proposal, authorized staff to release an invitation to submit a letter of interest in providing 2017-18 support services, and received and filed Municipal Resource Group staffing options to fulfill the Conservancy's mission.

Minute Order No: 16-33: Approved FY16-17 staffing recommendations 1-6.

MOTION: Denny. SECOND: Neu. AYES: Denny, Ledesma, Neu, Provenza, Saylor.

Minute Order No: 16-34: Authorized staff to release invitation to submit letters of interest to the cities, Yolo County, Local Agency Formation Committee, and private consulting firms for providing 2017-16 support services.

MOTION: Saylor. SECOND: Provenza. AYES: Denny, Ledesma, Neu, Provenza, Saylor.

12. Approved Yolo HCP/NCCP and EIS/EIR performance measures.

Minute Order No: 16-35: Approved non-permit related Yolo HCP/NCCP and EIS/EIR performance measures.

MOTION: Provenza. SECOND: Neu. Denny: Denny, Ledesma, Neu, Provenza, Saylor.

13. Received and filed update on the Pre-Public Review Draft HCP/NCCP and Public Review Draft EIS/EIR.

14. Approved fees to recover staff costs associated with determination of consistency with Yolo Habitat Mitigation Ordinance and processing of mitigation credit certificates.

Minute Order No: 16-36: Approved recommended action.

MOTION: Denny. SECOND: Ledesma. AYES: Denny, Ledesma, Neu, Provenza, Saylor.

15. Received FY2015-16 easement endowment report, received update on options to move endowment funds from the County Treasury, and approved revisions to investment policy.

Minute Order No: 16-37: Approve recommended action.

MOTION: Neu. SECOND: Denny. AYES: Denny, Ledesma, Neu, Provenza, Saylor.

16. Approved 2017 Board calendar.

Minute Order No: 16-38: Approved recommended action.

MOTION: Saylor. SECOND: Ledesma. AYES: Denny, Ledesma, Neu, Saylor.  
ABSENT: Provenza.

17. Advisory Committee update cancelled.

18. Executive Director update postponed until the next meeting.

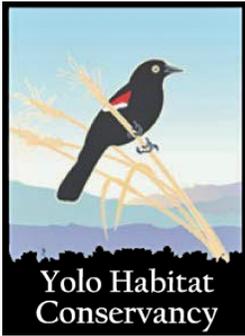
- Grants
- Elliott Ranch
- Regional Conservation Investment Strategy

**CLOSED SESSION**

19. Conference with Legal Counsel-Anticipated Litigation  
Government Code § 54956.9(d)(2)  
Significant Exposure to Litigation: 1 case

## ADJOURNMENT

Next meeting scheduled for: November 14, 2016



# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

To: Jim Provenza, Chair  
Members of the Board

From: Phil Pogledich  
Conservancy Counsel

Petrea Marchand  
Executive Director

Re: Public hearing and consideration of adoption of an ordinance and resolution implementing mitigation fees for the HCP/NCCP

Date: June 18, 2018

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## REQUESTED ACTIONS:

1. Receive a staff report on the proposed fee ordinance and resolution;
2. Hold a public hearing to receive comments on the ordinance and resolution;
3. Adopt the ordinance and resolution, and direct staff to take all necessary actions to implement the mitigation fee program set forth therein.

## BACKGROUND:

Chapter 8 of the Yolo HCP/NCCP describes the cost to implement the Plan and proposes a comprehensive strategy to provide necessary funding. The strategy includes various elements, including mitigation fees and funding commitments by local, state, and federal agencies. Of those elements, as Chapter 8 explains, mitigation fees are expected to provide about 66% of the overall funding for Plan implementation (see **Table 8-6** in Chapter 8).

The purpose of this item is to establish initial mitigation fees and an overall framework for implementing and adjusting those fees over time. The ordinance included as **Attachment A** defines how and when covered activity proponents will pay mitigation fees, how take coverage will be extended in conjunction with fee payment, how the Conservancy will receive and account for fee payments, and how the overall fee program will work in coordination with the Plan, Take Permits, and Implementing Agreement. Separately, the resolution included as **Attachment B** includes the initial fee amounts (based on **Table 8-7** of Chapter 8, which is appended thereto) and various findings required under the Mitigation Fee Act

for the adoption of local impact fees. Both the ordinance and resolution align closely with the financing strategy and background information included in Chapter 8 of the Plan and Appendices H, I, and J thereto.

Staff recommend that the Board hold a public hearing (as required by law) and then consider adoption of the ordinance and resolution. If the recommended actions are approved, consistent with Table 8-7 of the Plan, the initial mitigation fee amounts per acre will be as follows:

<b>Land Cover Fee</b>	\$12,952
<b>Fresh Emergent Wetland Fee</b>	\$71,651
<b>Valley Foothill Riparian Fee</b>	\$79,353
<b>Lacustrine and Riverine Fee</b>	\$57,464

In all respects, the fees will be applied in the manner described in Chapter 8 of the Plan and relevant provisions of the Implementing Agreement. Certain exemptions will apply as described therein, including for impacts to certain barren lands and other land cover types identified to be exempt. The fees apply in full to permanent impacts and in a lesser amount specified in Section 8.4.1.4 of the Plan for temporary effects.

The public hearing was noticed by publication twice in a local newspaper of general circulation prior to the meeting, as required by state law. Future fee adjustments based on land cost indices and related information will return to the Board on an annual basis, and every five years the Board will take a closer look at a “periodic fee adjustment” that entails a review of costs, assumptions, and (possibly) comparative land sales and other information relevant to the continued reasonableness of the mitigation fees.

#### **ATTACHMENTS:**

Attachment A: Fee Ordinance

Attachment B: Resolution Establishing Initial Fee Amounts



## ORDINANCE NO. 2018-01

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE YOLO HABITAT CONSERVANCY ESTABLISHING MITIGATION FEES ON NEW PUBLIC AND PRIVATE DEVELOPMENT WITHIN THE COUNTY OF YOLO**

**WHEREAS**, the Yolo Habitat Conservancy (“Conservancy”) is a joint exercise of powers agency created by the County of Yolo and the Cities of Davis, West Sacramento, Winters, and Woodland (the “Member Agencies”) in accordance with the Joint Exercise of Powers Act (Government Code section 6500 *et seq.*); and

**WHEREAS**, the Conservancy was formed to prepare and implement the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (“Yolo HCP/NCCP” or “Plan”) and Implementing Agreement for the long-term protection of ecosystems and biodiversity within the geographic area covered by the Plan (the “Plan Area”), and to provide incidental take authorization pursuant to the Federal Endangered Species Act (16 U.S.C. §§ 1531-1544) and the California Natural Community Conservation Act (Cal. Fish & Game Code §§ 2800-2835) for certain specified covered activities, including private development projects and public infrastructure activities; and

**WHEREAS**, on May 7, 2018, the Board adopted two resolutions reflecting its decision to adopt the Yolo HCP/NCCP and take certain related actions, including certifying the Final Environmental Impact Statement/Environmental Impact Report (“Final EIS/EIR”) pursuant to the California Environmental Quality Act and the National Environmental Protection Act; and

**WHEREAS**, Government Code §§ 66000 *et seq.* authorizes the Conservancy to impose fees to provide necessary funding required to mitigate the effect of new development projects and other covered activities within the Plan Area; and

**WHEREAS**, the Board of Directors desires to adopt fees (“Mitigation Fees”) to offset the impacts of covered activities on endangered plant and animal species within the plan area of the Yolo HCP/NCCP, to comply with federal and state legal requirements for such preservation, and to otherwise fund certain actions required to implement the Yolo HCP/NCCP; and

**WHEREAS**, such Mitigation Fees are contemplated in Chapter 8 of the Yolo HCP/NCCP as well as other sections of the Plan and the appendices thereto, and those documents were prepared to support Plan implementation and fee adoption by the Conservancy; and

**WHEREAS**, on June 18, 2018, the Board of Directors held a duly noticed public hearing at its regularly scheduled meeting in accordance with Government Code § 66016(a) to consider the adoption of Mitigation Fees based on Chapter 8 and related contents of the Yolo HCP/NCCP mentioned in the previous recital; and

**WHEREAS**, at the June 18, 2018 public hearing, all interested parties and members of the public were provided the opportunity to address the Board and comment on the adoption of the Mitigation Fees; and

**WHEREAS**, notice of the time and place of the meeting was published in accordance with Government Code § 6062a, as required by Government Code §66018(a); and

**WHEREAS**, in accordance with Government Code § 66016(a), data indicating the estimated costs required to support the actions for which the Mitigation Fees are being levied and the revenue sources anticipated to provide for performance of the actions were made available for public inspection at the office of the Conservancy, and included Chapter 8 of the Yolo HCP/NCCP as well as other sections of the Plan and the appendices thereto; and

**WHEREAS**, in accordance with the Implementing Agreement among the Yolo Habitat Conservancy, its member agencies, the U.S. Fish and Wildlife Service, and the California Department of Fish and Wildlife, the Conservancy may authorize its member agencies to collect such fees from project applicants on behalf of the Conservancy and remit them to the Conservancy; and

**WHEREAS**, the Board has considered the Yolo HCP/NCCP, the discussion of costs and funding in Chapter 8 and certain appendices thereto, and the Final EIS/EIR, and desires to establish the amount of the Mitigation Fees described in Chapter 8 of the Yolo HCP/NCCP; and

**WHEREAS**, the findings set forth herein are based on the authorities listed in the preceding paragraph and resources referenced therein, and the estimated acquisition costs and other expenses for Plan implementation (including but not limited to the acquisition of interests in real property) are set forth in Chapter 8 and Appendices H, I, and J, copies of which are available online at the Conservancy's website and at the Conservancy's offices located in Woodland, California;

**NOW, THEREFORE**, the Board of Directors of the Yolo Habitat Conservancy hereby ordains as follows:

**SECTION I.** The foregoing recitals are true and correct, and are incorporated by this reference.

**SECTION II.** The Board of Directors of the Yolo Habitat Conservancy hereby establishes the following Mitigation Fees and related requirements for the mitigation of impacts of new public and private development within the geographic area of the Yolo HCP/NCCP:

### **YOLO HCP/NCCP MITIGATION FEE REQUIREMENTS**

**Sections:**

- 1. Purpose and Findings**
- 2. Definitions**

3. **Application of Ordinance**
4. **Mitigation Fees**
5. **Authorized Take Coverage**
6. **Accounting of Mitigation Fees**
7. **Guidelines**
8. **Interpretation**
9. **Operative Date**

**1. Purpose and Findings.**

The purpose of this Ordinance is to ensure the timely collection and remittance of Mitigation Fees for implementation of the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (“Yolo HCP/NCCP” or “Plan”) in a manner that comports with the Mitigation Fee Act (Cal. Gov. Code §§ 66000 *et seq.*) and other provisions of law.

The Conservancy’s member agencies have each adopted ordinances implementing the Yolo HCP/NCCP that require all new development, public and private, within the geographic area covered by the Plan (the “Plan Area”) to comply with the requirements of the Plan and require member agencies to collect and remit fees adopted by Conservancy to mitigate for the loss of habitat and species in the Plan Area resulting from impacts of “covered activities” upon the 12 “covered species,” as those terms are defined in the Yolo HCP/NCCP, and the natural communities and agricultural land on which they depend.

The purpose and intent of the Yolo HCP/NCCP, the Implementing Agreement, and the implementing ordinances adopted by the Conservancy’s member agencies is to:

- (a) protect, enhance, and restore natural communities and cultivated lands, including rare and endangered species habitat, and provide for the conservation of covered species within Yolo County;
- (b) replace the current system of separately permitting and mitigating individual projects with a conservation and mitigation program, set forth in the Yolo HCP/NCCP, that comprehensively coordinates the implementation of permit requirements through the development of a countywide conservation strategy, including identification of priority acquisition areas in riparian zones and other locations with important species habitat;
- (c) provide for additional habitat conservation that is otherwise unlikely to take place in Yolo County and benefits both listed species and project proponents by ensuring a more efficient, effective approach to mitigation; and
- (d) ensure that the Yolo Habitat Conservancy, in its capacity as the implementing entity for the Yolo HCP/NCCP, collects the local development mitigation fees necessary to assist with plan implementation.

To promote the foregoing objectives, it is necessary to enact and implement certain development impact fees (“Mitigation Fees”) to ensure that all development within the County pays its fair share of the costs associated with mitigating the impacts of covered activities upon the 12 covered species and the natural communities and agricultural land on which they depend.

The amount of the Mitigation Fees authorized by this Ordinance shall be set and adjusted from time-to-time by a resolution adopted by the Conservancy’s Board of Directors. Each such resolution shall identify the amount of all Mitigation Fees that it sets or adjusts and, in addition to satisfying any other applicable legal requirements, set forth the findings required by the Mitigation Fee Act as well as the supporting evidence for such findings. The Mitigation Fees collected pursuant to this Ordinance and each such resolution shall be collected and used in a manner consistent with Chapter 8 of the Yolo HCP/NCCP and the appendices thereto (including but not limited to Appendices H, I, and J). Fee exemptions and other implementation matters shall be handled in accordance with this Ordinance or any guidelines adopted pursuant to Section 7, below. To the extent those authorities fail to address a specific issue, any relevant provisions of Chapter 8 and the Plan appendices shall be controlling.

## **2. Definitions.**

The definitions set forth in this section shall govern the application and interpretation of this Ordinance. Words and phrases not defined in this section shall be interpreted so as to give this Ordinance its most reasonable application.

A. “Building Permit” includes, in connection with a Covered Activity only, a full structural building permit as well as a partial permit, such as a foundation-only permit, grading permit, or any other permit or approval authorizing a ground-disturbing activity in furtherance of a Covered Activity.

B. “Conservancy” refers to the Yolo Habitat Conservancy, a joint powers agency consisting of the County of Yolo and the cities of Davis, Woodland, Winters, and West Sacramento (with the University of California, Davis, in an *ex officio* capacity). The formal, legal name of the joint powers agency is the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency.

C. “Covered Activity” and “Covered Activities” mean the activities and projects described in Chapter 3 of the Yolo HCP/NCCP proposed for implementation within the Plan Area and not otherwise exempted from the requirements of the Yolo HCP/NCCP.

D. “Covered Species” means the species, listed and non-listed, which are identified in Chapter 1 of the Yolo HCP/NCCP and described in Appendix A to the Yolo HCP/NCCP. Covered Species are those at-risk species that are covered by the Take Permits issued by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.

E. “Implementing Agreement” means that agreement made and entered into by and between the U.S. Fish and Wildlife Service, the California Department of Fish and Wildlife, the Conservancy, the County of Yolo, and the cities of Davis, West Sacramento, Winters, and

Woodland, that defines the parties' respective roles and responsibilities and provides a common understanding of the actions that will be undertaken to implement the Yolo HCP/NCCP.

F. "Mitigation Fees" means any fees adopted by the Conservancy, and any amendments thereto, that apply (unless exempted) to Covered Activities within the Plan Area in accordance with Chapter 8 of the Yolo HCP/NCCP and documents cited or relied on therein. All Mitigation Fees imposed by this Ordinance include the following components described more specifically in Chapter 8:

- (1) a mitigation funding component (consisting of a land cover fee, wetland fee, and temporary effect fee);
- (2) an endowment fee component; and
- (3) a plan preparation cost recovery fee component.

G. "Operative Date" is the date set forth in Section 9 of this Ordinance, below.

H. "Plan Area" means the geographic area covered by the Yolo HCP/NCCP, as described in Chapter 1 (Introduction) and depicted in Figure 1-1 thereof. The Plan Area includes the County of Yolo in its entirety, consisting of approximately 653,549 acres and also includes 1,174 acres along the south bank of Putah Creek in Solano County designated as the "Extended Plan Area for Riparian Restoration" in Figure 1-1. This area is included in the Plan Area only for the purpose of providing additional sites for riparian restoration to support the Covered Species, and the Mitigation Fees do not apply within the Solano County portion of the Plan Area.

I. "Planning Permit(s)" means any discretionary permit issued by a Conservancy member agency that authorizes a ground-disturbing activity for a Covered Activity, including the specific permits, entitlements, and actions identified in the implementing ordinances adopted by each member agency of the Conservancy in connection with the completed Yolo HCP/NCCP.

J. "Project Applicant(s)" means a person or entity applying for a Planning Permit for a project authorizing a ground-disturbing activity for a Covered Activity, including any person or entity that is a "Third Party Participant" within the meaning of Section 3.32 of the Implementing Agreement.

K. "Take" has the meaning set forth in the federal Endangered Species Act and its implementing regulations, as well as impacts to plants identified as Covered Species. "Take" shall also have the meaning set forth in California Fish & Game Code Section 86 (i.e., to hunt pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture, or kill).

