



Winters City Council Meeting
City Council Chambers
318 First Street
Tuesday, May 15, 2018
6:30 p.m.
AGENDA

Members of the City Council

*Wade Cowan, Mayor
Bill Biasi, Mayor Pro-Tempore
Harold Anderson
Jesse Loren
Pierre Neu*

*John W. Donlevy, Jr., City Manager
Ethan Walsh, City Attorney
Nanci Mills, City Clerk*

PLEASE NOTE – The numerical order of items on this agenda is for convenience of reference. Items may be taken out of order upon request of the Mayor or Councilmembers. Public comments time may be limited and speakers will be asked to state their name.

Roll Call

Pledge of Allegiance

Approval of Agenda

COUNCIL/STAFF COMMENTS

PUBLIC COMMENTS

At this time, any member of the public may address the City Council on matters, which are not listed on this agenda. Citizens should reserve their comments for matter listed on this agenda at the time the item is considered by the Council. An exception is made for members of the public for whom it would create a hardship to stay until their item is heard. Those individuals may address the item after the public has spoken on issues that are not listed on the agenda. Presentations may be limited to accommodate all speakers within the time available. Public comments may also be continued to later in the meeting should the time allotted for public comment expire.

CONSENT CALENDAR

All matters listed under the consent calendar are considered routine and non-controversial, require no discussion and are expected to have unanimous Council support and may be enacted by the City Council in one motion in the form listed below. There will be no separate discussion of these items. However, before the City Council votes on the motion to adopt, members of the City Council, staff, or the public may request that specific items be removed from the Consent Calendar for separate discussion and action. Items(s) removed will be discussed later in the meeting as time permits.

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, May 1, 2018 (pp. 5-8)
- B. State Mandated Cost Claiming Services (pp. 9-19)
- C. American Tower Lease Extension (pp. 20-52)
- D. Consultant Services Agreement with Laugenour and Meikle for Design Services for the City Hall Parking Lot Improvements and Newt's Alley Improvements (pp. 53-70)
- E. Amplified Sound Permit Application @ Winters Community Center on Saturday, May 26th (pp. 71-73)
- F. Amplified Sound Permit Applications @ Rotary Park Gazebo on Saturday, May 26th & Sunday, May 27th (pp. 74-82)
- G. Street Closure Request - 621 Ivy Loop, Winters (pp. 83-85)
- H. Staff Promotion to Mid-Management Position (pp. 86)

PRESENTATIONS

Police Department Presentation

Sac-Yolo Mosquito and Vector – Luz Robles

DISCUSSION ITEMS

- 1. Adoption of the Yolo Habitat Conservation Plan/Natural Community Conservation Plan ("Yolo HCP/NCCP"); and (pp. 87-97)
 - A. Resolution 2018-12, Consideration of Final Environmental Impact Statement/Environmental Impact Report for the Yolo HCP/NCCP; and (pp. 98-101)

CEQA Findings of Fact of the City of Winters for the Yolo HCP/NCCP, Dated May 15, 2018; and (pp. 102-130)

CEQA Findings of Fact of the Yolo Habitat Conservancy for the Yolo HCP/NCCP, Dated May 7, 2018; and (pp. 131-269)

- B. Resolution 2018-13, Adopting the Final Yolo Habitat Conservation Plan/Natural Community Conservation Plan (“Yolo HCP/NCCP”); and (pp. 270-274)

Final Implementing Agreement for the Yolo HCP/NCCP with the US Fish & Wildlife Service, the CA Dept. of Fish & Wildlife, the Yolo Habitat Conservancy, the County of Yolo, and the Cities of Davis, West Sacramento, Woodland and Winters (pp. 275-331)
- C. Introduction of Ordinance 2018-02, Adopting Chapter 18.12 of the Winters Municipal Code Providing for Implementation of the Yolo HCP/NCCP, Including Related Procedures and Fees (pp. 332-339)
- D. First Amended and Restated Joint Powers Agreement of the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency (pp. 340-351)

CITY OF WINTERS AS SUCCESSOR AGENCY TO THE WINTERS
COMMUNITY DEVELOPMENT AGENCY

- 1. None

CITY MANAGER REPORT

INFORMATION ONLY

- 1. February 2018 Treasurer Report (pp. 352-353)
- 2. February 2018 Investment Report (pp. 354-360)

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the May 15, 2018 regular meeting of the Winters City Council was posted on the City of Winters website at www.cityofwinters.org and Councilmembers were notified via e-mail of its' availability. A copy of the foregoing agenda was also posted on the outside public bulletin board at City Hall, 318 First Street on May 10, 2018, and made available to the public during normal business hours.

Nanci G. Mills, City Clerk

Questions about this agenda – Please call the City Clerk's Office (530) 794-6701. Agendas and staff reports are available on the city web page www.cityofwinters.org/administrative/admin_council.htm

General Notes: Meeting facilities are accessible to persons with disabilities. To arrange aid or services to modify or accommodate persons with disability to participate in a public meeting, contact the City Clerk.

Staff recommendations are guidelines to the City Council. On any item, the Council may take action, which varies from that recommended by staff.

The city does not transcribe its proceedings. Anyone who desires a verbatim record of this meeting should arrange for attendance by a court reporter or for other acceptable means of recordation. Such arrangements will be at the sole expense of the individual requesting the recordation.

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Winters Library – 708 Railroad Avenue

City Hall – Finance Office - 318 First Street

During Council meetings – Right side as you enter the Council Chambers

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Wednesday at 10:00 a.m.

Videotapes of City Council meetings are available for review at the Winters Branch of the Yolo County Library.



Minutes of the Regular Meeting
of the Winters City Council
Held on May 1, 2018

Mayor Wade Cowan called the meeting to order at 6:30 p.m.

Present: Council Members Harold Anderson, Bill Biasi, Jesse Loren, Pierre Neu and Mayor Wade Cowan
Absent: None
Staff: City Manager John W. Donlevy, Jr., City Attorney Ethan Walsh, City Clerk Nanci Mills, Police Chief John Miller, Director of Financial Management Shelly Gunby, Public Works Superintendent Eric Lucero, Economic Development/Housing Manager Dan Maguire, Environmental Services Manager Carol Scianna, Building Official Gene Ashdown, Interim Fire Captain Matt Schechla, and Management Analyst Tracy Jensen.

Gene Ashdown led the Pledge of Allegiance.

Approval of Agenda: City Manager Donlevy said there were no changes to the agenda. Motion by Council Member Neu, second by Council Member Loren to approve the agenda. Motion carried with the following vote:

AYES: Council Members Anderson, Biasi, Loren, Neu, Mayor Cowan
NOES: None
ABSENT: None
ABSTAIN: None

COUNCIL/STAFF COMMENTS

PUBLIC COMMENTS: None

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, April 17, 2018
- B. Resolution 2018-10, a Resolution of the City Council of the City of Winters Approving a Budget Adjustment for Water Bond Well Rehabilitation Projects
- C. Agricultural Lease Agreement Amendment with Martinez Orchards, Inc.
- D. Claim Against the City of Winters by Adelaido Rodriguez
- E. Amplified Sound Permit Application Submitted by Winters Resident Raul Duran
- F. Second Reading and Adoption Ordinance 2018-01, an Ordinance of the City Council of the City of Winters to Establish Speed Zones for Local Streets and Highways Within the City of Winters

City Manager Donlevy gave an overview. Motion by Council Member Neu, second by Council Member Loren to approve the Consent Calendar. Motion carried with the following vote:

AYES: Council Members Anderson, Biasi, Loren, Neu, Mayor Cowan
NOES: None
ABSENT: None
ABSTAIN: None

PRESENTATIONS: None

DISCUSSION ITEMS

1. Fiscal Years 2018-2019 and 2019-2020 Budgets Workshop

City Manager Donlevy said staff is providing a shorter, concise review of the budget before the final budget document is put together, which will be extremely lean. The information before Council represents two years, July 1, 2018 - June 30, 2020. Although the cost of various services and pension costs are increasing, there will be some strategic hiring of public safety personnel. The 2-year budget will include a part-time firefighter in 18-19, and a full-time firefighter and police officer in 19-20. Along with these new positions, a few positions will be re-classed. Design funding for the future sports park and new community center has been included, which is a high priority of the City Council and the community.

Director of Financial Management Shelly Gunby reviewed several of the financial sources and expenditures for the next two budget years within the Total Governmental Funds, which include the general fund, special revenue fund, debt service fund and capital fund. Shelly said the financial sources and expenditure estimates shown within those funds are on the conservative side. Currently, the general fund is balanced for both 18-19 and 19-20 due to conservative projections. And although staff is being frugal, the budget is being impacted by PERS and healthcare costs. YECA and Animal Services have also seen big jumps in costs.

Shelly also stated the Total Enterprise Funds, which include the Water Fund and the Sewer Fund, are separate and are not co-mingled.

After Council provided several comments and made numerous inquiries, City Manager Donlevy said staff will make some adjustments and will bring this item back to Council for further review.

Council Member Biasi said he appreciated the large spreadsheet provided by Shelly, allowing the Council to easily go through fund by fund.

City Manager Donlevy said staff will bring back a more detailed budget on June 5th, followed by the budget resolution with report at the June 19th City Council meeting. The water and sewer rates will also come back to Council sometime in June.

