

YOLO HABITAT CONSERVANCY

AGENDA

May 17, 2021



BOARD MEMBERS

GARY SANDY, COUNTY OF YOLO
DON SAYLOR, COUNTY OF YOLO
WILL ARNOLD, CITY OF DAVIS
CHRIS LEDESMA, CITY OF WEST SACRAMENTO
PIERRE NEU, CITY OF WINTERS
VICTORIA FERNANDEZ, CITY OF WOODLAND
MATT DULCICH, UNIVERSITY OF CALIFORNIA, DAVIS

THIS MEETING WILL OCCUR BY TELECONFERENCE

TELECONFERENCE OPTIONS TO JOIN ZOOM MEETING:

By Computer: <https://yolocounty.zoom.us/j/92675319807>

Meeting ID: 926 7531 9807

OR

By Phone: (408) 638-0968

Meeting ID: 926 7531 9807

Further instructions on how to electronically participate can be found in the
PUBLIC PARTICIPATION note at the end of this agenda.

5:30 P.M. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Approval of the Agenda Order
4. Public Comment: This is time reserved for the public to address the Conservancy Board on matters not on the agenda.
5. Board Correspondence

CONSENT AGENDA

6. Approve March 15, 2021 meeting minutes

REGULAR AGENDA

7. Approve 2021-22 budget and budget resolution for the Mitigation Fee Fund, Grant Fund, Other Revenue Fund, Mitigation Trust Account, Pre-Permit Endowment Fund, and Post-Permit Endowment fund, and authorize the repayment of loans from member agencies in the amount of \$213,523
8. Approve contract amendment with ICF Jones & Stokes Inc. and contracts with Alford Environmental Consulting and the Yolo County Resource Conservation District for services to be provided in FY 21-22 and amend and extend the term of Memorandum of Understanding with Yolo County for Administrative Services through June 30, 2022
9. Approve the Woodland Reiff SwHa Conservation Easement; approve the Woodland Reiff VELB Conservation Easement; approve the Correll Conservation Easement; approve the Access Easement for the Correll site; and authorize the Executive Director to proceed with steps necessary to enroll the properties in the Yolo HCP/NCCP reserve system
10. Approve updates to the stewardship donation policy
11. Executive Director's Report

CLOSED SESSION

12. Conference with Legal Counsel – Anticipated Litigation
Pursuant to Government Code Section 54956.9(d)(2)
Significant exposure to litigation: 1 case(s)

ADJOURNMENT

Next meeting scheduled for: July 19, 2021 (if needed)

I declare under penalty of perjury that the foregoing agenda was posted May 14, 2021 by 5:00 p.m. at the following places:

- On the bulletin board at the east entrance of the Erwin W. Meier Administration Building, 625 Court Street, Woodland, California; and
- On the bulletin board outside the Board of Supervisors Chambers, Room 206 in the Erwin W. Meier Administration Building, 625 Court Street, Woodland, California.
- On the YHC website: www.yolohabitatconservancy.org

By: _____
Julie Dachtler, Clerk

NOTICE

If requested, this agenda can be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 and the Federal Rules and Regulations adopted in implementation thereof. Persons seeking an alternative format should contact the Clerk of the Board for further information. In addition, a person with a disability who requires a modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting should telephone or otherwise contact the Clerk of the Board as soon as possible and at least 72 hours prior to the meeting at (530) 666-8195.

PUBLIC PARTICIPATION INSTRUCTIONS:

Based on guidance from the California Department of Public Health and the California Governor's Office, in order to minimize the spread of the COVID-19 virus, please do the following:

1. You are strongly encouraged to observe the Yolo Habitat Conservancy meeting via computer: <https://yolocounty.zoom.us/j/92675319807>, Meeting ID: 926 7531 9807 or phone in via 1-408-638-0968 Meeting ID: 926 7531 9807.
2. If you are joining the meeting via zoom and wish to make a comment on an item, press the "raise a hand" button. If you are joining the meeting by phone, press *9 to indicate a desire to make comment. The chair will call you by name or phone number when it is your turn to comment. Speakers will be limited to 3 minutes (subject to change).

Yolo Habitat Conservancy

Meeting Date: 05/17/2021

Information

SUBJECT

Approve March 15, 2021 meeting minutes

Attachments

Attachment A. March 15, 2021 Minutes

Form Review

Inbox

Alexander Tengolics

Reviewed By

Alexander Tengolics

Date

05/11/2021 08:36 AM

Form Started By: Alexander Tengolics

Started On: 05/11/2021 08:32 AM

Final Approval Date: 05/11/2021

YOLO HABITAT CONSERVANCY

March 15, 2021

MINUTES

The Yolo Habitat Conservancy Board met on the 15th day of March, 2021, via [teleconference](#) at 5:30 p.m. pursuant to the Governor's Executive Order N-29-20 (March 17, 2020), available at the following [link](#).

Present: Will Arnold
Victoria Fernandez
Chris Ledesma
Pierre Neu
Gary Sandy
Don Saylor
Matt Dulcich

Staff Present: Alexander Tengolics, Executive Director
Charlie Tschudin, Assistant Planner
Phil Pogledich, County Counsel
Julie Dachtler, Clerk

Attendees: Chris Alford, Alford Environmental

5:30 P.M. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Approval of the Agenda Order

Minute Order No. 21-04: Approved the Agenda Order.

MOTION: Neu. SECOND: Ledesma. AYES: Arnold, Fernandez, Ledesma, Neu. ABSENT: Saylor. ABSTAIN: Sandy.

4. 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.

5. Board Correspondence

There was no Board Correspondence.

CONSENT CALENDAR

Minute Order No. 21-05: Approved Consent Agenda Item No. 6.

MOTION: Ledesma. SECOND: Neu. AYES: Arnold, Fernandez, Ledesma, Neu, Sandy. ABSENT: Saylor.

6. Approve January 25, 2021 meeting minutes

Approved the January 25, 2021 meeting minutes on Consent.

REGULAR AGENDA

7. Receive and file 2019-20 State Controller's Office Report and independent auditor's report and presentation from Lance, Soll & Lunghard, LLP

Received and filed 2019-20 State Controller's Office Report and independent auditor's report and presentation from Lance, Soll & Lunghard, LLP.

8. Receive and file the 2021 Yolo HCP/NCCP Development Fees Automatic Inflation Adjustment Memorandum

Received and filed the 2021 Yolo HCP/NCCP Development Fees Automatic Inflation Adjustment Memorandum.

9. Receive and file the Yolo HCP/NCCP Annual Report for FY19/20

Received and filed the Yolo HCP/NCCP Annual Report for FY19/20.

10. Receive and file transmittal memo recommending the Conaway GGS2 site for inclusion in the Yolo HCP/NCCP reserve system; approve Conaway GGS2 as a candidate Yolo HCP/NCCP conservation easement site

Minute Order No. 21-06: Approved recommended action.

MOTION: Saylor. SECOND: Ledesma. AYES: Arnold, Fernandez, Ledesma, Neu, Sandy, Saylor.

11. Executive Director's Report

Received report from the Executive Director.

ADJOURNMENT

Next meeting scheduled for: May 17, 2021

Yolo Habitat Conservancy

Meeting Date: 05/17/2021

Information

SUBJECT

Approve 2021-22 budget and budget resolution for the Mitigation Fee Fund, Grant Fund, Other Revenue Fund, Mitigation Trust Account, Pre-Permit Endowment Fund, and Post-Permit Endowment fund, and authorize the repayment of loans from member agencies in the amount of \$213,523

Attachments

Staff Report

Attachment A. Mitigation Fee Fund, Grant Fund, Other Revenue Fund, and Mitigation Trust Account Budgets

Attachment B. Pre-Permit Endowment Fund and Post-Permit Endowment Fund Budgets

Attachment C. Schedule of Proposed Consultant and Service Contracts

Attachment D. Grant Balances

Attachment E. Revenue Forecast

Attachment F. Budget Resolution

Attachment G. FY20-21 Organization and Budget Goals Outcomes

Form Review

Inbox

Reviewed By

Date

Alexander Tengolics

Alexander Tengolics

05/12/2021 03:25 PM

Form Started By: Alexander Tengolics

Started On: 05/11/2021 08:55 AM

Final Approval Date: 05/12/2021



Yolo Habitat Conservancy

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

To: Will Arnold, Chair
Members of the Board

From: Alexander Tengolics
Executive Director

Re: Approve 2021-22 budget and budget resolution for the Mitigation Fee Fund, Grant Fund, Other Revenue Fund, Mitigation Trust Account, Pre-Permit Endowment Fund, and Post-Permit Endowment fund, and authorize the repayment of loans from member agencies in the amount of \$213,523

Date: May 17, 2021

REQUESTED ACTIONS:

1. Approve FY 2021-22 budget (Attachments A-B)
2. Approve budget resolution (Attachment F)
3. Authorize the repayment of loans to member agencies in the amount of \$213,523

BACKGROUND:

I. Overview

The Conservancy financial structure has six funds, with a separate budget for each fund, as follows:

- Mitigation Fee Fund. The Conservancy places revenue collected from mitigation fees in this fund and tracks expenditures of mitigation fees.
- Grant Fund. The Conservancy tracks all grant revenues and expenditures through this fund.
- Other Revenue Fund. The Conservancy places revenue from Special Participating Entities contribution to recovery fees, landowner contributions, and other non-mitigation fee revenue in this fund.

- Mitigation Trust Account. The fund contains Swainson's hawk mitigation fees collected prior to permit issuance on January 9, 2019. This Conservancy will exhaust these funds by purchasing conservation easements and close the account.
- Pre-permit Endowment Fund. This fund contains revenue from endowments to monitor conservation easements collected prior to issuance of the permits on January 9, 2019.
- Post-permit Endowment Fund. The Conservancy places a portion of every mitigation fee in this fund to save for management and monitoring of the reserve system after the permit term ends in 50 years.

The proposed FY21-22 budgets for the Mitigation Fee Fund, the Grant Fund, the Other Revenue Fund, and the Mitigation Trust Account are presented in Attachment A. The proposed FY 21-22 budgets for the Pre-Permit Endowment Fund and Post-Permit Endowment Fund are presented in Attachment B. A schedule of consultant and service contracts is included in Attachment C. A report on current grant balances is included in Attachment D; there is an additional \$24,000 in pending invoices that will be submitted shortly to the California Department of Fish and Wildlife. The budget was reviewed by Yolo County's Chief Financial Officer and the City of Davis' Assistant City Manager and Finance Director.

The Conservancy expects to end the FY20-21 with almost \$1.4 million in fund balance. This fund balance is largely due to approximately in \$750,000 in fund balance within the Mitigation Trust Account. Overall, the Conservancy continues to strengthen its fiscal position and the fiscal outlook for FY21-22 is positive. Highlights of the FY21-22 budget include:

Continued emphasis on easement acquisition. The Conservancy anticipates more robust permit activity than in prior years. This in turn will require additional easement acquisition activity. Staff continues to make progress on securing easements with the \$5 million US Fish and Wildlife Service Section 6 grant. As a point of clarification, the FY20-21 budget contemplated recognizing \$5 million in grant revenue, however, staff has subsequently learned that these funds will not pass through the Conservancy budget, but rather the Wildlife Conservation Board will directly make payment to the easement seller at the conclusion of the acquisition process for the benefit of the Conservancy. This is why this the \$5 million does not appear in the Conservancy's FY21-22 budget. Furthermore, this budget includes \$350,000 in Mitigation Fee Fund revenue for the purposes of conservation easement acquisition. Staff anticipates using these funds to target smaller conservation easements that are not of sufficient size to warrant inclusion in a grant applications. Finally, staff recommends expending the approximately \$750,000 in the Mitigation Trust Account to acquire easements for the benefit of the Swainson's Hawk, per the requirements of this account; staff anticipates issuing a solicitation to identify interested easement sellers.

Conservative estimate of mitigation fee revenue. Staff has received preliminary applications with a total land cover fee revenue of approximately \$1.3 million which staff anticipates will make final payment within the next 3-6 months, as described in Attachment D. Beyond that, staff is aware of



two large projects slated for FY21-22 the either of which has the potential to generate over \$1 million in land cover fees. For the purposes of the FY21-22 budget, staff has conservatively budgeted \$1.5 million in land cover fee revenue.

Continuation of current administrative model. The FY21-22 budget anticipates a continuation of the County providing administrative services and the majority of the existing consultant contracts being renewed.

Repayment of loans to member agencies. Given the positive fiscal outlook, the FY21-22 budget proposes repaying the \$213,523 in loans provided to the Conservancy from member agencies. Staff recommends the Board provide authorization to repay the outstanding loan balances in full. The table below details the outstanding loan balances.

Table 1. Outstanding Loan Balances

Member Agency	Amount
City of Davis	\$101,389
City of Winters	\$10,745
County of Yolo	\$101,389
Total	\$213,523

For FY21-22 staff proposes the following organizational and budget goals. Outcomes of the FY20-21 organizational and budget goals are included in Attachment G.

FY21-22 Organizational and Budget Goals

- Close at least five easements and fully expend and close the Mitigation Trust Account
- Complete development and implementation of permitting, reserve system, and monitoring database
- Complete transition of endowment funds to a community foundation
- Engage the Department of Water Resources on matters related to mitigation credit agreements including the West Sacramento Area Flood Control Agency pilot mitigation credit agreement

ATTACHMENTS:

Attachment A. Mitigation Fee Fund, Grant Fund, Other Revenue Fund, and Mitigation Trust Account Budgets

Attachment B. Pre-Permit Endowment Fund and Post-Permit Endowment Fund Budgets

Attachment C. Schedule of Proposed Consultant and Service Contracts

Attachment D. Grant Balances

Attachment E. Revenue Forecast

Attachment F. Budget Resolution

Attachment G. FY20-21 Organization and Budget Goals Outcomes



Fund #	Description	Beginning Balance FY20- 21	FY 20-21 Budget	FY20-21 Estimated Actual	Estimated FY20-21 Ending	Proposed FY21- 22 Budget	Estimated FY21-22 Ending Balance
6944	Mitigation Fee Fund	\$ 332,811			\$ 644,366	\$ -	\$ 644,366
	Revenues		\$ 397,600	\$ 640,000		\$ 1,500,000	
	Fees		\$ 397,600	\$ 640,000		\$ 1,500,000	
	Expenditures		\$ (864,904)	\$ (328,445)		\$ (1,410,000)	
	Insurance-public liability		\$ (6,000)	\$ (500)		\$ (500)	
	Prof & spec svc-auditing and accounting		\$ (31,000)	\$ (15,000)		\$ (40,000)	
	Prof & spec svc- legal		\$ (11,000)	\$ (5,000)		\$ (20,000)	
	Prof & spec svc-other		\$ (810,904)	\$ (307,495)		\$ (710,000)	
	Board meeting stipends		\$ (6,000)	\$ (450)		\$ (8,000)	
	Easements- Non-depreciable		\$ -	\$ -		\$ (350,000)	
	Loan repayment		\$ -	\$ -		\$ (213,523)	
	Contingency					\$ (67,977)	
	Use (Contribution) to Fund Balance					\$ (90,000)	
	Transfer to reserve		\$ -	\$ -		\$ (90,000)	
6945	Mitigation Trust Account Fund	\$ 736,373			\$ 745,775	\$ (755,775)	\$ -
	Revenues		\$ 10,000	\$ 10,000		\$ 10,000	
	Interest		\$ 10,000	\$ 10,000		\$ 10,000	
	Expenditures		\$ (745,000)	\$ (598)		\$ (755,775)	
	Prof & spec svc- legal		\$ (5,000)	\$ -			
	Prof & spec svc-other		\$ (50,000)	\$ (598)		\$ -	
	Easements- Non-depreciable		\$ (690,000)	-		\$ (755,775)	
6946	Grant Fund	\$ (33,792)			\$ (33,792)	\$ 33,792	\$ -
	Revenues		\$ 4,969,891	\$ 136,046		\$ 133,792	
	Other revenue- State		\$ 4,969,891	\$ 136,046		\$ 133,792	
	Expenditures		\$ (4,970,891)	\$ (136,046)		\$ (100,000)	
	Prof & spec svc-other		\$ (170,891)	\$ (136,046)		\$ (100,000)	
	Easements- Non-depreciable		\$ (4,800,000)	\$ -		\$ -	
6949	Other Revenue Fund	\$ 42,255			\$ 26,025	\$ -	\$ 26,025
	Revenues		\$ 60,002	\$ 770		\$ 25,000	
	Charges for service		\$ 60,002	\$ 770		\$ 25,000	
	Expenditures		\$ (45,268)	\$ (17,000)		\$ (25,000)	
	Prof & spec svc-other		\$ (45,268)	\$ (17,000)		\$ (25,000)	
All Funds		\$ 1,077,647			\$ 1,382,374	\$ (721,983)	\$ 660,391
	Revenues		\$ 5,437,493	\$ 786,816		\$ 1,668,792	
	Expenditures		\$ (6,618,882)	\$ (482,089)		\$ (2,290,775)	
	Use (Contribution) to Fund Balance		\$ -	\$ (90,000)		\$ (90,000)	

Fund #	Description	Beginning Balance FY20-21	FY 20-21 Budget	FY20-21 Estimated Actual	Estimated FY20-21 Ending Balance	Proposed FY21-22 Budget	Estimated FY21-22 Ending Balance
6947	Pre Permit Endowment Fund	\$ 413,359			\$ 380,392	\$ -	\$ 388,392
	<i>Revenues</i>		\$ 7,500	\$ 2,500		\$ 10,000	
	Interest		\$ 7,500	\$ 2,500		\$ 5,000	
	<i>Expenditures</i>		\$ (15,000)	\$ (35,468)		\$ (2,000)	
	Prof & spec svc-other		\$ (15,000)	\$ (2,000)		\$ (2,000)	
	Transfer out		-	\$ (33,468)		-	
	<i>Use (Contribution) to Fund Balance</i>		\$ -	\$ -		\$ (8,000)	
	Contribution to fund balance		\$ -	\$ -		\$ (8,000)	
6948	Post Permit Endowment Fund	\$ 19,825			\$ 34,925	\$ -	\$ 74,925
	<i>Revenues</i>		\$ 11,600	\$ 15,100		\$ 40,000	
	Fees		\$ 11,500	\$ 15,000		\$ 39,000	
	Interest		\$ 100	\$ 100		\$ 1,000	
	<i>Expenditures</i>		\$ (4,000)	\$ -		\$ -	
	Prof & spec svc-other		\$ (4,000)				
	<i>Use (Contribution) to Fund Balance</i>					\$ (40,000)	
	Transfer to reserve					\$ (40,000)	

Professional Services Summary (not including legal or accounting)

Contractor	Service	Fee Funded	Grant Funded	Total
Yolo County	General Administration	\$ 125,000	\$ 50,000	\$ 175,000
ICF	SME	\$ 100,000	\$ -	\$ 100,000
Estep	SME	\$ 50,000	\$ -	\$ 50,000
Conservation Land Group	CE Acquisition Assistance	\$ 50,000	\$ -	\$ 50,000
Resource Conservation District	Monitoring	\$ 25,000	\$ -	\$ 25,000
Alford Environmental	Reserve System Establishment	\$ 85,000	\$ 50,000	\$ 135,000
Other	Miscellaneous Professional Services	\$ 275,000	\$ -	\$ 275,000
Total		\$ 710,000	\$ 100,000	\$ 810,000

HABITAT GRANT INVOICE LOG FY20-21

WCB4 Grant (WC-1831CR) Exp: 9/30/21 Customer#:1731 Account: 401340 State-Other						
Invoice Number	Sent To	For	Date Sent	Invoice Total	Retention	Date Received
FY18-19						
1	Celestial Reysner (WCB)	April 2019	8/2/2019	\$ 14,270.65	\$ (1,427.07)	9/22/2019
2	Celestial Reysner (WCB)	May 2019	8/2/2019	\$ 23,384.32	\$ (2,338.43)	9/22/2019
3	Celestial Reysner (WCB)	June 2019	8/2/2019	\$ 27,880.49	\$ (2,788.05)	9/22/2019
4	Celestial Reysner (WCB)	July 2019	12/2/2019	\$ 18,292.18	\$ (1,829.22)	1/13/2020
5	Celestial Reysner (WCB)	Aug 2019	12/2/2019	\$ 7,504.79	\$ (750.48)	1/13/2020
6	Celestial Reysner (WCB)	Sep 2019	2/24/2020	\$ 16,204.74	\$ (1,620.47)	4/2/2020
7	Celestial Reysner (WCB)	Oct 2019	3/5/2020	\$ 9,087.83	\$ (908.78)	5/22/2020
8	Celestial Reysner (WCB)	Nov 2019	4/13/2020	\$ 12,091.16	\$ (1,209.12)	5/22/2020
9	Celestial Reysner (WCB)	Dec 2019	5/7/2020	\$ 11,750.50	\$ 1,175.05	6/5/2020
10	Celestial Reysner (WCB)	Jan 2020	5/28/2020	\$ 14,251.25	\$ (1,425.13)	6/25/2020
11	Celestial Reysner (WCB)	Feb 2020	6/19/2020	\$ 2,962.61	\$ (296.26)	8/14/2020
12	Celestial Reysner (WCB)	Mar 2020	6/19/2020	\$ 7,877.45	\$ (787.75)	8/14/2020
13	Celestial Reysner (WCB)	Apr 2020	6/19/2020	\$ 4,431.25	\$ (443.13)	8/14/2020
14	Celestial Reysner (WCB)	May 2020	6/25/2020	\$ 5,486.29	\$ (548.63)	8/14/2020
15	Celestial Reysner (WCB)	Jun 2020	8/10/2020	\$ 13,224.95	\$ (1,322.50)	9/23/2021
16	Celestial Reysner (WCB)	July 2020	10/9/2020	\$ 7,924.41	\$ (792.44)	11/18/2020
17	Celestial Reysner (WCB)	August 2020	10/9/2020	\$ 7,799.30	\$ (779.93)	11/18/2020
18	Celestial Reysner (WCB)	Sep 2020	11/30/2020	\$ 9,415.70	\$ (941.57)	1/29/2021
19	Celestial Reysner (WCB)	Oct 2020	11/30/2020	\$ 4,573.22	\$ (457.32)	2/10/2021
20	Celestial Reysner (WCB)	Nov 2020	1/19/2021	\$ 6,305.39	\$ (630.54)	
21	Celestial Reysner (WCB)	Dec 2020	1/19/2021	\$ 5,375.98	\$ (537.60)	
22	Celestial Reysner (WCB)	Jan 2021	5/11/2021	\$ 2,159.37	\$ (215.94)	
23	Celestial Reysner (WCB)	Feb 2021	5/11/2021	\$ 1,367.89	\$ (136.79)	
24	Celestial Reysner (WCB)	March 2021	5/11/2021	\$ 1,089.15	\$ (108.92)	
Totals				\$234,710.87	-\$21,121.01	
Award				\$275,000.00		
Remaining				\$40,289.13		

2019 Local Assistance Grant (LAG2) (P1820101) Exp: 12/31/21 Customer#:1732 Account: 401340						
Invoice Number	Sent To	For	Date Sent	Invoice Total	Retention	Date Received
FY 18-19						
1	Ian Boyd (CDFW)	Qtr 4 (May 15 - Jun 2019)	12/19/2019	\$ 1,100.00	n/a	4/2/2020
2	Ian Boyd (CDFW)	Qtr 1 (Jul, Aug, Sep 2019)	2/25/2020	\$ 2,072.50	n/a	4/3/2020
3	Ian Boyd (CDFW)	Qtr 2 (Oct, Nov, Dec 2019)	6/18/2020	\$ 5,093.75	n/a	8/26/2020
4	Ian Boyd (CDFW)	Qtr 3 (Jan, Feb, Mar 2020)	6/18/2020	\$ 6,116.25	n/a	8/28/2020
5	Ian Boyd (CDFW)	Qtr 4 (Apr, May, Jun 2020)	8/6/2020	\$ 901.25	n/a	11/19/2020
6	Gabe Quillman (CDFW)	Qtr 1 (Jul, Aug, Sep 2020)	11/20/2020	\$ 27,986.28	n/a	1/29/2021
7	Gabe Quillman (CDFW)	Qtr 2 (Oct, Nov, Dec 2020)	2/17/2021	\$ 11,603.56	n/a	
Totals				\$ 54,873.59		

Yolo Habitat Conservancy FY21-22- 6 month revenue forecast

Timeline	Project Name	Acreage	Estimated Fees
0-3 months			
	Wilbur Ellis	16.14	\$ 227,470
	Hay Kingdom	4.3	\$ 60,342
	MP Environmental	11.3	\$ 171,398
	River One	4.65	\$ 70,536
		Estimated total	\$ 529,746
4-6 months			
	County Road 98	55	\$ 834,295
	Yarbrough Southport Phase 1	146.75	
	Teichert Shifler	277	
		Estimated total	\$ 834,295

RESOLUTION NO. 21-01

Resolution of the Yolo Habitat Conservancy Board of Directors Adopting the Fiscal Year 2021-22 Budget

WHEREAS, the Board of Directors ("Board") of the Yolo Habitat Conservancy ("YHC") has heard and considered annual budgets for the FY 2021-22 Mitigation Fee Fund, Grant Fund, Other Revenue Fund, Mitigation Trust Account Fund, Pre-Permit Endowment Fund, and the Post-Permit Endowment Fund (collectively, the "Fiscal Year 2021-22 Budget"); and

WHEREAS, the May 17, 2021 staff report for the Fiscal Year 2021-22 budget provides information regarding each fund or account included in the overall YHC budget; and

WHEREAS, the recommended budgets for the Mitigation Fee Fund, Grant Fund, Other Revenue Fund, Mitigation Trust Account Fund, Pre-Permit Endowment Fund, and the Post-Permit Endowment Fund are balanced, with total revenues and other available funds equaling or exceeding total expenditures; and

WHEREAS, at the conclusion of the Board's consideration of this item at its May 17, 2021 public meeting, the Board of Directors determined that it was necessary and appropriate to approve the Fiscal Year 2021-22 Budget;

NOW, THEREFORE, the Board of Directors of the YHC hereby resolves as follows:

1. The Board adopts the Mitigation Fee Fund budget and approves the appropriations of \$1,500,000 based on the revenue of \$1,500,000, as set forth therein.
2. The Board adopts the Grant Fund budget and approves the appropriations of \$100,000 based on the revenue of \$133,792, as set forth therein.
3. The Board adopts the Other Revenue Fund budget and approves the appropriations of \$25,000 based on the revenue of \$25,000 as set forth therein.
4. The Board adopts the Mitigation Trust Account Fund budget and approves the appropriations of \$755,775 based on the revenue of \$10,000 and use of the available fund balance of \$745,775 (Mitigation Trust Account Fund), as set forth therein.
5. The Board adopts the Pre-permit Endowment Fund budget and approves the appropriations of \$10,000 based on the revenue of \$10,000, as set forth therein.
6. The Board adopts the Post-permit Endowment Fund budget and approves the appropriations of \$40,000 based on the revenue of \$40,000, as set forth therein.
7. The Board adopts the annual work plan for FY2020-21, as set forth in the staff report accompanying this Resolution.

PASSED AND ADOPTED by the Board of Directors of the Yolo Habitat Conservancy on May 17, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Will Arnold, Chair
Yolo Habitat Conservancy

Attest:
Julie Dachtler, Clerk of the Board

Approved As To Form:

By: _____
Julie Dachtler

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

FY20-21 Yolo Habitat Conservancy Organizational and Budget Goals- Final Report

Organizational Goal	Status
Maintain a waiting list of at least four landowners seeking easements	The Conservancy is currently working on establishing conservation easements on 6 properties (3 private landowner and 3 member agency sites) and has 6 additional private landowner sites currently on the candidate easement site waiting list.
Complete easement on the Woodland-Reiff property in partnership with the Yolo County Cache Creek Resource Management Plan program	The final draft easement and management plans have been approved by the Wildlife Agencies. These documents are pending final approval from the Conservancy Board and County Board of Supervisors.
Develop a permanent permit tracking system to replace the temporary system	The task is currently in progress and is expected to be completed by Q1 FY22
Complete a three-year grant application strategy that matches projects with grant applications	This task is currently in progress and will be completed by the end of the Q4 FY21.
Close at least three easements	The Tule Ranch easement upgrade and enrollment in the Yolo HCP/NCCP was finalized in November. The Conservancy anticipates completing three additional easements by the end of the fiscal year (Woodland Reiff SwHa, Woodland Reiff VELB, and Correll).
Apply for at least three implementation grants.	The Conservancy applied for and was awarded two Local Assistance Grants from CDFW this fiscal year. The Conservancy submitted a Section 6 Land Acquisition grant proposal and anticipates receiving a response regarding the funding status for the grant request in the first half of FY21-22. The Conservancy also partnered with the County on the preparation of a SALC grant that was awarded to the County.
Identify at least two additional Cache Creek Resources Management Plan properties on which the County and the Conservancy agree to place easements and secure approval from the Yolo County Board of Supervisors	The Conservancy has been actively working with the County to establish easements on the Woodland Reiff and Correll properties during FY20-21 and has started due diligence efforts for the Rodgers and Millsap properties.
Complete assessment in partnership with City of Davis Open Space Program of the potential for enrolling Davis	The Conservancy has had multiple conversations with City of Davis staff regarding potential partnership options for this property. The City is planning to start an evaluation to assess these and other options for the site.

Wetlands property as a Yolo HCP/NCCP reserve property.	
Conduct at least one additional HCP/NCCP workshop to train member agency staff and consultants	Due to the ongoing impact of COVID-19, Conservancy staff coordinated video conference with calls with each of the member agency staffs to provide Yolo HCP/NCCP permit application review training. Conservancy staff continues to hold monthly check-in calls with the member agencies to troubleshoot any issues.

Budget Goal	Status
Pay back member agency loans in part or in total	The FY21-22 budget proposed repaying all outstanding loans in full.
Work with County fiscal staff to create Excel models that translate software reports into annual report tables	This task has been completed.
Increase reserve to 15% in anticipation of economic downturn	The FY21-22 proposed budget increases the reserve by an additional \$90,000.
Evaluate staffing needs to inform hiring decisions and development of the 2021-22 budget	Staff has revised contract scopes of work and budgets as part of the FY21-22 budget to ensure sufficient capacity to complete necessary activities in FY21-22.

Yolo Habitat Conservancy

Meeting Date: 05/17/2021

Information

SUBJECT

Approve contract amendment with ICF Jones & Stokes Inc. and contracts with Alford Environmental Consulting and the Yolo County Resource Conservation District for services to be provided in FY 21-22 and amend and extend the term of Memorandum of Understanding with Yolo County for Administrative Services through June 30, 2022

Attachments

Staff Report

Attachment A. ICF Amendment

Attachment B. Alford Environmental Contract

Attachment C. Yolo RCD Contract

Attachment D. Yolo County MOU Amendment

Form Review

Inbox

Reviewed By

Date

Alexander Tengolics

Alexander Tengolics

05/12/2021 12:27 PM

Form Started By: Alexander Tengolics

Started On: 05/11/2021 08:56 AM

Final Approval Date: 05/12/2021



Yolo Habitat Conservancy

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

To: Will Arnold, Chair
Members of the Board

From: Alexander Tengolics
Executive Director

Re: Approve contract amendment with ICF Jones & Stokes Inc. and contracts with Alford Environmental Consulting and the Yolo County Resource Conservation District for services to be provided in FY 21-22 and amend and extend the term of Memorandum of Understanding with Yolo County for Administrative Services through June 30, 2022

Date: May 17, 2021

REQUESTED ACTIONS:

1. Approve contract amendment with ICF Jones & Stokes Inc. and contracts with Alford Environmental Consulting and the Yolo County Resource Conservation District for services to be provided in FY 21-22
2. Amend and extend the term of the Memorandum of Understanding with Yolo County for Administrative Services through June 30, 2022

BACKGROUND:

Current agreements with ICF Jones & Stokes Inc. and Alford Environmental Consulting expire on June 30, 2021. Staff recommend establishing new contracts or amendments for each of these entities to provide services through June 30, 2022 that support implementation of the Yolo HCP/NCCP and are consistent with the proposed FY21-22 budget. Staff also recommends a new contract with the Yolo County Resource Conservation District for easement management and monitoring services. The majority of the funding for these contracts will be from land cover fees. The amounts and general task descriptions are provided below for each contract.

ICF Jones & Stokes: The proposed contract amendment is for \$100,000 for services to be provided from July 1, 2021 through June 30, 2022. Tasks associated with this agreement include implementation assistance services, such as program administration, land acquisition, restoration, reserve management and reserve monitoring and research.

Alford Environmental LLC: The proposed contract is for \$135,000 for services to be provided from July 1, 2021 through June 30, 2022. Tasks associated with this agreement include management of Yolo HCP/NCCP reserve system development, coordination with wildlife agency staff and partners, grant writing, and other assistance related to implementation of the Yolo HCP/NCCP.

Yolo County Resource Conservation District: The proposed contract is \$75,000 for easement management and monitoring services through June 30, 2024. As the Conservancy continues to add easements to its reserves system, it is important that a comprehensive management and monitoring program be established to ensure the easements maintain their habitat value. Through this contract, the RCD will be lead on the Conservancy's reserve system management and monitoring activities.

Yolo County Services: Staff also recommends the Board extend the term of the Memorandum of Understanding with the County for administrative services through June 30, 2022. Pursuant to Section 5 of the Memorandum of Understanding, the County's lead assigned staff conferred with the Chair of the Board of Directors about this proposed amendment. The FY21-22 budget proposes \$225,000 for County services including administration, legal, fiscal, accounting, and IT. This is approximately \$42,000 more than was budgeted for County services in FY20-21. This increase is due to increases in personnel costs, an anticipated increase in permit activity, and the need for additional IT support and software licensing as the Conservancy moves forward with its development of a permitting, reserve system, and monitoring database.

ATTACHMENTS:

Attachment A- ICF Jones & Stokes Inc. Amendment

Attachment B- Alford Environmental LLC Contract

Attachment C- Yolo County Resource Conservation District Contract

Attachment D- Yolo County MOU Amendment



AGREEMENT NO. - _____**First Amendment to Agreement with ICF Jones & Stokes, Inc. Scope of Services
Consulting Services for the Yolo Habitat Conservancy**

THIS FIRST AMENDMENT to the May 18, 2020 Agreement with ICF Jones & Stokes, Inc. is entered into as of the ____th day of ____ 2021 by and between the Yolo Habitat Conservancy (“the Conservancy”), and ICF Jones & Stokes, Inc. (“Consultant”), who agree as follows:

AMENDMENT

1. Paragraph 2 of the Agreement is hereby amended to read as follows (deletions in strikethrough; new language is underlined):

Consultant shall perform said services between July 1, 2020 and ~~June 30, 2021~~ June 30, 2022. Either party may terminate this Agreement for any reason by providing thirty (30) days advance written notice of termination to the other party. In addition, the Conservancy may suspend work under this Agreement at any time by providing written notice to Consultant, who shall cease all work immediately upon receipt thereof until otherwise directed by the Conservancy.

2. Paragraph 3 of the Agreement is hereby amended to read as follows (deletions in strikethrough; new language is underlined):

Total compensation to Consultant shall not exceed the rates set forth in Attachment A, nor shall total compensation exceed ~~\$71,250~~ \$171,250. Hourly rates shall not increase during the term of this Agreement.