L. "Take Permits" means the federal Incidental Take Permit issued by the U.S. Fish and Wildlife Service to the Conservancy, the County, and each of the four cities based on the Yolo HCP/NCCP pursuant to Section 10(a)(1)(B) of the federal Endangered Species Act, and shall also include related state permits and approvals provided for in Section 86 of the California Fish & Game Code with regard to activities subject to the California Endangered Species Act (Cal. Fish & Game Code § 2050 *et seq.*) and the California Natural Community Conservation Planning Act (Cal. Fish & Game Code §§ 2800-2835).

M. “Yolo HCP/NCCP” or “Plan” shall mean the Yolo Habitat Conservation Plan/Natural Community Conservation Plan.

### **3. Application of Ordinance.**

This Ordinance establishes Mitigation Fees for all Covered Activities requiring a Planning Permit upon the Operative Date of this Ordinance. The Mitigation Fees are limited to providing funding in the estimated amounts and for those purposes in Chapter 8 of the Plan and associated appendices. Nothing in this Ordinance shall restrict the ability of any of the Conservancy’s member agencies to require non-fee mitigation measures in accordance with the Plan or to require the dedication of land, payment of fees, or construction of improvements for needs other than the implementation actions specified in the Plan.

### **4. Mitigation Fees.**

A. Mitigation Fees shall be adopted by resolution of the Board of Directors in accordance with Chapter 8 of the Yolo HCP/NCCP and in initial amounts not to exceed those specified in Chapter 8 and Table 8-7 (HCP/NCCP Development Fee Schedule) of the Plan.

B. The initial fee amounts shown in Table 8-7 include a Plan Preparation Cost Recovery Fee. The Plan Preparation Cost Recovery Fee is broken down by fiscal year and funding source in Table 4 of Appendix I (Funding Plan) of the Yolo HCP/NCCP. In paying Mitigation Fees for their own covered activities, each member agency shall pay the full fee in the time and manner described in Section 8.4.1.7 of the Plan. Each member agency will be reimbursed its proportionate share of Plan Preparation Cost Recovery Fees paid in fiscal years 2012-13 through 2017-18 within 60 days following the end of each Conservancy fiscal year (unless otherwise agreed by the Conservancy’s Executive Director and a member agency).

C. The Mitigation Fees shall be adjusted annually by resolution of the Board of Directors on or about June 1 of each year following the Operative Date using the automatic adjustment methodology specified in Section 8.4.1.6.1 of Chapter 8 and Table 8-10 (HCP/NCCP Fee Adjustment Indices) of the Plan. Each such annual adjustment shall be considered and approved at a public hearing that is noticed in accordance with the Mitigation Fee Act. Additionally, the Mitigation Fees shall be reviewed and may be adjusted at least every five years following the Operative Date by resolution of the Board of Directors in accordance with Section 8.4.1.6.2 of Chapter 8 of the Plan.

D. For each Planning Permit that is not exempt from fee payment pursuant to 8.4.1.1 of the Plan, Mitigation Fees shall be paid in full by the Project Applicant to the member agency in the time and manner specified in the ordinance adopted by that agency to implement the Yolo HCP/NCCP, as may be amended from time to time. Temporary effects, as defined in Section 5.3 of the Plan, shall pay a temporary effect fee calculated in the manner described in Section 8.4.1.4 thereof. In no event may the Mitigation Fees be paid later than issuance of the first Building Permit for a project approved by a member agency.

E. Each member agency shall timely remit and account for all Mitigation Fees it has collected on a quarterly basis in a manner consistent with the reporting requirements of Government Code § 66006 and in accordance with any policies adopted by the Board of Directors. No refund of Mitigation Fees may be processed by a Member Agency without the prior written consent of the Conservancy's Executive Director. Any appeals relating to fee determinations shall be heard by the member agency imposing the fee pursuant to the process established for appeals of the Planning Permit(s) associated with the fee determination.

F. The Board of Directors may authorize alternatives to payment of the Mitigation Fees consistent with the Yolo HCP/NCCP, including its provisions on dedications of land (Section 8.4.1.8) and restoration in lieu of wetland fee payment (Section 8.4.1.3.2).

## **5. Authorized Take Coverage.**

Upon payment in full of the Mitigation Fees to the applicable member agency and approval by the member agency of a Planning Permit incorporating all applicable Plan conditions of approval, the Project Applicant shall receive authorized take coverage for the Covered Activity in accordance with the terms of the Plan, its Implementing Agreement, and the authorized take coverage granted to the Conservancy by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.

## **6. Accounting of Mitigation Fees.**

All Mitigation Fees shall be deposited into the fund(s) designated by the Conservancy for each component of the Mitigation Fee. The Mitigation Fee funds, including accrued interest, shall be subject to all of the applicable provisions of Government Code § 66000 *et seq.*, including but not limited to the requirements for accounting, reporting and expenditure of the funds for the related mitigation measures specified in the Plan.

## **7. Guidelines.**

In its discretion, the Board of Directors may adopt guidelines to assist in the implementation and administration of all aspects of this Ordinance.

## **8. Interpretation.**

In the event of a conflict between any term or requirement of this Ordinance, the Implementing Agreement, the Plan, or the Take Permits, the term or requirement of the Take Permits issued by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife shall govern. If not addressed by the Take Permits, the term or requirement of the Plan shall govern.

**9. Operative Date.**

This Ordinance shall be operative upon the Effective Date (as defined in Section IV, below) if the following have occurred, or at such point in time after the Effective Date that the Implementing Agreement is fully executed and the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife have issued Take Permits.

**SECTION III. Severability.**

If any section, subsection, sentence, clause or phrase of this Ordinance is held by court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions of this Ordinance. The Board of Directors hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

**SECTION IV. Effective Date.**

This Ordinance shall take effect and be in force thirty (60) days following its adoption and, prior to the expiration of fifteen (15) days after its adoption, shall cause it, or a summary of it, to be published once in a newspaper of general circulation printed and published in the County of Yolo, with the names of the Board members voting for and against the Ordinance.

**PASSED AND ADOPTED** by the Board of Directors of the Yolo Habitat Conservancy this \_\_ day of \_\_\_\_\_, 2018, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

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Jim Provenza, Chair  
 Board of Directors  
 Yolo Habitat Conservancy

ATTEST:

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Shawna Stevens, Clerk of the Board  
 Yolo Habitat Conservancy

APPROVED AS TO FORM:

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Philip J. Pogledich, County Counsel  
 Counsel to the Yolo Habitat Conservancy

RESOLUTION NO. 2018-07

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE YOLO HABITAT CONSERVANCY ESTABLISHING THE AMOUNT OF MITIGATION FEES ON NEW PUBLIC AND PRIVATE DEVELOPMENT WITHIN THE COUNTY OF YOLO**

**WHEREAS**, on June 18, 2018, the Board of Directors (“Board”) of the Yolo Habitat Conservancy (“Conservancy”) adopted Ordinance No. 2018-01 establishing Mitigation Fees in accordance with Chapter 8 of the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (“Yolo HCP/NCCP” or “Plan”) and the appendices and other authorities cited therein; and

**WHEREAS**, Government Code section 66016(b) and Section 4 of Ordinance No. 2018-01 authorize the Board to establish the amount of the Mitigation Fees by resolution; and

**WHEREAS**, on May 7, 2018, the Board adopted two resolutions reflecting its decision to adopt the Yolo HCP/NCCP and take certain related actions, including certifying the Final Environmental Impact Statement/Environmental Impact Report (“Final EIS/EIR”) pursuant to the National Environmental Protection Act and the California Environmental Quality Act concerning; and

**WHEREAS**, the Board has considered the Yolo HCP/NCCP, the discussion of costs and funding in Chapter 8 and certain appendices thereto, and the Final EIS/EIR and desires to establish the amount of the Mitigation Fees described in Chapter 8 and Table 8-7 of the Yolo HCP/NCCP;

**NOW, THEREFORE**, the Board of Directors of the Yolo Habitat Conservancy hereby finds and resolves as follows:

1. The Board of Directors makes the following findings and determinations with respect to the land cover fees (the “Mitigation Fees”) reflected in Table 8-7 (the “HCP/NCCP Development Fee Schedule”) of Chapter 8 of the Yolo HCP/NCCP, excerpted and attached hereto and incorporated herein by reference as **Exhibit A**:

A. The Board has reviewed and considered the recitals set forth in Ordinance No. 2018-01, adopted contemporaneously herewith, and finds that those recitals are true and correct and incorporates them herein by this reference.

B. It is necessary to enact and implement the Mitigation Fees set forth in the HCP/NCCP Development Fee Schedule to ensure that all covered activities pay their fair share of the costs of implementing the Yolo HCP/NCCP, including the acquisition and preservation of natural communities within the County that are known or have the potential to support the plant and wildlife species covered by the Plan.

C. The amount of the Mitigation Fees has been determined in the manner described in Chapter 8 of the Plan and certain appendices thereto, including Appendices H, I, and J, copies of which are available online at the Conservancy's website and at the Conservancy's office located in Woodland, California. Those documents provide the basis for the imposition of Mitigation Fees on new construction and other covered activities. As described in more detail therein, the amount of each fee is determined by the nature and extent of the impacts of covered activities to the natural communities and the relative cost of mitigating such impacts.

D. The use of the Mitigation Fees to mitigate the impacts of covered activities on the covered species and the natural communities and agricultural land on which they depend is reasonably related to the type and extent of impacts caused by the covered activities. As set forth in the appendices referenced in Chapter 8 of the Plan, the costs of funding the proper mitigation of these impacts are apportioned relative to the type and extent of said impacts.

E. The estimated costs of implementing mitigation addressing the impacts of covered activities on the covered species and the natural communities and agricultural land on which they depend are reasonable and will not exceed the reasonably-estimated total cost of implementing related components of the conservation strategy included in the Yolo HCP/NCCP. Detailed data regarding calculations that support this conclusion appear in Appendices H, I, and J.

F. The Mitigation Fees collected pursuant to this Resolution and the accompanying Ordinance shall be used to finance the requirements of the Plan for the mitigation of loss of habitat and species in the Plan Area resulting from covered activities. This includes, but is not limited to, the permanent conservation of natural communities and agricultural land in a manner that benefits the covered species.

2. The Mitigation Fees set forth in the HCP/NCCP Development Fee Schedule are hereby adopted and established pursuant to Ordinance No. 2018-01. All references in Exhibit A to portions and chapters of the Yolo HCP/NCCP and its appendices are also adopted and incorporated into this Resolution by reference.

3. Chapter 8 of the Yolo HCP/NCCP includes certain exemptions from the requirement to pay Mitigation Fees, including but not limited to exemptions described in Section 8-4.1.1 (Exemptions from HCP/NCCP Fees), 8.4.1.3.2 (Aquatic Restoration Provided In Lieu of Wetland Fee), 8.4.1.4.1 (Activities Not Subject to Temporary Effect Fee), and 8.4.1.8 (Lands Provided In Lieu of HCP/NCCP Fees). Those exemptions shall be implemented in a manner consistent with the Yolo HCP/NCCP and shall be subject to any policies and procedures adopted by the Board of Directors that are relevant to the implementation of such exemptions.

4. This Resolution shall take effect 60 days from and after its adoption or concurrently with the operative date of Ordinance No. 2018-01, whichever is later.

**PASSED AND ADOPTED** by the Board of Directors of the Yolo Habitat Conservancy on this 18th day of June, 2018, by the following vote:

AYES: Barajas, Frenichs, Neu, Saylor, Villegas  
NOES: 0  
ABSENT: Ledesma  
RECUSED: 0

  
\_\_\_\_\_  
Jim Provenza, Chair  
Yolo Habitat Conservancy

Attest:

  
\_\_\_\_\_  
Shawna Stevens, Clerk  
Yolo Habitat Conservancy

Approved as to Form:

  
\_\_\_\_\_  
Philip J. Pogledich, County Counsel  
Counsel to the Yolo Habitat Conservancy

**Attachment: Exhibit A**

# YOLO HABITAT CONSERVANCY

June 18, 2018

## MINUTES

The Yolo Habitat Conservancy Board met on the 18th day of June 2018, starting at 5:30 p.m. in regular session in the Board of Supervisors' Chambers in the Erwin W. Meier Administration Building, 625 Court Street, Woodland, California.

Present: Oscar Villegas, County of Yolo  
Don Saylor, County of Yolo  
Lucas Frerichs, City of Davis  
Pierre Neu, City of Winters  
Angel Barajas, City of Woodland  
Matt Dulcich, University of California, Davis

Absent: Jim Provenza, County of Yolo  
Chris Ledesma, City of West Sacramento  
Skip Davies, City of Woodland

Staff Present: Petrea Marchand, Executive Director  
Chris Alford, Deputy Director  
Carrie Scarlata, County Counsel

### 5:30 P.M. CALL TO ORDER

1. Approval of the Agenda Order

Minute Order No. 18-15: Approved agenda order.

MOTION: Saylor. SECOND: Neu. AYES: Barajas, Frerichs, Neu, Saylor, Villegas. ABSENT: Ledesma.

2. Public Comment: This is time reserved for the public to address the Conservancy Board on matters not on the agenda.

No public comment.

3. Board Correspondence

## CONSENT CALENDAR

Minute Order No. 18-16: Approved consent agenda items nos. 4-10.

MOTION: Neu. SECOND: Saylor. AYES: Barajas, Frerichs, Neu, Saylor, Villegas. ABSENT: Ledesma.

4. Approved March 19, 2018 and May 7, 2018 meeting minutes.
5. Approved contract amendments extending the term of agreements for Neuvert GIS Services, Eric C. Hansen, and Stoel Rives.
6. Approved contract amendment for Tschudin Consulting Group for an additional \$10,000 in funds.
7. Approved contract with Consero Solutions for \$117,500 for Executive Director services.
8. Approved contract with Alford Environmental for \$75,462 for Deputy Director services.
9. Approved contract with Tschudin Consulting for \$26,000 for Project Manager services.
10. Approved repeal of Yolo Habitat Conservancy Board of Directors bylaws.

## REGULAR AGENDA

11. Received and filed monthly financial statement.
12. Approved FY 2017-18 budget amendment and budget resolution.

Minute Order No. 18-17: Approved recommended action.

MOTION: Saylor. SECOND: Neu. AYES: Barajas, Frerichs, Neu, Saylor, Villegas. ABSENT: Ledesma.

13. Approved FY 2018-19 budget, authorized Chair to sign 2018-19 budget resolution, and directed staff to cease holding performance retentions on consultant contracts.

Minute Order No. 18-18: Approved recommended actions.

MOTION: Saylor. SECOND: Barajas. AYES: Barajas, Frerichs, Neu, Saylor, Villegas. ABSENT: Ledesma.

14. Received a staff report, held a public hearing, and considered adoption of an ordinance imposing mitigation fees on projects that constitute covered activities under the Yolo HCP/NCCP.

Minute Order No. 18-19: Approved recommended action.

MOTION: Neu. SECOND: Saylor. AYES: Barajas, Frerichs, Neu, Saylor, Villegas. ABSENT: Ledesma.

15. Received and filed update on Final Yolo HCP/NCCP, Final EIS/EIR, and FY17-18 Performance Measures.
16. Approved a Mission Statement and Vision Statement for the Yolo Habitat Conservancy.

Minute Order No. 18-20: Approved proposed mission statement and recommended additional work for vision statement.

MOTION: Saylor. SECOND: Neu. AYES: Barajas, Frerichs, Neu, Saylor, Villegas. ABSENT: Ledesma.

17. Received Executive Director update.

## **ADJOURNMENT**

Next meeting scheduled for: August 20, 2018

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE CONSERVANCY'S ADOPTED  
FEE ORDINANCE TO AUTHORIZE THE EXECUTIVE DIRECTOR  
TO IMPLEMENT ANNUAL FEE ADJUSTMENTS**

The Board of Directors of the Yolo Habitat Conservancy hereby ordains as follows:

1. Purpose. The purpose of this Ordinance is to ensure the timely implementation of annual fee adjustments contemplated in the Yolo Habitat Conservation Plan/Natural Community Conservation Plan ("Yolo HCP/NCCP" or "Plan") in a manner that comports with the Mitigation Fee Act (Cal. Gov. Code §§ 66000 *et seq.*) and other provisions of law. Specifically, this Ordinance amends the Conservancy's existing fee ordinance (Ordinance No. 2018-1, adopted on June 18, 2018) to authorize administrative adjustments to the Conservancy's fees consistent with methodology set forth at pp. 8-39 and 8-40 of the Plan.