CITY OF WINTERS AS SUCCESSOR AGENCY TO THE WINTERS
COMMUNITY DEVELOPMENT AGENCY

1. None
-

CITY MANAGER REPORT: Attended a Local Government Commission Policy Forum and found out the City of Riverside has just put into place a procedure that the City of Winters has had in place since 2004! They will begin having pre-application meetings with developers so they can meet with staff and get a checklist. They have also formed a development review committee so applicants can receive comments back - and our Economic Development Advisory Committee (EDAC) has been in existence since 2010! (Council Member Biasi did point out they DO have an express elevator!)

Doing more outreach for the EDAC, working on a workshop format that will involve speakers, programs and homework at each meeting. People will have the opportunity to come in and give their input.

There has been no response to the email regarding the parking study.

Will bring General Plan update to the next meeting, including an entire General Plan worksheet. General Plan documents will be accessible on the City's website and will indicate when they have been updated.

INFORMATION ONLY: None

ADJOURNMENT: Mayor Cowan adjourned the meeting at 8:13 p.m.

Wade Cowan, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers
DATE: May 15, 2018
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Shelly A. Gunby, Director of Financial Management 
SUBJECT: State Mandated Cost Claiming Services.

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution 2018-11, A Resolution of the City Council of the City of Winters approving an Agreement for Provision of Professional Consulting Services to the City of Winters by AK & Company for SB90 State Mandated Cost Reimbursement Claim for a three (3) year period and authorize the City Manager to execute the contract.

BACKGROUND:

The State of California has mandated that cities and counties must provide certain services and programs, and under state law, the State of California is required to reimburse the cost of providing those programs and services. Cities and Counties must submit claims to the State of California in order to receive the reimbursement. The City of Winters began submitting claims in February 2002 and the state currently has remitted to the City of Winters approximately \$169,298.

FISCAL IMPACT:

The City will receive approximately \$6,000 in funds for the current fiscal year to offset the cost of providing services and programs. Our policy is to use these funds, when received, to help provide funding for our equipment replacement funds.

ATTACHMENTS

Consultant Services Agreement
Resolution 2018-11

RESOLUTION 2018-11

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS APPROVING AN AGREEMENT FOR PROVISION OF PROFESSIONAL CONSULTING SERVICES TO THE CITY OF WINTERS BY AK & COMPANY FOR SB 90 STATE MANDATED COST REIMBURSEMENT

WHEREAS, the City finds it prudent to submit a claim to the State of California for reimbursement for the cost of state mandated programs; and

WHEREAS, AK & Company has presented the City with a proposal to prepare the claim for reimbursement of state mandated programs;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Winters hereby approves a three (3) year contract with AK& Company in the amount of \$1,500 per year to file the claim for reimbursement for the cost of state mandated programs and authorizes the City Manager to execute the contract with AK & Company.

PASSED AND ADOPTED by the City Council, City of Winters, this 15th day of May 2018 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Cecilia Aguiar-Curry, MAYOR

ATTEST:

Nanci G. Mills, CITY CLERK

**AGREEMENT FOR PROVISION OF
PROFESSIONAL CONSULTING SERVICES TO THE
CITY OF WINTERS**

This AGREEMENT is entered into on the 15th day of May, 2018, both by and between ak & company ("Consultant" for the purposes of this Agreement) and the City of Winters ("City" for the purposes of this Agreement).

PURPOSE:

Article XIII B of the State of California's Constitution allows local agencies to recover costs associated with provision of certain activities that have been mandated by the State. City has determined that provision of Consultant's services to prepare and file mandated cost reimbursement ("SB 90" for the purposes of this Agreement) claims is the most cost effective and efficient method to complete this process. Consultant has knowledge and experience in completion of the data collection, preparation and submission of SB 90 claims to the State of California. City agrees that Consultant will assist City in the preparation and submission of reimbursement claims involving these state mandated programs.

City and Consultant mutually agree to the following terms and conditions:

- 1) **Consultant's Professional Services.** Consultant will perform the following services:
 - a) Based upon City's timely provision of accurate and complete information, by February 15, 2019, prepare and submit FY 2017-18 SB 90 Annual Claims to the State Controller's Office (SCO), according to the SCO FY 2017-18 Annual Claiming Instructions.
 - b) Based upon City's timely provision of accurate and complete information, by February 15, 2019, if necessary, prepare and submit SB 90 Amended Claims to the State Controller's Office.
 - c) Based upon written instruction from City and City's timely provision of accurate and complete program information, prepare and submit SB 90 New or Reinstated Claims according to Claiming Instructions issued during FY 2018-2019. New or Reinstated Claims are those with a claim due date other than February 15, 2019.
 - d) Provide SCO and legislative SB 90 updates relevant to the City throughout the fiscal year.
 - e) Provide SCO Annual Report of Outstanding Claims

Consultant shall determine the method, details and means of preparing and filing SB 90 claims and agrees to perform the specific services listed in Exhibit A, for each category of claim.

- 2) **City's Duties.** City's duties under this Agreement are to cooperate with Consultant in the performance of this Agreement and perform the specific services listed in Exhibit B, within the timeframes specified.
- 3) **Exhibits.** Exhibits A and B are attached and incorporated as part of this Agreement.

- 4) Term of Agreement. This Agreement shall become effective immediately upon signing and continue in effect through September 30, 2021. For purposes of this Agreement, the first Agreement year shall commence on July 1, 2018 and be complete as of September 30, 2019. Thereafter, each subsequent Agreement year shall be complete as of September 30 of each year. This Agreement may be extended by mutual written consent of the parties for two consecutive one-year periods.

- 5) Staff. "Consultant" includes all staff required to complete performance of this Agreement's services. Services included in this Agreement will be completed by Consultant or under Consultant's supervision.

- 6) Costs of Agreement and Method of Compensation – Annual and Amended Claims. In exchange for Consultant's provision of the services in Items 1) a), 1) b), 1) d) and 1) e), City agrees to compensate Consultant in a Fixed Fee in the amount of one thousand five hundred dollars (\$1500). This fee will be paid in two equal installments: Fifty percent (50%) or \$750 will be due and payable within 30 days of City's receipt of invoice following execution of the Agreement and fifty percent (50%) or \$750 will be due and payable within 30 days of City's receipt of invoice following filing of Annual Claims. Any penalties incurred in Item 8) will be invoiced at this time.

At the end of each fiscal year, the Consultant's Fixed Fee may be adjusted by mutual written consent of the parties to account for any changes in the scope of work for the following year.

In no event shall total compensation under this Agreement exceed three thousand five hundred dollars-(\$3500)-per-year-and-ten-thousand-five hundred dollars-(\$10500) for the full three year term of the Agreement without City's prior written approval.

- 7) Costs of Agreement and Method of Compensation – New or Reinstated Claims. In exchange for Consultant's provision of the services in Item 1) c), City agrees to compensate Consultant in a Fixed Fee in the amount of two thousand dollars (\$2000). This fee will be paid will be due and payable within 30 days of City's receipt of invoice following filing of final New Claims.

 - 8) City's Provision of Staff and Data. City agrees to designate a responsible staff member as its SB 90 Coordinator. Consultant will inform City's designated SB 90 Coordinator and department staff of the data and documentation necessary for timely claims submission. Consultant will presume that all data provided by City is correct and complete. City agrees to be fully responsible for the accuracy and timeliness of the data provided. City agrees there will be no Consultant liability for unfiled or late claims resulting from insufficient data or data not provided by the agreed upon deadlines.
- City and Consultant agree that Consultant-requested data must be provided by City staff either within three (3) weeks of the request or three (3) weeks prior to the filing deadline, whichever occurs first. Data not received within this timeframe will not be considered to be provided in a timely fashion. City agrees to pay Consultant an additional fee of \$350 per week or portion thereof for data received by Consultant after the agreed upon deadline.

All Annual Claims data requested must be provided to ak & company no later than **FRIDAY, OCTOBER 26, 2018**.

- 9) Third Party Obligations. The only parties to this Agreement and entitled to enforce the terms of the Agreement are City and Consultant. No right or benefit, direct or indirect, is given to any third parties.
- 10) Records and Inspections. In accordance with State law, Consultant will maintain complete, accurate records concerning all matters covered under this Agreement. During normal business hours, City will have reasonable access to these records. A thirty (30) day written notice will be provided by City when it intends to inspect or audit these records. Prior to being granted such access, any City employee, consultant, subcontractor or agent will execute a non-disclosure agreement.
- 11) Waiver of Submission of Claims. Submission of claims pursuant to Items 1) a), 1) b), and 1) c) of this Agreement may be waived. If a waiver is exercised by either party, Consultant will be paid by City for all work completed prior to and until the waiver's date of effect. The amount paid will not exceed the dollar amount indicated in Items 6) or 7). In case of a waiver, Consultant will be paid based on the hours of work required to submit the claims that were completed prior to the effective date of the waiver. This time will be reimbursed at the rate of \$150 an hour, not to exceed the dollar amount in Items 6).
 - a) At Option of City. Pursuant to a specific State Claiming Instruction, at City's discretion, City may instruct Consultant not to file a specific claim or claims. This instruction must be in writing and provided to Consultant at least thirty (30) days prior to the due date of the claim. The date Consultant receives City's written instruction will be the effective date of City's waiver.
 - b) At Option of Consultant. At Consultant's discretion, Consultant may advise City of the reasons it does not intend to file a specific claim. The date Consultant mails its notification to City will be the effective date of Consultant's waiver. City will expect Consultant to file any pertinent claim that meets the minimum limit set by the State.
- 12) No Waiver of Rights and Remedies. In no event will any City payment to Consultant constitute a waiver by City of any breach of covenant or any default that may exist on the part of Consultant. Payment made by City while any such breach or default does not impair or prejudice any City right or remedy in respect to such breach or default.
- 13) Consultant Audit Liability. Consultant will presume that all statistical and financial data provided by City is correct and complete. Consultant will provide workpapers and records to State Controller's Office (SCO) auditors if an audit should occur. Any State disallowance of amounts paid to City under the claim or claims for whatever reason will be solely City's responsibility. If City so requests, Consultant will assist City in defending claims at the desk audit level, provided such a disallowance amounts to at least ten percent (10%). No contest by Consultant for reductions of less than 10 percent (10%) will be made. Preparation of Incorrect Reduction Claims is not included

in any part of this Agreement. If travel is required, Consultant is to be reimbursed for travel expenses and mileage at the City's rate in effect at the time of the travel.