3. Attachment A of the Agreement is hereby amended to read as follows (deletions in strikethrough; new language is underlined):

Rates

Consultant shall only bill the Conservancy for services provided in fulfillment of executed task orders. Consultant shall be reimbursed based on actual expenses incurred based on the following rates:

Labor Rate:	Ellen Berryman	\$200 per hour
	David Zippin	\$300 per hour
	Kathryn Gaffney	\$195 per hour
	Doug Leslie	\$190 per hour
	Production Staff	\$120 per hour
	<u>Carl Jensen</u>	<u>\$200 per hour</u>
	<u>Devin Jokerst</u>	<u>\$125 per hour</u>
	<u>Dan Schiff</u>	<u>\$150 per hour</u>

IN WITNESS WHEREOF, the parties hereto have entered this First Amendment by affixing their signatures hereafter.


YOLO HABITAT CONSERVANCY

CONSULTANT

By _____
Will Arnold, Chair
Yolo Habitat Conservancy Board of Directors

By _____

Approved as to Form:

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

AGREEMENT NO. _____
(Short-Form Agreement)

THIS AGREEMENT is made this __th day of _____ 2021, by and between the Yolo Habitat Conservancy (referred to hereinafter as the “Conservancy”), and Alford Environmental, LLC (“Consultant”), who agree as follows:

AGREEMENT

1. Consultant shall perform the services described in **Attachment A** hereto.
2. Consultant shall perform said services between July 1, 2021 and June 30, 2022. Either party may terminate this Agreement for any reason by providing thirty (30) days advance written notice of termination to the other party. In addition, the Conservancy may suspend work under this Agreement at any time by providing written notice to Consultant, who shall cease all work immediately upon receipt thereof until otherwise directed by the Conservancy.
3. Total compensation to Consultant shall not exceed the rates set forth in Attachment A, nor shall total compensation exceed \$135,000. Hourly rates shall not increase during the term of this Agreement.
4. During the term of this Agreement, Consultant shall maintain the insurance described in **Attachment B** hereto at its sole cost and expense.
5. On a monthly basis, Consultant shall submit an invoice detailing the services provided, the amount of time spent providing the service, the rate per hour, and an itemization of the actual expenses for which reimbursement is requested. If requested by the Conservancy, Consultant shall provide any further documentation to verify the compensation and reimbursement sought by Consultant. All services provided by Consultant which may be eligible for grant reimbursement shall be invoiced in a manner (generally, by grant and task) that meets applicable requirements for reimbursement from available grant funds. At the option of the Conservancy, this may include using a billing template for time entries. Within fifteen (15) calendar days of the receipt of Consultant’s detailed invoice, the Conservancy shall either authorize payment for services performed to its reasonable satisfaction or advise Consultant in writing of any concerns that the Conservancy has with the invoice and any need for further documentation. The Conservancy shall use reasonable efforts to ensure that the County Auditor-Controller processes payment of each invoice with forty-five (45) calendar days after the Conservancy approves payment.

There shall be no penalty for late payments.

6. To the greatest extent permitted under California law, Consultant shall defend, indemnify, and hold harmless the Conservancy, including all officers, officials, employees and agents from any and all claims, demands, liability, damages, cost or expenses (including but not limited to attorneys’ fees) in law or equity that may at any time arise or be asserted based in whole or in part upon any negligent or other wrongful act or omission of the Consultant, it’s officers, agents, or employees.
7. Consultant shall comply with all applicable laws and regulations, including but not limited to any that are promulgated to protect the public health, welfare and safety or prevent conflicts of interest. Consultant shall defend the Conservancy and reimburse it for any fines, damages or costs (including attorneys’ fees) that might be incurred or assessed based upon a claim or determination that Consultant has violated any applicable law or regulation.
8. This Agreement is subject to the Conservancy, the State of California and the United States appropriating and approving sufficient funds for the activities required of the Contractor pursuant to this Agreement. If the Conservancy’s adopted budget and/or its receipts from California and the United States do not contain sufficient funds for this Agreement, the Conservancy may terminate this Agreement by giving ten (10) days advance written notice thereof to the Consultant, in which even the Conservancy shall have no obligation to pay the Consultant any further funds or provide other consideration and the Consultant shall have no obligation to provide any further

services under this Agreement.

9. If Consultant fails to perform any part of this Agreement, the Conservancy may notify the Consultant of the default and Consultant shall remedy the default. If Consultant fails to do so, then, in addition to any other remedy that Conservancy may have, Conservancy may terminate this Agreement and withhold any or all payments otherwise owed to Consultant pursuant to this Agreement.

10. Consultant understands that he/she is not an employee of the Conservancy and is not eligible for any employee benefits, including but not limited to unemployment, health/dental insurance, worker's compensation, vacation or sick leave.

11. All documents and information developed under this Agreement and all work products, reports, and related data and materials shall become the property of the Conservancy. Consultant shall deliver all of the foregoing to the Conservancy upon completion of the services hereunder, or upon earlier termination of this Agreement. In addition, Consultant shall retain all of its own records regarding this Agreement and the services provided hereunder for a period of not less than four (4) years, and shall make them available to the Conservancy for audit and discovery purposes.

12. This Agreement constitutes the entire agreement of the parties, and no other agreements or representations, oral or written, have been made or relied upon by either party. This Agreement may only be amended in writing signed by both parties, and any other purported amendment shall be of no force or effect. This Agreement, including all attachments, shall be subject to disclosure pursuant to the California Public Records Act. In the event of any conflict between the provisions of this Agreement and either of the attachments hereto, the provision requiring the higher level of performance from Consultant shall govern.

13. This Agreement shall be deemed to be executed within the State of California and construed in accordance with and governed by laws of the State of California. Any action or proceeding arising out of this Agreement shall be filed and resolved in a California State Court located in Woodland, California.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above by affixing their signatures hereafter.

Consultant

Consultant's Signature

Printed Name

Street Address/PO Box

City/State/Zip

Phone

Conservancy

Will Arnold, Chair
Yolo Habitat Conservancy Board of Directors

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

SCOPE OF SERVICES
Alford Environmental, LLC
FY 2021/2022

Contract Services – Alford Environmental LLC will perform the services as outlined in this Scope of Work for the Yolo Habitat Conservancy (Conservancy) under the direction of the Executive Director; and, provide other assistance/tasks related to the implementation of the Yolo HCP/NCCP as identified by the Executive Director and mutually agreed upon in writing.

Services

Task 1: Management of Yolo HCP/NCCP Reserve System Development

Coordinate and implement efforts to establish the Yolo HCP/NCCP reserve system. This includes reserve system project management, assistance with easement transactions, conservation easement application review, facilitation of STAC site visits, development and review of easement acquisition documents, maintenance of the Conservancy's reserve system records, and coordination with project and program partners.

Deliverables

- Initial site evaluations and staff reports to the board prepared for candidate properties
- Easement acquisition documents for selected sites undergoing HCP/NCCP enrollment, including: management plans, easements, and baseline condition reports

Task 2: Coordination with wildlife agency staff and partners

Organize and facilitate regular Yolo HCP/NCCP coordination meetings with USFWS and CDFW and meetings with project partners.

Deliverables

- Meeting packets
- Meeting summaries

Task 3: Grant management and preparation

Task 3.a: Grant proposals and opportunities Identify potential Yolo HCP/NCCP land acquisition, planning, and monitoring projects that can potentially be funded, partially or entirely, with grant funding. Assist in the preparation of grant proposals under the direction of the Executive Director.

Task 3.b: WCB Implementation Grant Assist with the preparation of grant deliverables and reports under the direction of the Executive Director.

Task 3.c: 2019 LAG Assist with the preparation of grant deliverables and reports under the direction of the Executive Director.

Task 3.d: 2021 LAG Assist with the preparation of grant deliverables and reports under the direction of the Executive Director.

Deliverables

- Grant proposals
- Grant progress reports
- Deliverables as specified in individual grants

Task 4: General Yolo HCP/NCCP implementation assistance

Provide general administrative assistance to the Executive Director on an as-needed basis. This may include items such as preparation of staff reports to the board, outreach materials, and other project management services not identified in the tasks above.

Deliverables

- Staff reports to the board
- Reports, maps, and other materials as-needed

Hours and Rates

Services provided will be reimbursed at an hourly rate of \$135 per hour. Other expenses incurred by Alford Environmental LLC while performing the services described above shall be reimbursed based on actual expenses incurred. Mileage for travel shall be reimbursed at the current U.S. Federal rate.

Attachment B
STANDARD INSURANCE REQUIREMENTS

A. During the term of this Agreement, Consultant shall at all times maintain, at its expense, the following coverages and requirements. The comprehensive general liability insurance shall include broad form property damage insurance.

1. Minimum Coverages. Insurance coverage shall be with limits not less than the following:

- a. **Comprehensive General Liability** – \$1,000,000/occurrence and \$2,000,000/aggregate.
- b. **Automobile Liability** – \$1,000,000/occurrence (general) and \$500,000/occurrence (property) (include coverage for Hired and Non-owned vehicles).
- c. **Professional Liability/Malpractice/Errors and Omissions** – \$1,000,000/occurrence and \$2,000,000/aggregate.
- d. **Workers' Compensation – Statutory Limits/Employers' Liability** - \$1,000,000/accident for bodily injury or disease.

The limits of insurance may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Yolo Habitat Conservancy before the Yolo Habitat Conservancy's own insurance or self insurance shall be called upon to protect it as a named insured.

2. The Yolo Habitat Conservancy, its officers, agents, employees and volunteers shall be named as additional insured on all but the workers' compensation and professional liability coverages. (Evidence of additional insured may be needed as a separate endorsement due to wording on the certificate negating any additional writing in the description box.) Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Further, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater. The additional insured coverage under the Consultant's policy shall be primary and non-contributory, and will not seek contribution from the Yolo Habitat Conservancy's insurance or self insurance and shall be at least as broad as CG 20 01 04 13.

3. Said policies shall remain in force through the life of this Agreement and, with the exception of professional liability coverage, shall

be payable on a “per occurrence” basis unless the Yolo Habitat Conservancy Risk Manager specifically consents in writing to a “claims made” basis. For all “claims made” coverage, in the event that the Consultant changes insurance carriers Consultant shall purchase “tail” coverage covering the term of this Agreement and not less than three years thereafter. Proof of such “tail” coverage shall be required at any time that the Consultant changes to a new carrier prior to receipt of any payments due.

4. The Consultant shall declare all aggregate limits on the coverage before commencing performance of this Agreement, and the Yolo Habitat Conservancy’s Risk Manager reserves the right to require higher aggregate limits to ensure that the coverage limits required for this Agreement as set forth above are available throughout the performance of this Agreement.

5. Any deductibles or self-insured retentions must be declared to and are subject to the approval of the Yolo Habitat Conservancy Risk Manager, and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the Yolo Habitat Conservancy.

6. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days’ prior written notice by certified mail, return receipt requested, has been given to the Director (ten (10) days for delinquent insurance premium payments).

7. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII, unless otherwise approved by the Yolo Habitat Conservancy Risk Manager.

8. The policies shall cover all activities of Consultant, its officers, employees, agents and volunteers arising out of or in connection with this Agreement.

9. The Consultant shall waive all rights of subrogation against the Yolo Habitat Conservancy, its officers, employees, agents and volunteers.

B. Prior to commencing services pursuant to this Agreement, Consultant shall furnish the Yolo Habitat Conservancy with original endorsements reflecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received by, and are subject to the approval of, the Yolo Habitat Conservancy Risk Manager before work commences. Upon Yolo Habitat

Conservancy's request, Consultant shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.

C. During the term of this Agreement, Consultant shall furnish the Yolo Habitat Conservancy with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. Upon Yolo Habitat Conservancy's request, Consultant shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.

AGREEMENT NO. _____
(Short-Form Agreement)

THIS AGREEMENT is made this ___th day of _____ 2021, by and between the Yolo Habitat Conservancy (referred to hereinafter as the “Conservancy”), and the Yolo Resource Conservation District (“Consultant”), who agree as follows:

AGREEMENT

1. Consultant shall perform the services described in **Attachment A** hereto.
2. Consultant shall perform said services between July 1, 2021 and June 30, 2024. Either party may terminate this Agreement for any reason by providing thirty (30) days advance written notice of termination to the other party. In addition, the Conservancy may suspend work under this Agreement at any time by providing written notice to Consultant, who shall cease all work immediately upon receipt thereof until otherwise directed by the Conservancy.
3. Total compensation to Consultant shall not exceed the rates set forth in Attachment A, nor shall total compensation exceed \$75,000. Hourly rates shall not increase during the term of this Agreement.
4. During the term of this Agreement, Consultant shall maintain the insurance described in **Attachment B** hereto at its sole cost and expense.
5. On a monthly basis, Consultant shall submit an invoice detailing the services provided, the amount of time spent providing the service, the rate per hour, and an itemization of the actual expenses for which reimbursement is requested. If requested by the Conservancy, Consultant shall provide any further documentation to verify the compensation and reimbursement sought by Consultant. All services provided by Consultant which may be eligible for grant reimbursement shall be invoiced in a manner (generally, by grant and task) that meets applicable requirements for reimbursement from available grant funds. At the option of the Conservancy, this may include using a billing template for time entries. Within fifteen (15) calendar days of the receipt of Consultant’s detailed invoice, the Conservancy shall either authorize payment for services performed to its reasonable satisfaction or advise Consultant in writing of any concerns that the Conservancy has with the invoice and any need for further documentation. The Conservancy shall use reasonable efforts to ensure that the County Auditor-Controller processes payment of each invoice with forty-five (45) calendar days after the Conservancy approves payment.

There shall be no penalty for late payments.

6. To the greatest extent permitted under California law, Consultant shall defend, indemnify, and hold harmless the Conservancy, including all officers, officials, employees and agents from any and all claims, demands, liability, damages, cost or expenses (including but not limited to attorneys’ fees) in law or equity that may at any time arise or be asserted based in whole or in part upon any negligent or other wrongful act or omission of the Consultant, it’s officers, agents, or employees.
7. Consultant shall comply with all applicable laws and regulations, including but not limited to any that are promulgated to protect the public health, welfare and safety or prevent conflicts of interest. Consultant shall defend the Conservancy and reimburse it for any fines, damages or costs (including attorneys’ fees) that might be incurred or assessed based upon a claim or determination that Consultant has violated any applicable law or regulation.
8. This Agreement is subject to the Conservancy, the State of California and the United States appropriating and approving sufficient funds for the activities required of the Contractor pursuant to this Agreement. If the Conservancy’s adopted budget and/or its receipts from California and the United States do not contain sufficient funds for this Agreement, the Conservancy may terminate this Agreement by giving ten (10) days advance written notice thereof to the Consultant, in which even the Conservancy shall have no obligation to pay the Consultant any further funds or provide other consideration and the Consultant shall have no obligation to provide any further

services under this Agreement.

9. If Consultant fails to perform any part of this Agreement, the Conservancy may notify the Consultant of the default and Consultant shall remedy the default. If Consultant fails to do so, then, in addition to any other remedy that Conservancy may have, Conservancy may terminate this Agreement and withhold any or all payments otherwise owed to Consultant pursuant to this Agreement.

10. Consultant understands that he/she is not an employee of the Conservancy and is not eligible for any employee benefits, including but not limited to unemployment, health/dental insurance, worker's compensation, vacation or sick leave.

11. All documents and information developed under this Agreement and all work products, reports, and related data and materials shall become the property of the Conservancy. Consultant shall deliver all of the foregoing to the Conservancy upon completion of the services hereunder, or upon earlier termination of this Agreement. In addition, Consultant shall retain all of its own records regarding this Agreement and the services provided hereunder for a period of not less than four (4) years, and shall make them available to the Conservancy for audit and discovery purposes.

12. This Agreement constitutes the entire agreement of the parties, and no other agreements or representations, oral or written, have been made or relied upon by either party. This Agreement may only be amended in writing signed by both parties, and any other purported amendment shall be of no force or effect. This Agreement, including all attachments, shall be subject to disclosure pursuant to the California Public Records Act. In the event of any conflict between the provisions of this Agreement and either of the attachments hereto, the provision requiring the higher level of performance from Consultant shall govern.

13. This Agreement shall be deemed to be executed within the State of California and construed in accordance with and governed by laws of the State of California. Any action or proceeding arising out of this Agreement shall be filed and resolved in a California State Court located in Woodland, California.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above by affixing their signatures hereafter.

Consultant

Consultant's Signature

Printed Name

Street Address/PO Box

City/State/Zip

Phone

Conservancy

Will Arnold, Chair
Yolo Habitat Conservancy Board of Directors

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

YOLO HABITAT CONSERVANCY MONITORING- PROJECT SCOPE OF WORK

Task 1. Project management

This task includes development of a plan to complete all monitoring tasks and a plan for managing and enhancing reserve system properties, including a detailed budget and timeline for each plan. The Executive Director will provide the timeline duration for each plan. The Resource Conservation District (RCD) will provide quarterly written reports to the Executive Director with activity communication in between on progress and other meetings as needed to develop the partnership and ensure the Conservancy implements a consistent monitoring plan and manages reserve system properties effectively. Project management by the YCRCD will include administration and oversight of contract requirements and deliverables, budget management, reporting on contract status and progress, and communication with the Conservancy, landowners, other partners, and subcontractors throughout the contract period. If the RCD is unable to meet a deadline specified in either plan, the RCD must let the Conservancy know as soon as possible.

Assumptions:

- YHC currently holds 2 easements and is the process of enrolling 12 other established Swainson's hawk CE sites as pre-permit sites into the HCP/NCCP reserve system; doing work-ups for 12; anticipate adding 3-5 properties per year in future.
- Existing easements have already had baseline surveys performed for land cover, Swainson's hawk, and white-tailed kite.
- The Woodland Regional Park site and Correll site are the only properties that the Conservancy anticipates enrolling in the reserve system within the next year that involve direct management (management of the VELB conservation easement area on the Woodland Reiff site is also the responsibility of the Conservancy but Triangle Properties is currently under contract to provide management services on that site), individual landowners are responsible for management on all other properties.

First Year: RCD will develop overall monitoring plan/framework for the Yolo HCP/NCCP reserve system that includes actions needed in response to monitoring for the various types of monitoring as specified in the Yolo HCP/NCCP. The RCD will also develop an individual monitoring needs 1-2 page summary and/or checklist for each reserve system property which will identify site-specific, species-specific, natural community-level monitoring, and landscape-scale monitoring associated with the site. The summary will identify timeframes and timeline for each monitoring component (consistent with existing protocols), including easement compliance monitoring.

60 – 100 hours year one; RCD Project Manager \$85/hour

5 hours additional for each new property plan

40 – 60 hours year two

Task 2. Conduct species baseline surveys. The Yolo HCP/NCCP requires that species baseline surveys be conducted by a Yolo HCP/NCCP qualified biologist(s)¹ on every easement or fee title acquisition site consistent with the Baseline Survey Protocols. The RCD will have a qualified biologist staff member conduct, or sub-contract with a qualified entity to conduct, species baseline surveys and provide the Conservancy with data records and reports in formats that support the Conservancy's monitoring and management of the Yolo HCP/NCCP reserve system. For sites where baseline surveys have already been completed prior to the execution of the Agreement with the RCD, the RCD will review applicable existing baseline surveys prior to conducting any follow-up site-specific or landscape-level monitoring.

First Year: RCD Project Manager will develop survey forms/format for use with iPad and Collector software based on Baseline Survey Protocol requirements and will involve consultation with YHC staff to meet all reporting requirements. Some protocols require four or more site visits. Some properties may have multiple covered species, each having unique survey requirements.

5 – 40 hours year one; RCD Project Manager \$85/hour

Task 3. Landscape-level monitoring. RCD will conduct landscape-level monitoring within the Conservation Reserve Area and reserve system to track progress toward meeting the landscape-level biological goals and objectives listed in Table 6-10 consistent with Section 6.5.6 – Monitoring Actions (pages 6-155 to 6-156) and landscape-level monitoring protocols provided by the Conservancy.

First Year: The RCD Project Manager will develop form/format for data collection (iPad and Collector) and online database format and mapping for tracking progress toward meeting the landscape-level biological goals and objectives listed in Table 6-10.

As part of invasive species monitoring, the RCD will:

- Coordinate monitoring protocols for invasive plants with those of other local entities to ensure consistency.
- Review the effectiveness of control methods
- Work with the Conservancy to develop monitoring protocols for invasive species
- Identify and prioritize problems with invasive species in the reserve system
- Recommend when mapping occurrences of invasive species is necessary and conduct mapping
- Provide input on weed management actions to be included in site-specific management plans as necessary for individual properties within the reserve system
- Develop success criteria for the effectiveness of eradication or reduction efforts
- Monitor and report instances of disease as part of annual site monitoring

¹ A Yolo HCP/NCCP qualified biologist is an individual that is certified as eligible to conduct HCP/NCCP species monitoring based on information provided to the Yolo Habitat Conservancy in a qualified biologists application that demonstrates that they have the education, training, and experience specific to the type of HCP/NCCP species monitoring they intend to conduct (see list on website for current qualified biologists).

Task 4. Natural community-level monitoring. RCD will monitor natural communities within the reserve system to track progress towards meeting the natural community-level biological goals and objectives in Table 6-10 consistent with Section 6.5.6.2 – Natural Community-Level Actions and natural community-level monitoring protocols provided by the Conservancy. Natural and semi-natural communities included in this goal, as appropriate to the specific property, are Cultivated Lands, Grasslands, Valley Foothill Riparian, Alkali Prairie, and Fresh Emergent Wetland.

Task 5. Species-level monitoring. RCD will have a qualified biologist staff member monitor, or sub-contract with a qualified entity to monitor, species within the reserve system to track progress towards meeting the species-level biological goals and objectives in Table 6-10 consistent with Section 6.5.6.3 - Species-Level Actions and the Yolo HCP/NCCP Baseline Survey Protocols for each of the Yolo HCP/NCCP covered species.

The Conservancy understands the species-specific baseline survey protocols may need to be modified periodically as appropriate to respond to changing conditions, changing circumstances, or new scientific information. Minor changes to the survey protocols, such as the first date of sampling or moving a trapline a short distance, can be made with a notice to the Conservancy but without review by the wildlife agencies. However, these changes must be documented in the annual monitoring report. Any deviation from the species-specific baseline conditions survey protocols that change the basic sampling scheme or reduce the level of effort (and thus the probability of detection) are subject to review by the wildlife agencies and the Conservancy's Science and Technical Advisory Committee.

Task 6. Easement compliance monitoring. RCD will be responsible for reading and interpreting legal surveys and other easement documents related to easements held by the Conservancy. RCD will annually monitor each property in the reserve system is meeting easement and site-specific management plan conditions, consistent with Section 6.5.3.1 of the Yolo HCP/NCCP.

Year One: The RCD Project Manager will develop an annual compliance monitoring template form to be used annually for each site enrolled in the Yolo HCP/NCCP that is held by the Yolo Habitat Conservancy.

Task 7. Data entry for all surveys. RCD will enter all data collected from surveys into a database the Conservancy selects. All mapping and other spatial data must be collected and provided to the Conservancy in a format that is compatible with ArcGIS and include metadata that meets CDFW's minimum data standards.

Task 8. Annual report of findings. RCD will be responsible for submitting an annual report to the Conservancy each fiscal year (July-June) within 60 days of the end of the fiscal year for the duration of the contract in an approved format. The annual report will include the items listed in 6.5.7 Data and Reporting, pages 6-181 to 6-182 (Attachment C, Section 6.5.7).

Task 9. Coordinate and secure monitoring data from surveys conducted by local partners. RCD will work with the County to secure monitoring data from surveys conducted as part of the Cache Creek Resources Management Plan. The RCD will also work with the Lower Putah Creek Coordinating Committee to secure data from their monitoring activities consistent with Section 6.5.8.1.2 of the Yolo HCP/NCCP, pages 6-182 to 6-186. (Attachment D, Section 6.5.8)

Task 10. Management and enhancement of the reserve system. RCD will manage reserve system lands consistent with site-specific management plans, as well as manage projects to enhance properties or restore properties consistent with the Yolo HCP/NCCP on an as-needed basis.

The RCD will provide input on the management and enhancement plan for each property as it comes into the reserve system. The plan will include customized management and enhancement recommendations based both on unique site characteristics and on Natural and Semi-natural Community Practice Papers previously developed for YHC by the RCD.

The RCD will implement and management restoration and management projects on reserve system properties as funds are developed through grant acquisition, with funds provided by the YHC, or funds from other sources.

Year One: The RCD Project Manager will be responsible for management activities or overseeing management activities at Woodland Regional Park once the site is enrolled in the reserve system and will provide input on site-specific management plans as they are being developed.

Task 11. Swainson's hawk incentive program. Develop the framework for a landowner incentive program that promotes the planting and maintenance of high value Swainson's hawk foraging habitat. The framework for this program shall be developed by 2023 and is intended as a strategy for improving habitat for Swainson's hawk that will be implemented if Swainson's hawk foraging habitat availability and nesting populations drop below the thresholds identified in Section 7.1.1.2.8.

Task 12. Wildlife local operating agreement. Coordinate with California Department of Forestry and Fire Protection (CAL FIRE) and with any other firefighting agency that has responsibility or jurisdiction over areas that contain reserve lands to develop a wildlife local operating agreement by 2023.

Task 13. Other duties as assigned. Upon request, RCD will assist with other work to ensure compliance with HCP/NCCP requirements. This may include work to ensure the Conservancy is meeting the minimum requirements to avoid implementing the Swainson's hawk program per Section 7.1.1.2.8 of the Yolo HCP/NCCP and meeting the stay-ahead provision in the HCP/NCCP, found in Section 7.5.3, pages 7-18 to 7-26. (Attachment E, Section 7.5.3).

Attachment B
STANDARD INSURANCE REQUIREMENTS

A. During the term of this Agreement, Consultant shall at all times maintain, at its expense, the following coverages and requirements. The comprehensive general liability insurance shall include broad form property damage insurance.

1. Minimum Coverages. Insurance coverage shall be with limits not less than the following:

- a. **Comprehensive General Liability** – \$1,000,000/occurrence and \$2,000,000/aggregate.
- b. **Automobile Liability** – \$1,000,000/occurrence (general) and \$500,000/occurrence (property) (include coverage for Hired and Non-owned vehicles).
- c. **Professional Liability/Malpractice/Errors and Omissions** – \$1,000,000/occurrence and \$2,000,000/aggregate.
- d. **Workers' Compensation – Statutory Limits/Employers' Liability** - \$1,000,000/accident for bodily injury or disease.

The limits of insurance may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Yolo Habitat Conservancy before the Yolo Habitat Conservancy's own insurance or self insurance shall be called upon to protect it as a named insured.

2. The Yolo Habitat Conservancy, its officers, agents, employees and volunteers shall be named as additional insured on all but the workers' compensation and professional liability coverages. (Evidence of additional insured may be needed as a separate endorsement due to wording on the certificate negating any additional writing in the description box.) Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Further, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater. The additional insured coverage under the Consultant's policy shall be primary and non-contributory, and will not seek contribution from the Yolo Habitat Conservancy's insurance or self insurance and shall be at least as broad as CG 20 01 04 13.

3. Said policies shall remain in force through the life of this Agreement and, with the exception of professional liability coverage, shall

be payable on a “per occurrence” basis unless the Yolo Habitat Conservancy Risk Manager specifically consents in writing to a “claims made” basis. For all “claims made” coverage, in the event that the Consultant changes insurance carriers Consultant shall purchase “tail” coverage covering the term of this Agreement and not less than three years thereafter. Proof of such “tail” coverage shall be required at any time that the Consultant changes to a new carrier prior to receipt of any payments due.

4. The Consultant shall declare all aggregate limits on the coverage before commencing performance of this Agreement, and the Yolo Habitat Conservancy’s Risk Manager reserves the right to require higher aggregate limits to ensure that the coverage limits required for this Agreement as set forth above are available throughout the performance of this Agreement.

5. Any deductibles or self-insured retentions must be declared to and are subject to the approval of the Yolo Habitat Conservancy Risk Manager, and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the Yolo Habitat Conservancy.

6. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days’ prior written notice by certified mail, return receipt requested, has been given to the Director (ten (10) days for delinquent insurance premium payments).

7. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII, unless otherwise approved by the Yolo Habitat Conservancy Risk Manager.

8. The policies shall cover all activities of Consultant, its officers, employees, agents and volunteers arising out of or in connection with this Agreement.

9. The Consultant shall waive all rights of subrogation against the Yolo Habitat Conservancy, its officers, employees, agents and volunteers.

B. Prior to commencing services pursuant to this Agreement, Consultant shall furnish the Yolo Habitat Conservancy with original endorsements reflecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received by, and are subject to the approval of, the Yolo Habitat Conservancy Risk Manager before work commences. Upon Yolo Habitat

Conservancy's request, Consultant shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.

C. During the term of this Agreement, Consultant shall furnish the Yolo Habitat Conservancy with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. Upon Yolo Habitat Conservancy's request, Consultant shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.

AGREEMENT NO. - _____**First Amendment to Memorandum of Understanding Between the County of Yolo and the Yolo Habitat Conservancy Regarding Administrative Services**

THIS FIRST AMENDMENT to the June 2, 2020 Agreement with Count of Yolo (“County”) is entered into as of the ____th day of ____ 2021 by and between the Yolo Habitat Conservancy (“the Conservancy”), and County of Yolo (“Consultant”), who agree as follows:

AMENDMENT

1. Section 1 of the Agreement is hereby amended to read as follows (deletions in strikethrough; new language is underlined):

Scope of Services; Costs. As recited above, the Board of Directors of the Conservancy enters into this MOU to retain the County for services that include those set forth in Section 7.1 (Executive Director) of the Joint Powers Agreement and additional services within the scope of Exhibit A hereto. Consistent with this approach, the County will assign staff to provide the requested services. As of the execution of this MOU, the parties expect this will require the following staff assignments and anticipated costs based on current hourly rates:

For FY ~~20/21~~ 21/22 the CAO will provide ~~0.2~~ 0.25 FTE within a management classification and ~~0.5~~ 0.6 FTE within an analyst or similar classification to complete these tasks in addition to existing consultant support within the FY ~~20/21~~ 21/22 HCP budget.

The anticipated cost of these services in FY 20/21 is:

0.25 ~~0.2~~ FTE Management Classification- ~~\$36,925~~ \$50,000

0.6 ~~0.5~~ FTE Analyst Classification- ~~\$59,027~~ \$75,000

Legal: \$20,000

Overhead (HR, etc., but excluding legal): ~~\$9,393~~ \$50,000

Department of Financial Services- ~~\$31,000~~ \$30,000

2. Section 4 of the Agreement is hereby amended to read as follows (deletions in strikethrough; new language is underlined):

A. Term. This MOU has an initial term of one year, commencing on ~~July 1, 2020~~ July 1, 2021 and extending through ~~June 30, 2021~~ June 30, 2022. By mutual agreement, the parties may agree to extend this MOU for one or more subsequent years. Any such extended term shall be memorialized in a written amendment to this MOU pursuant to Section 5, below.

B. Termination. Either party may terminate this MOU, with or without cause, by giving thirty days' prior written notice to the other party.

IN WITNESS WHEREOF, the parties hereto have entered this First Amendment by affixing their signatures hereafter.

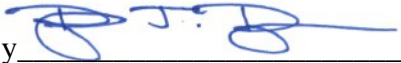
YOLO HABITAT CONSERVANCY

COUNTY OF YOLO

By _____
Will Arnold, Chair
Yolo Habitat Conservancy Board of Directors

By _____
Jim Provenza, Chair
Yolo County Board of Directors

Approved as to Form:

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

Attest:

Julie Dachtler, Deputy Clerk
Board of Supervisors

By _____
Deputy (Seal)

Approved as to Form:

Philip J. Pogledich, County Counsel

By _____
Eric May, Senior Deputy

Yolo Habitat Conservancy

Meeting Date: 05/17/2021

Information

SUBJECT

Approve the Woodland Reiff SwHa Conservation Easement; approve the Woodland Reiff VELB Conservation Easement; approve the Correll Conservation Easement; approve the Access Easement for the Correll site; and authorize the Executive Director to proceed with steps necessary to enroll the properties in the Yolo HCP/NCCP reserve system

Attachments

Staff Report

Attachment A. Location map for Woodland Reiff and Correll conservation easements

Attachment B. Woodland Reiff SwHa Conservation Easement

Attachment B2. Woodland Reiff SwHa Conservation Easement Exhibits

Attachment C. Woodland Reiff VELB Conservation Easement

Attachment C2. Woodland Reiff VELB Conservation Easement Exhibits

Attachment D. Correll Conservation Easement

Attachment D2. Correll Conservation Easement Exhibits

Attachment E. Access Easement for the Correll site

Form Review

Inbox

Alexander Tengolics

Form Started By: Alexander Tengolics

Final Approval Date: 05/13/2021

Reviewed By

Alexander Tengolics

Date

05/13/2021 09:49 AM

Started On: 05/12/2021 12:37 PM



Yolo Habitat Conservancy

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

To: Will Arnold, Chair
Members of the Board

From: Alexander Tengolics
Executive Director

Re: Approve the Woodland Reiff SwHa Conservation Easement; approve the Woodland Reiff VELB Conservation Easement; approve the Correll Conservation Easement; approve the Access Easement for the Correll site; and authorize the Executive Director to proceed with steps necessary to enroll the properties in the Yolo HCP/NCCP reserve system

Date: May 17, 2021

REQUESTED ACTIONS:

1. Approve the Woodland Reiff SwHa conservation easement (Attachment B)
2. Approve the Woodland Reiff VELB conservation easement (Attachment C)
3. Approve the Correll conservation easement (Attachment D)
4. Approve the Access Easement for the Correll site (Attachment E)
5. Authorize the Executive Director to proceed with steps necessary to enroll the properties in the Yolo HCP/NCCP reserve system

BACKGROUND:

The approximately 115.5-acre Woodland Reiff and 38.9-acre Correll properties are both held in fee title by Yolo County and located along Cache Creek (Attachment A). Both sites are former gravel mining sites that have been reclaimed and transferred to Yolo County as “net gains” lands. Per the resolution passed by the Yolo County Board of Supervisors on December 2, 2014 (Resolution No. 14-126), the County of Yolo intends to donate conservation easements on these sites for enrollment in the Yolo HCP/NCCP. Both properties contain high quality grassland and valley foothill riparian habitat for valley

elderberry longhorn beetle (*Desmocerus californicus dimorphus*), western pond turtle (*Actinemys marmorata*), Swainson's hawk (*Buteo swainsoni*), and white-tailed kite (*Elanus leucurus*) while the Correll site also contains suitable habitat for least Bell's vireo (*Vireo bellii pusillus*). If enrolled, the Woodland Reiff and Correll sites will collectively contribute approximately 150.92 acres¹ towards the Yolo HCP/NCCP's pre-permit reserve lands commitments.

The Woodland Reiff site was approved by the Board as a candidate Yolo HCP/NCCP reserve system site on January 27, 2020. Due to an arrangement established between the county and the Cache Creek Conservancy prior to the finalization of the Yolo HCP/NCCP, the Cache Creek Conservancy will be the easement holder for the proposed HCP/NCCP conservation easement that includes a 110.572-acre portion of the property and is identified as the Woodland Reiff SwHa Conservation Easement (Attachment B). The Conservancy will be the easement holder for a separate HCP/NCCP conservation easement proposed on the remaining 4.947-acre portion of the site. This second conservation easement includes the area of the site that was established as a Yolo HCP/NCCP VELB mitigation site in 2019 and is identified as the Woodland Reiff VELB Conservation Easement (Attachment C).