2. Amendment to Ordinance No. 2018-1.

Section 4.C of Ordinance No. 2018-1 shall be amended to read as follows:

C. The Mitigation Fees shall be adjusted annually by the Executive Director on or about March 15 of each year following the Operative Date using the automatic adjustment methodology specified in Section 8.4.1.6.1 of Chapter 8 and Table 8-10 (HCP/NCCP Fee Adjustment Indices) of the Plan. Compliance with the public hearing and other requirements of the Mitigation Fee Act is not required for such annual adjustments. Additionally, the Mitigation Fees shall be reviewed and may be adjusted at least every five years following the Operative Date by resolution of the Board of Directors in accordance with Section 8.4.1.6.2 of Chapter 8 of the Plan.

3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is held by court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions of this Ordinance. The Board of Directors hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

4. Effective Date. This Ordinance shall take effect and be in force thirty (3) days following its adoption and, prior to the expiration of fifteen (15) days after its adoption, shall cause it, or a summary of it, to be published once in a newspaper of general circulation printed and published in the County of Yolo, with the names of the Board members voting for and against the Ordinance.

**PASSED AND ADOPTED** by the Board of Directors of the Yolo Habitat Conservancy following its introduction on March 18, 2019 and a second reading and adoption on May 20, 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Pierre Neu, Chair  
Board of Directors  
Yolo Habitat Conservancy

ATTEST:

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Shawna Stevens, Clerk of the Board  
Yolo Habitat Conservancy

APPROVED AS TO FORM:

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Philip J. Pogledich, County Counsel  
Counsel to the Yolo Habitat Conservancy



# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

To: Pierre Neu, Chair  
Members of the Board

From: Phil Pogledich  
Conservancy Counsel

Petrea Marchand  
Executive Director

Re: Second reading and adoption of an ordinance amending the existing fee ordinance to authorize annual fee adjustments

Date: May 20, 2019

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## **REQUESTED ACTIONS:**

Waive second reading and adopt an ordinance entitled “An Ordinance Amending the Conservancy’s Adopted Fee Ordinance to Authorize the Executive Director to Implement Annual Fee Adjustments” (Attachment A).

## **BACKGROUND:**

Staff introduced the attached ordinance at the March 18, 2019 Board meeting and it is now returning for a second reading and consideration for adoption. As the Board will recall, the ordinance modifies the Conservancy’s existing mitigation fee ordinance to authorize staff to implement annual fee adjustments. The amount of each annual adjustment will be determined by application of a formula in the Yolo HCP/NCCP that tracks certain price indices and other data. This approach eliminates the need for a noticed public hearing each year (and certain other procedural steps) that are legally unnecessary and which complicate the implementation of fee adjustments. Consistent with the Yolo HCP/NCCP, the Board will still review and adjust the fees every five years based on an updated fee study.

## **ATTACHMENTS:**

Attachment A: Proposed Ordinance

# YOLO HABITAT CONSERVANCY

May 20, 2019

## MINUTES

The Yolo Habitat Conservancy Board met on the 20th day of May 2019, starting at 5:30 p.m. in regular session in the Board of Supervisors' Chambers in the Erwin W. Meier Administration Building, 625 Court Street, Woodland, California.

Present: Jim Provenza  
Don Saylor  
Pierre Neu  
Will Arnold  
Martha Guerrero  
Matt Dulcich

Absent: Xochitl Rodriguez

Staff Present: Petrea Marchand, Executive Director  
Chris Alford, Deputy Director  
Phil Pogledich, County Counsel  
Susan Garbini, Research Associate  
Shawna Stevens, Assistant to Director

### 5:30 P.M. CALL TO ORDER

1. Pledge of Allegiance
2. Approval of the Agenda Order

Minute Order 19-19: Approved agenda order.

MOTION: Provenza. SECOND: Saylor. AYES: Arnold, Guerrero, Neu, Provenza, Saylor. ABSENT: Rodriguez.

3. Public Comment: This is time reserved for the public to address the Conservancy Board on matters not on the agenda.

No public comment.

4. Board Correspondence

**CONSENT CALENDAR**

Minute Order 19-20: Approved consent agenda item nos. 6-8.

MOTION: Provenza. SECOND: Saylor. AYES: Arnold, Guerrero, Neu, Provenza, Saylor. ABSENT: Rodriguez.

5. Approved March 18, 2019 meeting minutes.

Minute Order 19-21: Approved recommended action.

MOTION: Saylor. SECOND: Provenza. AYES: Arnold, Guerrero, Neu, Provenza, Saylor. ABSENT: Rodriguez.

6. Approved contract with Alford Environmental for \$125,000 for Deputy Director services.

7. Approved contract amendments for Neuvert GIS, Eric C. Hansen, Municipal Resource Group, Stoel Rives, and Santa Clara Valley Habitat Agency (SCVHA).

8. Authorized the Executive Director to sign a contract with Geocon Consultants Inc. for \$6,000 for mineral assessment and Phase I Environmental Site Assessment services subject to County Counsel's approval of the final terms.

**REGULAR AGENDA**

9. Received and filed monthly financial statement.

Minute Order 19-22: Received and filed item.

MOTION: Provenza. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Saylor. ABSENT: Rodriguez.

10. Approved Second Amendment to contract with Consero Solutions to increase compensation by \$15,000.

Minute Order 19-23: Approved recommended action.

MOTION: Saylor. SECOND: Provenza. AYES: Arnold, Guerrero, Neu, Provenza, Saylor. ABSENT: Rodriguez.

11. Approved contract with Consero Solutions for \$175,000 for Executive Director and support services.

Minute Order 19-24: Approved recommended action.

MOTION: Provenza. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Saylor. ABSENT: Rodriguez.

12. Adopted proposed FY2019-20 budget.

Minute Order 19-25: Approved recommended action.

MOTION: Provenza. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Saylor. ABSENT: Rodriguez.

13. Authorized the Executive Director to execute a Special Participating Entity Agreement and subsequent Certificate of Inclusion with Pacific Gas & Electric to allow the use of the Yolo HCP/NCCP permit coverage for the T-1428 Strength Test Project under specified terms and conditions.

Minute Order 19-26: Approved recommended action.

MOTION: Saylor. SECOND: Provenza. AYES: Arnold, Guerrero, Neu, Provenza, Saylor. ABSENT: Rodriguez.

14. Authorized the Executive Director to execute a Special Participating Entity Agreement and subsequent Certificate of Inclusion with Yocha Dehe Wintun Nation to allow the use of Yolo HCP/NCCP permit coverage for the Kisi Community Project under specified terms and conditions.

Minute Order 19-27: Approved recommended action.

MOTION: Saylor. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Saylor. ABSENT: Rodriguez.

15. Second reading and adoption of an ordinance amending the existing fee ordinance to authorize annual fee adjustments.

Minute Order 19-28: Approved recommended action.

MOTION: Provenza. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Saylor. ABSENT: Rodriguez.

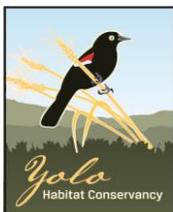
16. Received Executive Director update.
  - RFP for Management Services

**CLOSED SESSION**

17. Public Employee Performance Evaluation  
Government Code Section 54957  
Title: Executive Director

**ADJOURNMENT**

Next meeting scheduled for: July 15, 2019



# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

To: Jim Provenza, Chair  
Members of the Board

From: Petrea Marchand  
Executive Director

Re: Approve Special Participating Entities policy and direct staff to review the Special Participating Entities policy in two years or less and bring any recommended changes to the Board of Directors

Date: January 28, 2019

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## REQUESTED ACTIONS:

1. Approve Special Participating Entities policy (Attachment B)
2. Direct staff to review the Special Participating Entities policy in two years or less and bring any recommended changes to the Board of Directors

## BACKGROUND:

Special Participating Entities (SPEs) include entities that, among other things, are not subject to the jurisdiction of the Yolo HCP/NCCP Permittees. SPEs may conduct or initiate projects or continue ongoing activities within the Permit area that may affect listed species and require take authorization from U.S. Fish and Wildlife Service or the California Department of Fish and Wildlife. (Permittees include the Conservancy, all four cities, and the County.) SPEs may include existing or future school districts, water districts, irrigation districts, transportation agencies, local park districts, geologic hazard abatement districts, other utility or special districts that own land or provide public services, or individuals with activities that may result in take but that do not require a discretionary permit. SPEs can request take authorization for their projects under the Yolo HCP/NCCP during implementation. Chapter 4 of the Yolo HCP/NCCP, Section 4.2.1.3, entitled “Proposed Projects by Special Participating Agencies” describes the application, review, and approval process for SPEs to be covered under the Yolo HCP/NCCP.

SPE permit applications may use take coverage currently dedicated to other activities in the member agency General Plans. Since Yolo County took the Dunnigan Specific Plan out of the Yolo County General Plan and the Yolo HCP/NCCP maintained take coverage for this project, however, there is additional permit coverage in the Yolo HCP/NCCP available for impacts to specific natural communities, such as

grasslands. Conservancy staff will bring all SPE applications to the Board of Directors for approval and ensure that any recommendations take into consideration the availability of take coverage and the needs of the member agencies.

The Yolo Habitat Conservancy needs a Special Participating Entities policy to guide staff in approving permit applications. The proposed Yolo Habitat Conservancy SPE policy (Attachment B) provides the basis for requiring a supplemental charge on SPEs for use of the Yolo HCP/NCCP and is based largely on the Eastern Contra Costa Habitat Conservancy's successful SPE policy (Attachment A). In developing the SPE policy, Conservancy staff consulted with Edmund Sullivan (Executive Director of the Santa Clara Valley Habitat Agency) and Abigail Fateman (Executive Director of the Eastern Contra Costa Habitat Conservancy). The Santa Clara Valley Habitat Agency charges SPEs for use of the permit above the land cover fee at \$10,000 or 10% of mitigation fees, whichever is greater, plus all administrative costs incurred by the Agency. The Eastern Contra Costa Habitat Conservancy has a more complicated formula adopted in a Board of Directors policy (Attachment A) that is the result of their extensive experience permitting SPEs in Eastern Contra Costa County.

ATTACHMENTS:

- Attachment A. Eastern Contra Costa Habitat Conservancy contribution to recovery policy
- Attachment B. Yolo Habitat Conservancy proposed SPE policy



## **Implementation Policy of the Yolo Habitat Conservancy Regarding Supplemental Charges related to Special Participating Entities Seeking Take Authorization**

The Yolo Habitat Conservancy (Conservancy) will require a Special Participating Entity (SPE) to pay a supplemental charge that is not included in the land cover or wetland fees to aid the Conservancy in covering costs associated with the implementation of the HCP/NCCP. In addition, the Conservancy will charge the SPE for all staff time associated with processing the SPE application and will require a deposit prior to starting work on the SPE application. The Conservancy may use the revenue from the supplemental charges for any purpose, including the following:

Additional Conservation Actions: Under the California Natural Community Conservation Planning Act a Natural Community Conservation Plan (NCCP) provides a method for conserving species on a large geographic scale and must contribute to recovery of covered species. The Yolo HCP/NCCP requires the Conservancy to assemble a reserve system that not only mitigates impacts to covered activities (mitigation) but also provides for the conservation of the 12 species covered by the Yolo HCP/NCCP (conservation). The land cover and wetland mitigation fees are used to pay for the mitigation component, whereas the Conservancy uses other sources, such as public funds and supplemental fees from SPES, to pay for the conservation component.

Plan Preparation: The cost to prepare the Yolo HCP/NCCP, which provides a countywide framework to protect natural resources in Yolo County and improve and streamline the environmental permitting process for endangered species impacts, was over \$10 million dollars between 2002 and 2018. This cost was covered mainly by grants secured by the Yolo Habitat Conservancy, as well as General Fund contributions from the member agencies. SPEs did not contribute to the plan preparation cost.

### **Guidelines for Calculating the Contribution to Recovery**

1. For projects with cumulative permanent land cover fees, temporary effect fees and wetland fees less than or equal to \$1,000 the Conservancy will require a minimum contribution to recovery charge of \$1,000.
2. For projects with cumulative permanent land cover fees, temporary effect fees and wetland fees greater than \$1,000 and less than or equal to \$10,000, the Conservancy will require a supplemental charge equal to the land cover and/or wetland fee total (100%).
3. For projects with cumulative permanent land cover fees, temporary effect fees and wetland fees greater than \$10,000 the SPE will pay a supplemental charge equal to the first \$10,000 (100%) plus one half of the remaining land cover and/or wetland fee total (50%).

**Example:** if the permanent land cover fee or temporary effects is \$20,000, the applicant would be required to pay a total of \$15,000 for the SPE supplemental charge. This is calculated based on charging \$10,000 on the first \$10,000 (100%) and \$5,000 on the remaining \$10,000 (50%).

4. For projects with cumulative land cover and wetland fees greater than \$50,000 which are paying *permanent* land cover and/or wetland fees for *temporary* effects, the Conservancy will require a supplemental charge that is equal to the land cover and/or wetland fee up to \$10,000, plus one half of the remaining mitigation fee up to \$50,000, and an additional 10% charge on the remaining balance of the land cover and/or wetland fee for temporary effects.

**Example:** If the applicant's permanent land cover and/or wetland fee for temporary effects is \$80,000, the applicant would be required to pay a total of \$33,000 for the contribution to recovery charge. This is calculated based on charging \$10,000 on the first \$10,000 (100%), \$20,000 on the remainder up to \$50,000 (50% of \$40,000), and \$3,000 for the remaining \$30,000 (10%).

5. For projects that impose unique or challenging mitigation measures on the Conservancy, staff will recommend adjusting the supplemental charge to address the increased costs of fulfilling mitigation and species recovery obligations. Staff will recommend all supplemental charge adjustments to the Conservancy Board for approval.

**Example:** Additional supplemental charges may be required for projects with impacts to giant garter snakes, Swainson's hawk nest trees, or other species with unique mitigation requirements in the HCP/NCCP. Such actions may be more costly than standard habitat conservation and restoration measures.

# YOLO HABITAT CONSERVANCY

January 28, 2019

## MINUTES

The Yolo Habitat Conservancy Board met on the 28th day of January 2019, starting at 5:30 p.m. in regular session in the Board of Supervisors' Chambers in the Erwin W. Meier Administration Building, 625 Court Street, Woodland, California.

Present: Jim Provenza  
Don Saylor  
Pierre Neu  
Will Arnold  
Martha Guerrero  
Xochitl Rodriguez  
Matt Dulcich

Staff Present: Petrea Marchand, Executive Director  
Chris Alford, Deputy Director  
Phil Pogledich, County Counsel  
Susan Garbini, Research Associate  
Shawna Stevens, Assistant to Director

### **5:30 P.M. CALL TO ORDER**

1. Approval of the Agenda Order
2. Public Comment: This is time reserved for the public to address the Conservancy Board on matters not on the agenda.  
  
No public comment.
3. Board Correspondence

## CONSENT CALENDAR

Minute Order No. 19-01: Approved consent agenda item nos. 4-9.

MOTION: Saylor. SECOND: Neu. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

4. Approved November 13, 2018 meeting minutes.
5. Approved contract amendments for Municipal Resources Group and Urban Economics.
6. Approved contract amendment with Yolo Land Trust for \$30,000 subsequent to the third amendment.
7. Approved contract with Yolo County Resources Conservation District for habitat enhancement and management plan development services.
8. Approved resolutions authorizing the application and acceptance of Wildlife Conservation Board Implementation Grant funds (\$275,000) and NCCP Local Assistance Grant funds (\$93,000).
9. Ratified minor corrections to Implementing Agreement for Yolo Habitat Conservation Plan/Natural Community Conservation Plan and to financial services Memorandum of Understanding with Yolo County.

## REGULAR AGENDA

10. Recognized Cay Goude and Ellen Berryman for outstanding service to the Yolo HCP/NCCP.
11. Recognized service for Board members Skip Davies and Chris Ledesma.
12. Introduction of USFWS and CDFW staff representatives for Yolo HCP/NCCP Implementation (5 minutes)  
  
Removed from agenda.
13. BREAK
14. Received and filed Board welcome packet.

15. Received and filed 2017-18 independent auditor's report and presentation from Maze and Associates.

David Alvey of Maze and Associates presented.

Minute Order No. 19-02: Received and filed auditor's report.

MOTION: Rodriguez. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

16. Received and filed monthly financial statement and grant tracking summary.

Minute Order No. 19-03: Received and filed financial statements.

MOTION: Neu. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

17. Approved contract amendments for Consero Solutions from \$117,500 to \$172,100 and Alford Environmental from \$75,462 to \$157,500.

Minute Order No. 19-04: Approved recommended actions.

MOTION: Saylor. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

18. Approved \$10,000 contract with Ibis Consulting for real estate acquisition and other services.

Minute Order No. 19-05: Approved recommended action.