- 14) Independent Contractor. In performing the scope of services of this Agreement, City and Consultant agree that Consultant is an independent contractor with complete control of the work and manner in which it is performed. For no purposes are the Consultant or Consultant's employees considered agents or employees of the City.
- 15) Insurance. General liability, automobile and professional liability insurances will be maintained by Consultant.
- 16) Limitation of Liability. Consultant will not be liable for consequential, special, indirect, or punitive damages. For any reason whatsoever, foreseeable or not, will Consultant's liability exceed the total amount paid to Consultant under this Agreement.
- 17) Changes. If either City or Consultant requires changes in the scope of services included in this Agreement, they must be mutually agreed upon by and between City and Consultant. Any changes will be included in a written and duly executed amendment to this Agreement.
- 18) Notices. Under this Agreement, any signatures, reports, bills or notices required will be adequate if sent by either City or Consultant via postage paid USPS mail to the address noted below:

Contact Name: Shelly Gunkby Title: Director of Financial Management

Agency: City of Winters

Address: 318 First St Winters, CA

Phone #: 530-794-6704 Fax #: 530-775-4935

Email Address: Shelly.gunkby@cityofwinters.org

ak & company
2425 Golden Hill Rd, Ste 106
Paso Robles, CA 93446

Phone #: 805 239 7994
email: akcompanysb90@gmail.com
Fax #: 805 239 7994

Any notices will be considered delivered after five (5) days of being deposited in a USPS mailbox.

- 19) Complete Agreement. City and Consultant agree that this Agreement and any subsequent documents incorporated by specific reference contain all the terms and conditions previously agreed upon. No other agreements regarding this Agreement will bind either City or Consultant in any way.
- 20) Severability. If any portion, section, provision, part, or term of this Agreement are found to be in conflict with either a law of the United States of America or the State of

California, or otherwise be unenforceable, the remaining portions, sections, provisions, parts or terms will be deemed severable and shall remain in full force and effect.

- 21) Receipt of Agreement. Consultant must receive a signed copy of this Agreement by **FRIDAY, MAY 25, 2018** to ensure that the data collection process can proceed in order to warrant that Annual Claims will be submitted in a timely fashion.
- 22) Signature Authority. The individual(s) signing this Agreement certify to the following:
 - a) He or she is authorized to sign this Agreement on behalf of City;
 - b) City has all approvals necessary to enter into this Agreement;
 - c) This Agreement is a valid, enforceable obligation of City upon execution.

THEREFORE, The City and the Consultant execute this Agreement as of the date below.

City: City of Winters

Consultant: ak & company

By: _____
(City Official)

By: Anita Kerezsi
Anita Kerezsi

Title: _____

Title: Principal

Date: _____

Date: 4/26/18

Taxpayer I.D. Number: 20-3180401

EXHIBIT A

SERVICES TO BE PERFORMED BY CONSULTANT

Annual and Amended Claims - Consultant will perform the following professional services:

- a. By February 15, 2019, prepare and submit FY 2017-18 SB 90 Annual Claims to the State Controller's Office (SCO), according to the SCO FY 2017-18 Annual Claiming Instructions, as specified in 1) (a).
- b. Prepare and submit amended SB 90 claims, as necessary, to the State Controller's Office (SCO), as specified in 1) (b).
- c. Schedule a fall site visit or remote telephone meeting to discuss eligible programs with City's SB 90 Coordinator, and conduct meetings with individual departments affected by each reimbursable mandate program.
- d. Advise City staff regarding reliable and defensible types of source documentation.
- e. Establish a workable timeframe and plan for data to be collected by staff and submitted to Consultant in order to submit the City's claims prior to the SCO deadlines.
- f. Include both direct and indirect costs in SB 90 claims submitted by Consultant. Consultant may choose to use either the SCO ten percent (10%) indirect cost rate or to calculate a higher rate.
- g. Provided that City financial records are available and delivered to Consultant in a timely manner, Consultant will use relevant salary and expenditure data to prepare an Indirect Cost Rate Proposal (ICRP) for all City departments included in City's claims. If not provided in a timely manner, Consultant will use the SCO 10%.
- h. Complete all eligible claims and provide City with hard copies of the claims submitted.
- i. Deliver all signed claims to the SCO by specified deadlines.
- j. Provide to City a copy of the Claims Transmittal signed by the SCO to acknowledge receipt of claims.
- k. Advise City of SCO issues associated with any SB 90 claims prepared and submitted by Consultant.
- l. If necessary, act as a Sacramento liaison with the SCO in desk reviews or field audits for claims that were prepared and submitted by Consultant.
- m. Provide to City relevant SCO and legislative updates throughout the fiscal year, as specified in 1) d).
- n. Provide to City SCO Annual Report of Outstanding Claims, as specified in 1) e).

EXHIBIT A (continued)

SERVICES TO BE PERFORMED BY CONSULTANT

New or Reinstated Claims – Consultant will perform the following professional services:

- a. Prepare and submit SB 90 New Claims to the State Controller's Office (SCO), according to the SCO issuance of New Claiming Instructions, as specified in 1) (c).
- b. Advise City staff regarding reliable and defensible types of source documentation.
- c. Establish a workable timeframe and plan for data to be collected by staff and submitted to Consultant in order to submit the claims prior to the SCO deadlines.
- d. Include both direct and indirect costs in SB 90 claims submitted by Consultant. Consultant may choose to use either the SCO ten percent (10%) indirect cost rate or to calculate a higher rate.
- e. Provided that City financial records are available and delivered to Consultant in a timely manner, Consultant will collect relevant salary and expenditure data to prepare an Indirect Cost Rate Proposal (ICRP) for all City departments included in City's claims. If not provided in a timely manner, Consultant will use the SCO 10%.
- f. Complete all eligible claims and provide City with hard copies of the claims submitted.
- g. Deliver all signed claims to the SCO by each new claim deadline.
- h. Provide to City a copy of the Claims Transmittal signed by the SCO to acknowledge receipt of claims.

EXHIBIT B
CITY'S DUTIES

City's duties in performance of this Agreement:

- a. Return executed Agreement by Friday, May 25, 2018.
- b. Coordinate all site visits, monitor staff activities and work with Consultant to collect and obtain necessary records, data and documentation needed by Consultant to prepare and submit SB 90 claims to the State Controller's Office (SCO) by the required deadlines.
- c. Provide to Consultant all necessary data either within three (3) weeks of the request or three (3) weeks prior to the filing deadline, whichever occurs first. Data not received within this timeframe will not be considered to be provided in a timely fashion.
- d. Ensure that Annual Claims data is provided in its entirety to Consultant no later than **Friday, October 26, 2018**.
- e. Return signed FAM-27 signature pages no later than five (5) working days before any filing deadline.
- f. Respond to Consultant inquiries regarding data collection within a reasonable timeframe.
- g. Ensure Consultant is paid within 30 days following City's receipt of an original invoice and acceptance by City of the materials, supplies and services provided by Consultant.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: May 15, 2018
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Elliot Landes, Associate
SUBJECT: American Tower Lease Extension

RECOMMENDATION:

Staff recommends that City Council approve American Tower Corporation's request to extend the lease for the cell phone tower site at 200 East Street for six additional five year options.

BACKGROUND:

The City has leased the site for Verizon Wireless since June 1996. In September, 2006, the City signed a lease with American Tower (serving Verizon Wireless) that extends with renewal terms to May 31, 2034. This proposed lease amendment would extend this lease by six additional five year terms. The terms automatically renew, unless the tenant chooses not to renew by giving 60 days notice. The City can terminate if the tenant defaults on the terms of the lease. Rent escalations will continue as per the current lease. American Tower will pay the city a \$25,000 signing bonus if we sign by June 15, 2018.

FISCAL IMPACT:

There is a \$25,000 signing bonus available to the City.

THE FIRST AMENDMENT TO ANNEX PARCEL LEASE AGREEMENT

This First Amendment to Annex Parcel Lease Agreement (this "**Amendment**") is made effective as of the latter signature date hereof (the "**Effective Date**") by and between **The City of Winters**, a municipal corporation, ("**Landlord**") and **American Tower Delaware Corporation**, a Delaware corporation ("**Tenant**") (Landlord and Tenant being collectively referred to herein as the "**Parties**").