The Correll site was approved by the Board as a candidate Yolo HCP/NCCP reserve system site on May 18, 2020. The proposed conservation easement includes the entire 38.9-acre property (Attachment D). Due to the lack of direct access to the site from an existing public right-of-way, the Conservancy and county have developed an Access Easement on the adjacent county-owned Rodgers property in order to formally establish a right of access to the Correll site by the Conservancy, as the easement holder, for future monitoring and management (Attachment E).

The Executive Director recommends that the Board approve the conservation easements (Attachments B, C, and D), approve the access easement (Attachment E), and authorize the Executive Director to proceed with steps necessary to enroll the properties in the Yolo HCP/NCCP reserve system.

ATTACHMENTS:

Attachment A. Location map for Woodland Reiff and Correll conservation easements

Attachment B. Woodland Reiff SwHa Conservation Easement

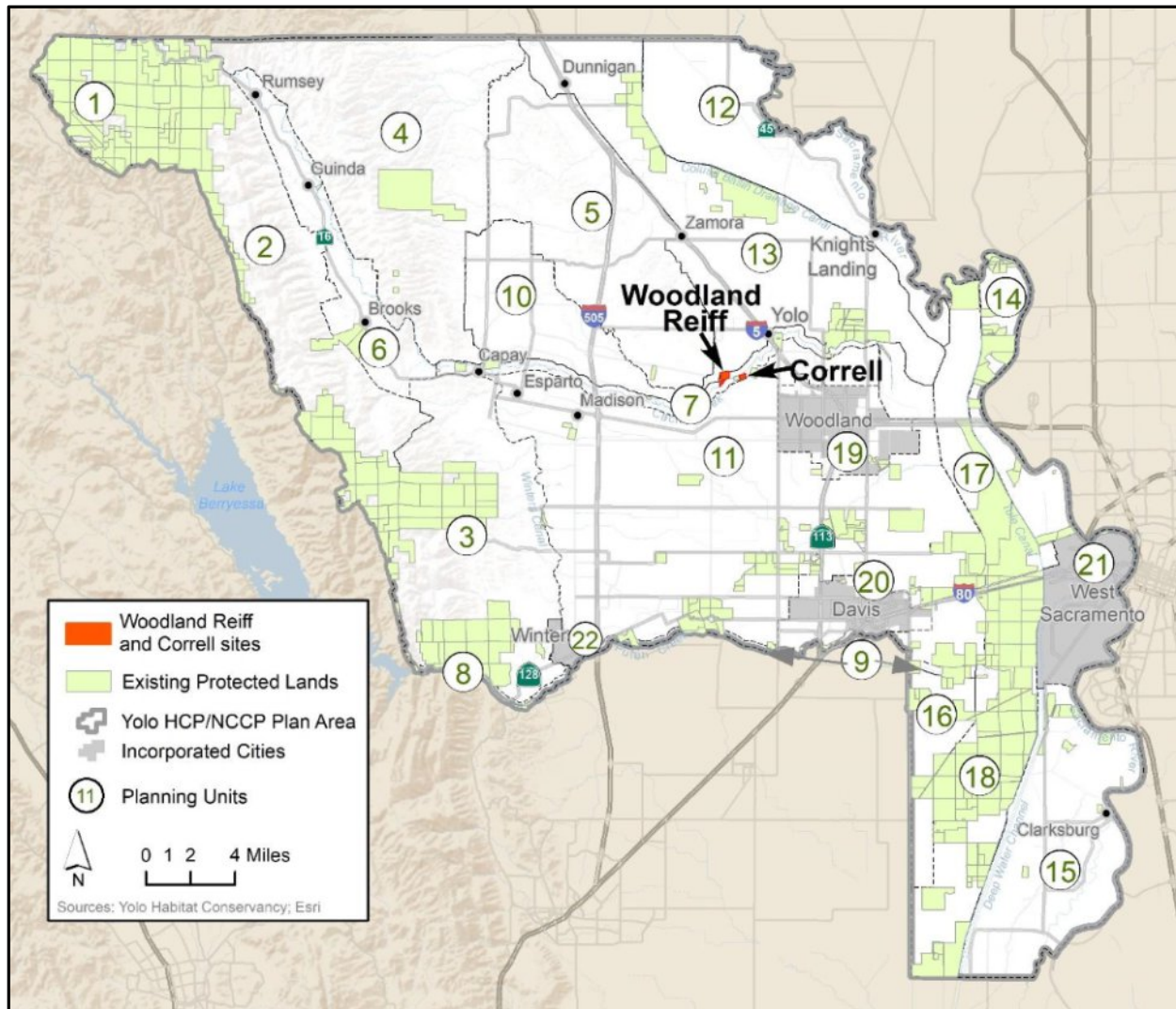
Attachment C. Woodland Reiff VELB Conservation Easement

Attachment D. Correll Conservation Easement

Attachment E. Access Easement for the Correll site

¹ The Woodland Reiff SwHa Conservation Easement includes a 3.5-acre development envelope which does not count towards the Yolo HCP/NCCP lands commitments and is not included in this acreage total.





RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Cache Creek Conservancy
34199 County Road 20
Woodland, CA 95695 Attention: Nancy Ullrey, Executive Director

WITH A COPY TO:

State of California
Department of Fish and Wildlife
Attn: Habitat Conservation Planning Branch
Post Office Box 944209
Sacramento, CA 94244-2090

Exempt from recording fees (Cal. Gov. Code § _____)

Space Above Line for Recorder's Use Only

**DEED OF CONSERVATION EASEMENT AND PERMANENT RESTRICTIONS ON
USE**

THIS DEED OF CONSERVATION EASEMENT AND PERMANENT RESTRICTIONS ON USE (the “**Conservation Easement**”) is made this ____ day of _____, 20__, by County of Yolo (“**Landowner**”), in favor of the Cache Creek Conservancy, a nonprofit public benefit corporation (“**Easement Holder**”). Landowner and Easement Holder are also referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

A. Landowner is the owner in fee simple of certain real property containing 115.52 acres, in the County of Yolo, State of California, designated Assessor’s Parcel Number(s) 025-350-035. Said real property is more particularly described and depicted in **Exhibit A** attached hereto and incorporated herein by this reference (the “**Property**”). Landowner intends to grant a Conservation Easement over 110.572 acres of the Property, as described and depicted in **Exhibit A.1** (the “**Easement Area**”).

B. The Easement Area possesses wildlife and habitat values of great importance to Easement Holder, the people of the State of California and the people of the United States. The Easement Area will provide high quality habitat for Swainson’s hawk (*Buteo swainsoni*), including foraging and nesting habitat. The site contains grasslands and valley foothill riparian natural communities which also provide habitat for valley elderberry longhorn beetle (*Desmocerus californicusdimorphus*), western pond turtle (*Actinemys marmorata*), and white-tailed kite (*Elanus leucurus*). Individually and collectively, these wildlife and habitat values comprise the “**Conservation Values**” of the Easement Area. The status of the Conservation Values, including the open space uses that support these Conservation Values and compatible recreational uses such as hiking, birdwatching, and other forms of passive recreation by the general public (“**Compatible Recreational Uses**”), as well as other uses and improvements within the Easement Area at the time

of the execution of the Conservation Easement are described in the “**Baseline Documentation Report**”. Both Parties acknowledge, as described in **Exhibit B** attached hereto and incorporated herein by reference, that each has received a copy of the Baseline Documentation Report, and that it accurately represents the Easement Area as of the date of the Conservation Easement.

C. This Conservation Easement is being executed and delivered to satisfy certain habitat conservation requirements set forth in the following documents (collectively, the “**Yolo HCP/NCCP Instruments**”):

- a. The Yolo Habitat Conservation Plan/Natural Community Conservation Plan (“**Yolo HCP/NCCP**”), dated April 2018, prepared by the County of Yolo (“**County**”), City of Davis (“**Davis**”), City of West Sacramento (“**West Sacramento**”), City of Winters (“**Winters**”), and City of Woodland (“**Woodland**”), and approved by the United States Fish and Wildlife Service (“**USFWS**”) under Section 10 of the federal Endangered Species Act of 1973 (16 U.S.C. Section 1531 *et seq.*, as it may be amended from time to time) (“**ESA**”), and by the California Department of Fish and Wildlife (“**CDFW**”) under the California Natural Community Conservation Planning Act (California Fish and Game Code Section 2800 *et seq.*, as it may be amended from time to time) (“**NCCPA**”); and
- b. Implementing Agreement for the Yolo HCP/NCCP (the “**Implementing Agreement**”), dated January 10, 2019, by and among USFWS and CDFW (collectively, the “**Wildlife Agencies**”), the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency (“**Yolo Habitat Conservancy**”), County, Davis, West Sacramento, Winters, and Woodland (collectively, the Yolo Habitat Conservancy, County, Davis, West Sacramento, Winters, and Woodland, are referred to herein as “**Permittees**”); and
- c. The federal incidental take permit issued by USFWS to Permittees for the Yolo HCP/NCCP pursuant to Section 10 of ESA; and
- d. The state NCCP permit issued by CDFW to Permittees for the Yolo HCP/NCCP pursuant to the NCCPA.

D. The State of California recognizes the public importance and validity of conservation easements by enactment of California Civil Code Section 815 *et seq.*

E. CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary for biologically sustainable populations of those species pursuant to Fish and Game Code Section 1802. CDFW is authorized to hold easements for these purposes pursuant to Civil Code Section 815.3, Fish and Game Code Section 1348, and other provisions of California law.

F. USFWS is an agency of the United States Department of the Interior and is authorized by Federal law to be a third-party beneficiary of the Conservation Easement and to administer the federal Endangered Species Act, 16 U.S.C. § 1531, *et seq.* (“**ESA**”), the Fish and

Wildlife Coordination Act, 16 U.S.C. §§ 661-666c, and the Fish and Wildlife Act of 1956, 16 U.S.C. § 742(f), et seq.

G. The Easement Holder is a California nonprofit public benefit corporation, and authorized to hold conservation easements pursuant to, among other provisions of law, California Civil Code Section 815.3 and Government Code Section 65965. Specifically, the Easement Holder is (i) a tax-exempt nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986 as amended, and qualified to do business in California; (ii) a “qualified organization” as defined in section 170(h)(3) of the Internal Revenue Code; and (iii) an organization which has as its primary and principal purpose and activity the protection and preservation of natural lands or resources in its natural, scenic, agricultural, forested, or open-space condition or use.

H. The Yolo Habitat Conservancy, a California Joint Powers Agency, serves as the **“Implementing Entity”** of the Yolo HCP/NCCP, and as such, is responsible for overseeing implementation of the Yolo HCP/NCCP Instruments, including carrying out planning and design, habitat restoration, monitoring, adaptive management programs, and periodic coordination with the Wildlife Agencies. The Yolo HCP/NCCP Instruments confer separate rights and obligations on the Implementing Entity that will survive any future transfer of the Conservation Easement.

I. Following recordation of this Conservation Easement, the Easement Area will be incorporated into the Reserve System (as such term is defined in the Yolo HCP/NCCP) (**“Reserve System”**) and will count toward the land acquisition requirements set forth in the Yolo HCP/NCCP.

J. The County of Yolo, Cache Creek Conservancy, and Yolo Habitat Conservancy have developed a management plan, known as “Woodland Reiff Site-Specific Management Plan,” that applies to the Property, including the Easement Area, (the **“Management Plan”**) incorporated herein by reference. The Management Plan has been developed in accordance with the applicable requirements of the Yolo HCP/NCCP Instruments. The Management Plan also includes provisions that preserve and maintain the open space use and Compatible Recreational Uses of the Easement Area to the fullest extent such uses are compatible with the preservation of its Conservation Values.

Landowner and Easement Holder recognize that changes (e.g., in technologies, weather cycles, natural resource management technologies, conservation practices) may dictate changes in the management of the Easement Area, consistent with the purposes of this Conservation Easement and the Yolo HCP/NCCP Instruments. The Management Plan may be revised from time to time only with the written approval of both the Landowner and Easement Holder, so long as the revisions are consistent with the requirements of the Yolo HCP/NCCP Instruments and the Cache Creek Reserve Unit Management Plan if and when it is developed. The final, approved copy of the Management Plan, and any amendments thereto approved by the Parties, shall be kept on file at the Yolo Habitat Conservancy.

AGREEMENT

NOW, THEREFORE, in consideration of the above and mutual covenants, terms, conditions and restrictions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and pursuant to the laws of the State of California,

including California Civil Code Section 815 *et seq.*, Landowner hereby voluntarily grants and conveys to Easement Holder, its successors and assigns, a conservation easement forever in, on, over and across the Easement Area, subject to the terms and conditions set forth herein, restricting in perpetuity the uses which may be made of the Easement Area, and the Parties agree as follows:

1. **Purposes.** The purposes of this Conservation Easement are to ensure the Easement Area will be retained forever in its natural, restored, enhanced, or otherwise functional habitat condition as contemplated by the Yolo HCP/NCCP and the site-specific Management Plan, and to prevent any use of the Easement Area that will impair or interfere with the Conservation Values of the Easement Area. Landowner intends that this Conservation Easement will confine the use of the Easement Area to such activities that are consistent with the purposes set forth herein, including Compatible Recreational Uses. The Parties agree that the protection of the Conservation Values may be achieved by maintaining the Easement Area in its natural or existing condition (not precluding future enhancement or restoration). The establishment of a trail and other minor amenities (e.g., signage, occasional benches) that support Compatible Recreational Uses within the Easement Area is allowed provided that these amenities do not interfere with the Easement Area's covered species and their associated functional habitats as described in the Baseline Documentation Report and are consistent with the terms and conditions of this Conservation Easement and the Management Plan.

2. **Reserved Rights.** Landowner reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from Landowner's ownership of the Easement Area, including the right to establish a trail and other minor amenities (e.g., signage, occasional benches) that support Compatible Recreational Uses within the Easement Area, so long as such activities are consistent with the purposes of this Conservation Easement, as set forth above in Section 1, the Management Plan, and do not impair the Conservation Values.

(a) **Development Envelope.** The Easement Area includes a 3.5 acre Development Envelope, as shown and described in **Exhibit A.1**. Any structures and activities within the Development Envelope are subject to the provisions of the Conservation Easement except where explicitly stated otherwise and allowable uses within the Development Envelope cannot interfere with the protection or enhancement of the Conservation Values on the portions of the Easement Area that are not included in the Development Envelope.

3. **Rights of Easement Holder.** To accomplish the purposes of this Conservation Easement, Landowner hereby grants and conveys the following rights to Easement Holder:

- (a) To preserve and protect the Conservation Values of the Easement Area;
- (b) To restore or enhance the Conservation Values with the consent of the Landowner in accordance with the Management Plan and the terms and conditions of this Conservation Easement;
- (c) To enter upon the Easement Area, no less than once annually, at reasonable times to monitor compliance with and otherwise enforce the terms of this Conservation Easement or to carry out, at Easement Holder's sole cost and expense, scientific research and management and monitoring requirements

applicable to the Easement Area that are set forth in the Management Plan and in Yolo HCP/NCCP Chapters 6 and 7, provided that Easement Holder shall not unreasonably interfere with Landowner's allowed uses and quiet enjoyment of the Easement Area. Except where there is an imminent threat to the Easement Area or its Conservation Values, Easement Holder and its employees, contractors or agents will only enter the Easement Area at reasonable times and with at least forty-eight (48) hours advance notice to Landowner in writing or by phone. The Landowner may waive these requirements in whole or in part by written notice to Easement Holder;

- (d) To prevent any activity on or use of the Easement Area that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Easement Area that may be damaged by any act, failure to act, or any use or activity that is inconsistent with the purposes of this Conservation Easement;
- (e) To require that all mineral, air, and water rights that Easement Holder deems necessary to preserve and protect the Conservation Values of the Easement Area shall remain a part of and be put to beneficial use upon the Easement Area, consistent with the purposes of this Conservation Easement; and
- (f) All present and future development rights and wind power rights appurtenant to, allocated, implied, reserved or inherent in the Easement Area; such rights are hereby terminated and extinguished, and may not be used on or transferred to any portion of the Property, nor any other property adjacent or otherwise.

4. **Prohibited Uses.** Any activity on or use of the Easement Area that adversely affects the purpose of this Conservation Easement, as set forth in Section 1, above, is prohibited except as may be otherwise expressly provided in this Conservation Easement or in the Management Plan. Without limiting the generality of the foregoing, the Landowner, Landowner's personal representatives, heirs, successors, assigns, employees, agents, lessees, licensees and invitees are expressly prohibited from doing or allowing any of the following uses and activities on the Easement Area, unless, and then only to the extent that, a generally prohibited activity set forth below is a management practice, lawful and routine agricultural practice, or other activity that does not impair the Conservation Values of the Easement Area and is allowed in the Management Plan.

- (a) Unseasonal watering activities that promote the establishment of invasive species that act as predators of covered species, impair the habitat quality of the site for covered species, or otherwise impair the Conservation Values of the site;
- (b) Use of fertilizers, pesticides, biocides, herbicides or other chemicals except as allowable under applicable law and as provided in the Management Plan in connection with activities or uses that are authorized or reserved hereunder. Under no circumstance are rodenticides allowed to be used within the Easement Area unless specifically authorized in writing by the Easement

Holder and the Wildlife Agencies due to unforeseen or exceptional circumstance, such as proclamation of a local state of emergency;

- (c) Use of heavy equipment, off-road vehicles, or other motorized vehicles, except on existing roadways or use of equipment or vehicles as required to conduct any management practice or other activity as provided for in the Management Plan. The long-term storage of wrecked, dismantled, or inoperative nonagricultural vehicles and industrial or commercial equipment except within the Development Envelope is prohibited;
- (d) Except as set forth in the Management Plan or within the Development Envelope, any construction, reconstruction, relocation, or placement of any road, building, billboard, or sign (excluding small directional and interpretative signs on any hiking trails), or any other structure or improvement of any kind, or altering the surface or general topography of the Easement Area without written approval by the Easement Holder and Wildlife Agencies;
- (e) Vineyards, orchards, nurseries, intensive livestock use (e.g., dairy, feedlot), and other agricultural uses except as allowed in the Management Plan;
- (f) Commercial, industrial, residential, or other institutional uses except within the Development Envelope;
- (g) Depositing or accumulation of soil, trash, ashes, refuse, waste, bio-solids or any other materials, except in connection with lawful uses that do not impair the Conservation Values of the Easement Area and are allowed in the Management Plan;
- (h) Planting, introduction, or dispersal of invasive plant or animal species;
- (i) Filling, dumping, excavating, draining, dredging, mining, drilling, removing, or exploring for or extracting minerals, loam, soil, sands, gravel, rocks, or other material on or below the surface of the Easement Area, or granting or authorizing any surface entry for any exploring for or extracting minerals. This provision is not intended to prohibit lawful uses that are associated with site management activities, do not impair the Conservation Values of the Easement Area, and are allowed in the Management Plan;
- (j) Removing, destroying, or cutting of trees, shrubs, or other vegetation except as allowed in the Management Plan;
- (k) Manipulating, impounding, or altering any water course, body of water, or water circulation on the Easement Area, and activities or uses detrimental to water quality, including but not limited to degradation or pollution of any surface or subsurface waters, except as needed to conduct habitat enhancement, habitat restoration, or other activity that does not impair the

Conservation Values of the Easement Area and is allowed in the Management Plan; and

- (l) Without the prior written consent of Easement Holder, which Easement Holder may reasonably withhold or condition, transferring, encumbering, selling, leasing or otherwise separating the mineral, air or water rights for the Easement Area; changing the place or purpose of use of the water rights; abandoning or allowing the abandonment of, by action or inaction, any water or water rights, ditch or ditch rights, spring rights, reservoir or storage rights, wells, ground water rights or other rights in and to the use of water historically used on or otherwise appurtenant to the Easement Area, including but not limited to: (i) riparian water rights; (ii) appropriative water rights; (iii) rights to waters which are secured under contract with any irrigation or water district, to the extent such waters are customarily applied to the Easement Area; and (iv) any water from wells that are in existence or may be constructed in the future on the Easement Area. In determining whether to consent to a short-term transfer (i.e. a transfer of water from the Property for a period of not more than one year as defined by California law) or other change relating to water rights under this subsection (k), the Easement Holder shall evaluate whether the transfer will, during the transfer period, preclude the Landowner from maintaining the Conservation Values, for the covered species that the Easement Area is managed to benefit at the time of the proposed transfer. This determination shall be subject to approval by the Wildlife Agencies and the Yolo Habitat Conservancy.
- (m) All Subdivisions, including but not limited to the Subdivision of rangeland, open space, and other types of land not used for the active cultivation of crops. The fee transfer of less than the entire Easement Area is also prohibited to the extent such a transfer would constitute a subdivision of land under California law, including but not limited to the Subdivision Map Act.
- (n) Any activity or use that may violate or fail to comply with relevant federal, state, or local laws, regulations, or policies applicable to Landowner, the Easement Area, or the activity or use in question.

5. **Unlawful Entry.** Landowner shall undertake all reasonable actions to prevent the unlawful entry and trespass on the Easement Area and shall take reasonable steps to prevent uses or activities that may degrade or harm the Conservation Values or are otherwise inconsistent with the purposes of this Conservation Easement. This duty extends to activities undertaken by members of the public that are outside the scope of “Compatible Recreational Uses” as set forth herein (and as may be further described in the Management Plan). Reasonable actions to prevent trespass and/or related incompatible activities may include, but are not limited to, posting “No Trespassing” or “Stay on Improved Trails” signs, constructing barriers, gates, and/or trail demarcations, and good faith efforts to exclude any person who is not a designated representative of Landowner, Easement Holder, or others with lawful access rights. In addition, Landowner shall undertake all necessary actions to perfect the rights of Easement Holder under Section 3 of this Conservation Easement.

6. **Easement Holder's Remedies.** If Easement Holder or any Third-Party Beneficiary (as defined in **Section 6(d)** below) determines there is a violation of the terms of this Conservation Easement or that such violation is threatened, written notice of such violation and a demand for corrective action sufficient to cure the violation shall be given to Landowner, with a copy provided to Easement Holder and each Third-Party Beneficiary. The notice of violation shall specify the measures the Landowner must take to cure the violation. If Landowner fails to cure the violation within thirty (30) days after receipt of written notice and demand from Easement Holder or any Third-Party Beneficiary, as applicable; or if the cure reasonably requires more than thirty (30) days to complete and Landowner fails to begin the cure within such thirty (30) day period; or Landowner fails to continue diligently to complete the cure, Easement Holder or any Third-Party Beneficiary 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 Easement Holder and the Third-Party Beneficiaries may be entitled for violation of the terms of this Conservation Easement or for any injury to the Conservation Values, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for legal or other equitable relief, including, but not limited to, the restoration of the Easement Area to the condition in which it existed prior to any such violation or injury, or to otherwise enforce this Conservation Easement. Without limiting Landowner's liability therefor, any damages recovered may be applied to the cost of undertaking any corrective action on the Easement Area at the election of the party receiving such damages.

If Easement Holder in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damage to the Conservation Values, Easement Holder and/or any Third-Party Beneficiary may pursue its remedies under this section without prior notice to Landowner or without waiting for the period provided for cure to expire. The rights of Easement Holder and the Third-Party Beneficiaries under this section apply equally to actual or threatened violations of the terms of this Conservation Easement. Landowner agrees that Easement Holder's and Third-Party Beneficiaries' remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Easement Holder and/or any Third-Party Beneficiary shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Easement Holder and the Third-Party Beneficiaries may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to, the remedies set forth in California Civil Code Section 815, *et seq.* The failure of Easement Holder or any Third-Party Beneficiary to discover a violation or to take immediate legal action in response to such action shall not bar such party from taking legal action at a later time.

If at any time in the future Landowner or any subsequent transferee uses or threatens to use the Property for purposes inconsistent with this Conservation Easement then, despite the provisions of Civil Code section 815.7, the California Attorney General, any person and any entity with a justiciable interest in the preservation of this Conservation Easement has standing as an interested party in any proceeding affecting this Conservation Easement.

(a) **Costs of Enforcement.** Any reasonable costs incurred by the Easement Holder or any Third-Party Beneficiary, where it is the prevailing party, in enforcing the terms of this Conservation Easement against the 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 this 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.

(b) **Enforcement Discretion.** Enforcement of the terms of this Conservation Easement against Landowner shall be at the respective discretion of Easement Holder and each of the Third-Party Beneficiaries, and any forbearance by any such party to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be deemed or construed to be a waiver by such party of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of such party's rights under this Conservation Easement. No delay or omission by Easement Holder or any Third-Party Beneficiary in the exercise of any right or remedy upon any breach shall impair such right or remedy or be construed as a waiver.

(c) **Acts Beyond Landowner's Control.** Nothing contained in this Conservation Easement shall be construed to entitle Easement Holder or any Third-Party Beneficiary to bring any action against Landowner for any injury to or change in the Property resulting from (i) any natural cause beyond Landowner's control, including, without limitation, fire not caused by Landowner, flood, storm, and earth movement, or any prudent action taken by Landowner under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes; or (ii) acts by Easement Holder or any Third-Party Beneficiary or employees of Easement Holder or any Third-Party Beneficiary; or (iii) acts by persons that entered the Easement Area unlawfully or by trespass whose activities degrade or harm the Conservation Values of the Easement Area or whose activities are otherwise inconsistent with this Conservation Easement where Landowner has undertaken all reasonable actions to prevent such activities or (iii) acts by persons that entered the Easement Area lawfully or unlawfully whose activities degrade or harm the Conservation Values of the Easement Area or whose activities are otherwise inconsistent with this Conservation Easement and/or the Management Plan where Landowner has undertaken all reasonable actions to discourage or prevent such activities.

(d) **Third-Party Beneficiary Rights.** The parties intend for Yolo Habitat Conservancy, USFWS, and CDFW (collectively, "**Third-Party Beneficiaries**") to be third-party beneficiaries of this Conservation Easement. All rights and remedies conveyed to Easement Holder under this Conservation Easement shall extend to and are enforceable by each of the Third-Party Beneficiaries in accordance with the terms hereof. Landowner and Easement Holder acknowledge that, as Third-Party Beneficiaries of this Conservation Easement, the Third-Party Beneficiaries shall have the same rights of access to the Easement Area granted to Easement Holder in **Section 3** above, and with rights to enforce all of the provisions of this Conservation Easement. If at any time in the future Landowner uses, allows the use, or threatens to use or allow use of, the Easement Area for any purpose that is inconsistent with or in violation of this Conservation Easement then, despite the provisions of California Civil Code Section 815.7, the California Attorney General and each Third-Party Beneficiary has standing as an interested party in any proceeding affecting the Conservation Easement.

These rights are in addition to, and do not limit, the Easement Holder's obligations under federal, state, and local laws and regulations relating to the protection of biological resources and the environment. In addition, if the Wildlife Agencies reasonably determine that the Easement Area is not being held, monitored, or stewarded for conservation purposes in the manner specified in this Conservation Easement, the Yolo HCP/NCCP Instruments, or the Management Plan, the Conservation Easement shall revert to the State of California or another entity as described in California Government Code Section 65967(e), and subject to approval as set forth therein.

7. **Public Access.** Nothing contained in this Conservation Easement gives or grants to the public an independent right to enter upon or use the Easement Area or any portion thereof. Nor shall this Conservation Easement extinguish any existing public right to enter upon or use the Easement Area, provided said right is disclosed to the Easement Holder and documented in the Management Plan and/or an exhibit to this Conservation Easement.

8. **Costs and Liabilities.** Except for those specific obligations to be undertaken by Easement Holder under Section 3 above, or in the Management Plan, Landowner shall retain all responsibilities and shall bear all costs and liabilities of any kind related to Landowner's ownership, operation, upkeep, management, and maintenance activities on and relating to the Easement Area as well as the Easement Area itself. Landowner agrees that neither the Easement Holder nor Third Party Beneficiaries shall have any duty or responsibility for the operation, upkeep, or maintenance of the Easement Area, the monitoring of hazardous conditions thereon, or the protection of Landowner, the public or any third parties from risks relating to conditions on the Easement Area. Landowner shall remain responsible for obtaining any applicable governmental permits and approvals for any activity or use allowed on the Easement Area under this Conservation Easement, and Landowner shall undertake all allowed activities and uses of the Easement Area in accordance with all applicable federal, state, local and administrative agency statutes, ordinances, rules, regulations, orders and requirements. Landowner shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Easement Area by competent authority (collectively "**taxes**"), including any taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish Easement Holder with satisfactory evidence of payment upon request.

9. **Indemnification.**

(a) **Indemnification by Landowner.** Landowner shall hold harmless, protect and indemnify Easement Holder and the Third-Party Beneficiaries, and their respective members, directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each a "**Landowner Indemnified Party**" and, collectively, the "**Landowner Indemnified Parties**") from and against any and all liabilities, penalties, costs, losses, damages, expenses (including, without limitation, reasonable attorneys' and experts' fees and costs), causes of action, claims, demands, orders, liens or judgments (each a "**Claim**" and, collectively, "**Claims**"), arising from or in any way connected with: (i) injury to or the death of any person, or physical damage to any Easement Area, resulting from any act, omission, condition, or other matter related to or occurring on or about the Easement Area, regardless of cause, except that this indemnification shall be inapplicable to Landowner Indemnified Parties with respect to any Claim due solely to the negligence of

Landowner Indemnified parties; (ii) the obligations specified in Sections 5 and 8; (iii) any breach by Landowner of any provision of this Conservation Easement; (iv) any violation of, or failure to comply with, any state, federal or local law, regulation or requirement, by Landowner in any way affecting, involving or relating to the Easement Area and (v) the existence or administration of this Conservation Easement. If any action or proceeding is brought against any of the Landowner Indemnified Parties by reason of any such Claim, Landowner shall, at the election of and upon written notice from Landowner Indemnified Parties, defend such action or proceeding by counsel reasonably acceptable to the Landowner Indemnified Parties or reimburse Landowner Indemnified Parties for all charges incurred for services of the California Attorney General in defending the action or proceeding.

(b) **Indemnification by Easement Holder.** Easement Holder shall hold harmless, protect, and indemnify Landowner and the Third-Party Beneficiaries, and their respective members, directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each, an **“Easement Holder Indemnified Party,”** and collectively, the **“Easement Holder Indemnified Parties”**) from and against any and all Claims arising from or in any way connected with: (a) the activities of Easement Holder on the Easement Area, including without limitation the Easement Holder’s performance of management and monitoring activities set forth in the Management Plan; (b) breach by Easement Holder of any provision of this Conservation Easement; (c) any injury to or the death of any person, or physical damage to any Easement Area occurring on or about the Easement Area resulting from any act, omission, condition, or other matter related to, an activity on, or use of, the Easement Area by Easement Holder, including without limitation, those performed under the Management Plan, unless due solely to the negligence or willful misconduct of the Easement Holder Indemnified Party; and (d) any violation of, or failure to comply with, any state, federal or local law, regulation or requirement, by Easement Holder in any way affecting, involving or relating to the Easement Area. If any action or proceeding is brought against any of the Easement Holder Indemnified Parties by reason of any such Claim, Easement Holder shall, at the election of and upon written notice from Landowner, defend such action or proceeding by counsel reasonably acceptable to the Easement Holder Indemnified Party.

10. **Extinguishment.** The Conservation Easement created by this agreement constitutes a property right. It is the Parties’ intention that the terms and conditions of this Conservation Easement shall be carried out in perpetuity. Liberal construction is expressly required for purposes of effectuating the Conservation Easement in perpetuity, notwithstanding economic hardship or changed conditions of any kind. If circumstances arise in the future that render the purposes of this Conservation Easement impossible to accomplish, this Conservation Easement can only be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction. In addition, no such extinguishment shall affect the value of Yolo Habitat Conservancy’s interest in the Easement Area, and if the Easement Area, or any interest therein, is sold, exchanged or taken by power of eminent domain after such extinguishment, the Yolo Habitat Conservancy shall be entitled to receive the fair market value of the Conservation Easement at the time of such extinguishment. If such extinguishment occurs with respect to fewer than all acres of

the Easement Area, the amounts described above shall be calculated based on the actual number of acres subject to extinguishment.

11. **Condemnation.** Pursuant to Code of Civil Procedure § 1240.055, this Conservation Easement is “property appropriated to public use,” as used in Article 6 (commencing with Section 1240.510) and Article 7 (commencing with Section 1240.610 of Chapter 3 of Title 7 of the Code of Civil Procedure). A person authorized to acquire property for public use by eminent domain shall seek to acquire the Property, if at all, only as provided in Code of Civil Procedure § 1240.055. CDFW is a public entity that imposed conditions of approval on a project that were satisfied, in whole or part, by the creation of this Conservation Easement. If any person seeks to acquire the Property for public use, Easement Holder shall provide notice to CDFW 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 distributed according to Paragraph 10 above and, as applicable, used in compliance with Government Code § 65966(j).

12. **Transfer of Conservation Easement.** This Conservation Easement may be assigned or transferred by Easement Holder upon written approval of the Third-Party Beneficiaries which approval shall not be unreasonably withheld or delayed; provided, that Easement Holder shall give the Third-Party Beneficiaries and Landowner at least sixty (60) calendar days prior written notice of the proposed assignment or transfer. Easement Holder may transfer its rights under this Conservation Easement only to an entity or organization: (a) authorized to acquire and hold conservation easements pursuant to California law, including Civil Code Section 815.3 and California Government Code Section 65967(c) (and any successor or other provisions applicable at the time of the proposed transfer), or the laws of the United States; (b) otherwise reasonably acceptable to the Third-Party Beneficiaries. Easement Holder shall require the transferee to record the conveyance in the Official Records of the County where the Easement Area is located. The failure of Easement Holder to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforcement in any way. Any transfer under this section shall be subject to the requirements of **Section 16** below.

13. **Transfer of Easement Area.** Landowner agrees to incorporate the terms of this Conservation Easement by reference in any deed or other legal instrument by which Landowner divests itself of any interest in all or any portion of the Easement Area, including, without limitation, a leasehold interest. For all transfers except routine and customary agricultural leases, Landowner further agrees to give written notice to Easement Holder and the Third-Party Beneficiaries of the intent to transfer any interest at least thirty (30) calendar days prior to the date of such transfer. Easement Holder and the Third-Party Beneficiaries shall have the right to prevent subsequent transfers in which prospective subsequent claimants or transferees are not given actual notice of the covenants, terms, conditions and restrictions of this Conservation Easement. The failure of Landowner to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforceability in any way. Any successor in interest or lessor of Landowner, by acceptance of a deed, lease, or other document purporting to convey an interest in the Easement Area, shall be deemed to have consented to, reaffirmed and agreed to be bound by all of the terms, covenants, restrictions, and conditions of this Conservation Easement.

14. **Transfer Fee Easement Holder.** Landowner and Easement Holder recognize and agree that any transfer of the Easement Area and any division of ownership will result in an

additional burden on the monitoring and enforcement responsibilities of Easement Holder. Therefore, each transfer of the Easement Area (except for a Permitted Transfer) shall require Landowner's payment of a transfer fee to Easement Holder's easement stewardship fund. The fee shall be equal to the greater of three-fourths of one percent (0.75%) of the fair market value of the property transferred or twenty-five hundred dollars (\$2,500.00), whichever is greater. Easement Holder may reduce or waive this fee at its sole discretion. For purposes of this Easement, "**Permitted Transfer**" shall mean any of the following: (i) a transfer without consideration (e.g. an inter vivos or testamentary gift), (ii) a transfer to an entity in which Landowner continues to retain both at least fifty-one percent (51%) of the voting rights in, and direct control of and participation in, such entity, or (iii) any transfer of any portion of the Property made as a result of condemnation or eminent domain proceedings, including any negotiated transfer made to an entity with condemning authority in response to actual or threatened condemnation proceedings by that entity. Landowner and Easement Holder agree to execute and record a "NOTICE OF PAYMENT OF TRANSFER FEE REQUIRED" in accordance with California Civil Code Section 1098.5 respecting the transfer fee. The transfer fee shall be the obligation of the seller of the Property and shall be paid to Easement Holder at the address for giving notices to Easement Holder as set forth hereinbelow.