MOTION: Guerrero. SECOND: Neu. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

19. Received and filed 2018-19 mid-year Administration Fund budget update, approved 2018-19 Administration Fund budget amendment, and approved Administration Fund budget amendment resolution.

Minute Order No. 19-06: Approved recommended actions.

MOTION: Rodriguez. SECOND: Neu. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

20. Approved new Conservancy implementation financial structure, FY 2019-20 budget process, and FY 2019-20 budget and organizational goals.

Minute Order No. 19-07: Approved recommended actions.

MOTION: Saylor. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

21. Approved purchase of the Koontz Farm Conservation Easement (\$450,000), authorized the Executive Director to approve and sign the final escrow instructions and final baseline documentation report, and authorized the Executive Director to provide written approval of the Pro Forma and final Conservation Easement to the Yolo Land Trust.

Minute Order No. 19-08: Approved recommended actions.

MOTION: Rodriguez. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

22. Authorized issuance of a Request for Proposals-Management Services.

Minute Order No. 19-09: Approved recommended action along with Board recommendations to include government agencies on RFP distribution list and have the Management Committee interview the finalists.

MOTION: Arnold. SECOND: Saylor. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

23. Approved Special Participating Entities policy and directed staff to review the Special Participating Entities policy in two years or less and bring any recommended changes to the Board of Directors.

Minute Order No. 19-10: Approved recommended actions.

MOTION: Arnold. SECOND: Neu. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

24. Approved stewardship donation policy and directed staff to review the policy in two years or less and return with any recommended changes to the Board of Directors.

Minute Order No. 19-11: Approved recommended actions.

MOTION: Neu. SECOND: Rodriguez. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

25. Authorize the Executive Director to approve the Sacramento Area Flood Control Agency's application to use the Yolo HCP/NCCP permit for transfer of the Bryte Landfill subject to conditions (10 minutes)

Removed from agenda.

26. Elected Chair and Vice Chair.

Minute Order No. 19-12: Approved Pierre Neu as Board Chair and Don Saylor as Board Vice-Chair.

MOTION: Guerrero. SECOND: Rodriguez. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

27. Approved establishment of 2018-19 Management Committee and received and filed update on the Executive Director's creation of the Finance Advisory Committee.

Minute Order No. 19-13: Approved establishment of 2018-19 Management Committee and created Finance Advisory Committee with members Chad Rinde of Yolo County Dept. of Financial Services and Bob Spencer of Urban Economics.

MOTION: Arnold. SECOND: Pierre. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

28. Receive Executive Director update (5 minutes)
- LAFCO report
  - Proposed Special Participating Entity applications

Postponed item until next meeting.

## **ADJOURNMENT**

Next meeting scheduled for: March 18, 2019



# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

To: Pierre Neu, Chair  
Members of the Board

From: Dirk Brazil  
Executive Director

Re: Approve amendment to Special Participating Entities policy

Date: September 16, 2019

---

## REQUESTED ACTIONS:

1. Approve amendment to Special Participating Entities policy (Attachment A)

## BACKGROUND:

On January 28, 2019, the Yolo Habitat Conservancy Board of Directors approved the Special Participating Entities (SPE) “contribution to recovery” policy. This policy sets the charge SPEs must pay to the Conservancy because SPEs did not pay for development of the Yolo HCP/NCCP. The Board also directed staff to review the SPE policy in two years or less and bring any recommended changes to the Board. SPEs currently pay three separate sets of fees to the Conservancy: 1) reimbursement for staff costs associated with processing the permit; 2) the normal land cover and wetlands fees; 3) the contribution to recovery charge. Staff now propose amending the SPE policy to increase the minimum contribution to recovery charge from \$1,000 to \$10,000. This amendment appears in the attached redline version of the policy. The proposed change to the SPE policy is the result of a recent staff discussions regarding the work associated with permitting small SPE projects and the significant benefit to applicants of the permit.

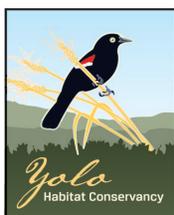
SPEs include entities that, among other things, are not subject to the jurisdiction of the Yolo HCP/NCCP Permittees. SPEs may conduct or initiate projects or continue ongoing activities within the Permit area that may affect listed species and require take authorization from U.S. Fish and Wildlife Service or the California Department of Fish and Wildlife. (Permittees include the Conservancy, all four cities, and the County.) SPEs may include existing or future school districts, water districts, irrigation districts, transportation agencies, local park districts, other utility or special districts that own land or provide public services, or individuals with activities that may result in take but that do not require a discretionary permit. SPEs can request take authorization for their projects under the Yolo HCP/NCCP during implementation. Conservancy staff bring all SPE applications to the Board of Directors for approval and

ensure that any recommendations take into consideration the availability of take coverage and the needs of the member agencies.

ATTACHMENT:

Attachment A. Amendment to Special Participating Entities contribution to recovery policy





# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

## Implementation Policy of the Yolo Habitat Conservancy Regarding Supplemental Charges related to Special Participating Entities Seeking Take Authorization

Updated September 16, 2019

The Yolo Habitat Conservancy (Conservancy) requires a Special Participating Entity (SPE) to pay a supplemental charge that is not included in the land cover or wetland fees to aid the Conservancy in covering costs associated with the implementation of the HCP/NCCP. In addition, the Conservancy charges the SPE for all staff time associated with processing the SPE application and requires a deposit prior to starting work on the SPE application. The Conservancy may use the revenue from the supplemental charges for any purpose, including the following:

Additional Conservation Actions: Under the California Natural Community Conservation Planning Act a Natural Community Conservation Plan (NCCP) provides a method for conserving species on a large geographic scale and must contribute to recovery of covered species. The Yolo HCP/NCCP requires the Conservancy to assemble a reserve system that not only mitigates impacts to covered activities (mitigation) but also provides for the conservation of the 12 species covered by the Yolo HCP/NCCP (conservation). The land cover and wetland mitigation fees are used to pay for the mitigation component, whereas the Conservancy uses other sources, such as public funds and supplemental fees from SPES, to pay for the conservation component.

Plan Preparation: The cost to prepare the Yolo HCP/NCCP, which provides a countywide framework to protect natural resources in Yolo County and improve and streamline the environmental permitting process for endangered species impacts, was over \$10 million dollars between 2002 and 2018. This cost was covered mainly by grants secured by the Yolo Habitat Conservancy, as well as General Fund contributions from the member agencies. SPES did not contribute to the plan preparation cost.

### Guidelines for Calculating the Contribution to Recovery

1. For projects with cumulative permanent land cover fees, temporary effect fees and wetland fees less than or equal to \$10,000 the Conservancy will require a minimum contribution to recovery charge of ~~\$1,000~~ \$10,000.
- ~~2. For projects with cumulative permanent land cover fees, temporary effect fees and wetland fees greater than \$1,000 and less than or equal to \$10,000, the Conservancy will require a supplemental charge equal to the land cover and/or wetland fee total (100%).~~
2. For projects with cumulative permanent land cover fees, temporary effect fees and wetland

fees greater than \$10,000 the SPE will pay a supplemental charge equal to the first \$10,000 (100%) plus one half of the remaining land cover and/or wetland fee total (50%).

**Example:** if the permanent land cover fee or temporary effects is \$20,000, the applicant would be required to pay a total of \$15,000 for the SPE supplemental charge. This is calculated based on charging \$10,000 on the first \$10,000 (100%) and \$5,000 on the remaining \$10,000 (50%).

3. For projects with cumulative land cover and wetland fees greater than \$50,000 which are paying *permanent* land cover and/or wetland fees for *temporary* effects, the Conservancy will require a supplemental charge that is equal to the land cover and/or wetland fee up to \$10,000, plus one half of the remaining mitigation fee up to \$50,000, and an additional 10% charge on the remaining balance of the land cover and/or wetland fee for temporary effects.

**Example:** If the applicant's permanent land cover and/or wetland fee for temporary effects is \$80,000, the applicant would be required to pay a total of \$33,000 for the contribution to recovery charge. This is calculated based on charging \$10,000 on the first \$10,000 (100%), \$20,000 on the remainder up to \$50,000 (50% of \$40,000), and \$3,000 for the remaining \$30,000 (10%).

4. For projects that impose unique or challenging mitigation measures on the Conservancy, staff will recommend adjusting the supplemental charge to address the increased costs of fulfilling mitigation and species recovery obligations. Staff will recommend all supplemental charge adjustments to the Conservancy Board for approval.

**Example:** Additional supplemental charges may be required for projects with impacts to giant garter snakes, Swainson's hawk nest trees, or other species with unique mitigation requirements in the HCP/NCCP. Such actions may be more costly than standard habitat conservation and restoration measures.



# YOLO HABITAT CONSERVANCY

September 16, 2019

## MINUTES

The Yolo Habitat Conservancy Board met on the 16th day of September 2019, starting at 5:30 p.m. in regular session in the Board of Supervisors' Chambers in the Erwin W. Meier Administration Building, 625 Court Street, Woodland, California.

Present: Jim Provenza  
Don Saylor  
Will Arnold  
Martha Guerrero  
Xochitl Rodriguez  
Matt Dulcich

Absent: Pierre Neu

Staff Present: Dirk Brazil, Executive Director  
Phil Pogledich, County Counsel  
Shawna Stevens, Assistant to Director  
Anne Brunette, Staff Consultant

### **5:30 P.M. CALL TO ORDER**

1. Pledge of Allegiance
2. Approval of the Agenda Order

Minute Order 19-36: Approved agenda order.

MOTION: Arnold. SECOND: Guerrero. AYES: Arnold, Guerrero, Provenza, Rodriguez, Saylor. ABSENT: Neu.

3. Public Comment: This is time reserved for the public to address the Conservancy Board on matters not on the agenda.

Edna Bohannon, resident of West Sacramento, commented on Bridgeway Island Pond.

4. Board Correspondence

**CONSENT CALENDAR**

Minute Order 19-37: Approved consent agenda item nos. 5-9.

MOTION: Rodriguez. SECOND: Arnold. AYES: Arnold, Guerrero, Provenza, Rodriguez, Saylor. ABSENT: Neu

5. Approved July 15, 2019 meeting minutes.
6. Approved contract with Center for Natural Lands Management for \$14,200 for palmate-bracted bird's beak surveys at Woodland Regional Park.
7. Approved contract amendment with ICF Jones & Stokes, Inc. to add \$30,923 to their existing contract for services related to implementation of the Yolo HCP/NCCP.
8. Approved contract amendment with Estep Environmental to add \$45,000 to his existing contract for biological services related to implementation of the Yolo HCP/NCCP.
9. Received FY2018-19 easement endowment report.

**REGULAR AGENDA**

10. Approved 2020 Board meeting calendar.

Minute Order 19-38: Approved recommended action.

MOTION: Provenza. SECOND: Arnold. AYES: Arnold, Guerrero, Provenza, Rodriguez, Saylor. ABSENT: Neu.

11. Received and filed June 2019 monthly financial report and update on 2018-19 budget.
12. Approved amendment to Special Participating Entities policy.

Minute Order 19-39: Approved recommended action.

MOTION: Provenza. SECOND: Guerrero. AYES: Arnold, Guerrero, Provenza, Rodriguez, Saylor.  
ABSENT: Neu.

13. Received and filed Science and Technical Advisory Committee evaluation of Wimmer property, site evaluations for conservation easements; approved recommendation for conservation easement.

Minute Order 19-40: Approved recommended action.

MOTION: Arnold. SECOND: Provenza. AYES: Arnold, Guerrero, Provenza, Rodriguez, Saylor.  
ABSENT: Neu.

14. Received and filed Science and Technical Advisory Committee evaluation of Lomita Farm (Lundy), site evaluations for conservation easements; approved recommendation for conservation easement.

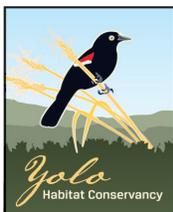
Minute Order 19-41: Approved recommended action.

MOTION: Guerrero. SECOND: Arnold. AYES: Arnold, Guerrero, Provenza, Rodriguez, Saylor.  
ABSENT: Neu.

15. Received Executive Director update.
  - Implementation Advisory Committee membership- need appointments from Board members

## **ADJOURNMENT**

Next meeting scheduled for: January 27, 2020



# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

To: Jim Provenza, Chair  
Members of the Board

From: Petrea Marchand  
Executive Director

Re: Approve stewardship donation policy and direct staff to review the policy within a year or less and return with any recommended changes to the Board of Directors

Date: January 28, 2019

---

## **REQUESTED ACTIONS:**

1. Approve stewardship donation policy
2. Direct staff to review the policy within a year or less and return with any recommended changes to the Board of Directors

## **BACKGROUND:**

On November 13, 2018, the Board directed staff to develop a stewardship donation policy help guide efforts to raise \$18.2 million that must come from “new” sources of local, state, and federal funding. This amount constitutes estimated costs for conservation easement acquisition and reserve system development and management associated with conservation above mitigation that is not covered by state and federal grant funding. It is the responsibility of the Conservancy to identify sources of funding to provide this \$18.2 million over 50 years.

As part of staff’s research related to identifying potential funding sources that could count towards the \$18.2 million of new funding sources, staff spoke with a number of other land trusts and representatives of organizations that purchase habitat conservation easements with state and federal grant funds. The majority of these organizations request stewardship donations or contributions from landowners as part of an easement transaction, but employ different approaches based on their unique circumstances.

Conservancy staff recommend that the Board adopt the following policy:

- Request that landowners pay for a portion of the due diligence costs, which includes the survey, the appraisal, and other items. Staff recommend a standard contribution of \$10,000 due when

the Conservancy and the landowner sign a letter of intent at the start of the process. The Conservancy will pay for the remainder of the due diligence costs. The Conservancy's Board of Directors may waive this fee for member agencies, landowners who demonstrate economic hardship, or for properties that are critical to meeting species conservation goals in the reserve system.

- The Conservancy will pay for all other staff, consultant, and legal costs associated with the transaction, including development of the easement and management plan;
- If the Conservancy terminates the transaction because: 1) the conservation values are not as anticipated, or 2) if expected funding does not materialize, or 3) the due diligence process reveals unacceptable conditions, the Conservancy will reimburse landowners for the portion of the \$10,000 contribution remaining on the date of the withdrawal;
- Upon close of escrow, landowners will contribute a stewardship donation equal to 6% of the value of the easement. The Conservancy may revisit this amount at any time if the donation is not sufficient to fund management and post-permit endowment costs.



# YOLO HABITAT CONSERVANCY

January 28, 2019

## MINUTES

The Yolo Habitat Conservancy Board met on the 28th day of January 2019, starting at 5:30 p.m. in regular session in the Board of Supervisors' Chambers in the Erwin W. Meier Administration Building, 625 Court Street, Woodland, California.

Present: Jim Provenza  
Don Saylor  
Pierre Neu  
Will Arnold  
Martha Guerrero  
Xochitl Rodriguez  
Matt Dulcich

Staff Present: Petrea Marchand, Executive Director  
Chris Alford, Deputy Director  
Phil Pogledich, County Counsel  
Susan Garbini, Research Associate  
Shawna Stevens, Assistant to Director

### **5:30 P.M. CALL TO ORDER**

1. Approval of the Agenda Order
2. Public Comment: This is time reserved for the public to address the Conservancy Board on matters not on the agenda.  
  
No public comment.
3. Board Correspondence

## CONSENT CALENDAR

Minute Order No. 19-01: Approved consent agenda item nos. 4-9.

MOTION: Saylor. SECOND: Neu. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

4. Approved November 13, 2018 meeting minutes.
5. Approved contract amendments for Municipal Resources Group and Urban Economics.
6. Approved contract amendment with Yolo Land Trust for \$30,000 subsequent to the third amendment.
7. Approved contract with Yolo County Resources Conservation District for habitat enhancement and management plan development services.
8. Approved resolutions authorizing the application and acceptance of Wildlife Conservation Board Implementation Grant funds (\$275,000) and NCCP Local Assistance Grant funds (\$93,000).
9. Ratified minor corrections to Implementing Agreement for Yolo Habitat Conservation Plan/Natural Community Conservation Plan and to financial services Memorandum of Understanding with Yolo County.

## REGULAR AGENDA

10. Recognized Cay Goude and Ellen Berryman for outstanding service to the Yolo HCP/NCCP.
11. Recognized service for Board members Skip Davies and Chris Ledesma.
12. Introduction of USFWS and CDFW staff representatives for Yolo HCP/NCCP Implementation (5 minutes)  
  
Removed from agenda.
13. BREAK
14. Received and filed Board welcome packet.

15. Received and filed 2017-18 independent auditor's report and presentation from Maze and Associates.

David Alvey of Maze and Associates presented.