RECITALS

WHEREAS, Landlord owns the real property described on Exhibit A attached hereto and by this reference made a part hereof (the "**Parent Parcel**"); and

WHEREAS, Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Annex Parcel Lease Agreement dated September 8, 2006 (as the same may have been amended from time to time, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises are also described on Exhibit A; and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to extend the term thereof and to otherwise modify the Lease as expressly provided herein.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Lease Term Extended.** Notwithstanding anything to the contrary contained in the Lease or this Amendment, the Parties agree the Lease originally commenced on September 8, 2006 and, without giving effect to the terms of this Amendment but assuming the exercise by Tenant of all remaining renewal options contained in the Lease (each an "**Existing Renewal Term**" and, collectively, the "**Existing Renewal Terms**"), the Lease is otherwise scheduled to expire on May 31, 2034. In addition to any Existing Renewal Term(s), the Lease is hereby amended to provide Tenant with the option to extend the Lease for each of six (6) additional five (5) year renewal terms (each a "**New Renewal Term**" and, collectively, the "**New Renewal Terms**"). Notwithstanding anything to the contrary contained in the Lease, (a) all Existing Renewal Terms and New Renewal Terms shall automatically renew unless Tenant notifies Landlord that Tenant elects not to renew the Lease at least sixty (60) days prior to the commencement of the next Renewal Term (as defined below) and (b) Landlord shall be able to terminate this Lease only in the event of a material default by Tenant, which default is not cured within sixty (60) days of Tenant's receipt of written notice thereof, provided, however, in the event that Tenant has diligently commenced to cure a material default within sixty (60) days of Tenant's actual receipt of notice thereof and reasonably requires additional time beyond the sixty (60) day cure period described herein to effect such cure, Tenant shall have such additional time as is necessary (beyond the sixty [60] day cure period) to effect the cure. References in this Amendment to "**Renewal Term**" shall refer, collectively, to the Existing Renewal Term(s) and the New Renewal Term(s). The Landlord hereby agrees to execute and return to Tenant an original Memorandum of Lease in the form and of the substance attached hereto as Exhibit B and by this reference made a part hereof (the "**Memorandum**") executed by Landlord, together with any applicable forms needed to record the Memorandum, which forms shall be supplied by Tenant to Landlord.
2. **Rent and Escalation.** The Parties hereby acknowledge and agree that all applicable increases and escalations to the rental payments under the Lease (the "**Rent**") shall continue in full force and effect through the New Renewal Term(s). In the event of any overpayment of Rent prior to or after the

Effective Date, Tenant shall have the right to deduct from any future Rent payments an amount equal to the overpayment amount. Notwithstanding anything to the contrary contained in the Lease, all Rent and any other payments expressly required to be paid by Tenant to Landlord under the Lease and this Amendment shall be paid to **City of Winters CA**.

3. **Landlord and Tenant Acknowledgments.** Except as modified herein, the Lease and all provisions contained therein remain in full force and effect and are hereby ratified and affirmed. The Parties hereby agree that no defaults exist under the Lease. To the extent Tenant needed consent and/or approval from Landlord for any of Tenant's activities at and uses of the site prior to the Effective Date, Landlord's execution of this Amendment is and shall be considered consent to and approval of all such activities and uses. Landlord hereby acknowledges and agrees that Tenant shall not need consent or approval from, or to provide notice to, Landlord for any future activities at or uses of the Leased Premises, including, without limitation, subleasing and licensing to additional customers, installing, modifying, repairing, or replacing improvements within the Leased Premises, and/or assigning all or any portion of Tenant's interest in this Lease, as modified by this Amendment. Tenant and Tenant's sublessees and customers shall have vehicular (specifically including truck) and pedestrian access to the Leased Premises from a public right of way on a 24 hours per day, 7 days per week basis, together with utilities services to the Leased Premises from a public right of way. Upon request by Tenant and at Tenant's sole cost and expense but without additional consideration owed to Landlord, Landlord hereby agrees to promptly execute and return to Tenant building permits, zoning applications and other forms and documents, including a memorandum of lease, as required for the use of the Leased Premises by Tenant and/or Tenant's customers, licensees, and sublessees. Landlord hereby appoints Tenant as Landlord's attorney-in-fact coupled with an interest to prepare, execute and deliver land use and zoning and building permit applications that concern the Leased Premises, on behalf of Landlord with federal, state and local governmental authorities, provided that such applications shall be limited strictly to the use of the Leased Premises as a wireless telecommunications facility and that such attorney-in-fact shall not allow Tenant to re-zone or otherwise reclassify the Leased Premises or the Parent Parcel. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.
4. **Non-Compete.** During the original term, any Existing Renewal Terms, and/or any New Renewal Terms of this Lease, Landlord shall not sell, transfer, grant, convey, lease, and/or license by deed, easement, lease, license or other legal instrument, an interest in and to, or the right to use or occupy any portion of the Parent Parcel or Landlord's contiguous, adjacent, adjoining or surrounding property to any person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing wireless telecommunications infrastructure (any such person or entity, a "**Third Party Competitor**") without the prior written consent of Tenant, which may be withheld, conditioned, and/or delayed in Tenant's sole, reasonable discretion.
5. **Limited Right of First Refusal.** Notwithstanding anything to the contrary contained herein, this paragraph shall not apply to any fee simple sale of the Parent Parcel from Landlord to any prospective purchaser that is not a Third Party Competitor. If Landlord receives an offer or desires to offer to: (i) sell or convey any interest (including, but not limited to, leaseholds or easements) in any real property of which the Leased Premises is a part to a Third Party Competitor or (ii) assign all or any portion of Landlord's interest in the Lease to a Third Party Competitor (any such offer, the "**Offer**"), Tenant shall have the right of first refusal to purchase the real property or other interest being offered by Landlord in connection with the Offer on the same terms and conditions. If Tenant elects, in its sole and absolute discretion, to exercise its right of first refusal as provided herein, Tenant must provide Landlord with notice of its election not later than forty-five (45) days after Tenant receives written notice from Landlord of the Offer. If Tenant elects not to exercise Tenant's right of first refusal with respect to an Offer as provided herein, Landlord may complete the transaction contemplated in the Offer with the Third Party Competitor on the stated

terms and price but with the express condition that such sale is made subject to the terms of the Lease, as modified by this Amendment. Landlord hereby acknowledges and agrees that any sale or conveyance by Landlord in violation of this Section is and shall be deemed to be null and void and of no force and effect. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.

6. **Landlord Statements.** Landlord hereby represents and warrants to Tenant that: (i) to the extent applicable, Landlord is duly organized, validly existing, and in good standing in the jurisdiction in which Landlord was organized, formed, or incorporated, as applicable, and is otherwise in good standing and authorized to transact business in each other jurisdiction in which such qualifications are required; (ii) Landlord has the full power and authority to enter into and perform its obligations under this Amendment, and, to the extent applicable, the person(s) executing this Amendment on behalf of Landlord, have the authority to enter into and deliver this Amendment on behalf of Landlord; (iii) no consent, authorization, order, or approval of, or filing or registration with, any governmental authority or other person or entity is required for the execution and delivery by Landlord of this Amendment; (iv) Landlord is the sole owner of the Leased Premises and all other portions of the Parent Parcel; (v) to the best of Landlord's knowledge, there are no agreements, liens, encumbrances, claims, claims of lien, proceedings, or other matters (whether filed or recorded in the applicable public records or not) related to, encumbering, asserted against, threatened against, and/or pending with respect to the Leased Premises or any other portion of the Parent Parcel which do or could (now or any time in the future) adversely impact, limit, and/or impair Tenant's rights under the Lease, as amended and modified by this Amendment; and (vi) the square footage of the Leased Premises is the greater of Tenant's existing improvements on the Parent Parcel or the land area conveyed to Tenant under the Lease. The representations and warranties of Landlord made in this Section shall survive the execution and delivery of this Amendment. Landlord hereby does and agrees to indemnify Tenant for any damages, losses, costs, fees, expenses, or charges of any kind sustained or incurred by Tenant as a result of the breach of the representations and warranties made herein or if any of the representations and warranties made herein prove to be untrue. The aforementioned indemnification shall survive the execution and delivery of this Amendment.
7. **Confidentiality.** Notwithstanding anything to the contrary contained in the Lease or in this Amendment, Landlord agrees and acknowledges that all the terms of this Amendment and the Lease and any information furnished to Landlord by Tenant in connection therewith shall be and remain confidential. Except with Landlord's family, attorney, accountant, broker, lender, a prospective fee simple purchaser of the Parent Parcel, or if otherwise required by law, Landlord shall not disclose any such terms or information without the prior written consent of Tenant. The terms and provisions of this Section shall survive the execution and delivery of this Amendment.
8. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: 318 First Street, Winters, CA 95694; to Tenant at: Attn.: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn.: Legal Dept., 116 Huntington Avenue, Boston, MA 02116. Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
9. **Counterparts.** This Amendment may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall

constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart. Furthermore, the Parties may execute and deliver this Amendment by electronic means such as .pdf or similar format. Each of the Parties agrees that the delivery of the Amendment by electronic means will have the same force and effect as delivery of original signatures and that each of the Parties may use such electronic signatures as evidence of the execution and delivery of the Amendment by all Parties to the same extent as an original signature.