15. **Notices.** Any notice, demand, request, consent, approval, or communication that Landowner, Easement Holder, or any Third-Party Beneficiary desires or is required to give to the others shall be in writing and be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class mail, postage fully prepaid, addressed as follows:

To Landowner: *County of Yolo*
 Attn: County Administrator
 625 Court Street, Room 202
 Woodland, CA 95695
 Telephone: (530) 666-8150

To Easement Holder: *Cache Creek Conservancy*
 Attn: Executive Director
 34199 County Road 20
 Woodland, CA 95695
 Telephone: (530) 661-1070

To Third-Party Beneficiaries:

United States Fish and Wildlife Service
Attn: Chief, Sacramento Valley Division
2800 Cottage Way, Room W-2605
Sacramento, CA 95825
Telephone: (916) 414-6600

California Department of Fish and Wildlife
Attn: Regional Manager
1701 Nimbus Road
Rancho Cordova, CA 95670

Telephone: (916) 358-2900

*Yolo Habitat Conservancy
Attn: Executive Director
Post Office Box 2202
Woodland, CA 95776
Telephone: (530) 666-8150*

With a copy to: *California Department of Fish and Wildlife
Office of the General Counsel
Attn: General Counsel
Post Office Box 944209
Sacramento, California 94244-2090
Telephone: 916-445-8448*

or to such other address as a party shall designate by written notice to the others. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) calendar days after deposit into the United States mail.

16. **Amendment.** This Conservation Easement may not be amended, modified or otherwise changed in any manner, except by a written amendment executed by the Landowner and the Easement Holder, or their successors in interest, in their sole discretion. Any such amendment shall be subject to the prior written consent of the Third-Party Beneficiaries. Any amendment that is not made in strict accordance with the consent and other requirements of this Section shall be void and without effect. Any such amendment shall be consistent with the purposes of the Conservation Easement and shall not affect the perpetual duration of the Conservation Easement. Any such amendment must refer to this Conservation Easement by reference to its recordation data and must be recorded in the Official Records of the County where the Easement Area is located.

17. **Merger.** The doctrine of merger shall not operate to extinguish the Conservation Easement if the Conservation Easement and the Easement Area become vested in the same party. If, despite this intent, the doctrine of merger applies to extinguish the Conservation Easement then, a replacement conservation easement, with a new Easement Holder identified by the Yolo Habitat Conservancy and approved by the Third-Party Beneficiaries, containing the same protections embodied in this Conservation Easement shall be recorded against the Easement Area.

18. **No Hazardous Materials Liability.** Landowner represents and warrants that Landowner has no knowledge or notice of any Hazardous Materials (as defined below) or underground storage tanks existing, generated, treated, stored, used, released, disposed of, deposited or abandoned in, on, under, or from the Easement Area, or transported to or from or affecting the Easement Area [except as disclosed in the Report]. Landowner further represents, warrants and covenants that activities upon and use of the Easement Area by Landowner, its agents, employees, invitees and contractors shall comply with all Environmental Laws (as defined below) in using the Easement Area and that Landowner shall keep the Easement Area free of any material environmental defect, including, without limitation, contamination from Hazardous Materials (as defined below). Without limiting the obligations of Landowner under this Conservation Easement,

including **Section 9(a)**, Landowner hereby releases and agrees to indemnify, protect and hold harmless the Landowner Indemnified Parties (as defined in **Section 9(a)**) from and against any and all Claims (as defined in **Section 9(a)**) arising from or connected with any Hazardous Materials or underground storage tanks present, alleged to be present, released in, from, or about or otherwise associated with the Easement Area at any time, except any Hazardous Materials placed, disposed or released by Landowner Indemnified Parties, or their employees or agents. This release and indemnification includes, without limitation, Claims for (a) injury to or death of any person or physical damage to any Easement Area; and (b) the violation or alleged violation of, or other failure to comply with, any Environmental Laws (as defined below). If any action or proceeding is brought against any of the Landowner Indemnified Parties by reason of any such Claim, Landowner shall, at the election of and upon written notice, defend such action or proceeding by counsel reasonably acceptable to the Landowner Indemnified Party including reimbursing CDFW for all charges incurred for services of the California Attorney General in defending the action or proceeding.

Despite any contrary provision of this Conservation Easement, the parties do not intend this Conservation Easement to be, and this Conservation Easement shall not be, construed such that it creates in or gives to Easement Holder or the Third-Party Beneficiaries any of the following:

- (a) The obligations or liability of a “Landowner” or “operator,” as those terms are defined and used in Environmental Laws (as defined below), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.; hereinafter, “**CERCLA**”); or
- (b) The obligations or liabilities of a person described in 42 U.S.C. Section 9607(a)(3) or (4); or
- (c) The obligations of a responsible person under any applicable Environmental Laws; or
- (d) The right to investigate and remediate any Hazardous Materials associated with the Easement Area; or
- (e) Any control over Landowner's ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Easement Area.

The term “**Hazardous Materials**” includes, without limitation, (a) material that is flammable, explosive or radioactive; (b) petroleum products, including by-products and fractions thereof; and (c) hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.; hereinafter “**RCRA**”); the Hazardous Materials Transportation Act (49 U.S.C. Section 6901 et seq.; hereinafter “**HTA**”); the Hazardous Waste Control Law (California Health & Safety Code Section 25100 et seq.; hereinafter “**HCL**”); the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health & Safety Code Section 25300 et seq.; hereinafter “**HAS**”), and in the regulations adopted and publications promulgated pursuant to them, or any other applicable Environmental Laws now in effect or enacted after the date of this Conservation Easement.

The term “**Environmental Laws**” includes, without limitation, CERCLA, RCRA, HTA, HCL, HSA, and any other federal, state, local or administrative agency statute, code, ordinance, rule, regulation, order or requirement relating to pollution, protection of human health or safety, the environment or Hazardous Materials.

19. **Representations and Warranties.** Landowner hereby makes the following representations and warranties for the benefit of Easement Holder and the Third-Party Beneficiaries:

(a) **Authority.** Landowner has good and sufficient title to the Easement Area including all appurtenances thereto, including, without limitation, all minerals and mineral rights and all water and water rights, and Landowner has full right and authority to enter into this Conservation Easement and convey the Conservation Easement to Easement Holder. There are no monetary liens and encumbrances recorded against the Easement Area except as expressly identified in **Exhibit C**, that may conflict or are otherwise inconsistent with this Conservation Easement and which have not been expressly subordinated to this Conservation Easement by a written Subordination Agreement approved by Easement Holder and the Wildlife Agencies. All deeds of trust and mortgages recorded against the Easement Area, or any portion thereof, are and shall continue to be subordinated to this Conservation Easement; documentation of such subordinations are contained in **Exhibit C**. No provisions of this Conservation Easement should be construed as impairing the ability of the Landowner to use the Property as collateral for subsequent borrowing, provided that any mortgage or lien arising from such a borrowing would be subordinated to this Deed of Conservation Easement.

(b) **Compliance with Laws.** Landowner has not received notice of, and has no knowledge of, any material violation of any federal, state, county or other governmental or quasi-governmental statute, ordinance, regulation, law or administrative or judicial order with respect to the Easement Area.

(c) **No Litigation.** There is no action, suit or proceeding which is pending or threatened against the Easement Area or any portion thereof relating to or arising out of the ownership or use of the Easement Area, or any portion thereof, in any court or in any federal, state, county, or municipal department, commission, board, bureau, agency or other governmental instrumentality.

20. **General Provisions.**

(a) **Controlling Law.** The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of California, disregarding the conflicts of law principles of such state, and by applicable federal law.

(b) **Liberal Construction.** Despite any general rule of construction to the contrary, this Conservation Easement shall be liberally construed to accomplish the purposes of this Conservation Easement and the policy and purpose of Civil Code section 815, *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision

valid shall be favored over any interpretation that would render it invalid. It is the intent of this Conservation Easement to preserve the condition of the Easement Area and each of the Conservation Values protected herein, notwithstanding economic or other hardship or changes in circumstances or conditions. The provisions of this Conservation Easement shall be liberally construed to effectuate the purposes of the Conservation Easement and to allow Landowner's use and enjoyment of the Easement Area to the extent consistent with such purposes. Liberal construction is expressly required for purposes of effectuating this Conservation Easement in perpetuity, notwithstanding changed conditions of any kind. The Conservation Easement created by this agreement is the intended best and most productive use of the Easement Area. No remedy or election given by any provision in this Conservation Easement shall be deemed exclusive unless so indicated, but it shall, wherever possible, be cumulative with all other remedies at law or in equity. The parties acknowledge that each party and its counsel have had the opportunity to review and revise this Conservation Easement and that no rule of construction that ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Conservation Easement.

(c) **Severability.** If a court of competent jurisdiction voids or invalidates on its face any provision of this Conservation Easement, such action shall not affect the remainder of this Conservation Easement. If a court of competent jurisdiction voids or invalidates the application of any provision of this Conservation Easement to a person or circumstance, such action shall not affect the application of the provision to other persons or circumstances.

(d) **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to this Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment in accordance with **Section 15**.

(e) **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Landowner's title in any respect.

(f) **Successors.** The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall constitute a servitude running in perpetuity with the Easement Area.

(g) **Termination of Rights and Obligations.** A party's rights and obligations under this Conservation Easement terminate upon a valid transfer of the party's interest in the Conservation Easement in accordance with the terms and provisions hereof, except that liability for acts or omissions or breaches occurring prior to transfer shall survive transfer.

(h) **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.

(i) **Additional Easements.** Landowner shall not grant any additional easements, rights of way or other interests in the Property (other than a security interest that is expressly subordinated to this Conservation Easement), or grant, transfer, or otherwise abandon or relinquish (each a “Transfer”) any mineral, air, or water right or agreement relating to the Property, without first obtaining the written consent of Easement Holder and the Third-Party Beneficiaries. Easement Holder and the Third-Party Beneficiaries may withhold such consent if it determines that the proposed interest or transfer is inconsistent with the purposes of this Conservation Easement or may impair or interfere with the Conservation Values. This section shall not prohibit transfer of a fee or leasehold interest in the Property that is subject to this Conservation Easement and complies with **Section 13**. Landowner shall provide a certified copy of any recorded or unrecorded grant or Transfer document to Easement Holder and Third-Party Beneficiaries.

(j) **Recording.** Easement Holder shall record this Conservation Easement in the Official Records of the county where the Easement Area is located and may re-record it at any time as Easement Holder deems necessary to preserve its rights hereunder.

(k) **Counterparts.** The parties may execute this Conservation Easement in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

(l) **Exhibits.** The following Exhibit(s) referenced in this Conservation Easement are attached to and incorporated by reference in this Conservation Easement:

Exhibit A – Legal Description and Map of the Easement Area

Exhibit B – Baseline Documentation Certification

Exhibit C – Title Encumbrances

Exhibit D – Notice/Memorandum of Unrecorded Site-Specific Management Plan

Exhibit D shall be executed and recorded concurrently with this Conservation Easement as separate documents in the chain of title for the Property.

IN WITNESS WHEREOF, Landowner and Easement Holder have executed this Conservation Easement the day and year first above written.

LANDOWNER:

YOLO COUNTY

By: _____, County Administrator

Date:

EASEMENT HOLDER:

CACHE CREEK CONSERVANCY

By: Nancy Ullrey, Executive Director

Date:

APPROVED AS TO FORM:

By: Philip J. Pogledich, County Counsel

Date:

EXHIBIT A
Legal Description of the Property

The land described herein is situated in the State of California, County of Yolo, unincorporated area, described as follows:

All that real property in the County of Yolo, State of California, and being a portion of Rancho Rio Jesus Maria, Township 10 North, Range 1 East, Mount Diablo Base and Meridian, and also being a portion of that 171.47 acre tract of land as delineated on Book 6 of Maps and Surveys, at Page 41, said County Records, and also being a portion of Lots 8, 9, and 10, as delineated on Book 3 of Maps and Surveys, at Page 7, and also being a portion of that Parcel of land as described in Book 69 of Deeds, at Page 37, and also being a portion of those Parcels of land as described in Book 118 of Official Records, at Page 283, and also being all of that parcel of land described in Book 351 of Official Records, at Page 502, and also being all of that parcel of land, as described in Book 221 of Official Records, at Page 72, and also being a portion of that parcel as shown on Book 48 of Deeds, at Page 315, and also being all of Book 141 of Official Records, Page 332, and also being all of parcels 1 and 3, and a portion of parcels 2 and 5, as described in Book 1013 of Official Records, at Page 495, and being more particularly described as follows:

Beginning at a point on the East line of that 15.00 foot strip of land as described in said Book 69 of Deeds, at Page 37, said point being distant the following three (3) courses and distances from the Northeast corner of said Lot 10: 1) along the East line of said Lot 10, South 00° 00' 30" East 805.20 feet to the Northwest corner of said 15.00 foot strip of land; 2) along the North line of said 15.00 foot strip of land, South 89° 59' 30" East 15.00 feet to the Northeast corner of said strip; and 3) along the East line of said strip of land, South 00° 00' 30" East 1,544.83 feet to the Point Of Beginning; thence from said Point Of Beginning, and continuing along said East line of said strip, South 00° 00' 30" East 1,621.37 feet to a point in the center of Cache Creek, said point also being a point on the North line of "Clanton's Subdivision of Willow Oak Park" as recorded in Book 35 of Deeds, at Page 396, said County Records; thence along said center of said Cache Creek and said North line, the following two (2) courses and distances: 1) South 72° 46' 00" West 774.71 feet; and 2) South 40° 16' 00" West 2,494.27 feet to the Southwest corner of said 171.47 acre tract of land; thence along the West line of said 171.47 acre tract of land following four (4) courses and distances: 1) North 00° 00' 00" East 1,116.06 feet; 2) North 28° 14' 00" East 593.99 feet; 3) North 06° 27' 59" West 1,408.97 feet, and 4) North 00° 00' 00" East 253.75 feet to the most Northwesterly corner of said 171.47 acre tract of land, said point also being the Northwest corner of said Book 221 of Official Records, at Page 72; thence along the North line of said Book 221 of Official Records, at Page 72 the following two (2) courses and distances: 1) North 69° 00' 00" East 805.90 feet; and 2) North 79° 18' 00" East 422.89 feet to a point distant South 00° 00' 00" West 2,097.66 feet from the South line of said Lot 7; thence North 82° 41' 50" East 757.79 feet; thence south 89° 30' 30" East 310.00 feet to the Point Of Beginning. Further described as Parcel 2 in the Certificate of Compliance recorded February 13, 2007, as Instrument No. 2007-0005477, Official Records. Surveys, at Page 41.

APN: 025-350-035-000

EXHIBIT B
Legal Description and Map of the Easement Area



4368-2
March 26, 2021

SWAINSON'S HAWK CONSERVATION EASEMENT

THAT portion of real property situate in the unincorporated area of the County of Yolo, State of California, and being a portion of the RANCHO RIO JESUS MARIA, Township 10 North, Range 1 East, Mount Diablo Base and Meridian, and also being a portion of that Parcel of Land as described in Document No. 2020-0002058-00, said County Records, being more particularly described as follows:

BEGINNING at the Northeast corner of said Parcel of Land as described in said Document No. 2020-0002058-00, said point being distant from National Geodetic Survey designation "HPGN CA 03 08" the following two (2) courses and distances: 1) South 83°04'27" West 24,230.21 feet to National Geodetic Survey designation "KEATON"; and 2) South 88°38'40" East 12,383.77 feet; thence, from said POINT OF BEGINNING and along the Easterly line of said Parcel of Land the following three (3) courses and distances: 1) South 00°00'29" East 1,621.37 feet; 2) South 72°46'01" West 774.71 feet; and 3) South 40°16'01" West 917.88 feet; thence, leaving said Easterly line, North 09°48'40" East 415.09 feet; thence North 33°34'52" West 198.13 feet; thence North 82°30'26" West 59.57 feet; thence South 27°45'36" West 368.15 feet; thence South 06°16'44" West 544.74 feet; thence South 37°24'52" West 150.88 feet; thence South 40°35'49" East 59.80 feet to said Easterly line; thence, along said Easterly line, South 40°16'01" West 985.81 feet to the most Southern corner of said Parcel of Land; thence, along the Westerly line of said Parcel of Land the following four (4) courses and distances: 1) North 00°00'01" East 1,116.06 feet; 2) North 28°14'01" East 593.99 feet; 3) North 06°27'58" West 1,408.97 feet; and 4) North 00°00'01" East 253.75 feet to the Northwest corner of said Parcel of Land; thence, along the Northerly line of said Parcel of Land the following four (4) courses and distances: 1) North 69°00'01" East 805.90 feet; 2) North 79°18'01" East 422.89 feet; 3) North 82°41'51" East 757.79 feet; and 4) South 89°30'29" East 310.00 feet to the POINT OF BEGINNING.

Containing 110.572 gross acres of land, more or less.

The basis of bearings for this description is the grid bearing between National Geodetic Survey designations "KEATON" and "HPGN CA 03 08"; said "KEATON" (PID-AI5065) having coordinates of North (Y) 2,020,158.86 sft and East (X) 6,594,078.55 sft with an epoch date of 2010.00; said "HPGN CA 03 08" (PID-




Christopher W. Lerch

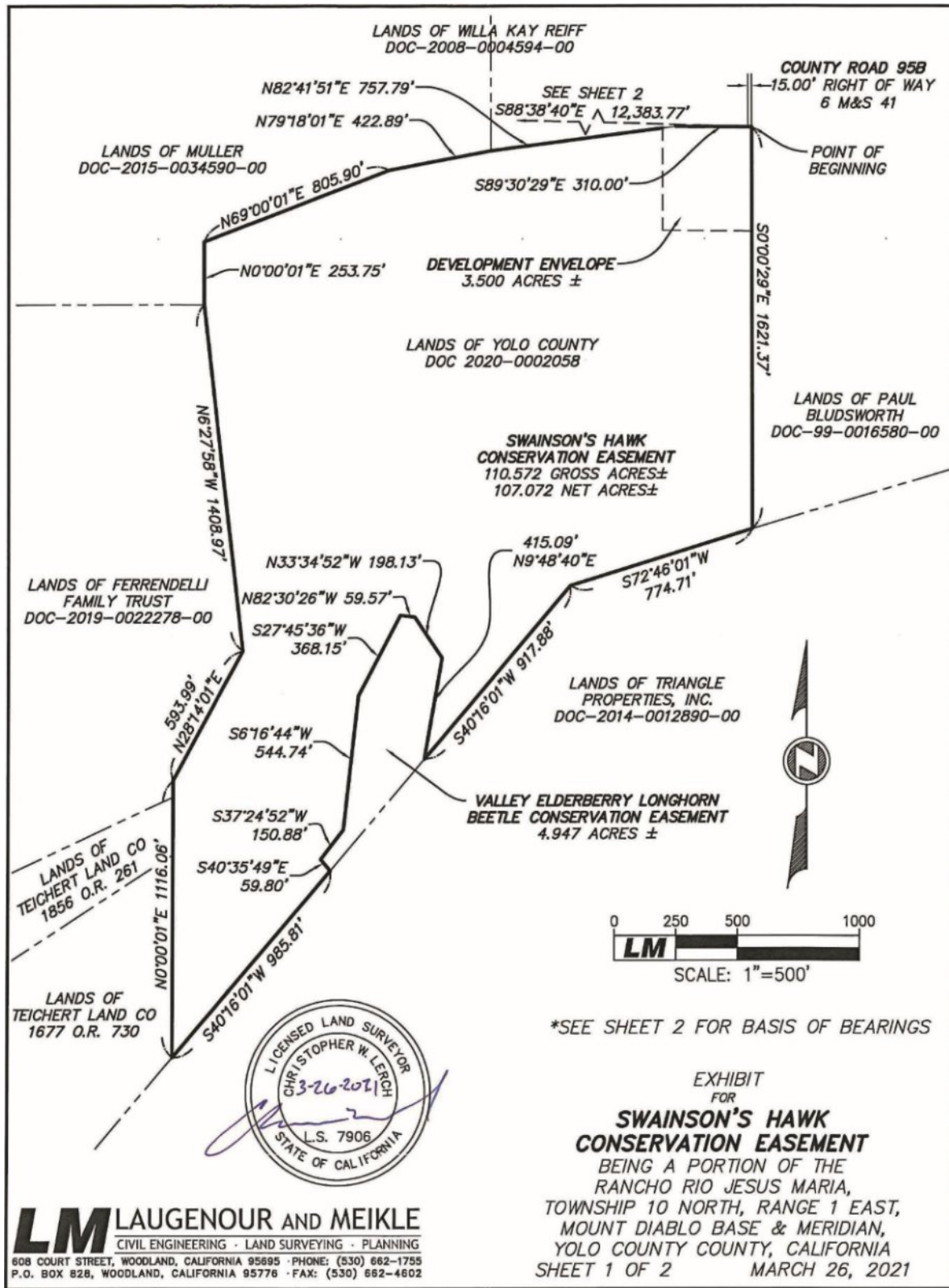
3-26-2021
Date

JS4668) having coordinates of North (Y) 2,023,080.70 sft and East (X) 6,618,131.95 sft with an epoch date of 2010.00; said grid bearing being South 83°04'27" West as determined from National Geodetic Survey data sheets.

The basis of bearings for this description is the grid bearing between National Geodetic Survey designations "KEATON" and "HPGN CA 03 08"; said "KEATON" (PID-AI5065) having coordinates of North (Y) 2,020,158.86 sft and East (X) 6,594,078.55 sft with an epoch date of 2010.00; said "HPGN CA 03 08" (PID-JS4668) having coordinates of North (Y) 2,023,080.70 sft and East (X) 6,618,131.95 sft with an epoch date of 2010.00; said grid bearing being South 83°04'27" West as determined from National Geodetic Survey data sheets.

All bearings and coordinates described herein are grid and are based on the California Coordinate System of 1983, Zone 2. All distances described herein are ground and shown in United States survey feet (sft) and decimals thereof. To obtain grid distances, multiply ground distances by the combination factor of 0.99993572.

End of description.



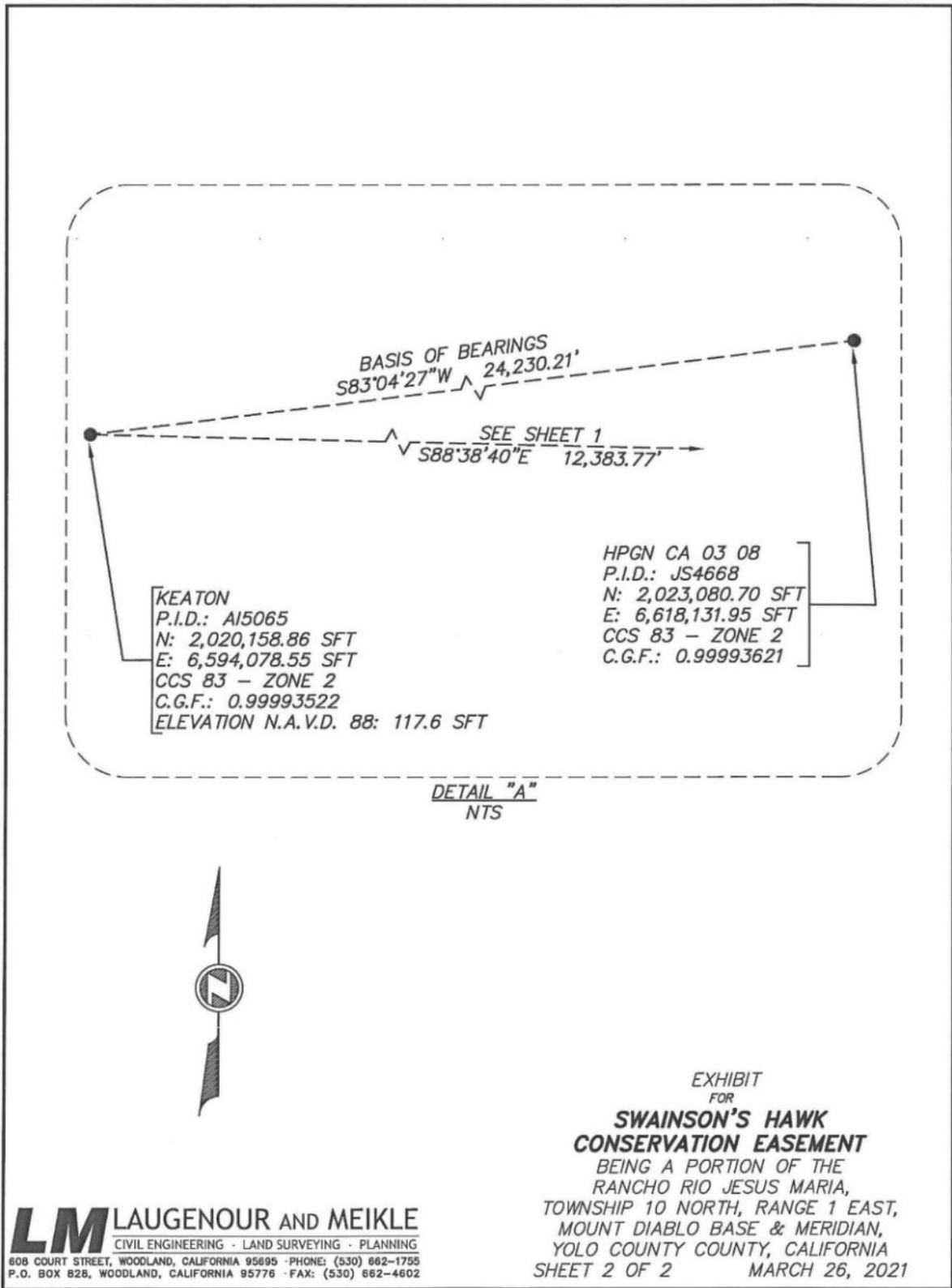


EXHIBIT C

Acknowledgment of Baseline Documentation Report and Receipt of Baseline Documentation Report

The undersigned, Elisa Sabatini, representing the County of Yolo (“**Landowner**”), and Nancy Ullrey, representing the Cache Creek Conservancy (“**Easement Holder**”) certify as follows:

- a) Each is familiar with the condition of the 4.947 acres, located in the County of Yolo, State of California, within designated Assessor’s Parcel Number 025-350-035. Said real property is referred to as the “**Easement Area**”, in that certain Deed of Conservation Easement and Permanent Restrictions on Use; and
- b) Each does hereby acknowledge and certify that the Baseline Documentation Report, and all of its inclusions, dated May __, 2021, prepared by Christine Alford, Owner of Alford Environmental LLC, is an inventory of the natural resources of the Easement Area and an accurate representation of the condition of the Easement Area as of the date of conveyance of the Deed of Conservation Easement and Permanent Restrictions on Use.

Duplicate originals of the Baseline Documentation Report were signed and delivered by each of Landowner and Easement Holder, and each will receive a duplicate original of the Baseline Documentation Report within ten business days after the recordation of the conservation easement.

LANDOWNER:

YOLO COUNTY,
a California Local Government Agency

By: _____
Elisa Sabatini, Manager of Natural Resources

EASEMENT HOLDER:

CACHE CREEK CONSERVANCY,
a California nonprofit public benefit corporation

By: _____
Nancy Ullrey, Executive Director

EXHIBIT D

Title Encumbrances

TO BE ADDED ONCE TITLE REPORT IS UPDATED

Exhibit E

Notice/Memorandum of Unrecorded Site-Specific Management Plan

Recording Requested by and
When Recorded Mail To:

Yolo Habitat Conservancy
P.O. Box 2202
Woodland, CA 95776
Attention: Executive Director

APN 025-350-035-000

Exempt from recording fees (Cal. Gov. Code § 27388.1(a)(2)(D))

MEMORANDUM OF UNRECORDED SITE-SPECIFIC MANAGEMENT PLAN

This Memorandum of Unrecorded Site-Specific Management Plan dated as of _____, 2021, (the “**Memorandum**”) is recorded to provide notice of that certain Woodland Reiff Site-Specific Management Plan (the “**Management Plan**”) affecting the real property described on **Exhibit A** attached hereto and made a part hereof (the “**Easement Area**”).

The Easement Area is encumbered by the Deed of Conservation Easement and Permanent Restrictions on Use (the “**Woodland Reiff VELB Conservation Easement**”) executed by and between the County of Yolo (“**Landowner**”), in favor of the Cache Creek Conservancy, a California nonprofit public benefit corporation (“**Easement Holder**”) to be recorded concurrent with the recordation of this Memorandum. The Management Plan is a companion document to the Woodland Reiff SwHa Conservation Easement.

The Woodland Reiff SwHa Conservation Easement is being recorded against the Easement Area consistent with the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (“**Yolo HCP/NCCP**”), dated April 2018.

The Management Plan provides agreed upon methods/practices and activities for natural resources management and compatible recreational uses, among other provisions that affect activities on the Easement Area. The Cache Creek Conservancy and the Yolo County Natural Community Conservation Plan Joint Powers Agency, a California Joint Powers Agency (“**Yolo Habitat Conservancy**”) have certain rights as described in the Management Plan, including the right to approve any changes to the Management Plan.

A copy of the Management Plan may be obtained by submitting a request to the Yolo Habitat Conservancy at Post Office Box 2202, Woodland, California 95776.

Signatures appear on the following page

Landowner: Yolo County

Elisa Sabatini, Manager of Natural Resources

Easement Holder: Cache Creek Conservancy

By: Nancy Ullrey, Executive Director

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Yolo Habitat Conservancy
PO Box 2202
Woodland, CA 95776
Attention: Executive Director

WITH A COPY TO:

State of California
Department of Fish and Wildlife
Attn: Habitat Conservation Planning Branch
Post Office Box 944209
Sacramento, CA 94244-2090

Exempt from recording fees (Cal. Gov. Code § _____)

Space Above Line for Recorder's Use Only

DEED OF CONSERVATION EASEMENT AND PERMANENT RESTRICTIONS ON USE

THIS DEED OF CONSERVATION EASEMENT AND PERMANENT RESTRICTIONS ON USE (the “**Conservation Easement**”) is made this ____ day of _____, 20__, by County of Yolo (“**Landowner**”), in favor of the Yolo County Natural Community Conservation Plan Joint Powers Agency, a California Joint Powers Agency (“**Easement Holder**” or “**Yolo Habitat Conservancy**”). Landowner and Easement Holder are also referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

A. Landowner is the owner in fee simple of certain real property containing 115.52 acres, in the County of Yolo, State of California, designated Assessor’s Parcel Number(s) 025-350-035. Said real property is more particularly described and depicted in **Exhibit A** attached hereto and incorporated herein by this reference (the “**Property**”). Landowner intends to grant a Conservation Easement over 4.947 acres of the Property, as described and depicted in **Exhibit A.1** (the “**Easement Area**”).

B. The Easement Area possesses wildlife and habitat values of great importance to Easement Holder, the people of the State of California and the people of the United States. The Easement Area will provide high quality habitat for valley elderberry longhorn beetle (*Desmocerus californicusdimorphus*) and contains restored valley foothill riparian habitat. Individually and collectively, these wildlife and habitat values comprise the “**Conservation Values**” of the Easement Area. The status of the Conservation Values, including the open space uses that support these Conservation Values, as well as other uses and improvements within the Easement Area at the time of the execution of the Conservation Easement are described in the “**Baseline Documentation Report**”. Both Parties acknowledge, as described in **Exhibit B** attached hereto and incorporated

herein by reference, that each has received a copy of the Baseline Documentation Report, and that it accurately represents the Easement Area as of the date of the Conservation Easement.

C. This Conservation Easement is being executed and delivered to satisfy certain habitat conservation requirements set forth in the following documents (collectively, the **“Yolo HCP/NCCP Instruments”**):

- a. The Yolo Habitat Conservation Plan/Natural Community Conservation Plan (**“Yolo HCP/NCCP”**), dated April 2018, prepared by the County of Yolo (**“County”**), City of Davis (**“Davis”**), City of West Sacramento (**“West Sacramento”**), City of Winters (**“Winters”**), and City of Woodland (**“Woodland”**), and approved by the United States Fish and Wildlife Service (**“USFWS”**) under Section 10 of the federal Endangered Species Act of 1973 (16 U.S.C. Section 1531 *et seq.*, as it may be amended from time to time) (**“ESA”**), and by the California Department of Fish and Wildlife (**“CDFW”**) under the California Natural Community Conservation Planning Act (California Fish and Game Code Section 2800 *et seq.*, as it may be amended from time to time) (**“NCCPA”**); and
- b. Implementing Agreement for the Yolo HCP/NCCP (the **“Implementing Agreement”**), dated January 10, 2019, by and among USFWS and CDFW (collectively, the **“Wildlife Agencies”**), the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency (**“Yolo Habitat Conservancy”**), County, Davis, West Sacramento, Winters, and Woodland (collectively, the Yolo Habitat Conservancy, County, Davis, West Sacramento, Winters, and Woodland, are referred to herein as **“Permittees”**); and
- c. The federal incidental take permit issued by USFWS to Permittees for the Yolo HCP/NCCP pursuant to Section 10 of ESA; and
- d. The state NCCP permit issued by CDFW to Permittees for the Yolo HCP/NCCP pursuant to the NCCPA.

D. The State of California recognizes the public importance and validity of conservation easements by enactment of California Civil Code Section 815 *et seq.*

E. CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary for biologically sustainable populations of those species pursuant to Fish and Game Code Section 1802. CDFW is authorized to hold easements for these purposes pursuant to Civil Code Section 815.3, Fish and Game Code Section 1348, and other provisions of California law.

F. USFWS is an agency of the United States Department of the Interior and is authorized by Federal law to be a third-party beneficiary of the Conservation Easement and to administer the federal Endangered Species Act, 16 U.S.C. § 1531, *et seq.* (**“ESA”**), the Fish and

Wildlife Coordination Act, 16 U.S.C. §§ 661-666c, and the Fish and Wildlife Act of 1956, 16 U.S.C. § 742(f), et seq.

G. The Easement Holder is a California joint powers agency, and authorized to hold conservation easements pursuant to, among other provisions of law, California Civil Code Section 815.3.

H. The Yolo Habitat Conservancy serves as the **“Implementing Entity”** of the Yolo HCP/NCCP, and as such, is responsible for overseeing implementation of the Yolo HCP/NCCP Instruments, including carrying out planning and design, habitat restoration, monitoring, adaptive management programs, and periodic coordination with the Wildlife Agencies. The Yolo HCP/NCCP Instruments confer separate rights and obligations on the Implementing Entity that will survive any future transfer of the Conservation Easement.

I. Following recordation of this Conservation Easement, the Easement Area will be incorporated into the Reserve System (as such term is defined in the Yolo HCP/NCCP) (**“Reserve System”**) and will count toward the land acquisition requirements set forth in the Yolo HCP/NCCP.

J. The Yolo Habitat Conservancy has developed a management plan, known as “Woodland Reiff Site-Specific Management Plan,” that applies to the Easement Area (the **“Management Plan”**) and is incorporated herein by reference. The Management Plan has been developed in accordance with the applicable requirements of the Yolo HCP/NCCP Instruments. The Management Plan also includes provisions that preserve and maintain the open space use of the Easement Area to the fullest extent such use is compatible with the preservation of its Conservation Values.