Minute Order No. 19-02: Received and filed auditor's report.

MOTION: Rodriguez. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

16. Received and filed monthly financial statement and grant tracking summary.

Minute Order No. 19-03: Received and filed financial statements.

MOTION: Neu. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

17. Approved contract amendments for Consero Solutions from \$117,500 to \$172,100 and Alford Environmental from \$75,462 to \$157,500.

Minute Order No. 19-04: Approved recommended actions.

MOTION: Saylor. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

18. Approved \$10,000 contract with Ibis Consulting for real estate acquisition and other services.

Minute Order No. 19-05: Approved recommended action.

MOTION: Guerrero. SECOND: Neu. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

19. Received and filed 2018-19 mid-year Administration Fund budget update, approved 2018-19 Administration Fund budget amendment, and approved Administration Fund budget amendment resolution.

Minute Order No. 19-06: Approved recommended actions.

MOTION: Rodriguez. SECOND: Neu. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

20. Approved new Conservancy implementation financial structure, FY 2019-20 budget process, and FY 2019-20 budget and organizational goals.

Minute Order No. 19-07: Approved recommended actions.

MOTION: Saylor. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

21. Approved purchase of the Koontz Farm Conservation Easement (\$450,000), authorized the Executive Director to approve and sign the final escrow instructions and final baseline documentation report, and authorized the Executive Director to provide written approval of the Pro Forma and final Conservation Easement to the Yolo Land Trust.

Minute Order No. 19-08: Approved recommended actions.

MOTION: Rodriguez. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

22. Authorized issuance of a Request for Proposals-Management Services.

Minute Order No. 19-09: Approved recommended action along with Board recommendations to include government agencies on RFP distribution list and have the Management Committee interview the finalists.

MOTION: Arnold. SECOND: Saylor. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

23. Approved Special Participating Entities policy and directed staff to review the Special Participating Entities policy in two years or less and bring any recommended changes to the Board of Directors.

Minute Order No. 19-10: Approved recommended actions.

MOTION: Arnold. SECOND: Neu. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

24. Approved stewardship donation policy and directed staff to review the policy in two years or less and return with any recommended changes to the Board of Directors.

Minute Order No. 19-11: Approved recommended actions.

MOTION: Neu. SECOND: Rodriguez. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

25. Authorize the Executive Director to approve the Sacramento Area Flood Control Agency's application to use the Yolo HCP/NCCP permit for transfer of the Bryte Landfill subject to conditions (10 minutes)

Removed from agenda.

26. Elected Chair and Vice Chair.

Minute Order No. 19-12: Approved Pierre Neu as Board Chair and Don Saylor as Board Vice-Chair.

MOTION: Guerrero. SECOND: Rodriguez. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

27. Approved establishment of 2018-19 Management Committee and received and filed update on the Executive Director's creation of the Finance Advisory Committee.

Minute Order No. 19-13: Approved establishment of 2018-19 Management Committee and created Finance Advisory Committee with members Chad Rinde of Yolo County Dept. of Financial Services and Bob Spencer of Urban Economics.

MOTION: Arnold. SECOND: Pierre. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez, Saylor.

28. Receive Executive Director update (5 minutes)
- LAFCO report
  - Proposed Special Participating Entity applications

Postponed item until next meeting.

## **ADJOURNMENT**

Next meeting scheduled for: March 18, 2019



# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

To: Jim Provenza, Chair  
Members of the Board

From: Petrea Marchand  
Executive Director

Chris Alford  
Deputy Director

Re: Approve policy to accept early payment of Yolo HCP/NCCP mitigation fees

Date: March 18, 2019

---

## **REQUESTED ACTIONS:**

Approve policy to accept early payment of Yolo HCP/NCCP mitigation fees

## **BACKGROUND:**

On June 18, 2018, the Board adopted an ordinance establishing mitigation fees on new public and private development within the County of Yolo. This mitigation fee ordinance ensures the timely collection and remittance of mitigation fees for implementation of the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (Yolo HCP/NCCP) in a manner that complies with the Mitigation Fee Act (Cal. Gov. Code §§ 66000 *et seq.*) and other provisions of law. The mitigation fee ordinance dictates an annual automatic adjustment of Yolo HCP/NCCP mitigation fees by resolution of the Board. The ordinance also allows a discretionary review of the mitigation fees at least every five years, as well as subsequent adjustment of the fees, if deemed appropriate based upon the review.

Section 7 of the mitigation fee ordinance leaves it to the Board's discretion to adopt guidelines to assist in the implementation and administration of all aspects of the mitigation fee ordinance. Staff recommend the adoption of an early payment of mitigation fees policy (Attachment A). This policy would allow project proponents seeking coverage under the Yolo HCP/NCCP to submit applications and pay associated mitigation fees up to a year in advance of initiating the activity for which they seek Yolo

HCP/NCCP coverage, with the ability to subsequently request up to two one-year time extensions. Under the proposed policy, when a project proponent pays mitigation fees in advance, they lock in their mitigation fee rates for a specific project such that they are not subject to subsequent fee increases. The advanced payment of fees also secures funds for Yolo HCP/NCCP implementation sooner than would otherwise occur and allows the Conservancy to purchase easements for mitigation before impacts occur.

**ATTACHMENTS:**

Attachment A: Draft Yolo HCP/NCCP Early Payment of Mitigation Fees Policy





# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

## **DRAFT** Yolo HCP/NCCP Early Payment of Mitigation Fees Policy

Date Adopted by the Yolo Habitat Conservancy Board: \_\_\_\_\_

### **1. PURPOSE:**

The Yolo Habitat Conservancy (Conservancy) may adopt guidelines to assist in the implementation and administration of all aspects of the Conservancy's mitigation fee ordinance (Ordinance No. 2018-01) not previously considered. The Yolo Habitat Conservation Plan/Natural Community Conservation Plan (Yolo HCP/NCCP) Early Payment of Mitigation Fees Policy allows public and private applicants to pay Yolo HCP/NCCP mitigation fees up to a year prior to the applicant obtaining a building permit, grading permit, or other discretionary approval from a Yolo HCP/NCCP member agency. The policy also allows Special Participating Entities (SPEs) to pay Yolo HCP/NCCP mitigation fees up to a year prior to initiating the activity for which they seek Yolo HCP/NCCP coverage from the Conservancy, as well as seek up to two one-year extensions.

### **2. SCOPE**

This policy applies to all public and private applicants subject to the mitigation fee provisions of the Yolo HCP/NCCP, including SPEs.

### **3. POLICY**

The Conservancy's mitigation fee ordinance does not preclude early payment of fees. The Conservancy will allow early payment of mitigation fees by a public or private applicant prior to the applicant obtaining a building permit, grading permit, or other discretionary approval from a Yolo HCP/NCCP member agency. The policy also allows SPEs to pay Yolo HCP/NCCP mitigation fees prior to initiating the activity for which they seek Yolo HCP/NCCP coverage from the Conservancy.

To qualify for early fee payment, the applicant must complete the Yolo HCP/NCCP application and the fees and conditions to be imposed verified by member agency or Conservancy staff.

The public or private applicant, upon early payment of mitigation fees, will not be subject to any future Yolo HCP/NCCP mitigation fee increases, except that subsequent changes to a project which necessitate additional fees will be subject to the fee rate at the time of modification or revision.

Pre-paid mitigation fees by a private applicant are considered locked in when received by member agency staff along with a completed Yolo HCP/NCCP application. Pre-paid mitigation fees by a public agency applicant are considered locked in when received by the Conservancy along with a completed Yolo HCP/NCCP member agency project reporting form or SPE Agreement, or when a payment agreement is reached. Pre-paid mitigation fees remain locked in for one year with the exception of fees paid by member agencies prior

to the end of 2018 to provide initial funding for Plan implementation, which are locked in permanently. The private or public project proponent may subsequently request up to two one-year time extensions. If the activity utilizing Yolo HCP/NCCP permit coverage is not initiated within the allotted timeframe, the project will lose its locked-in status and be subject to the mitigation fee rates at the time in which the private project obtains a building permit, grading permit, or other discretionary approval from a Yolo HCP/NCCP member agency or at the time the public project or SPE project initiates the activity for which they have obtained Yolo HCP/NCCP coverage from the Conservancy.

No refunds will be issued by the Conservancy to an applicant who pays mitigation fees early.





# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

To: Jim Provenza, Chair  
Members of the Board

From: Petrea Marchand  
Executive Director

Re: Approve policy related to providing land in lieu of fees

Date: March 18, 2019

---

## **REQUESTED ACTION:**

1. Approve policy related to providing land in lieu of fees

## **BACKGROUND:**

Per Section 7.5.8 of the Yolo Habitat Conservation Plan/Habitat Conservation Plan (Yolo HCP/NCCP), the Conservancy may allow permittees or private landowners to transfer fee title or place a conservation easement on all or a portion of property they own to satisfy mitigation requirements for covered activities. Applicants may also purchase credits from an approved mitigation receiving site. If the Conservancy and wildlife agencies approve this transfer of land in fee title, easement dedication, or mitigation receiving site credit, it can reduce the HCP/NCCP fees required for development. The proposed policy will provide guidance to Conservancy staff and applicants regarding the process for establishing the fee credit and other element of the land in lieu process.

## **ATTACHMENTS:**

Attachment A: Proposed Yolo HCP/NCCP Land In Lieu Policy



# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

## Yolo HCP/NCCP

### Land In Lieu of Fees Policy

Adopted by the Yolo Habitat Conservancy Board: \_\_\_\_\_

#### 1. PURPOSE:

This policy outlines the process through which the Yolo Habitat Conservancy (Conservancy) will provide public and private applicants a fee credit for land or easements applicants may provide. Per Section 7.5.8 of the Yolo Habitat Conservation Plan/Habitat Conservation Plan (Yolo HCP/NCCP), the Conservancy may allow permittees or private landowners to transfer fee title or place a conservation easement on all or a portion of property they own to satisfy mitigation requirements for covered activities. Per Section 7.5.8.2 of the Yolo HCP/NCCP, the Conservancy may also allow applicants to purchase credits from mitigation receiving sites and provide those credits in lieu of fees. If the Conservancy and wildlife agencies approve a transfer of land in fee title, an easement dedication, or a mitigation receiving site credit purchase, it can reduce or eliminate the HCP/NCCP fees required for development. Alternatively, project proponents may prefer to acquire their own mitigation lands consistent with the Yolo HCP/NCCP and transfer title of these lands or dedicate easements to the Conservancy consistent with the Yolo HCP/NCCP instead of paying all or a portion of the land cover or other fees. Section 7.5.8.1 of the Yolo HCP/NCCP describes the criteria for providing land in lieu of Yolo HCP/NCCP fees.

#### 2. SCOPE

This policy applies to all public and private applicants interested in providing land or easements in lieu of a portion of the Yolo HCP/NCCP land cover or other fees, as well as applicants who wish to purchase credits from an approved mitigation receiving site.

#### 3. POLICY

Applicants who propose to provide land or easements in lieu of fees or credits from a mitigation receiving site reduce the cost to the Conservancy for mitigation of covered activities, justifying a discount in the land cover fee or other mitigation fees. In such an instance, the Conservancy will avoid the cost of pre-acquisition surveys, land acquisition costs, transaction costs, and associated oversight and management. As an example, applicants who provide land or easement in lieu of the Conservancy's land cover fee in effect as of January 10, 2019 should receive a 67 percent discount on the land cover fee (see table below). The fee amount shown below is based on the initial land cover fee established in the Yolo HCP/NCCP. The fee, and therefore the credit, will change due to annual and periodic adjustments to the fee for inflation and other updates to the funding plan per Section 8.4.1.6 of the Yolo HCP/NCCP. The Conservancy will update the credit at the same calculate credit for land in lieu provided for wetlands mitigation through a similar process.

**Table 1. Example Calculation of Land in Lieu Credit**

Land Cover Fee per Acre of Land Conversion <sup>1</sup>		\$ 12,952
Total Plan Costs for Newly Protected Lands	\$ 309,645,614	
Costs to Establish Reserve System <sup>2</sup>	<u>208,685,481</u>	
Discount		<u>67%</u>
Land Cover Fee with Mitigation Receiving Site Credit (per acre) <sup>3</sup>		\$ 4,274

<sup>1</sup> Fee based on initial fee from Yolo HCP/NCCP and will change based on annual and periodic adjustments.

<sup>2</sup> Includes pre-acquisition surveys, land acquisition costs, transaction costs, and associated oversight and management for newly protected lands.

<sup>3</sup> Includes (1) management and enhancement of the reserve system, (2) monitoring, research, and scientific review, (3) plan administration, (4) contingency, (5) plan preparation, and (6) endowment.

Sources: Yolo HCP/NCCP, Appendix I, Funding Plan, Tables 2, 5, and 6.

For the Conservancy to consider providing a fee credit for land in lieu of fees, applicants must fill out an in lieu application, which will soon be available on the Conservancy’s web site. As part of the application, the applicant will provide baseline data on the properties proposed in lieu of fees, including the biological value to the Yolo HCP/NCCP, and explain how the site meets land acquisition requirements and relevant Yolo HCP/NCCP biological goals and objectives. The property owner also must provide access to the proposed site to allow Conservancy staff members or their designees to survey the site and verify its biological value for the reserve system.

The Conservancy may require the project proponent to bear some or all of the costs of the evaluation, including potential surveys, and staff costs associated with the process through which the landowner places an easement on the property. If the Conservancy decides to accept the land in lieu of fees, the Conservancy may reduce the final fee amount to credit the applicant for any payment of costs during the process. If the Conservancy does not accept the land in lieu, the Conservancy will not reimburse these costs. The Conservancy may also require a project proponent to pay the cost of other due diligence, such as a Phase 1 site assessment, appraisal, and title search.



# YOLO HABITAT CONSERVANCY

March 18, 2019

## MINUTES

The Yolo Habitat Conservancy Board met on the 18th day of March 2019, starting at 5:30 p.m. in regular session in the Board of Supervisors' Chambers in the Erwin W. Meier Administration Building, 625 Court Street, Woodland, California.

Present: Jim Provenza  
Pierre Neu  
Will Arnold  
Martha Guerrero  
Xochitl Rodriguez  
Matt Dulcich

Absent: Don Saylor

Staff Present: Petrea Marchand, Executive Director  
Chris Alford, Deputy Director  
Phil Pogledich, County Counsel  
Susan Garbini, Research Associate  
Shawna Stevens, Assistant to Director

## 5:30 P.M. CALL TO ORDER

1. Approval of the Agenda Order
2. Public Comment: This is time reserved for the public to address the Conservancy Board on matters not on the agenda.  
  
No public comment.
3. Board Correspondence

## CONSENT CALENDAR

Minute Order No. 19-14: Approved consent agenda item nos. 4-5.

MOTION: Arnold. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

4. Approved January 28, 2019 meeting minutes.
5. Approved Tschudin Consulting Group contract amendment from \$21,000 to \$82,000.

## REGULAR AGENDA

6. Received State Controller's Report presentation from Yolo County Department of Financial Services.
7. Introduction of USFWS and CDFW staff representatives for Yolo HCP/NCCP Implementation.
8. Received and filed monthly financial statement.
9. Reviewed and provided feedback on proposed FY2019-20 budget.
10. Introduction of an ordinance amending the existing fee ordinance to authorize annual fee adjustments.

Minute Order No. 19-15: Approved recommended action.

MOTION: Arnold. SECOND: Rodriguez. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

11. Approved policy to accept early payment of Yolo HCP/NCCP mitigation fees.

Minute Order No. 19-16: Approved recommended action with a change from two to three one-year time extensions and other changes to clarify the timing of the fee payments.

MOTION: Provenza. SECOND: Rodriguez. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

12. Approved updated description of Implementation Advisory Committee role and submit nominations for membership on Implementation Advisory Committee to Executive Director by April 15, 2019-20.

Minute Order No. 19-17: Approved recommended actions.

MOTION: Arnold. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

13. Approved policy related to providing land in lieu of fees.

Minute Order No. 19-18: Approved recommended action.