10. **Governing Law.** Notwithstanding anything to the contrary contained in the Lease and in this Amendment, the Lease and this Amendment shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.
11. **Waiver.** Notwithstanding anything to the contrary contained herein, in no event shall Landlord or Tenant be liable to the other for, and Landlord and Tenant hereby waive, to the fullest extent permitted under applicable law, the right to recover incidental, consequential (including, without limitation, lost profits, loss of use or loss of business opportunity), punitive, exemplary and similar damages.
12. **Tenant's Securitization Rights; Estoppel.** Landlord hereby consents to the granting by Tenant of one or more leasehold mortgages, collateral assignments, liens, and/or other security interests (collectively, a "**Security Interest**") in Tenant's interest in this Lease, as amended, and all of Tenant's property and fixtures attached to and lying within the Leased Premises and further consents to the exercise by Tenant's mortgagee ("**Tenant's Mortgagee**") of its rights to exercise its remedies, including without limitation foreclosure, with respect to any such Security Interest. Landlord shall recognize the holder of any such Security Interest of which Landlord is given prior written notice (any such holder, a "**Holder**") as "Tenant" hereunder in the event a Holder succeeds to the interest of Tenant hereunder by the exercise of such remedies. Landlord further agrees to execute a written estoppel certificate within thirty (30) days of written request of the same by Tenant or Holder.
13. **Taxes.** During the term of the Lease, Landlord shall pay when due all real property, personal property, and other taxes, fees and assessments attributable to the Parent Parcel, including the Leased Premises. Tenant hereby agrees to reimburse Landlord for any personal property taxes in addition to any increase in real property taxes levied against the Parent Parcel, to the extent both are directly attributable to Tenant's improvements on the Leased Premises (but not, however, taxes or other assessments attributable to periods prior to the Effective Date), provided, however, that Landlord must furnish written documentation (the substance and form of which shall be reasonably satisfactory to Tenant) of such personal property taxes or real property tax increase to Tenant along with proof of payment of same by Landlord. Anything to the contrary notwithstanding, Tenant shall not be obligated to reimburse Landlord for any applicable taxes unless Landlord requests such reimbursement within one (1) year after the date such taxes became due. Landlord shall submit requests for reimbursement in writing to: *American Tower Corporation, Attn: Landlord Relations, 10 Presidential Way, Woburn, MA 01801* unless otherwise directed by Tenant from time to time. Subject to the requirements set forth in this Section, Tenant shall make such reimbursement payment within forty-five (45) days of receipt of a written reimbursement request from Landlord. Tenant shall pay applicable personal property taxes directly to the local taxing authority to the extent such taxes are billed and sent directly by the taxing authority to Tenant. If Landlord fails to pay when due any taxes affecting the Parent Parcel as required herein, Tenant shall have the right, but not the obligation, to pay such taxes on Landlord's behalf and: (i) deduct the full amount of any such taxes paid by Tenant on Landlord's behalf from any future payments required to be made by Tenant to Landlord hereunder; (ii) demand reimbursement from Landlord, which reimbursement payment Landlord shall make within thirty (30) days of such demand by Tenant; and/or

(iii) collect from Landlord any such tax payments made by Tenant on Landlord's behalf by any lawful means.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

LANDLORD:

The City of Winters,
a municipal corporation,

Signature: _____

Print Name: _____

Title: _____

Date: _____

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

TENANT:

American Tower Delaware Corporation,
a Delaware corporation

Signature: _____

Print Name: _____

Title: _____

Date: _____

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below:

**PARENT PARCEL LEGAL DESCRIPTION
AS PROVIDED:**

THE LAND REFERRED TO IN THIS REPORT IS SITUATED IN THE COUNTY OF YOLO, CITY OF WINTERS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

COMMENCING AT A POINT ON THE SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF THE S.P. RR. SUBDIVISION OF BLOCK 4 OF THE TOWN OF WINTERS, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED IN THE OFFICE OF THE RECORDER OF YOLO COUNTY, CALIFORNIA, ON MARCH 26, 1903, IN BOOK 1 OF MAPS, AT PAGE 4, DISTANT THEREON 150 FEET SOUTHERLY FROM THE SOUTHWEST CORNER OF SAID BLOCK 4; THENCE EASTERLY PARALLEL WITH THE SOUTHERLY LINE OF SAID BLOCK 4, A DISTANCE OF 200 FEET TO A POINT; THENCE NORTHEASTERLY 223.6 FEET, MORE OR LESS TO A POINT ON THE SOUTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID BLOCK 4, DISTANT THEREON SOUTHERLY 50 FEET FROM THE SOUTHEAST CORNER OF SAID BLOCK 4; THENCE SOUTHERLY ALONG THE SOUTHERLY PROLONGATION OF SAID EASTERLY LINE OF BLOCK 4, TO THE CENTER OF PUTAH CREEK; THENCE FOLLOWING THE MEANDERINGS OF THE WESTERLY LINE OF SAID BLOCK 4; THENCE NORTHERLY ALONG SAID SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF SAID BLOCK 4 TO THE POINT OF COMMENCEMENT.

PARCEL TWO:

LOTS 7, 8, 9, AND LOTS 13 THROUGH 24, INCLUSIVE, AS SHOWN ON THE MAP OF M.O. WYATT'S ADDITION TO WINTERS, AS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF YOLO COUNTY IN BOOK 2 OF MAPS, PAGE 5A, YOLO COUNTY RECORDS.

EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOTS 24, OF SUBDIVISION, THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 24 TO THE NORTHEASTERLY CORNER THEREOF, THENCE AT RIGHT ANGLES SOUTHERLY ALONG THE BOUNDARY LINE BETWEEN LOTS 23 AND 24, 38.00 FEET THENCE AT RIGHT ANGLES AND PARALLEL WITH THE NORTH LINE OF SAID LOT 24, 100.00 FEET TO THE WEST LINE OF SAID LOT 24, THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT 24, 38.00 FEET TO THE POINT OF BEGINNING.

APN: 003-222-001
003-222-015

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

ANNEX LEASE AREA

LEGAL DESCRIPTION AS SURVEYED :

THE LAND REFERRED TO IN THIS DESCRIPTION IS SITUATED IN THE COUNTY OF YOLO, CITY OF WINTERS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERLY CORNER OF LOT 3, AS SHOWN ON THE MAP OF M.O. WYATT'S ADDITION TO WINTERS, AS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF YOLO COUNTY IN BOOK 2 OF MAPS, PAGE 5A, YOLO COUNTY RECORDS, THENCE SOUTH 86°45'00" EAST, 119.01 FEET; THENCE SOUTH 33°18'00" WEST, 52.75 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 65°08'39" WEST, 23.20 FEET; THENCE NORTH 24°51'22" WEST, 16.10 FEET; THENCE NORTH 65°08'39" EAST, 23.20 FEET; THENCE SOUTH 24°51'22" EAST, 16.10 FEET TO THE POINT OF BEGINNING.

ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way including but not limited to:

ACCESS EASEMENT

LEGAL DESCRIPTION AS SURVEYED :

THE LAND REFERRED TO IN THIS DESCRIPTION IS SITUATED IN THE COUNTY OF YOLO, CITY OF WINTERS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

A 10 FOOT WIDE ACCESS EASEMENT THAT EXTENDS 5.00 FEET PERPENDICULARLY FROM EACH SIDE OF THE CENTERLINE OF SAID EASEMENT AS DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHWESTERLY CORNER OF LOT B, AS SHOWN ON THE MAP OF M.O. WYATT'S ADDITION TO WINTERS, AS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF YOLO COUNTY IN BOOK 2 OF MAPS, PAGE 5A, YOLO COUNTY RECORDS, THENCE NORTH 65°00'00" EAST, 5.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 25°00'00" EAST, 197.16 FEET TO A POINT ON THE 25.00 FOOT RADIUS TANGENT CURVE; THENCE ALONG SAID CURVE TO THE LEFT AN INCLUDED ANGLE OF 90°07'22", AN ARC DISTANCE OF 39.32 FEET; THENCE NORTH 64°52'38" EAST, 112.11 FEET TO A POINT ON A 25 FOOT RADIUS TANGENT CURVE; THENCE ALONG SAID CURVE THROUGH AN INCLUDED ANGLE OF 90°16'01", AN ARC DISTANCE OF 39.39 FEET; THENCE SOUTH 24°51'22" WEST, 78.05 FEET TO THE POINT OF TERMINATION.

EXHIBIT B

FORM OF MEMORANDUM OF LEASE

Prepared by and Return to:

American Tower
10 Presidential Way
Woburn, MA 01801
Attn: Land Management/Caleb Gaddes, Esq.
ATC Site No: 82655
ATC Site Name: WINTERS
Assessor's Parcel No(s): 003-222-001-000

MEMORANDUM OF LEASE

This Memorandum of Lease (the "**Memorandum**") is entered into on the _____ day of _____, 201__ by and between **The City of Winters**, a municipal corporation, ("**Landlord**") and **American Tower Delaware Corporation**, a Delaware corporation ("**Tenant**").

NOTICE is hereby given of the Lease (as defined and described below) for the purpose of recording and giving notice of the existence of said Lease. To the extent that notice of such Lease has previously been recorded, then this Memorandum shall constitute an amendment of any such prior recorded notice(s).

1. **Parent Parcel and Lease.** Landlord is the owner of certain real property being described in **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"). Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Annex Parcel Lease Agreement dated September 8, 2006 (as the same may have been amended from time to time, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises is also described on **Exhibit A**.
2. **Expiration Date.** Subject to the terms, provisions, and conditions of the Lease, and assuming the exercise by Tenant of all renewal options contained in the Lease, the final expiration date of the Lease would be May 31, 2064. Notwithstanding the foregoing, in no event shall Tenant be required to exercise any option to renew the term of the Lease.
3. **Leased Premises Description.** Tenant shall have the right, exercisable by Tenant at any time during the original or renewal terms of the Lease, to cause an as-built survey of the Leased Premises to be prepared and, thereafter, to replace, in whole or in part, the description(s) of the Leased Premises set forth on **Exhibit A** with a legal description or legal descriptions based upon such as-built survey. Upon Tenant's request, Landlord shall execute and deliver any documents reasonably necessary to effectuate such replacement, including, without limitation, amendments to this Memorandum and to the Lease.
4. **Right of First Refusal.** There is a right of first refusal in the Lease.