Landowner and Easement Holder recognize that changes (e.g., in technologies, weather cycles, natural resource management technologies, conservation practices) may dictate changes in the management of the Easement Area, consistent with the purposes of this Conservation Easement and the Yolo HCP/NCCP Instruments. The Management Plan may be revised from time to time only with the written approval of both the Landowner and Easement Holder, so long as the revisions are consistent with the requirements of the Yolo HCP/NCCP Instruments and the Cache Creek Reserve Unit Management Plan if and when it is developed. The final, approved copy of the Management Plan, and any amendments thereto approved by the Parties, shall be kept on file at the Yolo Habitat Conservancy.

AGREEMENT

NOW, THEREFORE, in consideration of the above and mutual covenants, terms, conditions and restrictions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and pursuant to the laws of the State of California, including California Civil Code Section 815 *et seq.*, Landowner hereby voluntarily grants and conveys to Easement Holder, its successors and assigns, a conservation easement forever in, on, over and across the Easement Area, subject to the terms and conditions set forth herein, restricting in perpetuity the uses which may be made of the Easement Area, and the Parties agree as follows:

1. **Purposes.** The purposes of this Conservation Easement are to ensure the Easement Area will be retained forever in its natural, restored, enhanced, or otherwise functional habitat condition as contemplated by the Yolo HCP/NCCP and the site-specific Management Plan, and to prevent any use of the Easement Area that will impair or interfere with the Conservation Values of the Easement Area. Landowner intends that this Conservation Easement will confine the use of the Easement Area to such activities that are consistent with the purposes set forth herein. The Parties agree that the protection of the Conservation Values may be achieved by maintaining the Easement Area in its natural or existing condition, not precluding future enhancement or restoration, provided that the use does not interfere with the Easement Area's covered species and their associated functional habitats as described in the Baseline Documentation Report and are consistent with the terms and conditions of this Conservation Easement and the Management Plan.

2. **Reserved Rights.** Landowner reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from Landowner's ownership of the Easement Area, so long as such activities are consistent with the purposes of this Conservation Easement, as set forth above in Section 1, the Management Plan, and do not impair the Conservation Values.

3. **Rights of Easement Holder.** To accomplish the purposes of this Conservation Easement, Landowner hereby grants and conveys the following rights to Easement Holder:

- (a) To preserve and protect the Conservation Values of the Easement Area;
- (b) To restore, enhance, and provide for the long-term management of the Conservation Values with the consent of the Landowner in accordance with the Management Plan and the terms and conditions of this Conservation Easement;
- (c) To enter upon the Easement Area, no less than once annually, at reasonable times to monitor compliance with and otherwise enforce the terms of this Conservation Easement or to carry out, at Easement Holder's sole cost and expense, scientific research and management and monitoring requirements applicable to the Easement Area that are set forth in the Management Plan and in Yolo HCP/NCCP Chapters 6 and 7, provided that Easement Holder shall not unreasonably interfere with Landowner's allowed uses and quiet enjoyment of the Easement Area. Except where there is an imminent threat to the Easement Area or its Conservation Values, Easement Holder and its employees, contractors or agents will only enter the Easement Area at reasonable times and with at least forty-eight (48) hours advance notice to Landowner in writing or by phone. The Landowner may waive these requirements in whole or in part by written notice to Easement Holder;
- (d) To prevent any activity on or use of the Easement Area that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Easement Area that may be damaged by any act, failure to act, or any use or activity that is inconsistent with the purposes of this Conservation Easement;

- (e) To require that all mineral, air, and water rights that Easement Holder deems necessary to preserve and protect the Conservation Values of the Easement Area shall remain a part of and be put to beneficial use upon the Easement Area, consistent with the purposes of this Conservation Easement; and
- (f) All present and future development rights and wind power rights appurtenant to, allocated, implied, reserved or inherent in the Easement Area; such rights are hereby terminated and extinguished, and may not be used on or transferred to any portion of the Property, nor any other property adjacent or otherwise.

4. **Prohibited Uses.** Any activity on or use of the Easement Area that adversely affects the purpose of this Conservation Easement, as set forth in Section 1, above, is prohibited except as may be otherwise expressly provided in this Conservation Easement or in the Management Plan. Without limiting the generality of the foregoing, the Landowner, Landowner's personal representatives, heirs, successors, assigns, employees, agents, lessees, licensees and invitees are expressly prohibited from doing or allowing any of the following uses and activities on the Easement Area, unless, and then only to the extent that, a generally prohibited activity set forth below is a management practice, lawful and routine agricultural practice, or other activity that does not impair the Conservation Values of the Easement Area and is allowed in the Management Plan.

- (a) Unseasonal watering activities that promote the establishment of invasive species that act as predators of covered species, impair the habitat quality of the site for covered species, or otherwise impair the Conservation Values of the site;
- (b) Use of fertilizers, pesticides, biocides, herbicides or other chemicals except as allowable under applicable law and as provided in the Management Plan in connection with activities or uses that are authorized or reserved hereunder. Under no circumstance are rodenticides allowed to be used within the Easement Area unless specifically authorized in writing by the Easement Holder and the Wildlife Agencies due to unforeseen or exceptional circumstance, such as proclamation of a local state of emergency;
- (c) Use of heavy equipment, off-road vehicles, or other motorized vehicles, except on existing roadways or use of equipment or vehicles as required to conduct any management practice or other activity as provided for in the Management Plan. The long-term storage of wrecked, dismantled, or inoperative nonagricultural vehicles and industrial or commercial equipment is prohibited;
- (d) Except as set forth in the Management Plan, any construction, reconstruction, relocation or placement of any road, building, billboard, or sign, or any other structure or improvement of any kind, or altering the surface or general topography of the Easement Area without written approval by the Easement Holder and Wildlife Agencies;

- (e) Vineyards, orchards, nurseries, intensive livestock use (e.g., dairy, feedlot), and other agricultural uses except as allowed in the Management Plan;
- (f) Commercial, industrial, residential, or other institutional uses;
- (g) Depositing or accumulation of soil, trash, ashes, refuse, waste, bio-solids or any other materials, except in connection with lawful uses that do not impair the Conservation Values of the Easement Area and are allowed in the Management Plan;
- (h) Planting, introduction, or dispersal of invasive plant or animal species;
- (i) Filling, dumping, excavating, draining, dredging, mining, drilling, removing, or exploring for or extracting minerals, loam, soil, sands, gravel, rocks, or other material on or below the surface of the Easement Area, or granting or authorizing any surface entry for any exploring for or extracting minerals. This provision is not intended to prohibit lawful uses that are associated with site management activities, do not impair the Conservation Values of the Easement Area, and are allowed in the Management Plan;
- (j) Removing, destroying, or cutting of trees, shrubs, or other vegetation except as allowed in the Management Plan;
- (k) Manipulating, impounding, or altering any water course, body of water, or water circulation on the Easement Area, and activities or uses detrimental to water quality, including but not limited to degradation or pollution of any surface or subsurface waters, except as needed to conduct habitat enhancement, habitat restoration, or other activity that does not impair the Conservation Values of the Easement Area and is allowed in the Management Plan; and
- (l) Without the prior written consent of Easement Holder, which Easement Holder may reasonably withhold or condition, transferring, encumbering, selling, leasing or otherwise separating the mineral, air or water rights for the Easement Area; changing the place or purpose of use of the water rights; abandoning or allowing the abandonment of, by action or inaction, any water or water rights, ditch or ditch rights, spring rights, reservoir or storage rights, wells, ground water rights or other rights in and to the use of water historically used on or otherwise appurtenant to the Easement Area, including but not limited to: (i) riparian water rights; (ii) appropriative water rights; (iii) rights to waters which are secured under contract with any irrigation or water district, to the extent such waters are customarily applied to the Easement Area; and (iv) any water from wells that are in existence or may be constructed in the future on the Easement Area. In determining whether to consent to a short-term transfer (i.e. a transfer of water from the Property for a period of not more than one year as defined by California law) or other change relating to water rights under this subsection (k), the Easement Holder shall evaluate whether the transfer will, during the transfer period, preclude

the Landowner from maintaining the Conservation Values, for the covered species that the Easement Area is managed to benefit at the time of the proposed transfer. This determination shall be subject to approval by the Wildlife Agencies and the Yolo Habitat Conservancy.

- (m) All Subdivisions, including but not limited to the Subdivision of rangeland, open space, and other types of land not used for the active cultivation of crops. The fee transfer of less than the entire Easement Area is also prohibited to the extent such a transfer would constitute a subdivision of land under California law, including but not limited to the Subdivision Map Act.
- (n) Any activity or use that may violate or fail to comply with relevant federal, state, or local laws, regulations, or policies applicable to Landowner, the Easement Area, or the activity or use in question.

5. **Unlawful Entry.** Landowner shall undertake all reasonable actions to prevent the unlawful entry and trespass on the Easement Area by persons whose uses or activities may degrade or harm the Conservation Values or are otherwise inconsistent with the purposes of this Conservation Easement. Reasonable actions to prevent trespass and related activities may include, but are not limited to, posting “No Trespassing” signs, constructing barriers and gates, and good faith efforts to exclude any person who is not a designated representative of Landowner, Easement Holder, or others with lawful access rights. In addition, Landowner shall undertake all necessary actions to perfect the rights of Easement Holder under Section 3 of this Conservation Easement.

6. **Easement Holder's Remedies.** If Easement Holder or any Third-Party Beneficiary (as defined in **Section 6(d)** below) determines there is a violation of the terms of this Conservation Easement or that such violation is threatened, written notice of such violation and a demand for corrective action sufficient to cure the violation shall be given to Landowner, with a copy provided to Easement Holder and each Third-Party Beneficiary. The notice of violation shall specify the measures the Landowner must take to cure the violation. If Landowner fails to cure the violation within thirty (30) days after receipt of written notice and demand from Easement Holder or any Third-Party Beneficiary, as applicable; or if the cure reasonably requires more than thirty (30) days to complete and Landowner fails to begin the cure within such thirty (30) day period; or Landowner fails to continue diligently to complete the cure, Easement Holder or any Third-Party Beneficiary 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 Easement Holder and the Third-Party Beneficiaries may be entitled for violation of the terms of this Conservation Easement or for any injury to the Conservation Values, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for legal or other equitable relief, including, but not limited to, the restoration of the Easement Area to the condition in which it existed prior to any such violation or injury, or to otherwise enforce this Conservation Easement. Without limiting Landowner's liability therefor, any damages recovered may be applied to the cost of undertaking any corrective action on the Easement Area at the election of the party receiving such damages.

If Easement Holder in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damage to the Conservation Values, Easement Holder and/or any Third-Party Beneficiary may pursue its remedies under this section without prior notice to Landowner or

without waiting for the period provided for cure to expire. The rights of Easement Holder and the Third-Party Beneficiaries under this section apply equally to actual or threatened violations of the terms of this Conservation Easement. Landowner agrees that Easement Holder's and Third-Party Beneficiaries' remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Easement Holder and/or any Third-Party Beneficiary shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Easement Holder and the Third-Party Beneficiaries may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to, the remedies set forth in California Civil Code Section 815, *et seq.* The failure of Easement Holder or any Third-Party Beneficiary to discover a violation or to take immediate legal action in response to such action shall not bar such party from taking legal action at a later time.

If at any time in the future Landowner or any subsequent transferee uses or threatens to use the Property for purposes inconsistent with this Conservation Easement then, despite the provisions of Civil Code section 815.7, the California Attorney General, any person and any entity with a justiciable interest in the preservation of this Conservation Easement has standing as an interested party in any proceeding affecting this Conservation Easement.

(a) **Costs of Enforcement.** Any reasonable costs incurred by the Easement Holder or any Third-Party Beneficiary, where it is the prevailing party, in enforcing the terms of this Conservation Easement against the 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 this 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.

(b) **Enforcement Discretion.** Enforcement of the terms of this Conservation Easement against Landowner shall be at the respective discretion of Easement Holder and each of the Third-Party Beneficiaries, and any forbearance by any such party to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be deemed or construed to be a waiver by such party of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of such party's rights under this Conservation Easement. No delay or omission by Easement Holder or any Third-Party Beneficiary in the exercise of any right or remedy upon any breach shall impair such right or remedy or be construed as a waiver.

(c) **Acts Beyond Landowner's Control.** Nothing contained in this Conservation Easement shall be construed to entitle Easement Holder or any Third-Party Beneficiary to bring any action against Landowner for any injury to or change in the Property resulting from (i) any natural cause beyond Landowner's control, including, without limitation, fire not caused by Landowner, flood, storm, and earth movement, or any prudent action taken by Landowner under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes; or (ii) acts by Easement Holder or any Third-Party Beneficiary or employees of Easement Holder or any Third-Party Beneficiary; or (iii) acts by persons that entered the Easement Area unlawfully

or by trespass whose activities degrade or harm the Conservation Values of the Easement Area or whose activities are otherwise inconsistent with this Conservation Easement where Landowner has undertaken all reasonable actions to prevent such activities or (iii) acts by persons that entered the Easement Area lawfully or unlawfully whose activities degrade or harm the Conservation Values of the Easement Area or whose activities are otherwise inconsistent with this Conservation Easement and/or the Management Plan where Landowner has undertaken all reasonable actions to discourage or prevent such activities.

(d) **Third-Party Beneficiary Rights.** The parties intend for Yolo Habitat Conservancy (during any such period, if any, that Yolo Habitat Conservancy does not also constitute Easement Holder), USFWS and CDFW (collectively, “**Third-Party Beneficiaries**”) to be third-party beneficiaries of this Conservation Easement. All rights and remedies conveyed to Easement Holder under this Conservation Easement shall extend to and are enforceable by each of the Third-Party Beneficiaries in accordance with the terms hereof. Landowner and Easement Holder acknowledge that, as Third-Party Beneficiaries of this Conservation Easement, the Third-Party Beneficiaries shall have the same rights of access to the Easement Area granted to Easement Holder in **Section 3** above, and with rights to enforce all of the provisions of this Conservation Easement. If at any time in the future Landowner uses, allows the use, or threatens to use or allow use of, the Easement Area for any purpose that is inconsistent with or in violation of this Conservation Easement then, despite the provisions of California Civil Code Section 815.7, the California Attorney General and each Third-Party Beneficiary has standing as an interested party in any proceeding affecting the Conservation Easement.

These rights are in addition to, and do not limit, the Easement Holder’s obligations under federal, state, and local laws and regulations relating to the protection of biological resources and the environment. In addition, if the Wildlife Agencies reasonably determines that the Easement Area is not being held, monitored, or stewarded for conservation purposes in the manner specified in this Conservation Easement, the Yolo HCP/NCCP Instruments, or the Management Plan, the Conservation Easement shall revert to the State of California or another entity as described in California Government Code Section 65967(e), and subject to approval as set forth therein.

7. **Public Access.** Nothing contained in this Conservation Easement gives or grants to the public an independent right to enter upon or use the Easement Area or any portion thereof. Nor shall this Conservation Easement extinguish any existing public right to enter upon or use the Easement Area, provided said right is disclosed to the Easement Holder and documented in the Management Plan and/or an exhibit to this Conservation Easement.

8. **Costs and Liabilities.** Except for those specific obligations to be undertaken by Easement Holder under Section 3 above, or in the Management Plan, Landowner shall retain all responsibilities and shall bear all costs and liabilities of any kind related to Landowner’s ownership relating to the Easement Area as well as the Easement Area itself. Landowner agrees that the Third-Party Beneficiaries shall not have any duty or responsibility for the operation, upkeep, or maintenance of the Easement Area, the monitoring of hazardous conditions thereon, or the protection of Landowner, the public or any third parties from risks relating to conditions on the Easement Area. Landowner shall remain responsible for obtaining any applicable governmental permits and approvals for any activity or use allowed on the Easement Area under this Conservation

Easement, and Landowner shall undertake all allowed activities and uses of the Easement Area in accordance with all applicable federal, state, local and administrative agency statutes, ordinances, rules, regulations, orders and requirements. Landowner shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Easement Area by competent authority (collectively **“taxes”**), including any taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish Easement Holder with satisfactory evidence of payment upon request.

9. **Indemnification.**

(a) **Indemnification by Landowner.** Landowner shall hold harmless, protect and indemnify Easement Holder and the Third-Party Beneficiaries, and their respective members, directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each a **“Landowner Indemnified Party”** and, collectively, the **“Landowner Indemnified Parties”**) from and against any and all liabilities, penalties, costs, losses, damages, expenses (including, without limitation, reasonable attorneys' and experts' fees and costs), causes of action, claims, demands, orders, liens or judgments (each a **“Claim”** and, collectively, **“Claims”**), arising from or in any way connected with: (i) injury to or the death of any person, or physical damage to any Easement Area, resulting from any act, omission, condition, or other matter related to or occurring on or about the Easement Area, regardless of cause, except that this indemnification shall be inapplicable to Landowner Indemnified Parties with respect to any Claim due solely to the negligence of Landowner Indemnified parties; (ii) the obligations specified in Sections 5 and 8; and (iii) the existence or administration of this Conservation Easement. If any action or proceeding is brought against any of the Landowner Indemnified Parties by reason of any such Claim, Landowner shall, at the election of and upon written notice from Landowner Indemnified Parties, defend such action or proceeding by counsel reasonably acceptable to the Landowner Indemnified Parties or reimburse Landowner Indemnified Parties for all charges incurred for services of the California Attorney General in defending the action or proceeding.

(b) **Indemnification by Easement Holder.** Easement Holder shall hold harmless, protect, and indemnify Landowner and the Third-Party Beneficiaries, and their respective members, directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each, an **“Easement Holder Indemnified Party,”** and collectively, the **“Easement Holder Indemnified Parties”**) from and against any and all Claims arising from or in any way connected with: (a) the activities of Easement Holder on the Easement Area, including without limitation the Easement Holder's performance of management and monitoring activities set forth in the Management Plan; (b) breach by Easement Holder of any provision of this Conservation Easement; (c) any injury to or the death of any person, or physical damage to any Easement Area occurring on or about the Easement Area resulting from any act, omission, condition, or other matter related to, an activity on, or use of, the Easement Area by Easement Holder, including without limitation, those performed under the Management Plan, unless due solely to the negligence or willful misconduct of the Easement Holder Indemnified Party; and (d) any violation of, or failure to comply with, any state, federal or local law, regulation or requirement, by Easement Holder in any way affecting, involving or relating to the Easement Area. If any action or proceeding is brought

against any of the Easement Holder Indemnified Parties by reason of any such Claim, Easement Holder shall, at the election of and upon written notice from Landowner, defend such action or proceeding by counsel reasonably acceptable to the Easement Holder Indemnified Party.

10. **Extinguishment.** The Conservation Easement created by this agreement constitutes a property right. It is the Parties' intention that the terms and conditions of this Conservation Easement shall be carried out in perpetuity. Liberal construction is expressly required for purposes of effectuating the Conservation Easement in perpetuity, notwithstanding economic hardship or changed conditions of any kind. If circumstances arise in the future that render the purposes of this Conservation Easement impossible to accomplish, this Conservation Easement can only be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction. In addition, no such extinguishment shall affect the value of Yolo Habitat Conservancy's interest in the Easement Area, and if the Easement Area, or any interest therein, is sold, exchanged or taken by power of eminent domain after such extinguishment, the Yolo Habitat Conservancy shall be entitled to receive the fair market value of the Conservation Easement at the time of such extinguishment. If such extinguishment occurs with respect to fewer than all acres of the Easement Area, the amounts described above shall be calculated based on the actual number of acres subject to extinguishment.

11. **Condemnation.** Pursuant to Code of Civil Procedure § 1240.055, this Conservation Easement is "property appropriated to public use," as used in Article 6 (commencing with Section 1240.510) and Article 7 (commencing with Section 1240.610 of Chapter 3 of Title 7 of the Code of Civil Procedure). A person authorized to acquire property for public use by eminent domain shall seek to acquire the Property, if at all, only as provided in Code of Civil Procedure § 1240.055. CDFW is a public entity that imposed conditions of approval on a project that were satisfied, in whole or part, by the creation of this Conservation Easement. If any person seeks to acquire the Property for public use, Easement Holder shall provide notice to CDFW 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 distributed according to Paragraph 10 above and, as applicable, used in compliance with Government Code § 65966(j).

12. **Transfer of Conservation Easement.** This Conservation Easement may be assigned or transferred by Easement Holder upon written approval of the Third-Party Beneficiaries which approval shall not be unreasonably withheld or delayed; provided, that Easement Holder shall give the Third-Party Beneficiaries and Landowner at least sixty (60) calendar days prior written notice of the proposed assignment or transfer. Easement Holder may transfer its rights under this Conservation Easement only to an entity or organization: (a) authorized to acquire and hold conservation easements pursuant to California law, including Civil Code Section 815.3 and California Government Code Section 65967(c) (and any successor or other provisions applicable at the time of the proposed transfer), or the laws of the United States; (b) otherwise reasonably acceptable to the Third-Party Beneficiaries. Easement Holder shall require the transferee to record the conveyance in the Official Records of the County where the Easement Area is located. The failure of Easement Holder to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforcement in any way. Any transfer under this section shall be subject to the requirements of **Section 16** below.

13. **Transfer of Easement Area.** Landowner agrees to incorporate the terms of this Conservation Easement by reference in any deed or other legal instrument by which Landowner divests itself of any interest in all or any portion of the Easement Area, including, without limitation, a leasehold interest. For all transfers except routine and customary agricultural leases, Landowner further agrees to give written notice to Easement Holder and the Third-Party Beneficiaries of the intent to transfer any interest at least thirty (30) calendar days prior to the date of such transfer. Easement Holder and the Third-Party Beneficiaries shall have the right to prevent subsequent transfers in which prospective subsequent claimants or transferees are not given actual notice of the covenants, terms, conditions and restrictions of this Conservation Easement. The failure of Landowner to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforceability in any way. Any successor in interest or lessor of Landowner, by acceptance of a deed, lease, or other document purporting to convey an interest in the Easement Area, shall be deemed to have consented to, reaffirmed and agreed to be bound by all of the terms, covenants, restrictions, and conditions of this Conservation Easement.

14. **Transfer Fee Easement Holder.** Landowner and Easement Holder recognize and agree that any transfer of the Easement Area and any division of ownership will result in an additional burden on the monitoring and enforcement responsibilities of Easement Holder. Therefore, each transfer of the Easement Area (except for a Permitted Transfer) shall require Landowner's payment of a transfer fee to Easement Holder's easement stewardship fund. The fee shall be equal to the greater of three-fourths of one percent (0.75%) of the fair market value of the property transferred or twenty-five hundred dollars (\$2,500.00), whichever is greater. Easement Holder may reduce or waive this fee at its sole discretion. For purposes of this Easement, "**Permitted Transfer**" shall mean any of the following: (i) a transfer without consideration (e.g. an inter vivos or testamentary gift), (ii) a transfer to an entity in which Landowner continues to retain both at least fifty-one percent (51%) of the voting rights in, and direct control of and participation in, such entity, or (iii) any transfer of any portion of the Property made as a result of condemnation or eminent domain proceedings, including any negotiated transfer made to an entity with condemning authority in response to actual or threatened condemnation proceedings by that entity. Landowner and Easement Holder agree to execute and record a "NOTICE OF PAYMENT OF TRANSFER FEE REQUIRED" in accordance with California Civil Code Section 1098.5 respecting the transfer fee. The transfer fee shall be the obligation of the seller of the Property and shall be paid to Easement Holder at the address for giving notices to Easement Holder as set forth hereinbelow.

15. **Notices.** Any notice, demand, request, consent, approval, or communication that Landowner, Easement Holder, or any Third-Party Beneficiary desires or is required to give to the others shall be in writing and be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class mail, postage fully prepaid, addressed as follows:

To Landowner: *County of Yolo*
 Attn: County Administrator
 625 Court Street, Room 202
 Woodland, CA 95695
 Telephone: (530) 666-8150

To Easement Holder: *Yolo Habitat Conservancy*
 Attn: Executive Director
 Post Office Box 2202

Woodland, CA 95776
Telephone: (530) 666-8150

To Third-Party Beneficiaries:

*United States Fish and Wildlife Service
Attn: Chief, Sacramento Valley Division
2800 Cottage Way, Room W-2605
Sacramento, CA 95825
Telephone: (916) 414-6600*

*California Department of Fish and Wildlife
Attn: Regional Manager
1701 Nimbus Road
Rancho Cordova, CA 95670
Telephone: (916) 358-2900*

With a copy to: *California Department of Fish and Wildlife
Office of the General Counsel
Attn: General Counsel
Post Office Box 944209
Sacramento, California 94244-2090
Telephone: 916-445-8448*

or to such other address as a party shall designate by written notice to the others. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) calendar days after deposit into the United States mail.

16. **Amendment.** This Conservation Easement may not be amended, modified or otherwise changed in any manner, except by a written amendment executed by the Landowner and the Easement Holder, or their successors in interest, in their sole discretion. Any such amendment shall be subject to the prior written consent of the Third-Party Beneficiaries. Any amendment that is not made in strict accordance with the consent and other requirements of this Section shall be void and without effect. Any such amendment shall be consistent with the purposes of the Conservation Easement and shall not affect the perpetual duration of the Conservation Easement. Any such amendment must refer to this Conservation Easement by reference to its recordation data and must be recorded in the Official Records of the County where the Easement Area is located.

17. **Merger.** The doctrine of merger shall not operate to extinguish the Conservation Easement if the Conservation Easement and the Easement Area become vested in the same party. If, despite this intent, the doctrine of merger applies to extinguish the Conservation Easement then, a replacement conservation easement, with a new Easement Holder identified by the Yolo Habitat Conservancy and approved by the Third-Party Beneficiaries, containing the same protections embodied in this Conservation Easement shall be recorded against the Easement Area.

18. **No Hazardous Materials Liability.** Landowner represents and warrants that Landowner has no knowledge or notice of any Hazardous Materials (as defined below) or underground storage tanks existing, generated, treated, stored, used, released, disposed of, deposited or abandoned in, on, under, or from the Easement Area, or transported to or from or affecting the Easement Area [except as disclosed in the Report]. Landowner further represents, warrants and covenants that activities upon and use of the Easement Area by Landowner, its agents, employees, invitees and contractors shall comply with all Environmental Laws (as defined below) in using the Easement Area and that Landowner shall keep the Easement Area free of any material environmental defect, including, without limitation, contamination from Hazardous Materials (as defined below). Without limiting the obligations of Landowner under this Conservation Easement, including **Section 9(a)**, Landowner hereby releases and agrees to indemnify, protect and hold harmless the Landowner Indemnified Parties (as defined in **Section 9(a)**) from and against any and all Claims (as defined in **Section 9(a)**) arising from or connected with any Hazardous Materials or underground storage tanks present, alleged to be present, released in, from, or about or otherwise associated with the Easement Area at any time, except any Hazardous Materials placed, disposed or released by Landowner Indemnified Parties, or their employees or agents. This release and indemnification includes, without limitation, Claims for (a) injury to or death of any person or physical damage to any Easement Area; and (b) the violation or alleged violation of, or other failure to comply with, any Environmental Laws (as defined below). If any action or proceeding is brought against any of the Landowner Indemnified Parties by reason of any such Claim, Landowner shall, at the election of and upon written notice, defend such action or proceeding by counsel reasonably acceptable to the Landowner Indemnified Party including reimbursing CDFW for all charges incurred for services of the California Attorney General in defending the action or proceeding.

Despite any contrary provision of this Conservation Easement, the parties do not intend this Conservation Easement to be, and this Conservation Easement shall not be, construed such that it creates in or gives to Easement Holder or the Third-Party Beneficiaries any of the following:

- (a) The obligations or liability of a “Landowner” or “operator,” as those terms are defined and used in Environmental Laws (as defined below), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.; hereinafter, “**CERCLA**”); or
- (b) The obligations or liabilities of a person described in 42 U.S.C. Section 9607(a)(3) or (4); or
- (c) The obligations of a responsible person under any applicable Environmental Laws; or
- (d) The right to investigate and remediate any Hazardous Materials associated with the Easement Area; or
- (e) Any control over Landowner's ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Easement Area.

The term “**Hazardous Materials**” includes, without limitation, (a) material that is flammable, explosive or radioactive; (b) petroleum products, including by-products and fractions thereof; and (c) hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.; hereinafter “**RCRA**”); the Hazardous Materials Transportation Act (49 U.S.C. Section 6901 et seq.; hereinafter “**HTA**”); the Hazardous Waste Control Law (California Health & Safety Code Section 25100 et seq.; hereinafter “**HCL**”); the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health & Safety Code Section 25300 et seq.; hereinafter “**HAS**”), and in the regulations adopted and publications promulgated pursuant to them, or any other applicable Environmental Laws now in effect or enacted after the date of this Conservation Easement.

The term “**Environmental Laws**” includes, without limitation, CERCLA, RCRA, HTA, HCL, HSA, and any other federal, state, local or administrative agency statute, code, ordinance, rule, regulation, order or requirement relating to pollution, protection of human health or safety, the environment or Hazardous Materials.

19. **Representations and Warranties.** Landowner hereby makes the following representations and warranties for the benefit of Easement Holder and the Third-Party Beneficiaries:

(a) **Authority.** Landowner has good and sufficient title to the Easement Area including all appurtenances thereto, including, without limitation, all minerals and mineral rights and all water and water rights, and Landowner has full right and authority to enter into this Conservation Easement and convey the Conservation Easement to Easement Holder. There are no monetary liens and encumbrances recorded against the Easement Area except as expressly identified in **Exhibit C**, that may conflict or are otherwise inconsistent with this Conservation Easement and which have not been expressly subordinated to this Conservation Easement by a written Subordination Agreement approved by Easement Holder and the Wildlife Agencies. All deeds of trust and mortgages recorded against the Easement Area, or any portion thereof, are and shall continue to be subordinated to this Conservation Easement; documentation of such subordinations are contained in **Exhibit C**. No provisions of this Conservation Easement should be construed as impairing the ability of the Landowner to use the Property as collateral for subsequent borrowing, provided that any mortgage or lien arising from such a borrowing would be subordinated to this Deed of Conservation Easement.

(b) **Compliance with Laws.** Landowner has not received notice of, and has no knowledge of, any material violation of any federal, state, county or other governmental or quasi-governmental statute, ordinance, regulation, law or administrative or judicial order with respect to the Easement Area.

(c) **No Litigation.** There is no action, suit or proceeding which is pending or threatened against the Easement Area or any portion thereof relating to or arising out of the ownership or use of the Easement Area, or any portion thereof, in any court or in any federal, state, county, or municipal department, commission, board, bureau, agency or other governmental instrumentality.

20. **General Provisions.**

(a) **Controlling Law.** The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of California, disregarding the conflicts of law principles of such state, and by applicable federal law.

(b) **Liberal Construction.** Despite any general rule of construction to the contrary, this Conservation Easement shall be liberally construed to accomplish the purposes of this Conservation Easement and the policy and purpose of Civil Code section 815, *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. It is the intent of this Conservation Easement to preserve the condition of the Easement Area and each of the Conservation Values protected herein, notwithstanding economic or other hardship or changes in circumstances or conditions. The provisions of this Conservation Easement shall be liberally construed to effectuate the purposes of the Conservation Easement and to allow Landowner's use and enjoyment of the Easement Area to the extent consistent with such purposes. Liberal construction is expressly required for purposes of effectuating this Conservation Easement in perpetuity, notwithstanding changed conditions of any kind. The Conservation Easement created by this agreement is the intended best and most productive use of the Easement Area. No remedy or election given by any provision in this Conservation Easement shall be deemed exclusive unless so indicated, but it shall, wherever possible, be cumulative with all other remedies at law or in equity. The parties acknowledge that each party and its counsel have had the opportunity to review and revise this Conservation Easement and that no rule of construction that ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Conservation Easement.

(c) **Severability.** If a court of competent jurisdiction voids or invalidates on its face any provision of this Conservation Easement, such action shall not affect the remainder of this Conservation Easement. If a court of competent jurisdiction voids or invalidates the application of any provision of this Conservation Easement to a person or circumstance, such action shall not affect the application of the provision to other persons or circumstances.

(d) **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to this Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment in accordance with **Section 15**.

(e) **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Landowner's title in any respect.

(f) **Successors.** The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall constitute a servitude running in perpetuity with the Easement Area.

(g) **Termination of Rights and Obligations.** A party's rights and obligations under this Conservation Easement terminate upon a valid transfer of the party's interest in the Conservation Easement in accordance with the terms and provisions hereof, except that liability for acts or omissions or breaches occurring prior to transfer shall survive transfer.

(h) **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.

(i) **Additional Easements.** Landowner shall not grant any additional easements, rights of way or other interests in the Property (other than a security interest that is expressly subordinated to this Conservation Easement), or grant, transfer, or otherwise abandon or relinquish (each a "Transfer") any mineral, air, or water right or agreement relating to the Property, without first obtaining the written consent of Easement Holder and the Third-Party Beneficiaries. Easement Holder and the Third-Party Beneficiaries may withhold such consent if it determines that the proposed interest or transfer is inconsistent with the purposes of this Conservation Easement or may impair or interfere with the Conservation Values. This section shall not prohibit transfer of a fee or leasehold interest in the Property that is subject to this Conservation Easement and complies with **Section 13**. Landowner shall provide a certified copy of any recorded or unrecorded grant or Transfer document to Easement Holder and Third-Party Beneficiaries.

(j) **Recording.** Easement Holder shall record this Conservation Easement in the Official Records of the county where the Easement Area is located and may re-record it at any time as Easement Holder deems necessary to preserve its rights hereunder.

(k) **Counterparts.** The parties may execute this Conservation Easement in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

(l) **Exhibits.** The following Exhibit(s) referenced in this Conservation Easement are attached to and incorporated by reference in this Conservation Easement:

Exhibit A – Legal Description and Map of the Easement Area

Exhibit B – Baseline Documentation Certification

Exhibit C – Title Encumbrances

Exhibit D – Notice/Memorandum of Unrecorded Site-Specific Management Plan

Exhibit D shall be executed and recorded concurrently with this Conservation Easement as separate documents in the chain of title for the Property.

IN WITNESS WHEREOF, Landowner and Easement Holder have executed this Conservation Easement the day and year first above written.