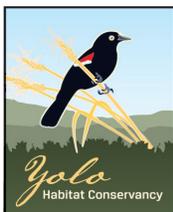
MOTION: Rodriguez. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

14. Received Executive Director update.

- LAFCO report
- Proposed Special Participating Entity (SPE) applications
- WCB grant
- Member agency loans
- RFP for Management Services update
- Koontz conservation easement update

## ADJOURNMENT

Next meeting scheduled for: May 20, 2019



# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

To: Pierre Neu, Chair  
Members of the Board

From: Petrea Marchand  
Executive Director

Re: Approve updated policy related to providing mitigation receiving site credits in lieu of the land cover fee and approve new policy related to land/easements in lieu of land cover fee

Date: July 15, 2019

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## **REQUESTED ACTION:**

1. Approve updated policy related to providing mitigation receiving site credits in lieu of land cover fee
2. Approve new policy related to land/easements in lieu of land cover fee

## **BACKGROUND:**

Per Section 7.5.8 of the Yolo Habitat Conservation Plan/Habitat Conservation Plan (Yolo HCP/NCCP), the Conservancy may allow permittees or private landowners to transfer fee title or place a conservation easement on all or a portion of property they own to satisfy mitigation requirements for covered activities. Applicants may also purchase credits from an approved mitigation receiving site. If the Conservancy and wildlife agencies approve this transfer of land in fee title, easement dedication, or mitigation receiving site credit, it can reduce the HCP/NCCP fees required for development.

The Board adopted a policy on March 18, 2019 to provide land in lieu of fees. After discussing the adopted policy internally, staff realized the Conservancy needed to amend the policy to create separate policies for applicants who provide mitigation receiving site credits in lieu of the land cover fee and applicants who provide land or easements in lieu of land cover or wetland fees. Staff are recommending updating the March 18, 2019 policy to be specific to mitigation receiving sites and to create a new policy specific to land or easements provided in lieu of the land cover fee. (The Conservancy will develop a separate policy on land or easements provided in lieu of wetlands fees at a later date.) The policies provide updated guidance to Conservancy staff and applicants regarding the process for establishing the fee credit and other element of the land in lieu process.

**ATTACHMENTS:**

Attachment A: Proposed updated Yolo HCP/NCCP Mitigation Receiving Site Credit In Lieu of Land Cover Fee Policy

Attachment B. Proposed Land/Easement In Lieu of Land Cover Fee Policy





# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

## Yolo HCP/NCCP

### Mitigation Receiving Site Credit In Lieu of Land Cover Fee Policy

Adopted by the Yolo Habitat Conservancy Board: March 18, 2019 \_\_\_\_\_

Updated by the Conservancy Board: \_\_\_\_\_

#### 1. PURPOSE:

This policy outlines the process through which the Yolo Habitat Conservancy (“Conservancy”) will provide public and private applicants a credit in lieu of the land cover fee for mitigation receiving site credits purchased by applicants. Per Section 7.5.8.2 of the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (“Yolo HCP/NCCP”), the Conservancy may allow applicants to purchase credits from mitigation receiving sites approved by the Conservancy and provide those credits in lieu of fees. If the Conservancy approves a mitigation receiving site credit purchase, it can reduce and, only under special circumstances, eliminate the HCP/NCCP fees required for development. Section 7.5.8.1 of the Yolo HCP/NCCP describes the criteria for providing credits in lieu of Yolo HCP/NCCP fees.

#### 2. SCOPE

This policy applies to all public and private applicants who wish to purchase credits from an mitigation receiving site approved by the Conservancy.

#### 3. POLICY

Applicants who propose to purchase credits from a mitigation receiving site reduce the cost to the Conservancy for mitigation of covered activities, justifying a discount in the land cover fee or other mitigation fees. In such an instance, the Conservancy will avoid the cost of pre-acquisition surveys, land acquisition costs, transaction costs, and associated oversight and management. As an example, applicants who purchase mitigation receiving site credits in lieu of the Conservancy’s land cover fee in effect as of January 10, 2019 should receive a 67 percent discount on the land cover fee (see table below). The fee amount shown below is based on the initial land cover fee established in the Yolo HCP/NCCP. The fee, and therefore the credit, will change due to annual and periodic adjustments to the fee for inflation and other updates to the funding plan per Section 8.4.1.6 of the Yolo HCP/NCCP. The Conservancy will update the credit at the same calculate credit for land in lieu provided from wetlands mitigation receiving sites through a similar process.

**Table 1. Example Calculation of Land in Lieu Credit**

Land Cover Fee per Acre of Land Conversion <sup>1</sup>		\$ 14,033
Total Plan Costs for Newly Protected Lands	\$ 309,645,614	
Costs to Establish Reserve System <sup>2</sup>	<u>208,685,481</u>	
Discount		<u>67%</u>
Land Cover Fee with Mitigation Receiving Site Credit (per acre) <sup>3</sup>		\$ 4,631

<sup>1</sup> Fee based on initial fee from Yolo HCP/NCCP and will change based on annual and periodic adjustments.

<sup>2</sup> Includes pre-acquisition surveys, land acquisition costs, transaction costs, and associated oversight and management for newly protected lands.

<sup>2</sup> Includes (1) management and enhancement of the reserve system, (2) monitoring, research, and scientific review, (3) plan administration, (4) contingency, (5) plan preparation, and (6) endowment.

Sources: Yolo HCP/NCCP, Appendix I, Funding Plan, Tables 2, 5, and 6.

The Conservancy requires a deposit of \$1,000 to fund costs associated with approval of the mitigation credits and calculation of the fee credit. The Conservancy may request additional funding if needed to cover costs. The Conservancy will return any unused funds remaining with the Conservancy to the applicant after the fee credit process is complete.



# YOLO HABITAT CONSERVANCY

July 15, 2019

## MINUTES

The Yolo Habitat Conservancy Board met on the 15th day of July 2019, starting at 5:30 p.m. in regular session in the Board of Supervisors' Chambers in the Erwin W. Meier Administration Building, 625 Court Street, Woodland, California.

Present: Jim Provenza  
Pierre Neu  
Will Arnold  
Martha Guerrero  
Xochitl Rodriguez

Absent: Don Saylor  
Matt Dulcich

Staff Present: Petrea Marchand, Executive Director  
Chris Alford, Deputy Director  
Phil Pogledich, County Counsel

### **5:30 P.M. CALL TO ORDER**

1. Pledge of Allegiance

2. Approval of the Agenda Order

Minute Order 19-29: Approved agenda order with the recommendation to move consent item 10 to the regular agenda.

MOTION: Provenza. SECOND: Rodriguez. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

3. Public Comment: This is time reserved for the public to address the Conservancy Board on matters not on the agenda.

No public comment.

4. Board Correspondence

## CONSENT CALENDAR

Minute Order 19-30: Approved consent agenda item nos. 5-9. Item 10 moved to the regular agenda.

MOTION: Arnold. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

5. Approved May 20, 2019 meeting minutes.
6. Approved contract with Tschudin Consulting Group for \$77,000 for land use planning services related to implementation of the Yolo HCP/NCCP.
7. Approved contract amendment with Estep Environmental to add \$20,000 to his existing contract for biological services related to implementation of the Yolo HCP/NCCP.
8. Approved first amendment to loan agreement with Yolo County to provide a second loan of \$50,350.
9. Approved an amendment to the Memorandum of Understanding with the Yolo County Department of General Services for geographic information system (GIS) and related services.
10. Approved contingency policy.

Minute Order 19-31: Approved recommended action.

MOTION: Provenza. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

## REGULAR AGENDA

11. Authorized Executive Director to execute a contract with Dirk Brazil for Executive Director services in the amount of \$175,000.

Minute Order 19-32: Approved recommended action.

MOTION: Provenza. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

12. Approved new contract with AMB Consulting for \$40,000 to provide real estate acquisition services and approved sole source request.

Minute Order 19-33: Approved recommended action.

MOTION: Arnold. SECOND: Rodriguez. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

13. Approved easement monitoring policy, easement violation and enforcement policy, and easement amendment policy; and authorized the Executive Director to submit an application for the Conservancy to hold conservation easements and manage and steward mitigation land to the California Department of Fish and Wildlife.

Minute Order 19-34: Approved recommended actions.

MOTION: Provenza. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

14. Approved updated policy related to providing mitigation receiving site credits in lieu of the land cover fee and approved new policy related to land/easements in lieu of land cover fee.

Minute Order 19-35: Approved recommended actions, including the addition of wetland fees to the approval of the new policies.

MOTION: Rodriguez. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

15. Received Executive Director update.
  - Member agency workshop surveys

### **CLOSED SESSION**

16. Public Employee Performance Evaluation  
Government Code Section 54957  
Title:Executive Director

### **ADJOURNMENT**

Next meeting scheduled for: September 16, 2019



# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

To: Pierre Neu, Chair  
Members of the Board

From: Petrea Marchand  
Executive Director

Re: Approve contingency policy

Date: July 15, 2019

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## **REQUESTED ACTION:**

1. Approve contingency policy

## **BACKGROUND:**

During discussions with the Yolo County Department of Financial Services regarding review of the annual budget, the Department recommended the Conservancy adopt a contingency policy. Staff developed the attached contingency policy in coordination with the Department.

## **ATTACHMENTS:**

Attachment A. Proposed contingency policy



# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

## Yolo HCP/NCCP Contingency Policy

Adopted by the Yolo Habitat Conservancy Board: \_\_\_\_\_

### 1. PURPOSE:

A contingency policy ensures the Yolo Habitat Conservancy (“Conservancy”) allocates funding in the annual budget that will served as the first line of defense against uncertainty. The funding will cover minor unanticipated needs of a non-recurring nature that may arise throughout the year or provide for small increases in service delivery costs that were not anticipated or quantifiable during budget development.

### 2. SCOPE

This policy applies to the Conservancy’s annual budget process.

### 3. POLICY

During the annual budget process, the Executive Director will recommend a specific level of appropriation for contingency (usually 3% - 10% of total budgeted expenditures) to the Conservancy Board of Directors in the annual budget based on the level of assessed risk. The Executive Director has the authority to approve transfers from contingency with approval from the Chair of the Board of Directors.



# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

To: Pierre Neu, Chair  
Members of the Board

From: Chris Alford  
Deputy Director

Petrea Marchand  
Executive Director

Re: Approve easement monitoring policy, easement violation and enforcement policy, and easement amendment policy and authorize the Executive Director to submit an application for the Conservancy to hold conservation easements and manage and steward mitigation land to the California Department of Fish and Wildlife

Date: July 15, 2019

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## **REQUESTED ACTIONS:**

1. Approve easement monitoring policy
2. Approve easement violation and enforcement policy
3. Approve easement amendment policy
4. Authorize the Executive Director to submit an application for the Conservancy to hold conservation easements and manage and steward mitigation land to the California Department of Fish and Wildlife

## **BACKGROUND:**

The Conservancy currently holds two conservation easements associated with the Swainson's hawk foraging habitat mitigation program<sup>1</sup> and anticipates acquiring additional conservation easements as part of Yolo HCP/NCCP implementation. When the Conservancy acquires a conservation easement it assumes stewardship responsibilities to ensure that the restrictions of the easement are adhered to in perpetuity including the responsibility to monitor, administer, and, when necessary, enforce the terms

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<sup>1</sup> A total of thirteen properties are enrolled in the Swainson's hawk foraging habitat mitigation program; however, eleven of the thirteen easements associated with these properties are held by other qualified entities with the Conservancy identified as a third-party interest.

of all easements that it holds. Conservancy staff have developed the attached conservation easement monitoring policy (Attachment A) and conservation easement violation and enforcement policy (Attachment B) to provide a uniform approach to monitoring and enforcing conservation easements held by the Conservancy.

The Conservancy acquires conservation easements with the intent to hold them in perpetuity and to enforce their terms and provisions as they are originally written. The Conservancy recognizes that given the perpetual term of its easements, however, it is possible in limited situations a change in future conditions or circumstances may justify amending an easement to strengthen the easement, clarify its language or improve its enforceability. Conservancy staff have developed a conservation easement amendment policy (Attachment C) to provide clear guidance regarding the conditions under which the Conservancy may conservation easement amendment and the procedures for doing so.

The proposed policies have been developed such that they incorporate applicable language from the Yolo HCP/NCCP conservation easement template and meet the standards of the Land Trust Alliance's *Land Trust Standards and Practices (2017)*. Moreover, the submittal of easement monitoring, violation and enforcement, and amendment policies are required as part of the California Department of Fish and Wildlife's (CDFW) *Application to Hold Conservation Easements and/or Manage and Steward Mitigation Land*. CDFW's application and certification process is now required for all entities that intend to hold or manage conservation easements in California.

**ATTACHMENTS:**

Attachment A. Conservation Easement Monitoring Policy

Attachment B. Conservation Easement Violation and Enforcement Policy

Attachment C. Conservation Easement Amendment Policy





# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

## Yolo HCP/NCCP

### Conservation Easement Compliance Monitoring Policy

Date Adopted by the Yolo Habitat Conservancy Board: \_\_\_\_\_

#### 1. PURPOSE

The Yolo Habitat Conservancy (“Conservancy”) acquires conservation easements with the intent to enforce their terms and provisions and hold them in perpetuity. It is therefore the Conservancy’s policy to monitor conservation easement sites to ensure the conservation values of the easement are maintained according to the procedures set forth in this policy. When the Conservancy acquires a conservation easement, it assumes stewardship responsibilities in perpetuity to ensure compliance with the restrictions of the easement. The Conservancy has the responsibility to monitor, administer, and, when necessary, enforce the terms of the easement from the time of purchase and continuing in perpetuity unless that responsibility is conveyed to another land trust or responsible governmental entity. This document memorializes the Conservancy’s policies for easement stewardship and guides related Conservancy easement monitoring practices.

#### 2. SCOPE

This policy applies to all conservation easements held by the Conservancy and easements for which the Conservancy is designated as a third-party beneficiary.

#### 3. POLICY

The Conservancy must monitor or designate an assigned representative to monitor the conservation easements that it holds, by law, at least annually. The annual compliance monitoring site visits are intended to ensure compliance with the site’s management plan and conservation easement requirements. Additionally, communications with the landowner that occur as part of routine compliance monitoring visits can help to build a relationship with the owner, especially if the same Conservancy representatives return to the property every year and help ensure the landowner understands the parameters of the conservation easement. More frequent monitoring may be warranted on properties with a greater potential for violation to occur or as needed for biological species or habitat monitoring.

Except where there is an imminent threat to the conservation values associated with the conservation easement, the Conservancy or its designated representatives will only enter a conservation easement property at reasonable times and landowners shall be given at least forty-eight (48) hours advance notice, unless the landowner waives this notice requirement in whole or in part by written notice to the Conservancy. The landowner shall be allowed to accompany

Conservancy or representative during the visit. An easement monitoring report shall be prepared for each site visit using the Conservancy's template monitoring form. Both a hardcopy and electronic copy shall be placed on file with the Conservancy and made available to the landowner upon request.

**Monitoring Steps.** The Conservancy representative who visits a property will adhere to the following basic steps for the annual monitoring visit:

1. **Contact** the landowner at least 48 hours in advance, to inform him or her of the visit, and to invite them to accompany the staff member.
2. **Review** the stewardship file, especially the baseline documentation, map and conservation easement and past visit reports to note problems to check or information to gather.
3. **Bring** copies or lists of all approvals, changes and unusual clauses that need to be checked on the site visit.
4. **Visit** the conservation property. An adequate annual monitoring visit includes seeing the principal parts of the property that have made its conservation significant, a check of all structures located within the easement area as they compare to those identified in the baseline conditions report, and photo location points.
5. **Complete** a Conservancy-approved monitoring report form, providing written documentation of what was observed. Place a hardcopy of the report in the easement binder in the Conservancy office and save an electronic copy to the Conservancy's electronic file system within the folder designated for the specific property. Include photos and maps as appropriate.
6. **Document** the site visit in the conservation easement database.
7. **Draft and mail** a post-monitoring letter to the landowner indicating the status of the conservation easement based on the monitoring visit results. The post-monitoring letter may be sent by email if the landowner has designated email as their preferred format for receiving written correspondence. Place a copy of the letter in the easement binder and save an electronic copy to the Conservancy's electronic file system within the folder designated for the specific property. Use photos and maps as appropriate.
8. **Speak** with the landowner to build the relationship whenever possible, verify visual information and addresses, phone numbers, changes in ownership and other identified information. This is a good chance to also ask if there is anything about the program that the landowner has questions about, if they have any intention of selling the property, or if they are considering exercising one of their reserved rights.

### **Timing**

The timing of annual compliance monitoring should happen approximately at the same time within a fiscal year for any given conservation easement site. The Conservancy will determine the timing of



monitoring within the first year of easement acquisition. The timing may vary from one site to another based on the specific habitat types and conservation values contained within each site. For a site with conservation values primarily for the preservation of species-specific habitat, for example, the monitoring should occur at a time that is relevant to the species. Compliance monitoring may also be timed so it coincides with other monitoring efforts the Conservancy conducts, such as monitoring intended to measure the effectiveness of habitat restoration activities or monitoring conducted to determine the status of covered and other native species, natural communities, and ecosystem processes on the site as a part of the overall Yolo HCP/NCCP monitoring program.