Site No: 82655
Site Name: WINTERS

5. **Effect/Miscellaneous.** This Memorandum is not a complete summary of the terms, provisions and conditions contained in the Lease. In the event of a conflict between this Memorandum and the Lease, the Lease shall control. Landlord hereby grants the right to Tenant to complete and execute on behalf of Landlord any government or transfer tax forms necessary for the recording of this Memorandum. This right shall terminate upon recording of this Memorandum.

6. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: 318 First Street, Winters, CA 95694; to Tenant at: Attn.: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn.: Legal Dept., 116 Huntington Avenue, Boston, MA 02116. Any of the parties hereto, by thirty (30) days prior written notice to the other in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.

7. **Counterparts.** This Memorandum may be executed in multiple counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

8. **Governing Law.** This Memorandum shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

IN WITNESS WHEREOF. Landlord and Tenant have each executed this Memorandum as of the day and year set forth below.

LANDLORD

2 WITNESSES

The City of Winters,
a municipal corporation,

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

ALL CAPACITY ACKNOWLEDGMENT

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

State of California

County of _____

On _____, before me, _____, personally
(print name of notary)

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 of officer

[SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

TENANT

WITNESS

American Tower Delaware Corporation,
a Delaware corporation

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

Commonwealth of Massachusetts

County of Middlesex

On this ____ day of _____, 201____, before me, _____
the undersigned Notary Public, 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 which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

[SEAL]

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below:

PARENT PARCEL LEGAL DESCRIPTION AS PROVIDED:

THE LAND REFERRED TO IN THIS REPORT IS SITUATED IN THE COUNTY OF YOLO, CITY OF WINTERS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

COMMENCING AT A POINT ON THE SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF THE S.P. RR SUBDIVISION OF BLOCK 4 OF THE TOWN OF WINTERS, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED IN THE OFFICE OF THE RECORDER OF YOLO COUNTY, CALIFORNIA, ON MARCH 26, 1903, IN BOOK 1 OF MAPS, AT PAGE 4, DISTANT THEREON 150 FEET SOUTHERLY FROM THE SOUTHWEST CORNER OF SAID BLOCK 4, THENCE EASTERLY PARALLEL WITH THE SOUTHERLY LINE OF SAID BLOCK 4, A DISTANCE OF 200 FEET TO A POINT; THENCE NORTHEASTERLY 223.6 FEET, MORE OR LESS TO A POINT ON THE SOUTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID BLOCK 4, DISTANT THEREON SOUTHERLY 50 FEET FROM THE SOUTHEAST CORNER OF SAID BLOCK 4; THENCE SOUTHERLY ALONG THE SOUTHERLY PROLONGATION OF SAID EASTERLY LINE OF BLOCK 4, TO THE CENTER OF PLUTAH CREEK, THENCE FOLLOWING THE MEANDERINGS OF THE WESTERLY LINE OF SAID BLOCK 4, THENCE NORTHERLY ALONG SAID SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF SAID BLOCK 4 TO THE POINT OF COMMENCEMENT.

PARCEL TWO:

LOTS 7, 8, 9, AND LOTS 13 THROUGH 24, INCLUSIVE, AS SHOWN ON THE MAP OF M.O. WYATT'S ADDITION TO WINTERS, AS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF YOLO COUNTY IN BOOK 2 OF MAPS, PAGE 5A, YOLO COUNTY RECORDS.

EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOTS 24, OF SUBDIVISION, THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 24 TO THE NORTHEASTERLY CORNER THEREOF, THENCE AT RIGHT ANGLES SOUTHERLY ALONG THE BOUNDARY LINE BETWEEN LOTS 23 AND 24, 38.00 FEET THENCE AT RIGHT ANGLES AND PARALLEL WITH THE NORTH LINE OF SAID LOT 24, 100.00 FEET TO THE WEST LINE OF SAID LOT 24, THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT 24, 38.00 FEET TO THE POINT OF BEGINNING.

APN: 003-222-001
003-222-015

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

ANNEX LEASE AREA

LEGAL DESCRIPTION AS SURVEYED :

THE LAND REFERRED TO IN THIS DESCRIPTION IS SITUATED IN THE COUNTY OF YOLO, CITY OF WINTERS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERLY CORNER OF LOT 13 , AS SHOWN ON THE MAP OF M.O. WYATT'S ADDITION TO WINTERS, AS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF YOLO COUNTY IN BOOK 2 OF MAPS, PAGE 5A, YOLO COUNTY RECORDS, THENCE SOUTH 56°45'00" EAST, 119.01 FEET; THENCE SOUTH 33°15'00" WEST, 52.75 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 65°08'39" WEST, 23.20 FEET; THENCE NORTH 24°51'22" WEST, 16.10 FEET; THENCE NORTH 65°08'39" EAST, 23.20 FEET; THENCE SOUTH 24°51'22" EAST, 16.10 FEET TO THE POINT OF BEGINNING.

ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way including but not limited to:

ACCESS EASEMENT

LEGAL DESCRIPTION AS SURVEYED :

THE LAND REFERRED TO IN THIS DESCRIPTION IS SITUATED IN THE COUNTY OF YOLO, CITY OF WINTERS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

A 10 FOOT WIDE ACCESS EASEMENT THAT EXTENDS 5.00 FEET PERPENDICULARLY FROM EACH SIDE OF THE CENTERLINE OF SAID EASEMENT AS DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHWESTERLY CORNER OF LOT 8 , AS SHOWN ON THE MAP OF M.O. WYATT'S ADDITION TO WINTERS, AS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF YOLO COUNTY IN BOOK 2 OF MAPS, PAGE 5A, YOLO COUNTY RECORDS, THENCE NORTH 65°00'00" EAST, 5.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 25°00'00" EAST, 197.16 FEET TO A POINT ON THE 25.00 FOOT RADIUS TANGENT CURVE; THENCE ALONG SAID CURVE TO THE LEFT AN INCLUDED ANGLE OF 90°07'22", AN ARC DISTANCE OF 39.32 FEET; THENCE NORTH 64°57'35" EAST, 112.11 FEET TO A POINT ON A 25 FOOT RADIUS TANGENT CURVE; THENCE ALONG SAID CURVE THROUGH AN INCLUDED ANGLE OF 90°16'01", AN ARC DISTANCE OF 39.38 FEET; THENCE SOUTH 24°51'22" WEST, 78.05 FEET TO THE POINT OF TERMINATION.

THE SECOND AMENDMENT TO LEASE AGREEMENT

This Second Amendment to Ground Lease Agreement (this "**Amendment**") is made effective as of the latter signature date hereof (the "**Effective Date**") by and between The City of Winters, a municipal corporation ("**Landlord**") and Sacramento-Valley Limited Partnership d/b/a Verizon Wireless ("**Tenant**") (Landlord and Tenant being collectively referred to herein as the "**Parties**").

RECITALS

WHEREAS, Landlord owns the real property described on Exhibit A attached hereto and by this reference made a part hereof (the "**Parent Parcel**"); and

WHEREAS, Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Ground Lease Agreement dated June 27, 1994 (as the same may have been amended, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises are also described on Exhibit A; and

WHEREAS, Tenant and/or its parent, affiliates, subsidiaries and other parties identified therein, entered into a sublease agreement with American Tower Delaware Corporation, a Delaware corporation and/or its parents, affiliates and subsidiaries ("**American Tower**"), pursuant to which American Tower subleases, manages, operates and maintains, as applicable, the Leased Premises, all as more particularly described therein; and

WHEREAS, Tenant has granted American Tower a limited power of attorney (the "**POA**") to, among other things, prepare, negotiate, execute, deliver, record and/or file certain documents on behalf of Tenant, all as more particularly set forth in the POA; and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to extend the term thereof and to otherwise modify the Lease as expressly provided herein.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **One-Time Payment.** American Tower, on behalf of Tenant, shall pay to Landlord a one-time payment in the amount of **Twenty Five Thousand and No/100 Dollars (\$25,000.00)** (the "**One-Time Payment**"), payable within thirty (30) days of the Effective Date and subject to the following conditions precedent: (a) Tenant's receipt of this Amendment executed by Landlord, on or before June 15, 2018; (b) Tenant's confirmation that Landlord's statements as further set forth in this Amendment are true, accurate, and complete, including verification of Landlord's ownership; (c) Tenant's receipt of any documents and other items reasonably requested by Tenant in order to effectuate the transaction and payment contemplated herein; and (d) receipt by Tenant of an original Memorandum (as defined herein) executed by Landlord.
2. **Lease Term Extended.** Notwithstanding anything to the contrary contained in the Lease or this Amendment, the Parties agree the Lease originally commenced on June 1, 1994 and, without giving effect to the terms of this Amendment but assuming the exercise by Tenant of all remaining renewal options contained in the Lease (each an "**Existing Renewal Term**" and, collectively, the "**Existing Renewal Terms**"), the Lease is otherwise scheduled to expire on May 31, 2034. In addition to any Existing Renewal Term(s), the Lease is hereby amended to provide Tenant with the option to extend the Lease for each of six (6) additional five (5) year renewal terms (each a "**New Renewal Term**" and, collectively, the "**New Renewal Terms**"). Notwithstanding anything to the contrary contained in the

Lease, (a) all Existing Renewal Terms and New Renewal Terms shall automatically renew unless Tenant notifies Landlord that Tenant elects not to renew the Lease at least sixty (60) days prior to the commencement of the next Renewal Term (as defined below) and (b) Landlord shall be able to terminate this Lease only in the event of a material default by Tenant, which default is not cured within sixty (60) days of Tenant's receipt of written notice thereof, provided, however, in the event that Tenant has diligently commenced to cure a material default within sixty (60) days of Tenant's actual receipt of notice thereof and reasonably requires additional time beyond the sixty (60) day cure period described herein to effect such cure, Tenant shall have such additional time as is necessary (beyond the sixty [60] day cure period) to effect the cure. References in this Amendment to "**Renewal Term**" shall refer, collectively, to the Existing Renewal Term(s) and the New Renewal Term(s). The Landlord hereby agrees to execute and return to Tenant an original Memorandum of Lease in the form and of the substance attached hereto as **Exhibit B** and by this reference made a part hereof (the "**Memorandum**") executed by Landlord, together with any applicable forms needed to record the Memorandum, which forms shall be supplied by Tenant to Landlord.