LANDOWNER:

YOLO COUNTY

By: _____, County Administrator

Date:

EASEMENT HOLDER:

YOLO HABITAT CONSERVANCY

By: Alexander Tengolics, Executive Director

Date:

APPROVED AS TO FORM:

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

Date:

EXHIBIT A
Legal Description of the Property

The land described herein is situated in the State of California, County of Yolo, unincorporated area, described as follows:

All that real property in the County of Yolo, State of California, and being a portion of Rancho Rio Jesus Maria, Township 10 North, Range 1 East, Mount Diablo Base and Meridian, and also being a portion of that 171.47 acre tract of land as delineated on Book 6 of Maps and Surveys, at Page 41, said County Records, and also being a portion of Lots 8, 9, and 10, as delineated on Book 3 of Maps and Surveys, at Page 7, and also being a portion of that Parcel of land as described in Book 69 of Deeds, at Page 37, and also being a portion of those Parcels of land as described in Book 118 of Official Records, at Page 283, and also being all of that parcel of land described in Book 351 of Official Records, at Page 502, and also being all of that parcel of land, as described in Book 221 of Official Records, at Page 72, and also being a portion of that parcel as shown on Book 48 of Deeds, at Page 315, and also being all of Book 141 of Official Records, Page 332, and also being all of parcels 1 and 3, and a portion of parcels 2 and 5, as described in Book 1013 of Official Records, at Page 495, and being more particularly described as follows:

Beginning at a point on the East line of that 15.00 foot strip of land as described in said Book 69 of Deeds, at Page 37, said point being distant the following three (3) courses and distances from the Northeast corner of said Lot 10: 1) along the East line of said Lot 10, South 00° 00' 30" East 805.20 feet to the Northwest corner of said 15.00 foot strip of land; 2) along the North line of said 15.00 foot strip of land, South 89° 59' 30" East 15.00 feet to the Northeast corner of said strip; and 3) along the East line of said strip of land, South 00° 00' 30" East 1,544.83 feet to the Point Of Beginning; thence from said Point Of Beginning, and continuing along said East line of said strip, South 00° 00' 30" East 1,621.37 feet to a point in the center of Cache Creek, said point also being a point on the North line of "Clanton's Subdivision of Willow Oak Park" as recorded in Book 35 of Deeds, at Page 396, said County Records; thence along said center of said Cache Creek and said North line, the following two (2) courses and distances: 1) South 72° 46' 00" West 774.71 feet; and 2) South 40° 16' 00" West 2,494.27 feet to the Southwest corner of said 171.47 acre tract of land; thence along the West line of said 171.47 acre tract of land following four (4) courses and distances: 1) North 00° 00' 00" East 1,116.06 feet; 2) North 28° 14' 00" East 593.99 feet; 3) North 06° 27' 59" West 1,408.97 feet, and 4) North 00° 00' 00" East 253.75 feet to the most Northwesterly corner of said 171.47 acre tract of land, said point also being the Northwest corner of said Book 221 of Official Records, at Page 72; thence along the North line of said Book 221 of Official Records, at Page 72 the following two (2) courses and distances: 1) North 69° 00' 00" East 805.90 feet; and 2) North 79° 18' 00" East 422.89 feet to a point distant South 00° 00' 00" West 2,097.66 feet from the South line of said Lot 7; thence North 82° 41' 50" East 757.79 feet; thence south 89° 30' 30" East 310.00 feet to the Point Of Beginning. Further described as Parcel 2 in the Certificate of Compliance recorded February 13, 2007, as Instrument No. 2007-0005477, Official Records. Surveys, at Page 41.

APN: 025-350-035-000

EXHIBIT B
Legal Description and Map of the Easement Area



4368-2
March 26, 2021

VALLEY ELDERBERRY LONGHORN BEETLE CONSERVATION EASEMENT

THAT portion of real property situate in the unincorporated area of the County of Yolo, State of California, and being a portion of the RANCHO RIO JESUS MARIA, Township 10 North, Range 1 East, Mount Diablo Base and Meridian, and also being a portion of that Parcel of Land as described in Document No. 2020-0002058-00, said County Records, being more particularly described as follows:

BEGINNING at a point on the Easterly line of said Parcel of Land as described in said Document No. 2020-0002058-00, said point being distant from National Geodetic Survey designation "HPGN CA 03 08" the following five (5) courses and distances: 1) South 83°04'27" West 24,230.21 feet to National Geodetic Survey designation "KEATON"; 2) South 88°38'40" East 12,383.77 feet to the Northeast corner of said Parcel of Land; 3) South 00°00'29" East 1,621.37 feet; (4) South 72°46'01" West 774.71 feet; and (5) South 40°16'01" West 917.88 feet; thence, from said POINT OF BEGINNING and leaving said Easterly line, North 09°48'40" East 415.09 feet; thence North 33°34'52" West 198.13 feet; thence North 82°30'26" West 59.57 feet; thence South 27°45'36" West 368.15 feet; thence South 06°16'44" West 544.74 feet; thence South 37°24'52" West 150.88 feet; thence South 40°35'49" East 59.80 feet to said Easterly line; thence, along said Easterly line, North 40°16'01" East 590.58 feet to the POINT OF BEGINNING.

Containing 4.947 acres of land, more or less.

The basis of bearings for this description is the grid bearing between National Geodetic Survey designations "KEATON" and "HPGN CA 03 08"; said "KEATON" (PID-AI5065) having coordinates of North (Y) 2,020,158.86 sft and East (X) 6,594,078.55 sft with an epoch date of 2010.00; said "HPGN CA 03 08" (PID-JS4668) having coordinates of North (Y) 2,023,080.70 sft and East (X) 6,618,131.95 sft with an epoch date of 2010.00; said grid bearing being South 83°04'27" West as determined from National Geodetic Survey data sheets.

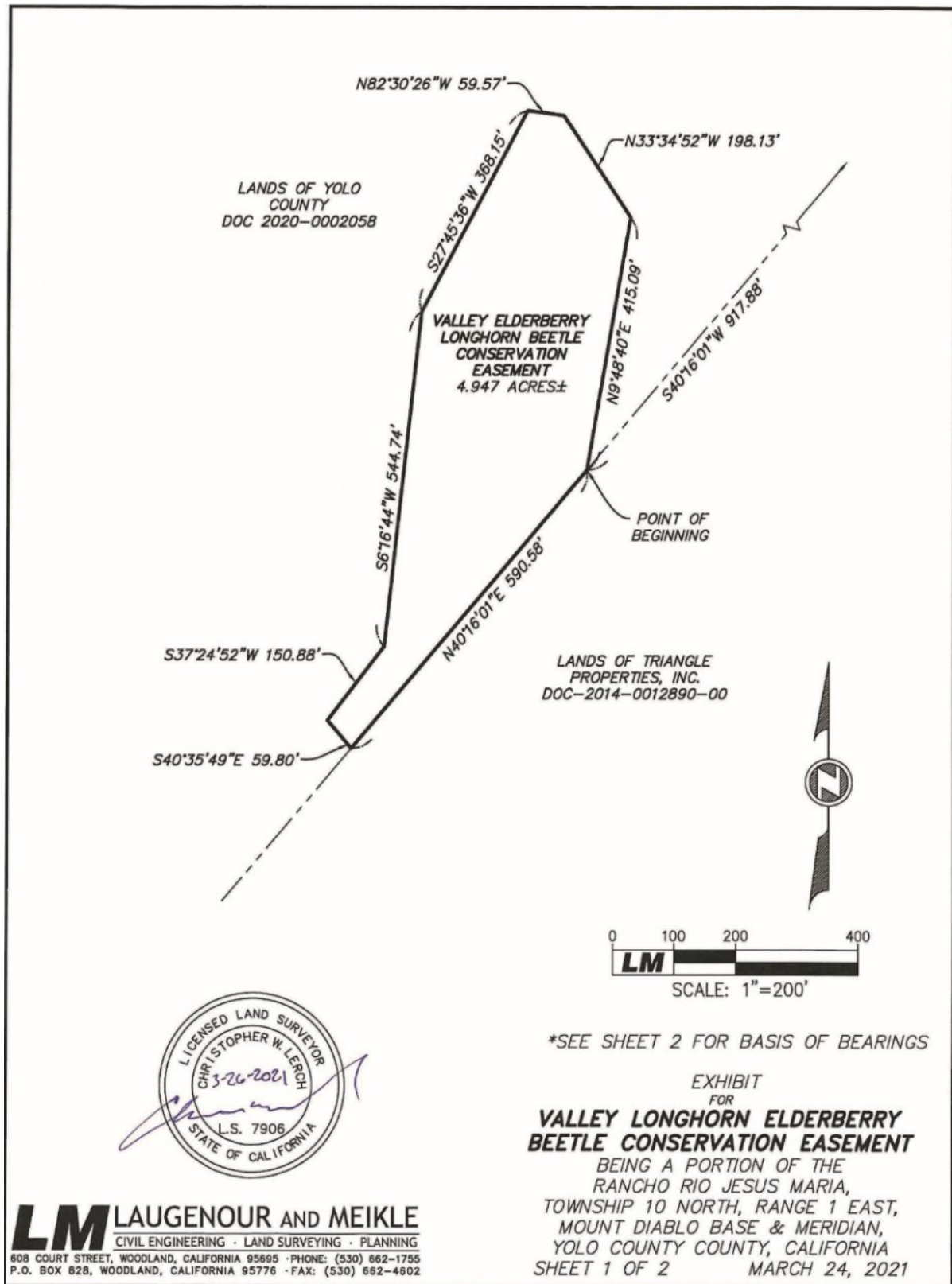
All bearings and coordinates described herein are grid and are based on the California Coordinate System of 1983, Zone 2. All distances described herein are ground and shown in United States survey feet (sft) and decimals thereof. To obtain grid distances, multiply ground distances by the combination factor of 0.99993572.

End of description.


Christopher W. Lerch



3-26-2021
Date



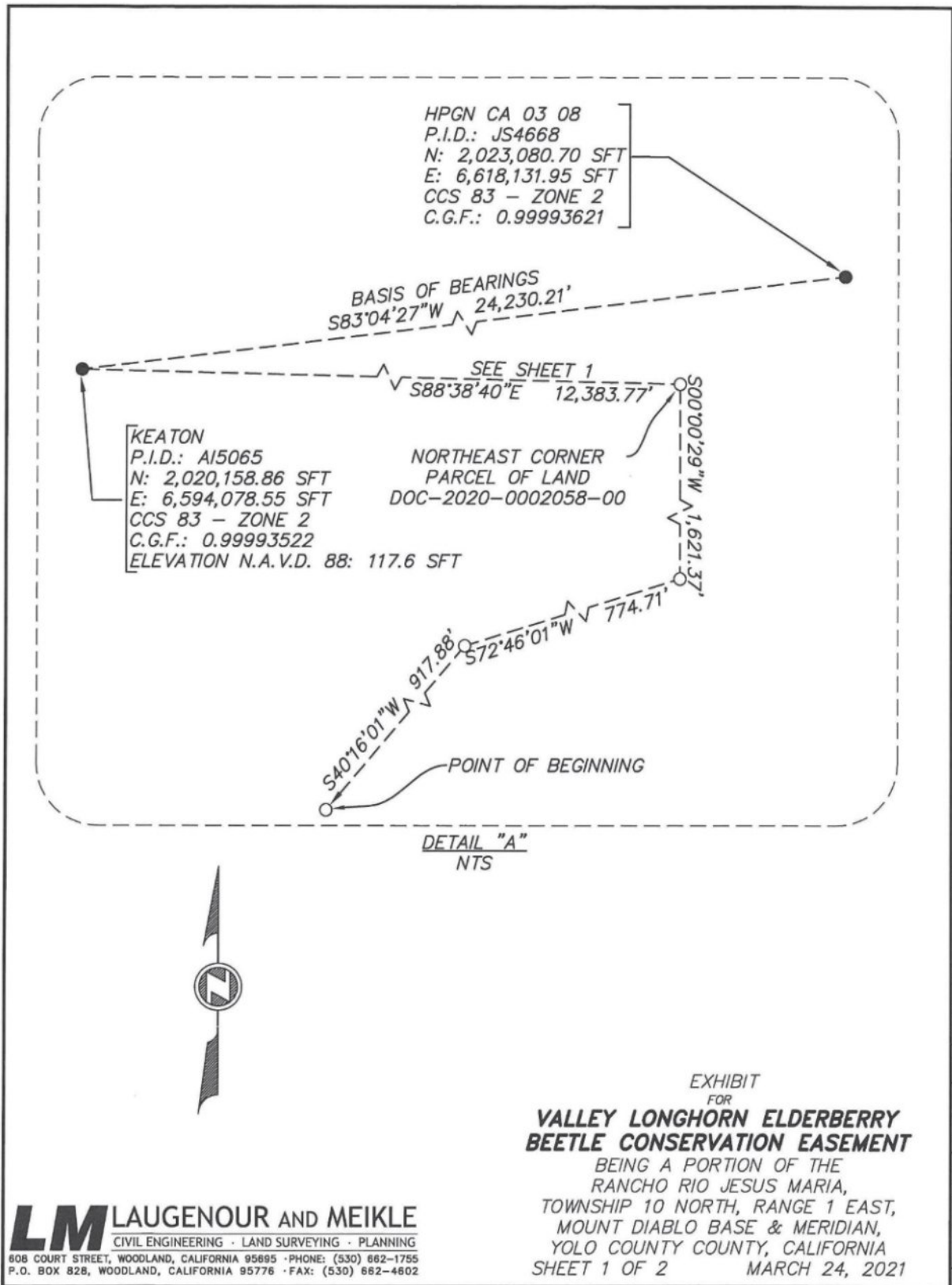


EXHIBIT C

Acknowledgment of Baseline Documentation Report and Receipt of Baseline Documentation Report

The undersigned, Elisa Sabatini, representing the County of Yolo (“**Landowner**”), and Alexander Tengolics, representing the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency (“**Easement Holder**” or “**Yolo Habitat Conservancy**”) certify as follows:

- a) Each is familiar with the condition of the 4.947 acres, located in the County of Yolo, State of California, within designated Assessor’s Parcel Number 025-350-035. Said real property is referred to as the “**Easement Area**”, in that certain Deed of Conservation Easement and Permanent Restrictions on Use; and
- b) Each does hereby acknowledge and certify that the Baseline Documentation Report, and all of its inclusions, dated May __, 2021, prepared by Christine Alford, Owner of Alford Environmental LLC, is an inventory of the natural resources of the Easement Area and an accurate representation of the condition of the Easement Area as of the date of conveyance of the Deed of Conservation Easement and Permanent Restrictions on Use.

Duplicate originals of the Baseline Documentation Report were signed and delivered by each of Landowner and Easement Holder, and each will receive a duplicate original of the Baseline Documentation Report within ten business days after the recordation of the conservation easement.

LANDOWNER:

YOLO COUNTY,
a California Local Government Agency

By: _____
Elisa Sabatini, Manager of Natural Resources

EASEMENT HOLDER:

YOLO HABITAT CONSERVANCY,
a California Joint Powers Agency

By: _____
Alexander Tengolics, Executive Director

EXHIBIT D

Title Encumbrances

TO BE ADDED ONCE TITLE REPORT IS UPDATED

Exhibit E

Notice/Memorandum of Unrecorded Site-Specific Management Plan

Recording Requested by and
When Recorded Mail To:

Yolo Habitat Conservancy
P.O. Box 2202
Woodland, CA 95776
Attention: Executive Director

APN 025-350-035-000

Exempt from recording fees (Cal. Gov. Code § 27388.1(a)(2)(D))

MEMORANDUM OF UNRECORDED SITE-SPECIFIC MANAGEMENT PLAN

This Memorandum of Unrecorded Site-Specific Management Plan dated as of _____, 2021, (the “**Memorandum**”) is recorded to provide notice of that certain Woodland Reiff Site-Specific Management Plan (the “**Management Plan**”) affecting the real property described on **Exhibit A** attached hereto and made a part hereof (the “**Easement Area**”).

The Easement Area is encumbered by the Deed of Conservation Easement and Permanent Restrictions on Use (the “**Woodland Reiff VELB Conservation Easement**”) executed by and between the County of Yolo (“**Landowner**”), in favor of the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency, a California Joint Powers Agency (“**Easement Holder**” or “**Yolo Habitat Conservancy**”) to be recorded concurrent with the recordation of this Memorandum. The Management Plan is a companion document to the Woodland Reiff VELB Conservation Easement.

The Woodland Reiff VELB Conservation Easement is being recorded against the Easement Area consistent with the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (“**Yolo HCP/NCCP**”), dated April 2018.

The Management Plan provides agreed upon methods/practices and activities for natural resources management and compatible recreational uses, among other provisions that affect activities on the Easement Area. The Yolo Habitat Conservancy has certain rights as described in the Management Plan, including the right to approve any changes to the Management Plan.

A copy of the Management Plan may be obtained by submitting a request to the Yolo Habitat Conservancy at Post Office Box 2202, Woodland, California 95776.

Signatures appear on the following page

Landowner: Yolo County

Elisa Sabatini, Manager of Natural Resources

Easement Holder: Yolo Habitat Conservancy

By: Alexander Tengolics, Executive Director

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Yolo Habitat Conservancy
PO Box 2202
Woodland, CA 95776
Attention: Executive Director

WITH A COPY TO:

State of California
Department of Fish and Wildlife
Attn: Habitat Conservation Planning Branch
Post Office Box 944209
Sacramento, CA 94244-2090

Exempt from recording fees (Cal. Gov. Code § ____)

Space Above Line for Recorder's Use Only

**DEED OF CONSERVATION EASEMENT AND PERMANENT RESTRICTIONS ON
USE**

THIS DEED OF CONSERVATION EASEMENT AND PERMANENT RESTRICTIONS ON USE (the “**Conservation Easement**”) is made this ____ day of _____, 20__, by County of Yolo (“**Landowner**”), in favor of the Yolo County Natural Community Conservation Plan Joint Powers Agency, a California Joint Powers Agency (“**Easement Holder**” or “**Yolo Habitat Conservancy**”). Landowner and Easement Holder are also referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

A. Landowner is the owner in fee simple of certain real property containing 38.9 acres, in the County of Yolo, State of California, designated Assessor’s Parcel Number(s) 025-340-036. Said real property is more particularly described and depicted in **Exhibit A** attached hereto and incorporated herein by this reference (the “**Easement Area**”).

B. The Easement Area possesses wildlife and habitat values of great importance to Easement Holder, the people of the State of California and the people of the United States. The Easement Area will provide high quality habitat for valley elderberry longhorn beetle (*Desmocerus californicusdimorphus*), western pond turtle (*Actinemys marmorata*), Swainson’s hawk (*Buteo swainsoni*), white-tailed kite (*Elanus leucurus*), and least Bell’s vireo (*Vireo bellii pusillus*) and contains valley foothill riparian and grassland habitat which contain suitable nest tree sites and mature elderberry shrubs. Individually and collectively, these wildlife and habitat values comprise the “**Conservation Values**” of the Easement Area. The status of the Conservation Values, including the open space uses that support these Conservation Values and compatible recreational uses such as hiking, birdwatching, and other forms of passive recreation by the general public (“Compatible

Recreational Uses”), as well as other uses and improvements within the Easement Area at the time of the execution of the Conservation Easement are described in the **“Baseline Documentation Report”**. Both Parties acknowledge, as described in **Exhibit B** attached hereto and incorporated herein by reference, that each has received a copy of the Baseline Documentation Report, and that it accurately represents the Easement Area as of the date of the Conservation Easement.

C. This Conservation Easement is being executed and delivered to satisfy certain habitat conservation requirements set forth in the following documents (collectively, the **“Yolo HCP/NCCP Instruments”**):

- a. The Yolo Habitat Conservation Plan/Natural Community Conservation Plan (**“Yolo HCP/NCCP”**), dated April 2018, prepared by the County of Yolo (**“County”**), City of Davis (**“Davis”**), City of West Sacramento (**“West Sacramento”**), City of Winters (**“Winters”**), and City of Woodland (**“Woodland”**), and approved by the United States Fish and Wildlife Service (**“USFWS”**) under Section 10 of the federal Endangered Species Act of 1973 (16 U.S.C. Section 1531 *et seq.*, as it may be amended from time to time) (**“ESA”**), and by the California Department of Fish and Wildlife (**“CDFW”**) under the California Natural Community Conservation Planning Act (California Fish and Game Code Section 2800 *et seq.*, as it may be amended from time to time) (**“NCCPA”**); and
- b. Implementing Agreement for the Yolo HCP/NCCP (the **“Implementing Agreement”**), dated January 10, 2019, by and among USFWS and CDFW (collectively, the **“Wildlife Agencies”**), the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency (**“Yolo Habitat Conservancy”**), County, Davis, West Sacramento, Winters, and Woodland (collectively, the Yolo Habitat Conservancy, County, Davis, West Sacramento, Winters, and Woodland, are referred to herein as **“Permittees”**); and
- c. The federal incidental take permit issued by USFWS to Permittees for the Yolo HCP/NCCP pursuant to Section 10 of ESA; and
- d. The state NCCP permit issued by CDFW to Permittees for the Yolo HCP/NCCP pursuant to the NCCPA.

D. The State of California recognizes the public importance and validity of conservation easements by enactment of California Civil Code Section 815 *et seq.*

E. CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary for biologically sustainable populations of those species pursuant to Fish and Game Code Section 1802. CDFW is authorized to hold easements for these purposes pursuant to Civil Code Section 815.3, Fish and Game Code Section 1348, and other provisions of California law.

F. USFWS is an agency of the United States Department of the Interior and is authorized by Federal law to be a third-party beneficiary of the Conservation Easement and to administer the federal Endangered Species Act, 16 U.S.C. § 1531, et seq. (“**ESA**”), the Fish and Wildlife Coordination Act, 16 U.S.C. §§ 661-666c, and the Fish and Wildlife Act of 1956, 16 U.S.C. § 742(f), et seq.

G. The Easement Holder is a California joint powers agency, and authorized to hold conservation easements pursuant to, among other provisions of law, California Civil Code Section 815.3.

H. The Yolo Habitat Conservancy serves as the “**Implementing Entity**” of the Yolo HCP/NCCP, and as such, is responsible for overseeing implementation of the Yolo HCP/NCCP Instruments, including carrying out planning and design, habitat restoration, monitoring, adaptive management programs, and periodic coordination with the Wildlife Agencies. The Yolo HCP/NCCP Instruments confer separate rights and obligations on the Implementing Entity that will survive any future transfer of the Conservation Easement.

I. Following recordation of this Conservation Easement, the Easement Area will be incorporated into the Reserve System (as such term is defined in the Yolo HCP/NCCP) (“**Reserve System**”) and will count toward the land acquisition requirements set forth in the Yolo HCP/NCCP.

J. The Yolo Habitat Conservancy has developed a management plan, known as “Correll Property Site-Specific Management Plan,” that applies to the Easement Area (the “**Management Plan**”) and is incorporated herein by reference. The Management Plan has been developed in accordance with the applicable requirements of the Yolo HCP/NCCP Instruments. The Management Plan also includes provisions that preserve and maintain the open space use and Compatible Recreational Uses of the Easement Area to the fullest extent such uses are compatible with the preservation of its Conservation Values.

Landowner and Easement Holder recognize that changes (e.g., in technologies, weather cycles, natural resource management technologies, conservation practices) may dictate changes in the management of the Easement Area, consistent with the purposes of this Conservation Easement and the Yolo HCP/NCCP Instruments. The Management Plan may be revised from time to time only with the written approval of both the Landowner and Easement Holder, so long as the revisions are consistent with the requirements of the Yolo HCP/NCCP Instruments and the Cache Creek Reserve Unit Management Plan if and when it is developed. The final, approved copy of the Management Plan, and any amendments thereto approved by the Parties, shall be kept on file at the Yolo Habitat Conservancy.

AGREEMENT

NOW, THEREFORE, in consideration of the above and mutual covenants, terms, conditions and restrictions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and pursuant to the laws of the State of California, including California Civil Code Section 815 *et seq.*, Landowner hereby voluntarily grants and conveys to Easement Holder, its successors and assigns, a conservation easement forever in, on,

over and across the Easement Area, subject to the terms and conditions set forth herein, restricting in perpetuity the uses which may be made of the Easement Area, and the Parties agree as follows:

1. **Purposes.** The purposes of this Conservation Easement are to ensure the Easement Area will be retained forever in its natural, restored, enhanced, or otherwise functional habitat condition as contemplated by the Yolo HCP/NCCP and the site-specific Management Plan, and to prevent any use of the Easement Area that will impair or interfere with the Conservation Values of the Easement Area. Landowner intends that this Conservation Easement will confine the use of the Easement Area to such activities that are consistent with the purposes set forth herein, including Compatible Recreational Uses. The Parties agree that the protection of the Conservation Values may be achieved by maintaining the Easement Area in its natural or existing condition (not precluding future enhancement or restoration). The establishment of a trail and other minor amenities (e.g., signage, occasional benches) that support Compatible Recreational Uses within the Easement Area are allowed provided that these amenities do not interfere with the Easement Area's covered species and their associated functional habitats as described in the Baseline Documentation Report and are consistent with the terms and conditions of this Conservation Easement and the Management Plan.

2. **Reserved Rights.** Landowner reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from Landowner's ownership of the Easement Area, including the right to establish a trail and other minor amenities (e.g., signage, occasional benches) that support Compatible Recreational Uses within the Easement Area, so long as such activities are consistent with the purposes of this Conservation Easement, as set forth above in Section 1, the Management Plan, and do not impair the Conservation Values.

3. **Rights of Easement Holder.** To accomplish the purposes of this Conservation Easement, Landowner hereby grants and conveys the following rights to Easement Holder:

- (a) To preserve and protect the Conservation Values of the Easement Area;
- (b) To restore or enhance the Conservation Values with the consent of the Landowner in accordance with the Management Plan and the terms and conditions of this Conservation Easement;
- (c) To enter upon the Easement Area, no less than once annually, at reasonable times to monitor compliance with and otherwise enforce the terms of this Conservation Easement or to carry out, at Easement Holder's sole cost and expense, scientific research and management and monitoring requirements applicable to the Easement Area that are set forth in the Management Plan and in Yolo HCP/NCCP Chapters 6 and 7, provided that Easement Holder shall not unreasonably interfere with Landowner's allowed uses and quiet enjoyment of the Easement Area. Except where there is an imminent threat to the Easement Area or its Conservation Values, Easement Holder and its employees, contractors or agents will only enter the Easement Area at reasonable times and with at least forty-eight (48) hours advance notice to Landowner in writing or by phone. The Landowner may waive these requirements in whole or in part by written notice to Easement Holder;

- (d) To prevent any activity on or use of the Easement Area that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Easement Area that may be damaged by any act, failure to act, or any use or activity that is inconsistent with the purposes of this Conservation Easement;
- (e) To require that all mineral, air, and water rights that Easement Holder deems necessary to preserve and protect the Conservation Values of the Easement Area shall remain a part of and be put to beneficial use upon the Easement Area, consistent with the purposes of this Conservation Easement; and
- (f) All present and future development rights and wind power rights appurtenant to, allocated, implied, reserved or inherent in the Easement Area; such rights are hereby terminated and extinguished, and may not be used on or transferred to any portion of the Property, nor any other property adjacent or otherwise.

4. **Prohibited Uses.** Any activity on or use of the Easement Area that adversely affects the purpose of this Conservation Easement, as set forth in Section 1, above, is prohibited except as may be otherwise expressly provided in this Conservation Easement or in the Management Plan. Without limiting the generality of the foregoing, the Landowner, Landowner's personal representatives, heirs, successors, assigns, employees, agents, lessees, licensees and invitees are expressly prohibited from doing or allowing any of the following uses and activities on the Easement Area, unless, and then only to the extent that, a generally prohibited activity set forth below is a management practice, lawful and routine agricultural practice, or other activity that does not impair the Conservation Values of the Easement Area and is allowed in the Management Plan.

- (a) Unseasonal watering activities that promote the establishment of invasive species that act as predators of covered species, impair the habitat quality of the site for covered species, or otherwise impair the Conservation Values of the site;
- (b) Use of fertilizers, pesticides, biocides, herbicides or other chemicals except as allowable under applicable law and as provided in the Management Plan in connection with activities or uses that are authorized or reserved hereunder. Under no circumstance are rodenticides allowed to be used within the Easement Area unless specifically authorized in writing by the Easement Holder and the Wildlife Agencies due to unforeseen or exceptional circumstance, such as proclamation of a local state of emergency;
- (c) Use of heavy equipment, off-road vehicles, or other motorized vehicles, except on existing roadways or use of equipment or vehicles as required to conduct any management practice or other activity as provided for in the Management Plan. The long-term storage of wrecked, dismantled, or inoperative nonagricultural vehicles and industrial or commercial equipment is prohibited;

- (d) Except as set forth in the Management Plan, any construction, reconstruction, relocation or placement of any road, building, billboard, or signs (excluding small directional and interpretative signs on any hiking trails), or any other structure or improvement of any kind, or altering the surface or general topography of the Easement Area without written approval by the Easement Holder and Wildlife Agencies;
- (e) Vineyards, orchards, nurseries, intensive livestock use (e.g., dairy, feedlot), and other agricultural uses except as allowed in the Management Plan;
- (f) Commercial, industrial, residential, or other institutional uses;
- (g) Depositing or accumulation of soil, trash, ashes, refuse, waste, bio-solids or any other materials, except in connection with lawful uses that do not impair the Conservation Values of the Easement Area and are allowed in the Management Plan;
- (h) Planting, introduction, or dispersal of invasive plant or animal species;
- (i) Filling, dumping, excavating, draining, dredging, mining, drilling, removing, or exploring for or extracting minerals, loam, soil, sands, gravel, rocks, or other material on or below the surface of the Easement Area, or granting or authorizing any surface entry for any exploring for or extracting minerals. This provision is not intended to prohibit lawful uses that are associated with site management activities, do not impair the Conservation Values of the Easement Area, and are allowed in the Management Plan;
- (j) Removing, destroying, or cutting of trees, shrubs, or other vegetation except as allowed in the Management Plan;
- (k) Manipulating, impounding, or altering any water course, body of water, or water circulation on the Easement Area, and activities or uses detrimental to water quality, including but not limited to degradation or pollution of any surface or subsurface waters, except as needed to conduct habitat enhancement, habitat restoration, or other activity that does not impair the Conservation Values of the Easement Area and is allowed in the Management Plan; and
- (l) Without the prior written consent of Easement Holder, which Easement Holder may reasonably withhold or condition, transferring, encumbering, selling, leasing or otherwise separating the mineral, air or water rights for the Easement Area; changing the place or purpose of use of the water rights; abandoning or allowing the abandonment of, by action or inaction, any water or water rights, ditch or ditch rights, spring rights, reservoir or storage rights, wells, ground water rights or other rights in and to the use of water historically used on or otherwise appurtenant to the Easement Area, including but not limited to: (i) riparian water rights; (ii) appropriative water rights; (iii) rights to waters which are secured under contract with any irrigation or water

district, to the extent such waters are customarily applied to the Easement Area; and (iv) any water from wells that are in existence or may be constructed in the future on the Easement Area. In determining whether to consent to a short-term transfer (i.e. a transfer of water from the Property for a period of not more than one year as defined by California law) or other change relating to water rights under this subsection (k), the Easement Holder shall evaluate whether the transfer will, during the transfer period, preclude the Landowner from maintaining the Conservation Values, for the covered species that the Easement Area is managed to benefit at the time of the proposed transfer. This determination shall be subject to approval by the Wildlife Agencies and the Yolo Habitat Conservancy.

- (m) All Subdivisions, including but not limited to the Subdivision of rangeland, open space, and other types of land not used for the active cultivation of crops. The fee transfer of less than the entire Easement Area is also prohibited to the extent such a transfer would constitute a subdivision of land under California law, including but not limited to the Subdivision Map Act.
- (n) Any activity or use that may violate or fail to comply with relevant federal, state, or local laws, regulations, or policies applicable to Landowner, the Easement Area, or the activity or use in question.

5. **Unlawful Entry.** Landowner shall undertake all reasonable actions to prevent the unlawful entry and trespass on the Easement Area, and shall take reasonable steps to prevent uses or activities may degrade or harm the Conservation Values or are otherwise inconsistent with the purposes of this Conservation Easement. This duty extends to activities undertaken by members of the public that are outside the scope of “Compatible Recreational Uses” as set forth herein (and as may be further described in the Management Plan). Reasonable actions to prevent trespass and/or incompatible activities may include, but are not limited to, posting “No Trespassing” or “Stay on Improved Trails” signs, constructing barriers, gates, and/or trail demarcations, and good faith efforts to exclude any person who is not a designated representative of Landowner, Easement Holder, or others with lawful access rights. In addition, Landowner shall undertake all necessary actions to perfect the rights of Easement Holder under Section 3 of this Conservation Easement.

6. **Easement Holder's Remedies.** If Easement Holder or any Third-Party Beneficiary (as defined in **Section 6(d)** below) determines there is a violation of the terms of this Conservation Easement or that such violation is threatened, written notice of such violation and a demand for corrective action sufficient to cure the violation shall be given to Landowner, with a copy provided to Easement Holder and each Third-Party Beneficiary. The notice of violation shall specify the measures the Landowner must take to cure the violation. If Landowner fails to cure the violation within thirty (30) days after receipt of written notice and demand from Easement Holder or any Third-Party Beneficiary, as applicable; or if the cure reasonably requires more than thirty (30) days to complete and Landowner fails to begin the cure within such thirty (30) day period; or Landowner fails to continue diligently to complete the cure, Easement Holder or any Third-Party Beneficiary 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 Easement Holder and the Third-Party Beneficiaries may be entitled for violation of the terms of this Conservation Easement or for any injury to the Conservation Values, to enjoin the violation, *ex parte* as necessary, by temporary or

permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for legal or other equitable relief, including, but not limited to, the restoration of the Easement Area to the condition in which it existed prior to any such violation or injury, or to otherwise enforce this Conservation Easement. Without limiting Landowner's liability therefor, any damages recovered may be applied to the cost of undertaking any corrective action on the Easement Area at the election of the party receiving such damages.

If Easement Holder in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damage to the Conservation Values, Easement Holder and/or any Third-Party Beneficiary may pursue its remedies under this section without prior notice to Landowner or without waiting for the period provided for cure to expire. The rights of Easement Holder and the Third-Party Beneficiaries under this section apply equally to actual or threatened violations of the terms of this Conservation Easement. Landowner agrees that Easement Holder's and Third-Party Beneficiaries' remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Easement Holder and/or any Third-Party Beneficiary shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Easement Holder and the Third-Party Beneficiaries may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to, the remedies set forth in California Civil Code Section 815, *et seq.* The failure of Easement Holder or any Third-Party Beneficiary to discover a violation or to take immediate legal action in response to such action shall not bar such party from taking legal action at a later time.

If at any time in the future Landowner or any subsequent transferee uses or threatens to use the Property for purposes inconsistent with this Conservation Easement then, despite the provisions of Civil Code section 815.7, the California Attorney General, any person and any entity with a justiciable interest in the preservation of this Conservation Easement has standing as an interested party in any proceeding affecting this Conservation Easement.

(a) **Costs of Enforcement.** Any reasonable costs incurred by the Easement Holder or any Third-Party Beneficiary, where it is the prevailing party, in enforcing the terms of this Conservation Easement against the 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 this 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.

(b) **Enforcement Discretion.** Enforcement of the terms of this Conservation Easement against Landowner shall be at the respective discretion of Easement Holder and each of the Third-Party Beneficiaries, and any forbearance by any such party to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be deemed or construed to be a waiver by such party of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of such party's rights under this Conservation Easement. No delay or omission by Easement Holder or any Third-Party Beneficiary in the exercise of any right or remedy upon any breach shall impair such right or remedy or be construed as a waiver.

(c) **Acts Beyond Landowner's Control.** Nothing contained in this Conservation Easement shall be construed to entitle Easement Holder or any Third-Party Beneficiary to bring any action against Landowner for any injury to or change in the Property resulting from (i) any natural cause beyond Landowner's control, including, without limitation, fire not caused by Landowner, flood, storm, and earth movement, or any prudent action taken by Landowner under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes; or (ii) acts by Easement Holder or any Third-Party Beneficiary or employees of Easement Holder or any Third-Party Beneficiary; or (iii) acts by persons that entered the Easement Area unlawfully or by trespass whose activities degrade or harm the Conservation Values of the Easement Area or whose activities are otherwise inconsistent with this Conservation Easement where Landowner has undertaken all reasonable actions to prevent such activities or (iii) acts by persons that entered the Easement Area lawfully or unlawfully whose activities degrade or harm the Conservation Values of the Easement Area or whose activities are otherwise inconsistent with this Conservation Easement and/or the Management Plan where Landowner has undertaken all reasonable actions to discourage or prevent such activities.