### **Successive landowners**

The Conservancy is committed to maintaining open communication with its conservation easement landowners. Maintaining such a relationship will help ensure easement compliance and minimize the likelihood of violations. The Conservancy recognizes it is particularly important to establish relationships with successor landowners when land protected by a conservation easement is transferred to new ownership. Research reported by the Land Trust Alliance has demonstrated that successor owners of conservation easement properties are more likely to violate easement agreements than are the original easement donors. The Conservancy believes that proactive information sharing and relationship building with new, or potential new owners of conserved property, can avert many of these threats. Therefore, the Conservancy shall initiate relationships with successor landowners in a timely manner to ensure that new owners of the property are aware of the existence of the easement and the impact of its restrictions. To accomplish these goals, the Conservancy shall:

- **Identify** properties for sale or transfer. The Conservancy shall track properties known to be for sale through monitoring visits and discussions with property owners, or through inquiries by real estate agents, attorneys, and prospective buyers. Owners or representatives of properties for sale will be contacted periodically to inquire as to their status.
- **Ask** landowners during annual site visits or other communications if they are or intend to sell their property.
- **Promptly call** each successor owner as soon as the sale has been completed to introduce them to the Conservancy, confirm the names of all owners and managers, their address(es) and phone number(s), their preferred times and places of contact, and schedule a personal successor owner visit.
- **Prepare a package** for the successor owner including a copy of the conservation easement and baseline conditions report, information about the Conservancy, and other information as appropriate.
- **Visit** each successor owner on site at the conserved property as soon as possible after the new owner takes ownership of the property. The goal of this visit is to (1) offer a friendly introduction to the Conservancy, (2) review the reasons for conserving the property, (3) give an overview of the conservation easement restrictions and reserved rights, (4) emphasize the need to contact the Conservancy early before exercising any reserved right, and (5) offer to



help with any questions, problems or concerns. If the successor owners are unavailable to meet for a period of time, the package of information should be mailed to them and a visit scheduled at the owner's convenience.

### **Monitoring Costs**

The costs associated with annual conservation easement compliance monitoring are included in, and should be billed to the endowment fund created at the time the conservation easement is acquired or other resources available to the Conservancy for monitoring, as directed by the Executive Director. When a property is transferred to a new entity (i.e., the property has been sold and title has been transferred), the Conservancy will collect a transfer fee as per the terms of the conservation easement. This transfer fee is added to the easement-specific endowment fund or other Conservancy accounts, as directed by the Executive Director, and can be used to cover the costs associated with meeting with new successor landowners, preparing associated materials, and other expenses routinely covered by the endowment fund.

### **Eligible Monitors**

All monitors must be trained to implement the monitoring policy and procedures and approved by the Conservancy's Executive Director prior to leading a monitoring compliance site visit. An individual that does not have prior compliance monitoring experience may accompany an experienced monitor as part of their training.

### **Violations and Enforcement**

See the Conservancy's Conservation Easement Violation and Enforcement Policy for information about violation identification and enforcement actions.





# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

## Yolo HCP/NCCP

### Conservation Easement Violation and Enforcement Policy

Date adopted by the Yolo Habitat Conservancy Board: \_\_\_\_\_

#### 1. PURPOSE

The Yolo Habitat Conservancy (“Conservancy”) is responsible for protecting each conservation easement it holds in perpetuity. The Conservancy has a comprehensive conservation easement enforcement program that focuses on prevention strategies and a process for responding to and enforcing easements including, as a last resort, litigation. The Conservancy is responsible for enforcing the terms of all its conservation easements through identification and rectification of violations. The Conservancy will strive to minimize violations by regular communication with landowners and monitoring of property but is also responsible for ensuring any violations that may occur are identified and corrected in a timely manner.

#### 2. SCOPE

This policy applies to all conservation easements held by the Conservancy and for which the Conservancy is a third-party beneficiary.

#### 3. POLICY

The conservation easement violation and enforcement policy contains the following elements: 1) violation prevention strategies; 2) enforcement procedures; 3) enforcement costs; and 4) third party beneficiary rights.

#### **Violation Prevention Strategies**

The Conservancy will employ the following primary strategies prevent easement violations include the following actions:

1. **Describe easement terms.** The Conservancy will ensure that stewardship and enforcement are considered during the drafting of conservation easements. The Conservancy will clearly articulate the goals and responsibilities of all parties in the easement and verbally discuss the easement terms with the landowner prior to finalizing the easement.
2. **Maintain good landowner relations.** The Conservancy communicates with landowners, both verbally and in writing at a minimum of annually. The Conservancy encourages landowners to participate in the annual compliance monitoring site visit. Landowners are sent a letter that documents site visit monitoring results and encourages them to contact the Conservancy with any questions or concerns.

- 3. Contact successor landowner.** Whenever a property is sold and/or fee title is transferred, the Conservancy will contact the new property owner as soon as possible after they have purchased property with an easement. The Conservancy will ensure that the new successive landowners have a copy of the conservation easement and understand the conservation restrictions on their property. The Conservancy will also provide background information on the purpose of conservation easements in general and general information about the Conservancy.

### **Enforcement Procedures**

In the event that the Conservancy discovers an easement violation or potential violation, the Conservancy will take the following actions:

- 1. Review the conservation easement terms.** Conservancy staff, or an assigned representative, will review the easement document, baseline documentation, and easement monitoring reports to determine whether an easement violation has occurred, its exact nature, and when it occurred. The Conservancy representative may request the services of the Conservancy's legal counsel to provide legal interpretation if necessary.
- 2. Document the violation.** If Conservancy staff and/or legal counsel determine there has been an easement violation, Conservancy staff will document the violation with a memo describing the specific terms of the easement that have been violated and the relative size and extent of damage that has resulted with reference to the baseline conditions report and previous monitoring reports. The Conservancy will include photographs and maps that document the violation. The memo should include the date of preparation, dates of any photographs provided as evidence, and name of the Conservancy representative who prepared the memo. For record keeping purposes, a copy of the memo will be included in the Conservancy's files that pertain to that specific easement.
- 3. Contact the landowner to discuss the situation.**  
If the Conservancy determines there is a violation of the terms of a conservation easement, written notice of such violation and a demand for corrective action sufficient to cure the violation shall be given to the landowner, with a copy provided to all third-party beneficiaries. The notice of violation shall specify the measures the landowner must take to cure the violation, the time period that the landowner has to cure or otherwise provide evidence of initiating efforts to cure the violation (typically 30 days), and any follow-up actions that may occur as a result of the action either being or not being cured.

If Conservancy representatives determine that a violation has not occurred, but one is threatened, then action will be taken based on the severity of the potential violation. If the potential violation is determined by staff to be minor (e.g., failure to notice, trash accumulation, or storage of vehicles or equipment in an unauthorized location) then Conservancy staff may contact the landowner to discuss the situation and create a memo-to-file to be saved within the Conservancy's files pertaining to that easement that documents the potential for a future violation, the date and general summary of the discussion with the landowner, and any follow-up monitoring or other actions that



Conservancy representatives will take to ensure that a violation does not occur. If the potential violation is considered significant (e.g., destruction of habitat), Conservancy staff will provide written notice to both the landowner and third-party beneficiaries in the same manner as described above for violations of the terms of a conservation easement.

- 4. Choose the appropriate enforcement response.** The Conservancy's response to a violation should match the severity of the violation and adhere to any specific requirements stated in the conservation easement. To the extent practicable, the Conservancy will pursue resolution of known easement violations by first initially seeking and negotiating a voluntary solution. If that fails or is not deemed appropriate given the severity or the nature of the violation, the Conservancy will pursue stricter solutions including judicial enforcement, if deemed appropriate by legal counsel and formally approved by the Board of Directors. In all situations, Conservancy staff will maintain written documentation of all correspondence, decisions, and actions taken in the easement file.

Under most circumstances, the Conservancy will contact the landowner, explaining the nature of the violation and request corrective action and/or cessation of the violating activity. The Conservancy will state in writing that the landowner has thirty (30) days after receipt of written notice to cure the violation, or in some cases thirty (30) days to demonstrate an effort to initiate corrective action and clearly communicate the expectation of what corrective action must include. On the pre-determined deadline, a Conservancy representative will inspect the site to determine compliance with the terms of the violation notification. If the violation is cured or the terms of the violation notice are met in a satisfactory manner, the Conservancy will send a letter to the landowner documenting the resolution and will file a copy of the letter in the Conservancy's easement files. If non-compliance was determined during the inspection, Conservancy staff will consult with legal counsel regarding the next course of action and will notify the Board of Directors.

If the Conservancy and the landowner cannot reach an agreement for reparation, Conservancy staff and Board of Directors, in consultation with its legal counsel, may consider mediation to assist with negotiating a mutually agreeable solution, as an alternative to litigation. If the landowner fails to cure the violation, the Conservancy's Board of Directors in consultation with legal counsel, may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this conservation easement, to recover any damages to which the Conservancy may be entitled for violation of the terms of the conservation easement or for any injury to the conservation values of the easement. Conservancy representatives will consider carefully the merits of the case, including the costs and opportunities for cost recovery, when choosing between mediation, litigation, and other feasible options.

If the Conservancy in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damage to the conservation values of an easement, the Conservancy may pursue its remedies without prior notice to the landowner or without waiting for the period provided for cure to expire. This approach



applies equally to actual or threatened violations of the terms of this conservation easement.

Conservancy staff shall seek advice from legal counsel early in the process to confirm that whatever response is taken by the Conservancy does not hinder further legal action if needed. The Board of Directors will be notified of any significant violations or potential litigation issues as soon as practicable.

### **Enforcement Costs**

Any reasonable costs incurred by the Conservancy, where it is the prevailing party, in enforcing the terms of a conservation easement against a landowner, including, but not limited to, costs of suit and attorneys' and experts' fees, and any costs of restoration necessitated by landowner's negligence or breach of the conservation easement shall be borne by landowner. In any action where an agency of the United States is a party, the right to recover fees and costs shall be governed by federal law. Upfront legal costs incurred by the Conservancy while defending and enforcing the terms of a conservation easement may be paid for by the Legal Defense Fund associated with that easement or, if the easement is part of the Yolo HCP/NCCP reserve system and does not have a dedicated legal defense fund, other financial resources available to the Conservancy. These resources include the post-permit endowment fund or any easement insurance program of which the Conservancy is a member. Conservancy staff must obtain formal approval from the Board of Directors to incur expenses associated with a single violation that exceed the lesser of the amount available in the respective Legal Defense Fund or Ten Thousand Dollars (\$10,000).

### **Third-Party Beneficiary Rights**

If the Conservancy is a third-party beneficiary to a conservation easement, the Conservancy shall make all efforts to ensure the enforcement language of the conservation easement affords the Conservancy all rights and remedies conveyed to the easement holder, including the right to enforce all provisions of the conservation easement and standing as an interested party in any proceedings affecting the conservation easement.





# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

## Yolo HCP/NCCP

### Conservation Easement Amendment Policy

Date adopted by the Yolo Habitat Conservancy Board: \_\_\_\_\_

#### 1. PURPOSE

The Yolo Habitat Conservancy (“Conservancy”) acquires conservation easements with the intent to hold them in perpetuity and to enforce their terms and provisions as they are originally written. It is therefore the Conservancy’s policy to hold and enforce its conservation easements as written, except in the limited circumstances described in this policy. All requests for consent, waiver, modification or amendment of the terms of a conservation easement (“amendment”) will be reviewed according to the procedures set forth in this policy. Although this policy sets forth certain guidelines and procedures, nothing herein shall be deemed to impair the sole and absolute discretion of the Board of Directors to determine whether any proposed amendment is acceptable to the Conservancy.

#### 2. SCOPE

This policy applies to all conservation easements held by the Conservancy.

#### 3. POLICY

The Conservancy recognizes that given the perpetual term of its easements, it is possible that changes in future conditions or circumstances may justify amending an easement to strengthen the easement, clarify its language or improve its enforceability. The following principles, policies, and procedures are intended to guide consideration of an amendment to any conservation easement, whether the amendment is proposed by the Conservancy, an easement landowner, or a third-party beneficiary.

#### Amendment Principles

A conservation easement amendment must meet all of the following principles (except for amendments in lieu of condemnation, which are addressed separately):

- A. Clearly serve the public interest, be consistent with the Conservancy’s mission and conform to the Conservancy’s conflict of interest policy
- B. Comply with all applicable federal, state and local laws
- C. Not result in private inurement or confer impermissible private benefit
- D. Be consistent with the conservation purposes and intent of the easement

- E. Be consistent with the amendment provisions specified in the easement
- F. Be consistent with the documented intent (if any) of the donor, grantor and any direct funding source
- G. Have a net beneficial or neutral effect on the relevant conservation values protected by the easement
- H. Shall not affect the perpetual duration of the conservation easement. If an easement is terminated, it will be immediately replaced by an amended easement consistent with this policy.

### **Amendment Policy**

The Conservancy will consider amendments to its conservation easements only in the following circumstances:

- A. Correction of an Error or Ambiguity. The Conservancy may amend an easement to correct a drafting error or oversight made at the time the easement was granted. This may include correction of a legal description, inclusion of standard language that was unintentionally omitted or clarification of an ambiguity in the terms of the restrictions in order to avoid litigation over the interpretation of the document in the future.
- B. Prior Agreement. Occasionally, an easement contains a specific provision or there is an unrecorded agreement or other document allowing modification of the easement terms at a future date under defined circumstances. Such agreements must be set forth in the conservation easement or in a separate document signed by all parties, including the Conservancy, on or before the date the easement was executed. The amendment must be consistent with the terms and conservation intent of the original agreement.
- C. Settlement of Condemnation Proceedings. Conservation easements and other interests in land held by the Conservancy are considered “property appropriated to public use” pursuant to Code of Civil Procedure § 1240.055. A person authorized to acquire property for public use by eminent domain shall exercise the power of eminent domain to acquire property that is subject to a conservation easement only as provided in Code of Civil Procedure § 1240.055. In the event of a lawful condemnation proceeding, the Conservancy shall attempt to preserve the intent of the original conservation agreement to the greatest extent possible. If any person seeks to acquire the property for public use, the Conservancy shall provide notice to the California Department of Fish and Wildlife (CDFW) (and U.S. Fish and Wildlife Service if they are a third party to the easement) and comply with all obligations of the holder of a conservation easement under Code of Civil Procedure § 1240.055. If the Conservation Easement is condemned, the net proceeds from condemnation of the conservation easement interest shall be used in compliance with Government Code § 65966(j).



- D. Substantial Alteration or Destruction of a Conservation Value. Alteration or destruction caused by a cataclysmic event, such as an earthquake, fire, destruction of habitat caused by climate change or species extinction, are examples of actions or circumstances that could greatly alter the conservation values an easement is intended to protect. In this situation, the Conservancy may amend the easement to protect and preserve the remaining conservation values, provided that the amendment meets the requirements listed in Section 4, *Procedures for Amending Easements*, below. If there are no conservation values remaining, the Conservancy may petition a court of competent jurisdiction to terminate the easement.
- F. Minor Modifications Consistent with Conservation Purpose. The Conservancy may authorize other minor modifications of the conservation restrictions if an amendment is deemed by the Conservancy as the most appropriate approach to achieve the purpose of the amendment and the Conservancy has obtained the written consent of the landowner and third-party beneficiaries.

The following are examples of circumstances in which a minor modification may be appropriate. This list is not intended to include all of the circumstances in which an amendment may be appropriate, and each amendment, whether referred to in the list or not, must be considered in the context of the specific facts involved.

- To add land to an easement
- To add restrictions on uses or activities that enhance the protected values or easement purposes
- To upgrade to current standard language
- To reflect changes in law or policy
- To improve easement enforcement or administration
- To clarify or rectify an ambiguity to resolve a dispute and/or to strengthen easement provisions
- To explicitly allow or prohibit uses or technology not in existence or contemplated at the time of granting of the easement

### **Easement Amendment Procedures**

#### **A. Initial Request**

1. An amendment may be initiated by the landowner, the Conservancy, or a third-party beneficiary.
2. Amendment requests must be submitted to the landowner or Conservancy in writing. The request should include a description of the change being requested, the reasons why it is warranted, a map of the property showing areas affected by the proposed amendment and any other information that justifies the request. Depending on the nature of the amendment, a site visit may be required.
3. Each request by a landowner must be accompanied by an upfront deposit in the amount of \$10,000 to cover anticipated administrative costs in reviewing the amendment request, regardless of whether the request is approved, and if it is



approved, the costs of drafting and recording the amendment. The landowner will replenish the deposit when 50% or less of the funds remain in the account and may provide a deposit greater than \$10,000 if desired. Any unexpended portion of the administrative fund deposit will be refunded. Additionally, the landowner will be responsible for any costs exceeding the initial fee, as billed by the Conservancy, and the costs of any required documentation, such as a survey, boundary marking or updated baseline documentation report.