3. **Rent and Escalation.** As of the Effective Date, the Parties hereby acknowledge and agree that the rent payable from Tenant to Landlord under the Lease is equal to **Two Thousand One Hundred Sixty Two and 00/100 Dollars (\$2,162.00)** per month (the "**Rent**"). Commencing on June 1, 2019 and on each successive annual anniversary thereof, Rent due under the Lease shall increase by an amount equal to **three percent (3%)** of the then current Rent. Notwithstanding anything to the contrary contained in the Lease, all Rent and any other payments expressly required to be paid by Tenant to Landlord under the Lease and this Amendment shall be paid to **City of Winters CA**. The Landlord hereby agrees the Rent and the One-Time Payment described in this Amendment is the only consideration owed to Landlord from Tenant and/or American Tower pursuant to the Lease, as amended, or any other agreements between Landlord and Tenant, or Landlord and American Tower, as the case may be. In the event of any overpayment of Rent prior to or after the Effective Date, Tenant shall have the right to deduct from any future Rent payments an amount equal to the overpayment amount.
4. **Landlord and Tenant Acknowledgments.** Except as modified herein, the Lease and all provisions contained therein remain in full force and effect and are hereby ratified and affirmed. The Parties hereby agree that no defaults exist under the Lease. To the extent Tenant needed consent and/or approval from Landlord for any of Tenant's activities at and uses of the site prior to the Effective Date, including subleasing to American Tower, Landlord's execution of this Amendment is and shall be considered consent to and approval of all such activities and uses and confirmation that no additional consideration is owed to Landlord for such activities and uses. Landlord hereby acknowledges and agrees that Tenant shall not need consent or approval from, or to provide notice to, Landlord for any future activities at or uses of the Leased Premises, including, without limitation, subleasing and licensing to additional customers, installing, modifying, repairing, or replacing improvements within the Leased Premises, and/or assigning all or any portion of Tenant's interest in this Lease, as modified by this Amendment. Tenant and Tenant's sublessees and customers shall have vehicular (specifically including truck) and pedestrian access to the Leased Premises from a public right of way on a 24 hours per day, 7 days per week basis, together with utilities services to the Leased Premises from a public right of way. Upon request by Tenant and at Tenant's sole cost and expense but without additional consideration owed to Landlord, Landlord hereby agrees to promptly execute and return to Tenant building permits, zoning applications and other forms and documents, including a memorandum of lease, as required for the use of the Leased Premises by Tenant and/or Tenant's customers, licensees, and sublessees. Landlord hereby appoints Tenant as Landlord's attorney-in-fact coupled with an interest to prepare, execute and deliver land use and zoning and building permit applications that concern the Leased Premises, on behalf of Landlord with federal, state and local governmental authorities, provided that such applications shall be limited strictly to the use of the Leased Premises as a wireless telecommunications facility and that

such attorney-in-fact shall not allow Tenant to re-zone or otherwise reclassify the Leased Premises or the Parent Parcel. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.

5. **Non-Compete.** During the original term, any Existing Renewal Terms, and/or any New Renewal Terms of this Lease, Landlord shall not sell, transfer, grant, convey, lease, and/or license by deed, easement, lease, license or other legal instrument, an interest in and to, or the right to use or occupy any portion of the Parent Parcel or Landlord's contiguous, adjacent, adjoining or surrounding property to any person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing wireless telecommunications infrastructure (any such person or entity, a "**Third Party Competitor**") without the prior written consent of Tenant, which may be withheld, conditioned, and/or delayed in Tenant's sole, reasonable discretion.
6. **Limited Right of First Refusal.** Notwithstanding anything to the contrary contained herein, this paragraph shall not apply to any fee simple sale of the Parent Parcel from Landlord to any prospective purchaser that is not a Third Party Competitor or to American Tower. If Landlord receives an offer or desires to offer to: (i) sell or convey any interest (including, but not limited to, leaseholds or easements) in any real property of which the Leased Premises is a part a Third Party Competitor or (ii) assign all or any portion of Landlord's interest in the Lease to a Third Party Competitor (any such offer, the "**Offer**"), Tenant shall have the right of first refusal to purchase the real property or other interest being offered by Landlord in connection with the Offer on the same terms and conditions. If Tenant elects, in its sole and absolute discretion, to exercise its right of first refusal as provided herein, Tenant must provide Landlord with notice of its election not later than forty-five (45) days after Tenant receives written notice from Landlord of the Offer. If Tenant elects not to exercise Tenant's right of first refusal with respect to an Offer as provided herein, Landlord may complete the transaction contemplated in the Offer with the Third Party Competitor on the stated terms and price but with the express condition that such sale is made subject to the terms of the Lease, as modified by this Amendment. Landlord hereby acknowledges and agrees that any sale or conveyance by Landlord in violation of this Section is and shall be deemed to be null and void and of no force and effect. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment. For the avoidance of doubt, American Tower, its affiliates and subsidiaries, shall not be considered a Third Party Competitor and this provision shall not apply to future transactions with American Tower, its affiliates and subsidiaries.
7. **Landlord Statements.** Landlord hereby represents and warrants to Tenant that: (i) to the extent applicable, Landlord is duly organized, validly existing, and in good standing in the jurisdiction in which Landlord was organized, formed, or incorporated, as applicable, and is otherwise in good standing and authorized to transact business in each other jurisdiction in which such qualifications are required; (ii) Landlord has the full power and authority to enter into and perform its obligations under this Amendment, and, to the extent applicable, the person(s) executing this Amendment on behalf of Landlord, have the authority to enter into and deliver this Amendment on behalf of Landlord; (iii) no consent, authorization, order, or approval of, or filing or registration with, any governmental authority or other person or entity is required for the execution and delivery by Landlord of this Amendment; (iv) Landlord is the sole owner of the Leased Premises and all other portions of the Parent Parcel; (v) to the best of Landlord's knowledge, there are no agreements, liens, encumbrances, claims, claims of lien, proceedings, or other matters (whether filed or recorded in the applicable public records or not) related to, encumbering, asserted against, threatened against, and/or pending with respect to the Leased Premises or any other portion of the Parent Parcel which do or could (now or any time in the future) adversely impact, limit, and/or impair Tenant's rights under the Lease, as amended and modified by this Amendment; and (vi) the square footage of the Leased Premises is the greater of Tenant's existing improvements on the Parent Parcel or the land area conveyed to Tenant under the Lease. The

representations and warranties of Landlord made in this Section shall survive the execution and delivery of this Amendment. Landlord hereby does and agrees to indemnify Tenant for any damages, losses, costs, fees, expenses, or charges of any kind sustained or incurred by Tenant as a result of the breach of the representations and warranties made herein or if any of the representations and warranties made herein prove to be untrue. The aforementioned indemnification shall survive the execution and delivery of this Amendment.

8. **Confidentiality.** Notwithstanding anything to the contrary contained in the Lease or in this Amendment, Landlord agrees and acknowledges that all the terms of this Amendment and the Lease and any information furnished to Landlord by Tenant or American Tower in connection therewith shall be and remain confidential. Except with Landlord's family, attorney, accountant, broker, lender, a prospective fee simple purchaser of the Parent Parcel, or if otherwise required by law, Landlord shall not disclose any such terms or information without the prior written consent of Tenant. The terms and provisions of this Section shall survive the execution and delivery of this Amendment.
9. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: 318 First Street, Winters, CA 95694; to Tenant at: Verizon Wireless, Attn.: Network Real Estate, 180 Washington Valley Road, Bedminster, NJ 07921; with copy to: American Tower, Attn.: Land Management, 10 Presidential Way, Woburn, MA 01801; and also with copy to: Attn.: Legal Dept. 116 Huntington Avenue, Boston, MA 02116. Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
10. **Counterparts.** This Amendment may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart. Furthermore, the Parties may execute and deliver this Amendment by electronic means such as .pdf or similar format. Each of the Parties agrees that the delivery of the Amendment by electronic means will have the same force and effect as delivery of original signatures and that each of the Parties may use such electronic signatures as evidence of the execution and delivery of the Amendment by all Parties to the same extent as an original signature.
11. **Governing Law.** Notwithstanding anything to the contrary contained in the Lease and in this Amendment, the Lease and this Amendment shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.
12. **Waiver.** Notwithstanding anything to the contrary contained herein, in no event shall Landlord or Tenant be liable to the other for, and Landlord and Tenant hereby waive, to the fullest extent permitted under applicable law, the right to recover incidental, consequential (including, without limitation, lost profits, loss of use or loss of business opportunity), punitive, exemplary and similar damages.
13. **Tenant's Securitization Rights; Estoppel.** Landlord hereby consents to the granting by Tenant and/or American Tower of one or more leasehold mortgages, collateral assignments, liens, and/or other security interests (collectively, a "***Security Interest***") in Tenant's (or American Tower's) interest in this Lease, as amended, and all of Tenant's (or American Tower's) property and fixtures attached to and lying within the Leased Premises and further consents to the exercise by Tenant's (or American Tower's) mortgagee

(*"Tenant's Mortgage"*) of its rights to exercise its remedies, including without limitation foreclosure, with respect to any such Security Interest. Landlord shall recognize the holder of any such Security Interest of which Landlord is given prior written notice (any such holder, a *"Holder"*) as *"Tenant"* hereunder in the event a Holder succeeds to the interest of Tenant and/or American Tower hereunder by the exercise of such remedies. Landlord further agrees to execute a written estoppel certificate within thirty (30) days of written request of the same by Tenant, American Tower or Holder.