(d) **Third-Party Beneficiary Rights.** The parties intend for Yolo Habitat Conservancy (during any such period, if any, that Yolo Habitat Conservancy does not also constitute Easement Holder), USFWS and CDFW (collectively, **"Third-Party Beneficiaries"**) to be third-party beneficiaries of this Conservation Easement. All rights and remedies conveyed to Easement Holder under this Conservation Easement shall extend to and are enforceable by each of the Third-Party Beneficiaries in accordance with the terms hereof. Landowner and Easement Holder acknowledge that, as Third-Party Beneficiaries of this Conservation Easement, the Third-Party Beneficiaries shall have the same rights of access to the Easement Area granted to Easement Holder in **Section 3** above, and with rights to enforce all of the provisions of this Conservation Easement. If at any time in the future Landowner uses, allows the use, or threatens to use or allow use of, the Easement Area for any purpose that is inconsistent with or in violation of this Conservation Easement then, despite the provisions of California Civil Code Section 815.7, the California Attorney General and each Third-Party Beneficiary has standing as an interested party in any proceeding affecting the Conservation Easement.

These rights are in addition to, and do not limit, the Easement Holder's obligations under federal, state, and local laws and regulations relating to the protection of biological resources and the environment. In addition, if the Wildlife Agencies reasonably determines that the Easement Area is not being held, monitored, or stewarded for conservation purposes in the manner specified in this Conservation Easement, the Yolo HCP/NCCP Instruments, or the Management Plan, the Conservation Easement shall revert to the State of California or another entity as described in California Government Code Section 65967(e), and subject to approval as set forth therein.

7. **Public Access.** Nothing contained in this Conservation Easement gives or grants to the public an independent right to enter upon or use the Easement Area or any portion thereof. Nor shall this Conservation Easement extinguish any existing public right to enter upon or use the Easement Area, provided said right is disclosed to the Easement Holder and documented in the Management Plan and/or an exhibit to this Conservation Easement.

8. **Costs and Liabilities.** Except for those specific obligations to be undertaken by Easement Holder under Section 3 above, or in the Management Plan, Landowner shall retain all responsibilities and shall bear all costs and liabilities of any kind related to Landowner's ownership, operation, upkeep, management, and maintenance activities on and relating to the Easement Area as well as the Easement Area itself. Landowner agrees that neither the Easement Holder nor Third Party Beneficiaries shall have any duty or responsibility for the operation, upkeep, or maintenance of the Easement Area, the monitoring of hazardous conditions thereon, or the protection of Landowner, the public or any third parties from risks relating to conditions on the Easement Area. Landowner shall remain responsible for obtaining any applicable governmental permits and approvals for any activity or use allowed on the Easement Area under this Conservation Easement, and Landowner shall undertake all allowed activities and uses of the Easement Area in accordance with all applicable federal, state, local and administrative agency statutes, ordinances, rules, regulations, orders and requirements. Landowner shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Easement Area by competent authority (collectively "**taxes**"), including any taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish Easement Holder with satisfactory evidence of payment upon request.

9. **Indemnification.**

(a) **Indemnification by Landowner.** Landowner shall hold harmless, protect and indemnify Easement Holder and the Third-Party Beneficiaries, and their respective members, directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each a "**Landowner Indemnified Party**" and, collectively, the "**Landowner Indemnified Parties**") from and against any and all liabilities, penalties, costs, losses, damages, expenses (including, without limitation, reasonable attorneys' and experts' fees and costs), causes of action, claims, demands, orders, liens or judgments (each a "**Claim**" and, collectively, "**Claims**"), arising from or in any way connected with: (i) injury to or the death of any person, or physical damage to any Easement Area, resulting from any act, omission, condition, or other matter related to or occurring on or about the Easement Area, regardless of cause, except that this indemnification shall be inapplicable to Landowner Indemnified Parties with respect to any Claim due solely to the negligence of Landowner Indemnified parties; (ii) the obligations specified in Sections 5 and 8; and (iii) the existence or administration of this Conservation Easement. If any action or proceeding is brought against any of the Landowner Indemnified Parties by reason of any such Claim, Landowner shall, at the election of and upon written notice from Landowner Indemnified Parties, defend such action or proceeding by counsel reasonably acceptable to the Landowner Indemnified Parties or reimburse Landowner Indemnified Parties for all charges incurred for services of the California Attorney General in defending the action or proceeding.

(b) **Indemnification by Easement Holder.** Easement Holder shall hold harmless, protect, and indemnify Landowner and the Third-Party Beneficiaries, and their respective members, directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each, an "**Easement Holder Indemnified Party**," and collectively, the "**Easement Holder Indemnified Parties**") from and against any and all Claims arising from or in any way

connected with: (a) the activities of Easement Holder on the Easement Area, including without limitation the Easement Holder's performance of management and monitoring activities set forth in the Management Plan; (b) breach by Easement Holder of any provision of this Conservation Easement; (c) any injury to or the death of any person, or physical damage to any Easement Area occurring on or about the Easement Area resulting from any act, omission, condition, or other matter related to, an activity on, or use of, the Easement Area by Easement Holder, including without limitation, those performed under the Management Plan, unless due solely to the negligence or willful misconduct of the Easement Holder Indemnified Party; and (d) any violation of, or failure to comply with, any state, federal or local law, regulation or requirement, by Easement Holder in any way affecting, involving or relating to the Easement Area. If any action or proceeding is brought against any of the Easement Holder Indemnified Parties by reason of any such Claim, Easement Holder shall, at the election of and upon written notice from Landowner, defend such action or proceeding by counsel reasonably acceptable to the Easement Holder Indemnified Party.

10. **Extinguishment.** The Conservation Easement created by this agreement constitutes a property right. It is the Parties' intention that the terms and conditions of this Conservation Easement shall be carried out in perpetuity. Liberal construction is expressly required for purposes of effectuating the Conservation Easement in perpetuity, notwithstanding economic hardship or changed conditions of any kind. If circumstances arise in the future that render the purposes of this Conservation Easement impossible to accomplish, this Conservation Easement can only be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction. In addition, no such extinguishment shall affect the value of Yolo Habitat Conservancy's interest in the Easement Area, and if the Easement Area, or any interest therein, is sold, exchanged or taken by power of eminent domain after such extinguishment, the Yolo Habitat Conservancy shall be entitled to receive the fair market value of the Conservation Easement at the time of such extinguishment. If such extinguishment occurs with respect to fewer than all acres of the Easement Area, the amounts described above shall be calculated based on the actual number of acres subject to extinguishment.

11. **Condemnation.** Pursuant to Code of Civil Procedure § 1240.055, this Conservation Easement is "property appropriated to public use," as used in Article 6 (commencing with Section 1240.510) and Article 7 (commencing with Section 1240.610 of Chapter 3 of Title 7 of the Code of Civil Procedure). A person authorized to acquire property for public use by eminent domain shall seek to acquire the Property, if at all, only as provided in Code of Civil Procedure § 1240.055. CDFW is a public entity that imposed conditions of approval on a project that were satisfied, in whole or part, by the creation of this Conservation Easement. If any person seeks to acquire the Property for public use, Easement Holder shall provide notice to CDFW 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 distributed according to Paragraph 10 above and, as applicable, used in compliance with Government Code § 65966(j).

12. **Transfer of Conservation Easement.** This Conservation Easement may be assigned or transferred by Easement Holder upon written approval of the Third-Party Beneficiaries which approval shall not be unreasonably withheld or delayed; provided, that Easement Holder shall give the Third-Party Beneficiaries and Landowner at least sixty (60) calendar days prior

written notice of the proposed assignment or transfer. Easement Holder may transfer its rights under this Conservation Easement only to an entity or organization: (a) authorized to acquire and hold conservation easements pursuant to California law, including Civil Code Section 815.3 and California Government Code Section 65967(c) (and any successor or other provisions applicable at the time of the proposed transfer), or the laws of the United States; (b) otherwise reasonably acceptable to the Third-Party Beneficiaries. Easement Holder shall require the transferee to record the conveyance in the Official Records of the County where the Easement Area is located. The failure of Easement Holder to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforcement in any way. Any transfer under this section shall be subject to the requirements of **Section 16** below.

13. **Transfer of Easement Area.** Landowner agrees to incorporate the terms of this Conservation Easement by reference in any deed or other legal instrument by which Landowner divests itself of any interest in all or any portion of the Easement Area, including, without limitation, a leasehold interest. For all transfers except routine and customary agricultural leases, Landowner further agrees to give written notice to Easement Holder and the Third-Party Beneficiaries of the intent to transfer any interest at least thirty (30) calendar days prior to the date of such transfer. Easement Holder and the Third-Party Beneficiaries shall have the right to prevent subsequent transfers in which prospective subsequent claimants or transferees are not given actual notice of the covenants, terms, conditions and restrictions of this Conservation Easement. The failure of Landowner to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforceability in any way. Any successor in interest or lessor of Landowner, by acceptance of a deed, lease, or other document purporting to convey an interest in the Easement Area, shall be deemed to have consented to, reaffirmed and agreed to be bound by all of the terms, covenants, restrictions, and conditions of this Conservation Easement.

14. **Transfer Fee Easement Holder.** Landowner and Easement Holder recognize and agree that any transfer of the Easement Area and any division of ownership will result in an additional burden on the monitoring and enforcement responsibilities of Easement Holder. Therefore, each transfer of the Easement Area (except for a Permitted Transfer) shall require Landowner's payment of a transfer fee to Easement Holder's easement stewardship fund. The fee shall be equal to the greater of three-fourths of one percent (0.75%) of the fair market value of the property transferred or twenty-five hundred dollars (\$2,500.00), whichever is greater. Easement Holder may reduce or waive this fee at its sole discretion. For purposes of this Easement, "**Permitted Transfer**" shall mean any of the following: (i) a transfer without consideration (e.g. an inter vivos or testamentary gift), (ii) a transfer to an entity in which Landowner continues to retain both at least fifty-one percent (51%) of the voting rights in, and direct control of and participation in, such entity, or (iii) any transfer of any portion of the Property made as a result of condemnation or eminent domain proceedings, including any negotiated transfer made to an entity with condemning authority in response to actual or threatened condemnation proceedings by that entity. Landowner and Easement Holder agree to execute and record a "NOTICE OF PAYMENT OF TRANSFER FEE REQUIRED" in accordance with California Civil Code Section 1098.5 respecting the transfer fee. The transfer fee shall be the obligation of the seller of the Property and shall be paid to Easement Holder at the address for giving notices to Easement Holder as set forth hereinbelow.

15. **Notices.** Any notice, demand, request, consent, approval, or communication that Landowner, Easement Holder, or any Third-Party Beneficiary desires or is required to give to the

others shall be in writing and be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class mail, postage fully prepaid, addressed as follows:

To Landowner: *County of Yolo*
 Attn: County Administrator
 625 Court Street, Room 202
 Woodland, CA 95695
 Telephone:

To Easement Holder: *Yolo Habitat Conservancy*
 Attn: Executive Director
 Post Office Box 2202
 Woodland, CA 95776
 Telephone: (530) 666-8150

To Third-Party Beneficiaries:

United States Fish and Wildlife Service
Attn: Chief, Sacramento Valley Division
2800 Cottage Way, Room W-2605
Sacramento, CA 95825
Telephone: (916) 414-6600

California Department of Fish and Wildlife
Attn: Regional Manager
1701 Nimbus Road
Rancho Cordova, CA 95670
Telephone: (916) 358-2900

With a copy to: *California Department of Fish and Wildlife*
 Office of the General Counsel
 Attn: General Counsel
 Post Office Box 944209
 Sacramento, California 94244-2090
 Telephone: (916) 445-8448

or to such other address as a party shall designate by written notice to the others. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) calendar days after deposit into the United States mail.

16. **Amendment.** This Conservation Easement may not be amended, modified or otherwise changed in any manner, except by a written amendment executed by the Landowner and

the Easement Holder, or their successors in interest, in their sole discretion. Any such amendment shall be subject to the prior written consent of the Third-Party Beneficiaries. Any amendment that is not made in strict accordance with the consent and other requirements of this Section shall be void and without effect. Any such amendment shall be consistent with the purposes of the Conservation Easement and shall not affect the perpetual duration of the Conservation Easement. Any such amendment must refer to this Conservation Easement by reference to its recordation data and must be recorded in the Official Records of the County where the Easement Area is located.

17. **Merger.** The doctrine of merger shall not operate to extinguish the Conservation Easement if the Conservation Easement and the Easement Area become vested in the same party. If, despite this intent, the doctrine of merger applies to extinguish the Conservation Easement then, a replacement conservation easement, with a new Easement Holder identified by the Yolo Habitat Conservancy and approved by the Third-Party Beneficiaries, containing the same protections embodied in this Conservation Easement shall be recorded against the Easement Area.

18. **No Hazardous Materials Liability.** Landowner represents and warrants that Landowner has no knowledge or notice of any Hazardous Materials (as defined below) or underground storage tanks existing, generated, treated, stored, used, released, disposed of, deposited or abandoned in, on, under, or from the Easement Area, or transported to or from or affecting the Easement Area. Landowner further represents, warrants and covenants that activities upon and use of the Easement Area by Landowner, its agents, employees, invitees and contractors shall comply with all Environmental Laws (as defined below) in using the Easement Area and that Landowner shall keep the Easement Area free of any material environmental defect, including, without limitation, contamination from Hazardous Materials (as defined below). Without limiting the obligations of Landowner under this Conservation Easement, including **Section 9(a)**, Landowner hereby releases and agrees to indemnify, protect and hold harmless the Landowner Indemnified Parties (as defined in **Section 9(a)**) from and against any and all Claims (as defined in **Section 9(a)**) arising from or connected with any Hazardous Materials or underground storage tanks present, alleged to be present, released in, from, or about or otherwise associated with the Easement Area at any time, except any Hazardous Materials placed, disposed or released by Landowner Indemnified Parties, or their employees or agents. This release and indemnification includes, without limitation, Claims for (a) injury to or death of any person or physical damage to any Easement Area; and (b) the violation or alleged violation of, or other failure to comply with, any Environmental Laws (as defined below). If any action or proceeding is brought against any of the Landowner Indemnified Parties by reason of any such Claim, Landowner shall, at the election of and upon written notice, defend such action or proceeding by counsel reasonably acceptable to the Landowner Indemnified Party including reimbursing CDFW for all charges incurred for services of the California Attorney General in defending the action or proceeding.

Despite any contrary provision of this Conservation Easement, the parties do not intend this Conservation Easement to be, and this Conservation Easement shall not be, construed such that it creates in or gives to Easement Holder or the Third-Party Beneficiaries any of the following:

- (a) The obligations or liability of a “Landowner” or “operator,” as those terms are defined and used in Environmental Laws (as defined below), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.; hereinafter, “**CERCLA**”); or

- (b) The obligations or liabilities of a person described in 42 U.S.C. Section 9607(a)(3) or (4); or
- (c) The obligations of a responsible person under any applicable Environmental Laws; or
- (d) The right to investigate and remediate any Hazardous Materials associated with the Easement Area; or
- (e) Any control over Landowner's ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Easement Area.

The term “**Hazardous Materials**” includes, without limitation, (a) material that is flammable, explosive or radioactive; (b) petroleum products, including by-products and fractions thereof; and (c) hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.; hereinafter “**RCRA**”); the Hazardous Materials Transportation Act (49 U.S.C. Section 6901 et seq.; hereinafter “**HTA**”); the Hazardous Waste Control Law (California Health & Safety Code Section 25100 et seq.; hereinafter “**HCL**”); the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health & Safety Code Section 25300 et seq.; hereinafter “**HAS**”), and in the regulations adopted and publications promulgated pursuant to them, or any other applicable Environmental Laws now in effect or enacted after the date of this Conservation Easement.

The term “**Environmental Laws**” includes, without limitation, CERCLA, RCRA, HTA, HCL, HSA, and any other federal, state, local or administrative agency statute, code, ordinance, rule, regulation, order or requirement relating to pollution, protection of human health or safety, the environment or Hazardous Materials.

19. **Representations and Warranties.** Landowner hereby makes the following representations and warranties for the benefit of Easement Holder and the Third-Party Beneficiaries:

(a) **Authority.** Landowner has good and sufficient title to the Easement Area including all appurtenances thereto, including, without limitation, all minerals and mineral rights and all water and water rights, and Landowner has full right and authority to enter into this Conservation Easement and convey the Conservation Easement to Easement Holder. There are no monetary liens and encumbrances recorded against the Easement Area except as expressly identified in **Exhibit C**, that may conflict or are otherwise inconsistent with this Conservation Easement and which have not been expressly subordinated to this Conservation Easement by a written Subordination Agreement approved by Easement Holder and the Wildlife Agencies. All deeds of trust and mortgages recorded against the Easement Area, or any portion thereof, are and shall continue to be subordinated to this Conservation Easement; documentation of such subordinations are contained in **Exhibit C**. No provisions of this Conservation Easement should be construed as impairing the ability of the Landowner to use the Property as collateral for subsequent borrowing, provided that any

mortgage or lien arising from such a borrowing would be subordinated to this Deed of Conservation Easement.

(b) **Compliance with Laws.** Landowner has not received notice of, and has no knowledge of, any material violation of any federal, state, county or other governmental or quasi-governmental statute, ordinance, regulation, law or administrative or judicial order with respect to the Easement Area.

(c) **No Litigation.** There is no action, suit or proceeding which is pending or threatened against the Easement Area or any portion thereof relating to or arising out of the ownership or use of the Easement Area, or any portion thereof, in any court or in any federal, state, county, or municipal department, commission, board, bureau, agency or other governmental instrumentality.

20. **General Provisions.**

(a) **Controlling Law.** The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of California, disregarding the conflicts of law principles of such state, and by applicable federal law.

(b) **Liberal Construction.** Despite any general rule of construction to the contrary, this Conservation Easement shall be liberally construed to accomplish the purposes of this Conservation Easement and the policy and purpose of Civil Code section 815, *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. It is the intent of this Conservation Easement to preserve the condition of the Easement Area and each of the Conservation Values protected herein, notwithstanding economic or other hardship or changes in circumstances or conditions. The provisions of this Conservation Easement shall be liberally construed to effectuate the purposes of the Conservation Easement and to allow Landowner's use and enjoyment of the Easement Area to the extent consistent with such purposes. Liberal construction is expressly required for purposes of effectuating this Conservation Easement in perpetuity, notwithstanding changed conditions of any kind. The Conservation Easement created by this agreement is the intended best and most productive use of the Easement Area. No remedy or election given by any provision in this Conservation Easement shall be deemed exclusive unless so indicated, but it shall, wherever possible, be cumulative with all other remedies at law or in equity. The parties acknowledge that each party and its counsel have had the opportunity to review and revise this Conservation Easement and that no rule of construction that ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Conservation Easement.

(c) **Severability.** If a court of competent jurisdiction voids or invalidates on its face any provision of this Conservation Easement, such action shall not affect the remainder of this Conservation Easement. If a court of competent jurisdiction voids or invalidates the application of any provision of this Conservation Easement to a person or circumstance, such action shall not affect the application of the provision to other persons or circumstances.

(d) **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to this Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment in accordance with **Section 15**.

(e) **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Landowner's title in any respect.

(f) **Successors.** The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall constitute a servitude running in perpetuity with the Easement Area.

(g) **Termination of Rights and Obligations.** A party's rights and obligations under this Conservation Easement terminate upon a valid transfer of the party's interest in the Conservation Easement in accordance with the terms and provisions hereof, except that liability for acts or omissions or breaches occurring prior to transfer shall survive transfer.

(h) **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.

(i) **Additional Easements.** Landowner shall not grant any additional easements, rights of way or other interests in the Property (other than a security interest that is expressly subordinated to this Conservation Easement), or grant, transfer, or otherwise abandon or relinquish (each a "Transfer") any mineral, air, or water right or agreement relating to the Property, without first obtaining the written consent of Easement Holder and the Third-Party Beneficiaries. Easement Holder and the Third-Party Beneficiaries may withhold such consent if it determines that the proposed interest or transfer is inconsistent with the purposes of this Conservation Easement or may impair or interfere with the Conservation Values. This section shall not prohibit transfer of a fee or leasehold interest in the Property that is subject to this Conservation Easement and complies with **Section 13**. Landowner shall provide a certified copy of any recorded or unrecorded grant or Transfer document to Easement Holder and Third-Party Beneficiaries.

(j) **Recording.** Easement Holder shall record this Conservation Easement in the Official Records of the county where the Easement Area is located and may re-record it at any time as Easement Holder deems necessary to preserve its rights hereunder.

(k) **Counterparts.** The parties may execute this Conservation Easement in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

(1) **Exhibits.** The following Exhibit(s) referenced in this Conservation Easement are attached to and incorporated by reference in this Conservation Easement:

Exhibit A – Legal Description

Exhibit B – Baseline Documentation Certification

Exhibit C – Title Encumbrances

Exhibit D – Notice/Memorandum of Unrecorded Site-Specific Management Plan

Exhibit D shall be executed and recorded concurrently with this Conservation Easement as separate documents in the chain of title for the Property.

IN WITNESS WHEREOF, Landowner and Easement Holder have executed this Conservation Easement the day and year first above written.

LANDOWNER:

YOLO COUNTY

By: _____, County Administrator

Date:

EASEMENT HOLDER:

YOLO HABITAT CONSERVANCY

By: Alexander Tengolics, Executive Director

Date:

APPROVED AS TO FORM:

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

Date:

EXHIBIT A
Legal Description of the Easement Area

The land described herein is situated in the State of California, County of Yolo, unincorporated area, described as follows:

A portion of Lots 20 and 21 of Clanton's Subdivision of Willow Oak Park, filed in Book 35 of Deeds, Page 396, Yolo County Records, described as follows:

Beginning at the Northwest corner of said Lot 21; said point also being the true point of beginning of this description; thence South 0° 06' 29" West, along the West line of said Lot 20 and 21, 586.74 feet to the South rim of an abandoned mining pit; thence along said south rim the following thirty (30) courses: (1) along a nontangent, non-radial curve to the left, having a central angle of 38° 54' 32", a radius of 80.00 feet, and chord of North 31° 33' 14" East 53.29 feet, Northeasterly an arc distance of 54.33 feet to a reverse curve to the right, having a central angle of 168° 40' 54", a radius of 34.00 feet, and chord of South 83° 33' 35" East 67.67 feet; thence (2) Easterly along said curve an arc distance of 100.10 feet; thence (3) tangent to last said curve, South 0° 46' 51" West, 86.60 feet to a tangent curve to the left, having a central angle of 21° 39' 39", a radius of 300.00 feet, and chord of South 10° 02' 58" East 112.74 feet; thence (4) Southerly along said curve an arc distance of 113.42 feet; thence (5) tangent to last said curve, South 20° 52' 47" East, 62.88 feet to a tangent curve to the right, having a central angle of 36° 36' 14", a radius of 200.00 feet, and chord of South 2° 34' 40" East 125.61 feet; thence (6) Southerly along said curve an arc distance of 127.77 feet to a reverse curve to the left, having a central angle of 28° 43' 08", a radius of 600.00 feet, and chord of South 1° 21' 53" West 297.60 feet; thence (7) Southerly along said curve an arc distance of 300.74 feet to a compound curve to the left, having a central angle of 22° 19' 52", a radius of 200.00 feet, and chord of South 24° 09' 37" East 77.46 feet; thence (8) Southeasterly along said curve an arc distance of 77.95 feet to a compound curve to the left, having a central angle of 57° 17' 45", a radius of 60.00 feet, and chord of South 63° 58' 26" East 57.53 feet; thence (9) Southeasterly along said curve an arc distance of 60.00 feet to a compound curve to the left, having a central angle of 15° 24' 26", a radius of 1000.00 feet, and chord of North 79° 40' 29" East 268.10 feet; thence (10) Northeasterly along said curve an arc distance of 268.91 feet; thence (11) tangent to last said curve, North 71° 58' 16" East, 181.36 feet to a tangent curve to the left, having a central angle of 3° 48' 47", a radius of 1000.00 feet, and chord of North 70° 03' 53" East 66.54 feet; thence (12) Northeasterly along said curve an arc distance of 66.55 feet; thence (13) tangent to last said curve, North 68° 09' 29" East, 164.78 feet; thence (14) North 1° 46' 20" East, 421.65 feet to a tangent curve to the right, having a central angle of 64° 36' 30", a radius of 190.00 feet, and chord of North 34° 04' 35" East 203.08 feet; thence (15) Northeasterly along said curve an arc distance of 214.25 feet to a reverse curve to the left, having a central angle of 6° 17' 45", a radius of 500.00 feet, and chord of North 63° 13' 58" East 54.91 feet; thence (16) Northeasterly along said curve an arc distance of 54.94 feet; thence (17) tangent to last said curve, North 60° 05' 05" East, 54.39 feet; thence (18) South 82° 13' 43" East, 241.43 feet; thence (19) South 86° 31' 01" East, 137.76 feet to a tangent curve to the left, having a central angle of 74° 53' 48", a radius of 135.00 feet, and chord of North 56° 02' 04" East 164.17 feet; thence (20) Northeasterly along said curve an arc distance of 176.47 feet to a compound curve to the left, having a central angle of 33° 17' 37", a radius of 240.00 feet, and chord of North 1° 56' 21" East 137.51 feet; thence (21) Northerly along said curve an arc distance of 139.46 feet; thence (22) tangent to last said curve, North 14° 42' 27" West, 35.18 feet to a tangent curve to the left, having a central angle of 41° 51' 47", a radius of 100.00 feet, and chord of North 35° 38' 21" West 71.45 feet; thence (23) Northwesterly along said curve an arc distance of 73.07 feet to a compound curve to the left, having a central angle of

19° 56' 12", a radius of 200.00 feet, and chord of North 66° 32' 21" West 69.24 feet; thence (24) Northwesterly along said curve an arc distance of 69.59 feet to a reverse curve to the right, having a central angle of 69° 32' 17", a radius of 100.00 feet, and chord of North 41° 44' 18" West 114.05 feet; thence (25) Northwesterly along said curve an arc distance of 121.37 feet to a reverse curve to the left, having a central angle of 40° 28' 49", a radius of 150.00 feet, and chord of North 27° 12' 34" West 103.79 feet; thence (26) Northwesterly along said curve an arc distance of 105.98 feet to a reverse curve to the right, having a central angle of 45° 08' 08", a radius of 50.00 feet, and chord of North 24° 52' 55" West 38.38 feet; thence (27) Northwesterly along said curve an arc distance of 39.39 feet to a compound curve to the right, having a central angle of 11° 42' 09", a radius of 550.00 feet, and chord of North 3° 32' 14" East 112.14 feet; thence (28) Northerly along said curve an arc distance of 112.34 feet to a compound curve to the right, having a central angle of 37° 57' 36", a radius of 30.00 feet, and chord of North 28° 22' 06" East 19.51 feet; thence (29) Northeasterly along said curve an arc distance of 19.88 feet to a compound curve to the right, having a central angle of 10° 38' 02", a radius of 1000.00 feet, and chord of North 52° 39' 55" East 185.33 feet; thence (30) Northeasterly along said curve an arc distance of 185.60 feet to the property line common to said Lot 21 and the Merritt-Reith Tract, also known as the Lloyd Burr Property, filed in Book 7 of Maps and Surveys, Page 38, Yolo County Records, and in Book 315 of Official Records, Page 434; thence North 65° 14' 49" West, along said property line, 524.40 feet to that corner common to said Lot 21, said Merritt-Reith Tract and Lot 18 of the Hoppin's Subdivision filed in Map Book 1, Page 51, Yolo County Records, also known as the Fred Plocher Property, as recorded in Book 213 of Official Records, Page 317; thence along said Lot 18, South 37° 08' 36" West 257.05 feet and South 72° 23' 36" West, 931.77 feet to the True Point of Beginning.

Excepting therefrom the right to remove gravel deposits that lie between the zone lying below the depth of ten (10) feet measured vertically from the surface of the above described property and above the depth of Five-Hundred (500) feet measured vertically from the surface of the above-described property, Provided, However, that Grantor shall not have the right of surface access to such gravel deposits, and provided, further, that Grantee shall have the right to drill into and through, and otherwise occupy and cross said zone for any purpose, and shall have the right to place any structures or other tangible items within said zone, and shall have the right to remove gravel from said zone for his own personal purposes (but not for commercial sale), and shall have the right to remove any and all substances of any sort including but not limited to gravel for his own account from said zone for any purposes, as reserved in the deed executed by Lone Star Cement Corporation, recorded August 5, 1986, in Book 1788, Page 287, Official Records.

APN: 025-340-036-000

EXHIBIT B

Acknowledgment of Baseline Documentation Report and Receipt of Baseline Documentation Report

The undersigned, Elisa Sabatini, representing the County of Yolo (“**Landowner**”), and Alexander Tengolics, representing the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency (“**Easement Holder**” or “**Yolo Habitat Conservancy**”) certify as follows:

- a) Each is familiar with the condition of the approximately 38.9 acres, located in the County of Yolo, State of California, and designated Assessor’s Parcel Number 025-340-036-000. Said real property is referred to as the “**Easement Area**”, in that certain Deed of Conservation Easement and Permanent Restrictions on Use; and
- b) Each does hereby acknowledge and certify that the Baseline Documentation Report, and all of its inclusions, dated May __, 2021, prepared by Christine Alford, Owner of Alford Environmental LLC, is an inventory of the natural resources of the Easement Area and an accurate representation of the condition of the Easement Area as of the date of conveyance of the Deed of Conservation Easement and Permanent Restrictions on Use.

Duplicate originals of the Baseline Documentation Report were signed and delivered by each of Landowner and Easement Holder, and each will receive a duplicate original of the Baseline Documentation Report within ten business days after the recordation of the conservation easement.

LANDOWNER:

YOLO COUNTY,
a California Local Government Agency

By: _____
Elisa Sabatini, Manager of Natural Resources

EASEMENT HOLDER:

YOLO HABITAT CONSERVANCY,
a California Joint Powers Agency

By: _____
Alexander Tengolics, Executive Director

EXHIBIT C

Title Encumbrances

TO BE ADDED ONCE TITLE REPORT IS UPDATED

Exhibit D
Notice/Memorandum of Unrecorded Site-Specific Management Plan

Recording Requested by and
When Recorded Mail To:

Yolo Habitat Conservancy
P.O. Box 2202
Woodland, CA 95776
Attention: Executive Director

APN 025-340-036-000

Exempt from recording fees (Cal. Gov. Code § 27388.1(a)(2)(D))

MEMORANDUM OF UNRECORDED SITE-SPECIFIC MANAGEMENT PLAN

This Memorandum of Unrecorded Site-Specific Management Plan dated as of _____, 2021, (the “**Memorandum**”) is recorded to provide notice of that certain Correll Site-Specific Management Plan (the “**Management Plan**”) affecting the real property described on **Exhibit A** attached hereto and made a part hereof (the “**Easement Area**”).

The Easement Area is encumbered by the Deed of Conservation Easement and Permanent Restrictions on Use (the “**Correll Conservation Easement**”) executed by and between the County of Yolo (“**Landowner**”), in favor of the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency, a California Joint Powers Agency (“**Easement Holder**” or “**Yolo Habitat Conservancy**”) to be recorded concurrent with the recordation of this Memorandum. The Management Plan is a companion document to the Correll Conservation Easement.

The Correll Conservation Easement is being recorded against the Easement Area consistent with the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (“**Yolo HCP/NCCP**”), dated April 2018.

The Management Plan provides agreed upon methods/practices and activities for natural resources management and compatible recreational uses, among other provisions that affect activities on the Easement Area. The Yolo Habitat Conservancy has certain rights as described in the Management Plan, including the right to approve any changes to the Management Plan.

A copy of the Management Plan may be obtained from the Yolo Habitat Conservancy by submitting a request to Yolo Habitat Conservancy, Post Office Box 2202, Woodland, California 95776.

Signatures appear on the following page

Landowner: Yolo County

Elisa Sabatini, Manager of Natural Resources

Easement Holder: Yolo Habitat Conservancy

By: Alexander Tengolics, Executive Director

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Yolo Habitat Conservancy
PO Box 2202
Woodland, CA 95776
Attention: Executive Director

Exempt from recording fees (Cal. Gov. Code § 6103)

APNs: 025-350-025 and 025-340-036

Space above this line for Recorder's use only

ACCESS EASEMENT AND AGREEMENT

THIS ACCESS EASEMENT AND AGREEMENT (this “**Agreement**”) is made and entered into by and between County of Yolo (“**Grantor**”), and Yolo County Natural Community Conservation Plan Joint Powers Agency, a California Joint Powers Agency (“**Grantee**”). Grantor and Grantee are referred to collectively herein as the “Parties” and each individually herein as a “Party.”

RECITALS

A. Grantor is the owner of certain real property located in the County of Yolo, State of California, as legally described in Exhibit A attached hereto and incorporated herein by this reference (the “**Access Easement Property**”).

B. The Access Easement Property is adjacent to certain real property also owned by Grantor and located in the County of Yolo, State of California, which is encumbered by that certain Conservation Easement Deed granted to Grantee and recorded in the Official Records of the County of Yolo (the “**Official Records**”) on even date herewith (the “**Conservation Easement**”). The real property encumbered by the Conservation Easement is legally described in Exhibit B attached hereto and incorporated herein by this reference (the “**Conservation Property**”).

C. This Agreement is being executed and delivered to allow Grantee and certain third-party invitees to enter upon the Access Easement Property from County Road 96, a public road, for ingress to and egress from the Conservation Property to conduct monitoring, management and enforcement activities on the Conservation Property in accordance with Grantee's rights under the Conservation Easement and for no other purpose.

NOW, THEREFORE, in consideration of the foregoing recitals which are specifically incorporated into the body of this Agreement, the mutual promises contained herein and the material reliance by the Parties thereon, and other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

Grantor hereby grants to Grantee, a non-exclusive easement for access over and across the Access Easement Property in accordance with the following terms and conditions (the “Access Easement”).

1. **Purpose and Description of Access Easement.** The purpose of the Access Easement is to provide in favor of Grantee, Grantee’s successors and assigns under the Conservation Easement, Grantee’s contractors and agents (collectively, the “**Grantee Parties**”) and the Authorized Invitees (as hereinafter defined) a perpetual, non-exclusive right to enter upon the Access Easement Property, by vehicle, to gain access to the Conservation Property for the purpose of exercising Grantee’s rights set forth in the Conservation Easement. As used herein the term “**Authorized Invitees**” means the U.S. Fish and Wildlife Service and the California Department of Fish and Game, each acting through its respective authorized employees and agents, which entities are identified as a third-party beneficiaries with rights of enforcement under the Conservation Easement. The Access Easement is non-exclusive. The Grantee Parties and the Authorized Invitees shall use only the route described in **Exhibit C** and depicted in **Exhibit D** attached hereto and incorporated herein by reference (the “**Access Route**”) to gain access to the Conservation Property. Except in cases when Grantee or the Authorized Invitee has determined that immediate entry is required to prevent, terminate, or mitigate a violation of the Conservation Easement, Grantee shall contact Grantor at least 48 hours in advance of each entry. Grantor shall promptly upon Grantee’s request provide to Grantee keys or combinations to the locks on gates as needed for entries by the Grantee Parties and the Authorized Invitees as provided herein.

2. **Maintenance.** Grantor, at Grantor’s sole cost and expense, shall maintain the Access Route in a condition sufficient for passage by a four-wheel drive vehicle during the annual monitoring visits, except during weather conditions that cause the Access Route to temporarily become impassable.