B. Review and preliminary approval

1. Staff and/or other Conservancy representatives will review the amendment request for consistency with the original conservation easement deed, this policy, the Conservancy's Conflict of Interest Policy and any related documentation. Legal counsel will review the findings. Other persons, such as natural resource professionals, may be consulted as needed. A site visit and meeting with the current landowner and/or original donor may be conducted.
2. Conservancy staff will review the request and make a recommendation to the Board of Directors. A written summary of the proposed amendment, the reasons why it is being requested, and proposed amendment language drafted or reviewed and approved by Conservancy's legal counsel will be presented to the Conservancy Board of Directors for preliminary approval. Such approval will be granted or withheld using the criteria listed in Section 2, above. The Board's findings and decision will be recorded in the minutes of the board meeting. The Board will designate an appropriate person to communicate to the landowner in writing the basis for the decision of the board.
3. The Conservancy Board of Director's decision will be communicated in writing to the landowner. Every reasonable effort will be made to let the landowner know that the Conservancy's decision was based on applicable laws and this amendment policy and that the policy is applied fairly to all proposed amendments. The Conservancy will also communicate its decision to the other parties with an interest in the property or rights of approval or disapproval, such as third-party beneficiaries to the easement and property leases.
4. If the Conservancy Board has provided preliminary approval to the amendment, Conservancy staff or representatives will seek the written consent of third-party beneficiaries, in addition to providing notification about the Conservancy Board's vote.

C. Final steps

If an amendment is approved by the Conservancy Board and by all other necessary parties, final steps include:

1. Legal review of final documentation of the amendment and preparation of an amended and restated easement in form for recordation.



2. Legal review of any required subordination documentation from possible intervening lien holders or others.
3. Confirmation by a title insurance company of its willingness to issue title insurance to the Conservancy insuring the Conservancy in the amount the Conservancy requests and that the amended and restated easement in favor of the Conservancy is a valid easement superior in priority to all deeds of trust, liens, encumbrances and easements of every nature, except items excepted from the title insurance issued to the Conservancy prior to the date of the amended and restated easement.
4. An update by Conservancy representatives of the baseline documentation to reflect the effect of the amendment.
5. The final proposed amendment and associated documents will be presented to the Board of Directors for final approval. The Board's decision and any additional findings will be recorded in the minutes of the Board meeting.
6. Signed approvals by all parties with approval rights, including the landowner, Conservancy, and third-party beneficiaries. Any amendment that does not have the written consent of all parties shall be void and without effect.
7. Appropriate instructions to a title company signed by the parties. Closing costs will be allocated and paid in accordance with the agreement between the Conservancy and the landowner referenced in section 5, below.
8. The amended and restated easement must refer to the original conservation easement by reference to its recordation data, be signed and acknowledged by the Conservancy and the landowner, and must be recorded in the official records of the county where the Easement Area is located. Originals and copies of the amendment deed and all related documentation shall be retained according to the Conservancy's recordkeeping policy.

### **Costs**

If an amendment is proposed by a landowner, the landowner typically bears all of the Conservancy's costs associated with the amendment. These costs include the costs of negotiation and implementation of the amendment (e.g. staff costs, costs for expert advice, an appraisal or a survey, costs of title insurance, closing costs, etc.) and all ongoing future costs (e.g. increased costs for monitoring). If the Conservancy or a third-party beneficiary initiates an amendment, however, the Conservancy or third party will ordinarily bear the costs, including all closing costs. The Conservancy may also determine that fairness requires the Conservancy to bear some or all of the costs, even when the landowner initiates the amendment process. Examples of cases in which the Conservancy may apply such judgment include, without limitation, cases where the need for an amendment resulted from a mutual error, the amendment is needed to resolve an ambiguity in the easement terms to the benefit of both parties, or the net result of an amendment initiated by a landowner is to



significantly enhance the conservation values protected by the easement. The Conservancy will address the issue of cost on a case-by-case basis after the purpose of the amendment and its net consequences are reasonably understood by all parties. At that point, the Conservancy will obtain the landowner's express written agreement regarding the Conservancy's proposed allocation of costs. As part of this agreement, the Conservancy will include language indicating the Conservancy's intent to avoid incurring significant costs for outside services or other substantial out-of-pocket expenses without first advising the landowner so the landowner will have an opportunity to change the amendment proposal to avoid or minimize such expenditures or to withdraw it altogether.

#### **Stewardship and Legal Defense Endowment**

If an amendment requested by a landowner will increase the administrative burden on the Conservancy for future monitoring of compliance and/or enforcement of the conservation easement, the Conservancy will advise the landowner of the amount of additional funding needed for the endowment fund or legal defense fund. The Conservancy will suspend processing of the amendment until and unless the landowner has agreed to deposit the additional amount if the Conservancy approves the amendment.





# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

To: Pierre Neu, Chair  
Members of the Board

From: Petrea Marchand  
Executive Director

Re: Approve updated policy related to providing mitigation receiving site credits in lieu of the land cover fee and approve new policy related to land/easements in lieu of land cover fee

Date: July 15, 2019

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## **REQUESTED ACTION:**

1. Approve updated policy related to providing mitigation receiving site credits in lieu of land cover fee
2. Approve new policy related to land/easements in lieu of land cover fee

## **BACKGROUND:**

Per Section 7.5.8 of the Yolo Habitat Conservation Plan/Habitat Conservation Plan (Yolo HCP/NCCP), the Conservancy may allow permittees or private landowners to transfer fee title or place a conservation easement on all or a portion of property they own to satisfy mitigation requirements for covered activities. Applicants may also purchase credits from an approved mitigation receiving site. If the Conservancy and wildlife agencies approve this transfer of land in fee title, easement dedication, or mitigation receiving site credit, it can reduce the HCP/NCCP fees required for development.

The Board adopted a policy on March 18, 2019 to provide land in lieu of fees. After discussing the adopted policy internally, staff realized the Conservancy needed to amend the policy to create separate policies for applicants who provide mitigation receiving site credits in lieu of the land cover fee and applicants who provide land or easements in lieu of land cover or wetland fees. Staff are recommending updating the March 18, 2019 policy to be specific to mitigation receiving sites and to create a new policy specific to land or easements provided in lieu of the land cover fee. (The Conservancy will develop a separate policy on land or easements provided in lieu of wetlands fees at a later date.) The policies provide updated guidance to Conservancy staff and applicants regarding the process for establishing the fee credit and other element of the land in lieu process.

**ATTACHMENTS:**

Attachment A: Proposed updated Yolo HCP/NCCP Mitigation Receiving Site Credit In Lieu of Land Cover Fee Policy

Attachment B. Proposed Land/Easement In Lieu of Land Cover Fee Policy





# Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento  
City of Woodland • University of California, Davis

## Yolo HCP/NCCP

### Land/Easement In Lieu of Land Cover and Wetlands Fee Policy

Adopted by the Yolo Habitat Conservancy Board: \_\_\_\_\_

#### 1. PURPOSE

This policy outlines the process through which the Yolo Habitat Conservancy (“Conservancy”) will provide public and private applicants a credit for land or easements applicants may provide in lieu of the Yolo HCP/NCCP land cover and wetlands fees. Per Section 7.5.8 of the Yolo Habitat Conservation Plan/Habitat Conservation Plan (Yolo HCP/NCCP), the Conservancy may allow permittees or private landowners to transfer fee title or place a conservation easement on all or a portion of property they own to satisfy mitigation requirements for covered activities. Also per Section 7.5.8.2, the Conservancy may allow applicants to purchase credits from mitigation receiving sites and provide those credits in lieu of fees. If the Conservancy and wildlife agencies approve a transfer of land in fee title, an easement dedication, or a mitigation receiving site credit purchase, it can reduce but only under special circumstances completely eliminate the HCP/NCCP fees required for development. Section 7.5.8.1 of the Yolo HCP/NCCP describes the criteria for providing land in lieu of Yolo HCP/NCCP fees.

#### 2. SCOPE

This policy applies to all public and private applicants who would like to provide land or easements in lieu of a portion of the Yolo Habitat Conservancy’s land cover fee and wetland fees. See the Mitigation Receiving Site Credit In Lieu of Fees Policy for applicants would like fee credit from a mitigation receiving site.

#### 3. POLICY

Any public or private applicant subject to the land cover fee may propose dedication of land or an easement in lieu of payment of a portion of the land cover fee and wetlands fees. To dedicate land or an easement, the applicant must sign a land dedication agreement with the Conservancy. The Conservancy and the applicant must execute the agreement before commencement of covered activities to which the Conservancy will apply credit against a portion of the fees.

The land dedication agreement will specify the following terms:

1. **Approval of land proposed in lieu of the land cover fee and wetlands fees:** The Yolo Habitat Conservancy and the wildlife agencies must approve any fee title transfer or easement proposed in lieu of the Yolo HCP/NCCP fee because the Conservancy will manage the land as part of the reserve system in perpetuity. The landowner must therefore allow the Conservancy and its representatives access to the land to evaluate the conservation value of the property, as well as determine whether the property sufficiently contributes to the biological goals and objectives of the Yolo HCP/NCCP. The landowner must pay all costs, including staff time and due diligence costs (e.g. appraisal, Phase 1 or 2 environmental assessments), associated with this process. The Conservancy requires a deposit of

between \$5,000 and \$10,000 to fund these costs and may request additional funding if needed to cover costs. The Conservancy will return any unused funds remaining with the Conservancy to the applicant after the fee credit process is complete.

2. **Amount of credits expressed in acres:** The Conservancy will determine the number of potential credits to grant, one for each acre of land the Conservancy determines is suitable for inclusion in the reserve system. The Conservancy may not grant credits for all acres proposed in lieu of a portion of the fee if the species impacts from the project are significantly different than the species habitat on land proposed for conservation because the Yolo HCP/NCCP permits require the Conservancy to conserve habitat for an individual species before allowing impacts to that species' habitat.
3. **Conversion of credits to a dollar amount:** The Conservancy will convert the credits expressed in acres to a dollar amount based on the appraised value of the land or the easement only at the time the applicant transfers the land or easement to Conservancy ownership. (A qualified appraiser approved by the Conservancy will determine the fair market value of the land or easement.) This dollar amount is the total amount the applicant may deduct from the land cover and wetlands fees owed to the Conservancy. The applicant may determine the timing of dedication in consultation with the Conservancy.
4. **Activation of approved credits:** The agreement will specify the covered activities eligible to activate approved credits in lieu of the Yolo HCP/NCCP fee obligation, the maximum dollar amount of the credit for which the applicant is eligible, and the timing of eligibility. Applicants are currently eligible for a maximum credit (in dollars) of 51 percent of the land cover fee because 49 percent of the total fee is allocated to costs unrelated to acquisition of land, such as the post-permit endowment, administration, management, and monitoring and research.<sup>1</sup> Assuming that applicants restore/create wetlands acceptable to the Conservancy, applicants are eligible for a maximum credit of 81 percent for the fresh emergent wetland fee, 85 percent for the valley foothill riparian wetland fee, and 76 percent for the lacustrine and riverine wetland fee. This share may change during plan implementation, so the agreement will specify the full amount of the credit. The Conservancy may, at its discretion, provide a credit higher than 51 percent if the project is eligible for a land dedication incentive (see *Land Dedication Incentive Policy*). Applicants will determine whether the dollar amount of the credits is greater or less than the maximum potential fee credit available to the proposed project in consultation with the Conservancy.<sup>2</sup>
5. **Transfer of credits:** The applicant may only use the dollar value of credits for covered activities specified in the agreement and may not transfer the credits to other covered activities.

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<sup>1</sup> See Tables A and B: Allocation of Yolo HCP/NCCP funding attached to this policy, and specifically the percentage allocation of land cover fee revenue to "establish reserve system" costs, which is the portion of the fee dedicated to land acquisition.

<sup>2</sup> For example, if the applicant's proposed project is 100 acres and the land cover fee is \$10,000/acre, then the maximum available credit would be \$510,000 (100 x \$10,000 x 51%). The Conservancy would not accept land dedicated to the reserve for an appraised value in excess of this amount without applying the Land Dedication Incentive Policy.



6. **Remaining credit value:** The Conservancy will base the dollar value of credits remaining after use for an approved covered activity on the value per acre used to establish the original dollar value of the credits and adjust the credit based on any annual or periodic adjustments to the fee schedule.
7. **Agreement term:** The agreement will include an expiration date that will apply to any potential land dedication credits and any approved land dedication credits that are not activated.

**Land dedication incentive policy**

If the applicant proposes land for dedication of unique and significant conservation value to the reserve system, the Conservancy may offer an incentive to the applicant for the land dedication. The Conservancy shall determine the conservation value of lands proposed for dedication based on the Conservancy's analysis of current reserve requirements and the role the proposed lands will play in meeting those requirements. The land dedication incentive allows the Conservancy to provide a maximum credit higher than the amount listed in no. 4 above because of the unique and significant conservation value. The Conservancy has sole discretion to determine whether the conservation value is unique and significant and the amount of the increased credit. The ability of the Conservancy to grant incentives for land dedication will depend on several factors, including: 1) The Conservancy's ability to fund its obligations under the Yolo HCP/NCCP based on its current and projected cash flow; 2) the maximum amount of land acquisition to be funded by the land cover and wetlands fees.

Attachment A. Table A - Allocation of Yolo HCP/NCCP Funding (amount by funding source)

Attachment B. Table B - Allocation of Yolo HCP/NCCP Funding (percentage by funding source)



# YOLO HABITAT CONSERVANCY

July 15, 2019

## MINUTES

The Yolo Habitat Conservancy Board met on the 15th day of July 2019, starting at 5:30 p.m. in regular session in the Board of Supervisors' Chambers in the Erwin W. Meier Administration Building, 625 Court Street, Woodland, California.

Present: Jim Provenza  
Pierre Neu  
Will Arnold  
Martha Guerrero  
Xochitl Rodriguez

Absent: Don Saylor  
Matt Dulcich

Staff Present: Petrea Marchand, Executive Director  
Chris Alford, Deputy Director  
Phil Pogledich, County Counsel

### **5:30 P.M. CALL TO ORDER**

1. Pledge of Allegiance

2. Approval of the Agenda Order

Minute Order 19-29: Approved agenda order with the recommendation to move consent item 10 to the regular agenda.

MOTION: Provenza. SECOND: Rodriguez. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

3. Public Comment: This is time reserved for the public to address the Conservancy Board on matters not on the agenda.

No public comment.

4. Board Correspondence

## CONSENT CALENDAR

Minute Order 19-30: Approved consent agenda item nos. 5-9. Item 10 moved to the regular agenda.

MOTION: Arnold. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

5. Approved May 20, 2019 meeting minutes.
6. Approved contract with Tschudin Consulting Group for \$77,000 for land use planning services related to implementation of the Yolo HCP/NCCP.
7. Approved contract amendment with Estep Environmental to add \$20,000 to his existing contract for biological services related to implementation of the Yolo HCP/NCCP.
8. Approved first amendment to loan agreement with Yolo County to provide a second loan of \$50,350.
9. Approved an amendment to the Memorandum of Understanding with the Yolo County Department of General Services for geographic information system (GIS) and related services.
10. Approved contingency policy.

Minute Order 19-31: Approved recommended action.

MOTION: Provenza. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

## REGULAR AGENDA

11. Authorized Executive Director to execute a contract with Dirk Brazil for Executive Director services in the amount of \$175,000.

Minute Order 19-32: Approved recommended action.

MOTION: Provenza. SECOND: Arnold. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

12. Approved new contract with AMB Consulting for \$40,000 to provide real estate acquisition services and approved sole source request.

Minute Order 19-33: Approved recommended action.

MOTION: Arnold. SECOND: Rodriguez. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

13. Approved easement monitoring policy, easement violation and enforcement policy, and easement amendment policy; and authorized the Executive Director to submit an application for the Conservancy to hold conservation easements and manage and steward mitigation land to the California Department of Fish and Wildlife.

Minute Order 19-34: Approved recommended actions.

MOTION: Provenza. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

14. Approved updated policy related to providing mitigation receiving site credits in lieu of the land cover fee and approved new policy related to land/easements in lieu of land cover fee.

Minute Order 19-35: Approved recommended actions, including the addition of wetland fees to the approval of the new policies.

MOTION: Rodriguez. SECOND: Guerrero. AYES: Arnold, Guerrero, Neu, Provenza, Rodriguez. ABSENT: Saylor.

15. Received Executive Director update.
  - Member agency workshop surveys

**CLOSED SESSION**

16. Public Employee Performance Evaluation  
Government Code Section 54957  
Title: Executive Director

**ADJOURNMENT**

Next meeting scheduled for: September 16, 2019