3. **Term.** The Access Easement shall remain in place in perpetuity unless and except only to the extent that: Grantor and Grantee enter into an amended easement agreement, recorded in the Official Records, that provides for access by means of a two-wheel drive vehicle from a public road to the Conservation Property at such different location(s) as may be approved by Grantee in Grantee’s reasonable discretion. If the Access Easement is so terminated with respect to all or any portion of the Access Easement Property, Grantee shall promptly provide Grantor a recordable Quitclaim Deed, or other document required by any reputable title company licensed to operate in California, releasing and quitclaiming any interest under this Agreement (the “**Release**”) as to the Access Easement Property or affected portion thereof (the “**Released Area**”); *provided*, that: (i) the obligations to the Grantee Indemnified Parties (as defined in **Section 6(a)** below) under the provisions of **Sections 6(a) and 8(b)** of this Agreement of Grantor as record owner of the Released Area immediately prior to the Release shall survive the Release with respect to the Released Area; (ii) the obligations of Grantee to the Grantor Indemnified Parties under the provisions of **Section 6(b)** of this Agreement shall survive the Release with respect to the Released Area; and (iii) all obligations of Grantor under this Agreement shall continue to apply to all portions of the Access Easement Property not released pursuant to this

Section 3, if any. The Access Easement may also be terminated by mutual agreement of the parties.

4. **Grantor's Representations and Warranties.** Grantor makes the following representations and warranties. For the purposes of this Agreement, "to the best of Grantor's knowledge" means the current actual knowledge of Grantor without any obligation to investigate or inquire.

(a) Grantor has full power and authority to enter into this Agreement, and to convey the Access Easement in accordance with this Agreement.

(b) This Agreement has been duly executed and delivered by an authorized representative of Grantor and constitutes the legal, valid and binding obligations of Grantor in accordance with its terms.

(c) To the best of Grantor's knowledge, there is no suit, action, arbitration, legal, administrative or other proceeding or inquiry, pending or threatened against or relating to Grantor which would affect Grantor's ability to perform its obligations under this Agreement.

(d) To the best of Grantor's knowledge, other than the liens and encumbrances of record as of the Effective Date (the "**Approved Encumbrances**"), there are no encumbrances or liens against any portion of the Access Easement Property, including, but not limited to, unexpired leases, options, mortgages or deeds of trust.

(e) To the best of Grantor's knowledge, Grantor's performance of this Agreement will not constitute a breach or default under any other agreement, whether written or oral, to which Grantor is bound and/or to which the Access Easement Property is subject.

(f) To the best of Grantor's knowledge, there is no condition at, on, under or related to the Access Easement Property presently or potentially posing a significant hazard to human health or the environment.

5. **Taxes; No Liens.** Grantor shall pay before delinquency all taxes and property assessments, fees and charges of whatever description levied on or assessed against the Access Property by competent authority (collectively, "**taxes**"), including any taxes imposed upon, or incurred as a result of, the Access Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantor shall keep Grantee's interest in the Access Easement Property free from any liens, including those arising out of any obligations incurred by Grantor for any labor or materials furnished or alleged to have been furnished at or for use on the Access Easement Property; *provided*, that except for the lien of any taxes imposed upon, or incurred as a result of, the Access Easement, Grantor's obligation to keep Grantee's interest in the Access Easement Property free from any liens shall not extend to liens imposed solely to secure an obligation incurred by Grantee.

6. **Costs and Liabilities.** Grantor retains all rights and responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Access Easement Property, subject to this Agreement.

7. **Indemnification.**

(a) **Grantor.** Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (each a “**Grantee Indemnified Party**” and collectively, “**Grantee Indemnified Parties**”), from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, orders, liens, or judgments, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (a) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Access Easement Property, including but not limited to any such act, omission, condition or other matter occurring in connection with the presence of the general public on the Access Easement Property, regardless of cause, unless due to the negligence or willful misconduct of any of the Grantee Indemnified Parties; or (b) Grantor’s obligations specified in this Agreement; or (c) a breach of any of Grantor’s representations or warranties made in this Agreement; or (d) any violation of, or other failure to comply with, any state, federal or local law, regulation or requirement related to the Access Easement Property, by Grantor, or any entity other than one of the Grantee Indemnified Parties acting upon permission from Grantee, in any way affecting, involving or relating to the Access Easement Property.

(b) **Grantee.** Grantee shall hold harmless, indemnify, and defend Grantor and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively, “**Grantor Indemnified Parties**”), from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, orders, liens, or judgments, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (a) injury to or the death of any person, or physical damage to any property, occurring on or about the Access Easement Property, resulting from the actions or omissions of any Grantee Indemnified Party; or (b) Grantee’s obligations specified in this Agreement; or (c) any violation of, or other failure to comply with, any state, federal or local law, regulation or requirement, by Grantee, or any other of the Grantee Indemnified Parties acting upon permission from Grantee, in any way affecting, involving or relating to the Access Easement Property.

8. **Insurance.**

(a) **Grantor.** Grantor shall maintain a commercially available general liability policy insuring against bodily injury and property damage on the Access Easement Property in the amount of not less than One Million Dollars (\$1,000,000). Grantee shall be named an additional insured on the policy. For any claim covered by the indemnification in Section 6(a), above, the liability insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to Grantee with respect to Grantee’s entries onto the Access Easement Property pursuant to Access Easement. Grantor waives all rights of subrogation against Grantee and its agents, representatives, officers, directors and employees for recovery of damages to the extent these damages are covered by insurance maintained pursuant to this Agreement. Grantor shall furnish Grantee with certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above. Such certificates shall provide for thirty (30) days written notice to Grantee prior to the cancellation or material change of any insurance referred to herein. Any failure of Grantee to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Grantee to identify a deficiency from evidence that is

provided shall not be construed as a waiver of Grantor's obligation to maintain such insurance. The foregoing insurance requirements do not replace, waive, alter or limit the hold harmless or indemnification provisions of this Agreement. Not less frequently than every 5 years, the Parties shall cooperate in determining an appropriate increase, to adjust for inflation, in the limit of the insurance coverage maintained by Grantor; thereafter, Grantor obtain and maintain such increased coverage into effect until the next such adjustment. The Parties agree and acknowledge that the insurance requirements set forth above may be satisfied by the insurance required and carried under the Conservation Easement.

(b) **Grantee.** Grantee shall maintain a commercially available general liability policy insuring against bodily injury and property damage on the Access Easement Property in the amount of not less than one million dollars (\$1,000,000). The Grantor shall be named as an additional insured on the policy. For any claim covered by the indemnification in Section 6(b), above, the liability insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to Grantor with respect to the Access Easement Property. Grantee waives all rights of subrogation against Grantor and its agents, representatives, officers, directors and employees for recovery of damages to the extent these damages are covered by insurance maintained pursuant to this Agreement. The foregoing insurance requirements do not replace, waive, alter or limit the hold harmless or indemnification provisions of this Agreement. Not less frequently than every 5 years, the Parties shall cooperate in determining an appropriate increase, to adjust for inflation, in the limit of the insurance coverage maintained by Grantee; thereafter, Grantee shall obtain and maintain such increased coverage into effect until the next such adjustment. The Parties agree and acknowledge that the insurance requirements set forth above may be satisfied by the insurance required and carried under the Conservation Easement.

9. **Environmental Provisions.**

(a) **Grantee Not An Owner, Operator, Or Responsible Party.** Notwithstanding any other provision herein to the contrary, the parties do not intend this Agreement to be construed such that it creates in or gives Grantee:

(i) The obligations or liability of an “owner” or “operator” as those words are defined and used in environmental laws, as defined below, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 *et seq.* and hereinafter “CERCLA”);

(ii) The obligations or liability of a person described in 42 U.S.C. § 9607(a)(3) or (4);

(iii) The obligations of a responsible person under any applicable Environmental Law, as defined below;

(iv) The right to investigate and remediate any Hazardous Substance (as defined below) associated with the Access Property; or

Any control over Grantor's ability to investigate, remove, remediate, or otherwise clean up any Hazardous Substances, as defined below, associated with the Property.

(v) Any control over Grantor's ability to investigate, remove, remediate, or otherwise clean up any Hazardous Substances, as defined below, associated with the Property.

(b) **Environmental Liabilities and Indemnification.** In addition to the indemnity and defense obligations of Grantor under Section 7(a), above, Grantor shall indemnify, protect and defend with counsel acceptable to Grantee, and hold harmless the Grantee Indemnified Parties (as defined in Section 7(a) hereof) from and against any claims (including, without limitation, third party claims for personal injury or death, damage to property, or diminution in the value of property), actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities (including sums paid in settlements of claims), remedial action, compliance requirements, enforcement and clean-up actions of any kind, interest or losses, attorneys' fees (including any fees and expenses incurred in enforcing this indemnity), consultant fees, and expert fees that arise directly or indirectly from or in connection with: (i) the claimed presence or Environmental Release (as defined below) of any Hazardous Substance whether into the air, soil, surface water or groundwater of or at the Access Easement Property; (ii) any violation or alleged violation of Environmental Law (as defined below) affecting the Access Easement Property, whether occurring prior to or during Grantor's ownership of the Access Easement Property and whether caused or permitted by Grantor or any person other than Grantor; or (iii) any claim or defense by Grantor or any third party that any Grantee Indemnified Party is liable as an "owner" or "operator" of the Access Easement Property under any Environmental Law. The foregoing indemnity obligations shall not apply with respect to any Hazardous Substance released or deposited as a result of action by any of the Grantee Indemnified Parties, while acting on behalf of Grantee, on or about the Access Easement Property. Notwithstanding any statutory limitation otherwise applicable, the indemnity obligations of Grantor to the Grantee Indemnified Parties pursuant to this Section 9(b), solely with respect to matters occurring prior to or during Grantor's ownership of the Access Easement Property, shall continue after transfer to a successor in interest.

(c) **Definitions.**

(i) The term "**Environmental Law**" shall include, but shall not be limited to, each statute named or referred to below, and all rules and regulations thereunder, and any other local, state and/or federal laws, ordinances, rules, regulations, orders and decrees, whether currently in existence or hereafter enacted, which govern: (i) the existence, cleanup and/or remedy of contamination or pollution on property; (ii) the protection of the environment from soil, air or water contamination or pollution, or from spilled, deposited or otherwise emplaced contamination or pollution; (iii) the emission or discharge of Hazardous Substances into the environment; (iv) the control of Hazardous Substances; or (v) the use, generation, transport, treatment, removal or recovery of Hazardous Substances.

(ii) The term "**Environmental Release**" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of any Hazardous Substance into the environment (including, without limitation, the continuing migration of Hazardous Substances into, onto or through the soil, surface water, or groundwater, and the abandonment or discarding of barrels, containers, and other receptacles containing any Hazardous Substance), whether or not caused by, contributed to, permitted by, acquiesced to or known to Grantor.

(iii) The term “**Hazardous Substance**” shall mean (i) any oil, flammable substance, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants which pose a hazard to the Property or to persons on or about the Access Easement Property, or cause the Access Easement Property to be in violation of any Environmental Law; (ii) asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls, or radon gas; (iii) any chemical, material or substance defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous waste,” “restricted hazardous waste,” or “toxic substances” or words of similar import under any applicable local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto, including: CERCLA; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*; the California Hazardous Waste Control Law, Cal. Health & Safety § 25100 *et seq.*; the Hazardous Substance Account Act, Cal. Health & Safety Code § 25300, *et seq.*, the Porter-Cologne Water Quality Control Act, Cal. Water Code § 13000 *et seq.*; the Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), Cal. Health & Safety Code § 25249.5 *et seq.*; Title 22 of the California Code of Regulations, Division 4, Chapter 30; (iv) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or may or could pose a hazard to the health and safety of the occupants of the Access Easement Property or the owners and/or occupants of property adjacent to or surrounding the Access Easement Property, or any other person coming upon the Access Easement Property or adjacent property; and (v) any other chemical, materials or substance which may or could pose a hazard to the environment.

10. **Assignment by Grantee.** Grantee may assign the Access Easement only to a successor holder of the Conservation Easement.

11. **Legal Costs.** If either Party to this Agreement shall take any action to enforce this Agreement or bring any action for any relief against any other Party, declaratory or otherwise, arising out of this Agreement, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys’ and experts’ fees and costs incurred in taking such action, bringing such suit and/or enforcing any judgment granted therein, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorneys’ and experts’ fees and costs due hereunder. The amount of such fees and costs shall be determined by a court of competent jurisdiction and not by a jury. For the purposes of this Section, attorneys’ and experts’ fees and costs shall also include, without limitation, fees incurred in the following: (a) post-judgment motions; (b) appeal proceedings; (c) contempt proceedings; (d) garnishment, levy, and debtor and third party examinations; (e) discovery; and (f) bankruptcy litigation.

12. **Notices.** Any notice, demand, approval, consent, or other communication required or desired to be given under this Agreement in writing shall be given in the manner set forth below, addressed to the Party to be served at the addresses set forth beneath such Party’s signature on this Agreement, or at such other address for which that Party may have given notice under the provisions of this Section. Any notice, demand, approval, consent, or other

communication given by (a) mail shall be deemed to have been given on the second (2nd) business day immediately following the date it was deposited in the United States mail, first class and postage prepaid; (b) overnight common carrier courier service shall be deemed to be given on the business day (not including Saturday) immediately following the date it was deposited with such common carrier; or (c) delivery in person or by messenger shall be deemed to have been given upon delivery in person or by messenger.

Grantor: *County of Yolo*
 Attn: County Administrator
 625 Court Street, Room 202
 Woodland, CA 95695
 Telephone: (530) 666-8150

Grantee: *Yolo Habitat Conservancy*
 Attn: Executive Director
 P.O. Box 2202
 Woodland, CA 95776
 Telephone: (530) 666-8150

13. **Miscellaneous Terms.**

(a) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to its conflicts of law principles. Any proceeding or action to enforce this Agreement shall occur in the Sacramento County Superior Court.

(b) **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to the Access Easement. All prior and contemporaneous agreements, representations, negotiations and understandings of the Parties, oral or written, are merged into and superseded by this Agreement. Any modification or amendment to this Agreement shall be of no force and effect unless it is in writing and signed by the Parties.

(c) **Captions and Paragraph Headings.** Captions and paragraph headings used herein are for convenience only. They are not a part of this Agreement and shall not be used in construing this Agreement.

(d) **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, legal representatives and successors. This Agreement and the Access Easement will run with the land and specifically be binding upon successor owners of the Access Easement Property.

(e) **Termination of Rights and Obligations.** A Party's rights and obligations under this Agreement terminate upon transfer of the Party's interest in the Access Easement Property, except as otherwise provided in Section 9(b) above, and except that liability for acts, omissions or breaches occurring prior to transfer shall survive transfer.

(f) **Drafting.** The Parties agree that this Agreement is the project of joint draftsmanship and that should any of the terms be determined by a court, or in any type of quasi-judicial or other proceeding, to be vague, ambiguous and/or unintelligible, that the same sentences, phrases, clauses or other wording or language of any kind shall not be construed against the drafting party in accordance with California Civil Code Section 1654, and that each party to this Agreement waives the effect of such statute.

(g) **Authorization to Record; Effective Date.** Grantee is authorized to record this Agreement in the Official Records, and the effective date of this Agreement shall be the date on which it is recorded in the Official Records (the “**Effective Date**”).

(h) **Counterparts.** This Agreement may be executed and delivered in counterparts by the Parties, and each counterpart shall be deemed an original instrument as against any Party who has signed it. Counterpart signature pages and notary acknowledgements may be attached hereto to constitute a single legal document for recording.

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the Effective Date.

GRANTOR:

GRANTEE:

YOLO COUNTY

YOLO HABITAT CONSERVANCY

, County Administrator

Alexander Tengolics, Executive Director

Dated: _____

Dated: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: Eric May
Senior Deputy County Counsel

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

Exhibits:

- A: Legal Description of Access Easement Property
- B: Legal Description of Conservation Property
- C: Description of Access Route
- D: Map of Access Route

ACKNOWLEDGEMENTS

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

STATE OF CALIFORNIA)

COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

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

STATE OF CALIFORNIA)

COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

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

STATE OF CALIFORNIA)

COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT A

ACCESS EASEMENT PROPERTY LEGAL DESCRIPTION

The land described herein is situated in the State of California, County of Yolo, unincorporated area, described as follows:

Parcel B of Parcel Map No. 2887 for Frank Rodgers, filed July 12, 1979, in Book 4 of Parcel Maps, Page 99, Yolo County Records.

Excepting therefrom, an undivided one-half interest in all oil, gas and other hydrocarbons and minerals now or at any time hereafter situate therein and thereunder, as reserved in the Deed from Capital Company, a Corporation to Frank A. Rodgers and Anna Ilg Rodgers, his wife, recorded March 25, 1942, in Book 168 of Official Records, Page 38.

Surface rights down to a depth of 500 feet were quitclaimed to Francis O. Rodgers, also known as Frank O. Rodgers, Lucille E. Rodgers, Francis J. Rodgers and Carol Ann Rodgers, by Quitclaim Deed recorded July 31, 1979, in Book 1379 of Official Records, Page 171.

Also excepting therefrom, an undivided one-half interest in all oil, gas and other hydrocarbons and minerals now or at any time hereafter situate below a depth of 500 feet, as reserved in the deed from Francis J. Rodgers, et al., recorded July 31, 1979, in Book 1379 of Official Records, Page 175.

APN: 025-350-025-000

EXHIBIT B

CONSERVATION PROPERTY LEGAL DESCRIPTION

The land described herein is situated in the State of California, County of Yolo, unincorporated area, described as follows:

A portion of Lots 20 and 21 of Clanton's Subdivision of Willow Oak Park, filed in Book 35 of Deeds, Page 396, Yolo County Records, described as follows:

Beginning at the Northwest corner of said Lot 21; said point also being the true point of beginning of this description; thence South 0° 06' 29" West, along the West line of said Lot 20 and 21, 586.74 feet to the South rim of an abandoned mining pit; thence along said south rim the following thirty (30) courses: (1) along a nontangent, non-radial curve to the left, having a central angle of 38° 54' 32", a radius of 80.00 feet, and chord of North 31° 33' 14" East 53.29 feet, Northeasterly an arc distance of 54.33 feet to a reverse curve to the right, having a central angle of 168° 40' 54", a radius of 34.00 feet, and chord of South 83° 33' 35" East 67.67 feet; thence (2) Easterly along said curve an arc distance of 100.10 feet; thence (3) tangent to last said curve, South 0° 46' 51" West, 86.60 feet to a tangent curve to the left, having a central angle of 21° 39' 39", a radius of 300.00 feet, and chord of South 10° 02' 58" East 112.74 feet; thence (4) Southerly along said curve an arc distance of 113.42 feet; thence (5) tangent to last said curve, South 20° 52' 47" East, 62.88 feet to a tangent curve to the right, having a central angle of 36° 36' 14", a radius of 200.00 feet, and chord of South 2° 34' 40" East 125.61 feet; thence (6) Southerly along said curve an arc distance of 127.77 feet to a reverse curve to the left, having a central angle of 28° 43' 08", a radius of 600.00 feet, and chord of South 1° 21' 53" West 297.60 feet; thence (7) Southerly along said curve an arc distance of 300.74 feet to a compound curve to the left, having a central angle of 22° 19' 52", a radius of 200.00 feet, and chord of South 24° 09' 37" East 77.46 feet; thence (8) Southeasterly along said curve an arc distance of 77.95 feet to a compound curve to the left, having a central angle of 57° 17' 45", a radius of 60.00 feet, and chord of South 63° 58' 26" East 57.53 feet; thence (9) Southeasterly along said curve an arc distance of 60.00 feet to a compound curve to the left, having a central angle of 15° 24' 26", a radius of 1000.00 feet, and chord of North 79° 40' 29" East 268.10 feet; thence (10) Northeasterly along said curve an arc distance of 268.91 feet; thence (11) tangent to last said curve, North 71° 58' 16" East, 181.36 feet to a tangent curve to the left, having a central angle of 3° 48' 47", a radius of 1000.00 feet, and chord of North 70° 03' 53" East 66.54 feet; thence (12) Northeasterly along said curve an arc distance of 66.55 feet; thence (13) tangent to last said curve, North 68° 09' 29" East, 164.78 feet; thence (14) North 1° 46' 20" East, 421.65 feet to a tangent curve to the right, having a central angle of 64° 36' 30", a radius of 190.00 feet, and chord of North 34° 04' 35" East 203.08 feet; thence (15) Northeasterly along said curve an arc distance of 214.25 feet to a reverse curve to the left, having a central angle of 6° 17' 45", a radius of 500.00 feet, and chord of North 63° 13' 58" East 54.91 feet; thence (16) Northeasterly along said curve an arc distance of 54.94 feet; thence (17) tangent to last said curve, North 60° 05' 05" East, 54.39 feet; thence (18) South 82° 13' 43" East, 241.43 feet; thence (19) South 86° 31' 01" East, 137.76 feet to a tangent curve to the left, having a central angle of 74° 53' 48", a radius of 135.00 feet, and chord of North 56° 02' 04" East 164.17 feet; thence (20) Northeasterly along said curve an arc distance of 176.47 feet to a compound curve to the left, having a central angle of 33° 17' 37", a radius of 240.00 feet, and chord of North 1° 56' 21" East 137.51 feet; thence (21) Northerly along said curve an arc distance of 139.46 feet; thence (22) tangent to last said curve, North 14° 42' 27" West, 35.18 feet to a tangent curve to the left, having a central angle of 41° 51' 47", a radius of 100.00 feet, and chord of North 35° 38' 21" West 71.45 feet; thence (23) Northwesterly

along said curve an arc distance of 73.07 feet to a compound curve to the left, having a central angle of 19° 56' 12", a radius of 200.00 feet, and chord of North 66° 32' 21" West 69.24 feet; thence (24) Northwesternly along said curve an arc distance of 69.59 feet to a reverse curve to the right, having a central angle of 69° 32' 17", a radius of 100.00 feet, and chord of North 41° 44' 18" West 114.05 feet; thence (25) Northwesternly along said curve an arc distance of 121.37 feet to a reverse curve to the left, having a central angle of 40° 28' 49", a radius of 150.00 feet, and chord of North 27° 12' 34" West 103.79 feet; thence (26) Northwesternly along said curve an arc distance of 105.98 feet to a reverse curve to the right, having a central angle of 45° 08' 08", a radius of 50.00 feet, and chord of North 24° 52' 55" West 38.38 feet; thence (27) Northwesternly along said curve an arc distance of 39.39 feet to a compound curve to the right, having a central angle of 11° 42' 09", a radius of 550.00 feet, and chord of North 3° 32' 14" East 112.14 feet; thence (28) Northerly along said curve an arc distance of 112.34 feet to a compound curve to the right, having a central angle of 37° 57' 36", a radius of 30.00 feet, and chord of North 28° 22' 06" East 19.51 feet; thence (29) Northeasterly along said curve an arc distance of 19.88 feet to a compound curve to the right, having a central angle of 10° 38' 02", a radius of 1000.00 feet, and chord of North 52° 39' 55" East 185.33 feet; thence (30) Northeasterly along said curve an arc distance of 185.60 feet to the property line common to said Lot 21 and the Merritt-Reith Tract, also known as the Lloyd Burr Property, filed in Book 7 of Maps and Surveys, Page 38, Yolo County Records, and in Book 315 of Official Records, Page 434; thence North 65° 14' 49" West, along said property line, 524.40 feet to that corner common to said Lot 21, said Merritt-Reith Tract and Lot 18 of the Hoppin's Subdivision filed in Map Book 1, Page 51, Yolo County Records, also known as the Fred Plocher Property, as recorded in Book 213 of Official Records, Page 317; thence along said Lot 18, South 37° 08' 36" West 257.05 feet and South 72° 23' 36" West, 931.77 feet to the True Point of Beginning.

Excepting therefrom the right to remove gravel deposits that lie between the zone lying below the depth of ten (10) feet measured vertically from the surface of the above described property and above the depth of Five-Hundred (500) feet measured vertically from the surface of the above-described property, Provided, However, that Grantor shall not have the right of surface access to such gravel deposits, and provided, further, that Grantee shall have the right to drill into and through, and otherwise occupy and cross said zone for any purpose, and shall have the right to place any structures or other tangible items within said zone, and shall have the right to remove gravel from said zone for his own personal purposes (but not for commercial sale), and shall have the right to remove any and all substances of any sort including but not limited to gravel for his own account from said zone for any purposes, as reserved in the deed executed by Lone Star Cement Corporation, recorded August 5, 1986, in Book 1788, Page 287, Official Records.

APN: 025-340-036-00

EXHIBIT C
DESCRIPTION OF ACCESS ROUTE



4368-1
March 26, 2021

ACCESS EASEMENT

THAT portion of real property situate in the unincorporated area of the County of Yolo, State of California, and being a portion of the RANCHO RIO JESUS MARIA, Township 10 North, Range 1 East, Mount Diablo Base and Meridian, and also being a portion of Parcel "B", as shown in Book 4 of Parcel Maps at Page 99, said County Records, being more particularly described as follows:

Being a strip of land twenty-five feet (25.00') wide lying equally on either side of the following described centerline:

BEGINNING at a point on the West line of said Parcel "B", said point being distant from National Geodetic Survey designation "HPGN CA 03 08" the following three (3) courses and distances: (1) South 83°04'27" West 24,230.21 feet to National Geodetic Survey designation "KEATON"; (2) South 83°14'46" East 13,520.02 feet to the Northwest corner of said Parcel "B"; and 3) along said West line, South 00°17'32" West 328.60 feet; thence, from said POINT OF BEGINNING and leaving said West line, North 62°09'17" East 145.11 feet; thence North 75°00'51" East 124.93 feet; thence North 82°29'12" East 327.34 feet; thence North 76°01'27" East 411.77 feet; thence North 65°08'50" East 173.63 feet; thence North 76°39'40" East 136.76 feet; thence South 74°15'23" East 63.97 feet to the East line of said Parcel "B."

The sidelines of said strip of land shall be lengthened or shortened so as to terminate on said West line and said East line of said Parcel "B."

Containing 0.794 acres of land, more or less.

The basis of bearings for this description is the grid bearing between National Geodetic Survey designations "KEATON" and "HPGN CA 03 08"; said "KEATON" (PID-AI5065) having coordinates of North (Y) 2,020,158.86 sft and East (X) 6,594,078.55 sft with an epoch date of 2010.00; said "HPGN CA 03 08" (PID-JS4668) having coordinates of North (Y) 2,023,080.70 sft and East (X) 6,618,131.95 sft with an epoch date of 2010.00; said grid bearing being South 83°04'27" West as determined from National Geodetic Survey data sheets.

All bearings and coordinates described herein are grid and are based on the California Coordinate System of 1983, Zone 2. All distances described herein are ground and shown in United States survey feet (sft) and decimals thereof. To obtain grid distances, multiply ground distances by the combination factor of 0.99993572.

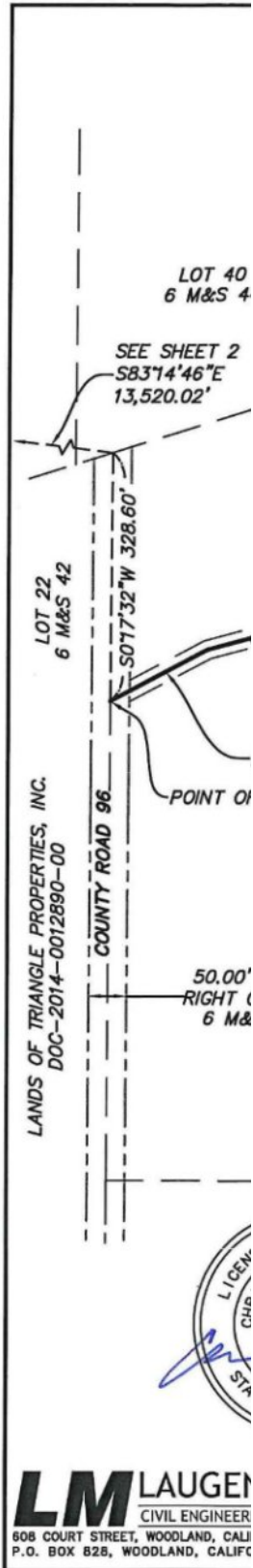


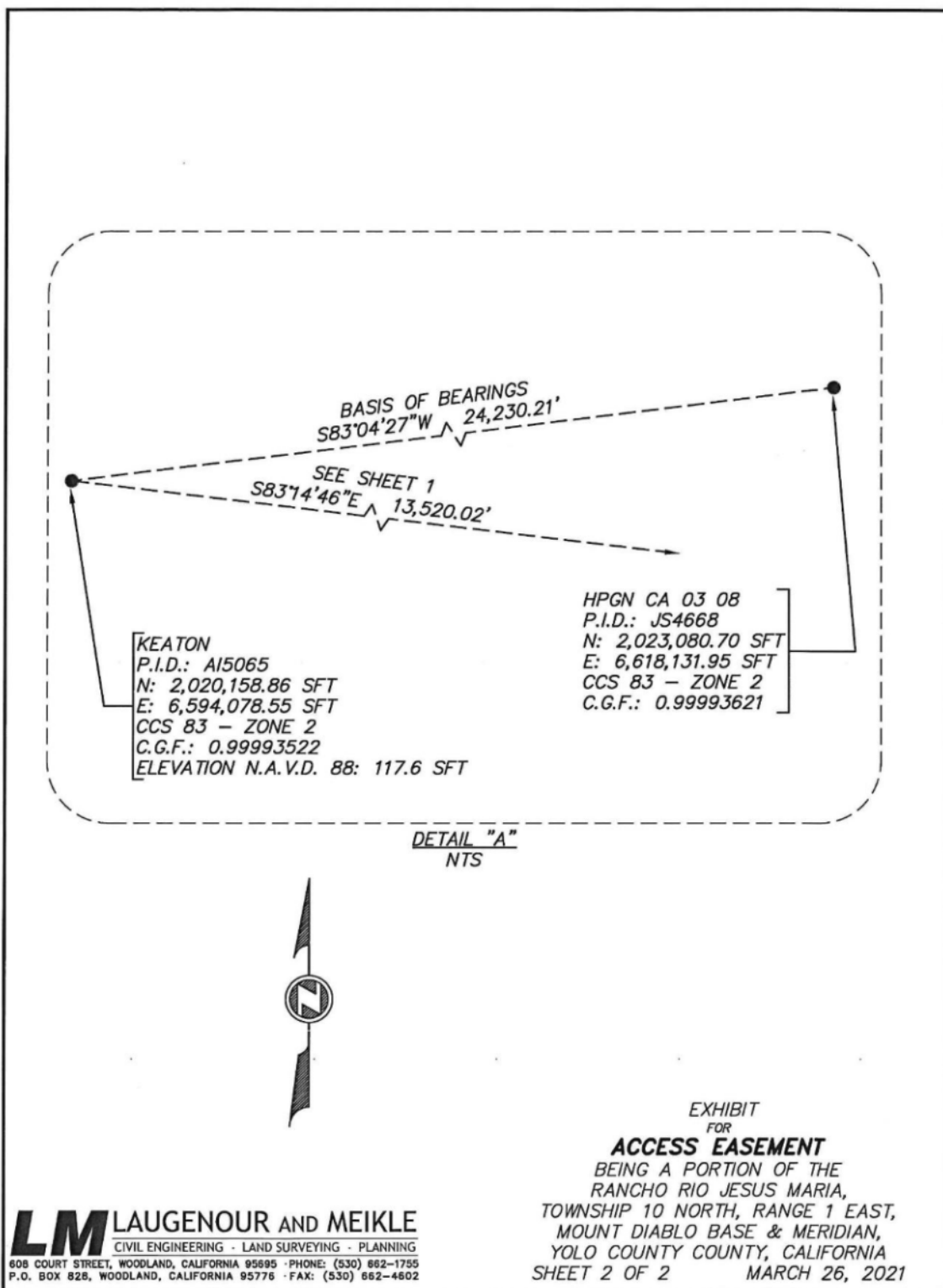
End of description.


Christopher W. Lerch

3-26-2021
Date

EXHIBIT D
MAP OF ACCESS ROUTE





X:\Land Projects\4368-1\dwg\4368-1_Base_1_Topo

Yolo Habitat Conservancy

Meeting Date: 05/17/2021

Information

SUBJECT

Approve updates to the stewardship donation policy

Attachments

Staff Report

Attachment A. Yolo HCP/NCCP stewardship donation policy

Form Review

Inbox

Reviewed By

Date

Alexander Tengolics

Alexander Tengolics

05/12/2021 09:34 AM

Form Started By: Alexander Tengolics

Started On: 05/12/2021 09:08 AM

Final Approval Date: 05/12/2021



Yolo Habitat Conservancy

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

To: Will Arnold, Chair
Members of the Board

From: Alexander Tengolics
Executive Director

Re: Approve updates to the stewardship donation policy

Date: May 17, 2021

REQUESTED ACTIONS:

1. Approve updates to the stewardship donation policy (Attachment A)

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. The Board approved a stewardship donation policy on January 28, 2019 that requests that all landowners interested in establishing a conservation easement on their property provide a \$10,000 upfront contribution to help pay a portion of due diligence costs and contribute a stewardship donation equal to 6% of the value of the easement upon close of escrow. The Board also directed staff to review the policy and return with any recommended changes to the Board of Directors. Conservancy staff propose updates to the stewardship donation policy that modify the upfront contribution request amount based on the size and character of proposed conservation easement sites and eliminate the need to establish separate accounting codes within the Conservancy’s financial accounting structure to track upfront contribution expenditures for each individual site (Attachment A).

ATTACHMENTS:

Attachment A. Yolo HCP/NCCP stewardship donation 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

Stewardship Donation Policy

Adopted by the Yolo Habitat Conservancy Board: January 28, 2019

Proposed changes shown with underline and strikethrough presented to the
Yolo Habitat Conservancy Board: May 17, 2021

1. PURPOSE:

This policy outlines the process through which the Yolo Habitat Conservancy ("Conservancy") request stewardship donations or contributions from landowners as part of an easement transaction. Stewardship donations help cover 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.

2. SCOPE

This policy applies to all Yolo HCP/NCCP reserve system sites.

3. POLICY

- Request that landowners provide an upfront payment at the time they sign a letter of intent to demonstrate their intention to establish a conservation easement on their property and to pay for a portion of the due diligence costs, which includes the survey, the appraisal, and other items. The amount of the payment request will be based on the size and character of the proposed easement site according to the following three categories:
 - Standard land cover sites over 40 acres: ~~Staff recommend a~~ 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.
 - Standard land cover sites equal to or less than 40 acres: Landowner to commit in the letter of intent to pay the cost of the appraisal and mineral assessment report (if mineral rights have been severed) or contribute \$10,000 towards these costs, whichever is less.
 - Sites that are predominantly riparian land cover and/or other wetlands land cover: A good faith deposit of \$1,000 due when the Conservancy and the landowner sign a letter of intent at the start of the process. The Conservancy will pay for due diligence costs and will reimburse the deposit at the close of escrow.

The Executive Director may reduce or waive the upfront payment for easements that will be donated to the Yolo HCP/NCCP. The Conservancy's Board of Directors may ~~reduce or~~ waive this upfront payment 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 needed to purchase the conservation easement 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 amount minus any appraisal costs expended prior to the termination 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

Meeting Date: 05/17/2021

Information

SUBJECT

Executive Director's Report

Attachments

No file(s) attached.

Form Review

Inbox

Alexander Tengolics

Reviewed By

Alexander Tengolics

Date

05/11/2021 08:36 AM

Form Started By: Alexander Tengolics

Started On: 05/11/2021 08:35 AM

Final Approval Date: 05/11/2021