14. **Taxes.** During the term of the Lease, Landlord shall pay when due all real property, personal property, and other taxes, fees and assessments attributable to the Parent Parcel, including the Leased Premises. Tenant hereby agrees to reimburse Landlord for any personal property taxes in addition to any increase in real property taxes levied against the Parent Parcel, to the extent both are directly attributable to Tenant's improvements on the Leased Premises (but not, however, taxes or other assessments attributable to periods prior to the Effective Date), provided, however, that Landlord must furnish written documentation (the substance and form of which shall be reasonably satisfactory to Tenant) of such personal property taxes or real property tax increase to Tenant along with proof of payment of same by Landlord. Anything to the contrary notwithstanding, Tenant shall not be obligated to reimburse Landlord for any applicable taxes unless Landlord requests such reimbursement within one (1) year after the date such taxes became due. Landlord shall submit requests for reimbursement in writing to: *American Tower Corporation, Attn: Landlord Relations, 10 Presidential Way, Woburn, MA 01801* unless otherwise directed by Tenant from time to time. Subject to the requirements set forth in this Section, Tenant shall make such reimbursement payment within forty-five (45) days of receipt of a written reimbursement request from Landlord. Tenant shall pay applicable personal property taxes directly to the local taxing authority to the extent such taxes are billed and sent directly by the taxing authority to Tenant. If Landlord fails to pay when due any taxes affecting the Parent Parcel as required herein, Tenant shall have the right, but not the obligation, to pay such taxes on Landlord's behalf and: (i) deduct the full amount of any such taxes paid by Tenant on Landlord's behalf from any future payments required to be made by Tenant to Landlord hereunder; (ii) demand reimbursement from Landlord, which reimbursement payment Landlord shall make within thirty (30) days of such demand by Tenant; and/or (iii) collect from Landlord any such tax payments made by Tenant on Landlord's behalf by any lawful means.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

LANDLORD:

The City of Winters,
a municipal corporation,

Signature: _____

Print Name: _____

Title: _____

Date: _____

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

TENANT:

**Sacramento-Valley Limited Partnership
d/b/a Verizon Wireless**

**By: American Tower Delaware Corporation, a Delaware corporation
Title: Attorney-in-Fact**

Signature: _____
Print Name: _____
Title: _____
Date: _____

Joinder and Acknowledgement

The undersigned, by its signature below, does hereby acknowledge and agree to pay to Landlord the "One-Time Payment" described in Section 1 above, provided all requirements in this Amendment have been satisfied. The undersigned additionally acknowledges and agrees that adequate consideration has been received for such payment(s).

**American Tower Delaware Corporation,
a Delaware corporation**

Signature: _____
Print Name: _____
Title: _____
Date: _____

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below:

**PARENT PARCEL LEGAL DESCRIPTION
AS PROVIDED:**

THE LAND REFERRED TO IN THIS REPORT IS SITUATED IN THE COUNTY OF YOLO, CITY OF WINTERS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

COMMENCING AT A POINT ON THE SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF THE SLP RR. SUBDIVISION OF BLOCK 4 OF THE TOWN OF WINTERS, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED IN THE OFFICE OF THE RECORDER OF YOLO COUNTY, CALIFORNIA, ON MARCH 26, 1903, IN BOOK 1 OF MAPS, AT PAGE 4, DISTANT THEREON 150 FEET SOUTHERLY FROM THE SOUTHWEST CORNER OF SAID BLOCK 4; THENCE EASTERLY PARALLEL WITH THE SOUTHERLY LINE OF SAID BLOCK 4, A DISTANCE OF 200 FEET TO A POINT; THENCE NORTHEASTERLY 223.6 FEET, MORE OR LESS TO A POINT ON THE SOUTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID BLOCK 4, DISTANT THEREON SOUTHERLY 50 FEET FROM THE SOUTHEAST CORNER OF SAID BLOCK 4; THENCE SOUTHERLY ALONG THE SOUTHERLY PROLONGATION OF SAID EASTERLY LINE OF BLOCK 4, TO THE CENTER OF PILTAH CREEK; THENCE FOLLOWING THE MEANDERINGS OF THE WESTERLY LINE OF SAID BLOCK 4; THENCE NORTHERLY ALONG SAID SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF SAID BLOCK 4 TO THE POINT OF COMMENCEMENT.

PARCEL TWO:

LOTS 7, 8, 9, AND LOTS 13 THROUGH 24, INCLUSIVE, AS SHOWN ON THE MAP OF M.O. WYATT'S ADDITION TO WINTERS, AS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF YOLO COUNTY IN BOOK 2 OF MAPS, PAGE 5A, YOLO COUNTY RECORDS.

EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOTS 24, OF SUBDIVISION, THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 24 TO THE NORTHEASTERLY CORNER THEREOF, THENCE AT RIGHT ANGLES SOUTHERLY ALONG THE BOUNDARY LINE BETWEEN LOTS 23 AND 24, 38.00 FEET THENCE AT RIGHT ANGLES AND PARALLEL WITH THE NORTH LINE OF SAID LOT 24, 100.00 FEET TO THE WEST LINE OF SAID LOT 24, THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT 24, 38.00 FEET TO THE POINT OF BEGINNING.

APN: 003-222-001
003-222-015

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

THE LAND REFERRED TO IN THIS DESCRIPTION IS SITUATED IN THE COUNTY OF YOLO, CITY OF WINTERS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERLY CORNER OF LOT 13, AS SHOWN ON THE MAP OF M.O. WYATT'S ADDITION TO WINTERS, AS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF YOLO COUNTY IN BOOK 2 OF MAPS, PAGE 5A, YOLO COUNTY RECORDS, THENCE SOUTH 58°45'00" EAST, 119.01 FEET; THENCE SOUTH 33°15'00" WEST, 52.75 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 24°51'22" EAST, 40.20 FEET; THENCE SOUTH 65°08'38" WEST, 48.00 FEET, THENCE NORTH 24°51'22" WEST, 40.20 FEET; THENCE NORTH 65°08'38" EAST, 48.00 FEET TO THE POINT OF BEGINNING.

ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way including but not limited to:

ACCESS EASEMENT

LEGAL DESCRIPTION AS SURVEYED :

THE LAND REFERRED TO IN THIS DESCRIPTION IS SITUATED IN THE COUNTY OF YOLO, CITY OF WINTERS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

A 10 FOOT WIDE ACCESS EASEMENT THAT EXTENDS 5.00 FEET PERPENDICULARLY FROM EACH SIDE OF THE CENTERLINE OF SAID EASEMENT AS DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHWESTERLY CORNER OF LOT 8, AS SHOWN ON THE MAP OF M.O. WYATT'S ADDITION TO WINTERS, AS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF YOLO COUNTY IN BOOK 2 OF MAPS, PAGE 5A, YOLO COUNTY RECORDS, THENCE NORTH 65°00'00" EAST, 5.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 25°00'00" EAST, 197.16 FEET TO A POINT ON THE 25.00 FOOT RADIUS TANGENT CURVE; THENCE ALONG SAID CURVE TO THE LEFT AN INCLUDED ANGLE OF 90°07'22", AN ARC DISTANCE OF 39.32 FEET; THENCE NORTH 64°57'38" EAST, 112.11 FEET TO A POINT ON A 25 FOOT RADIUS TANGENT CURVE; THENCE ALONG SAID CURVE THROUGH AN INCLUDED ANGLE OF 90°16'01", AN ARC DISTANCE OF 39.39 FEET; THENCE SOUTH 24°51'22" WEST, 75.05 FEET TO THE POINT OF TERMINATION.

EXHIBIT B

FORM OF MEMORANDUM OF LEASE

Prepared by and Return to:

American Tower
10 Presidential Way
Woburn, MA 01801
Attn: Land Management/Caleb Gaddes, Esq.
ATC Site No: 82655
ATC Site Name: WINTERS
Assessor's Parcel No(s): 003-222-001-000

MEMORANDUM OF LEASE

This Memorandum of Lease (the "**Memorandum**") is entered into on the _____ day of _____, 201____ by and between **The City of Winters**, a municipal corporation ("**Landlord**") and **Sacramento-Valley Limited Partnership d/b/a Verizon Wireless** ("**Tenant**").

NOTICE is hereby given of the Lease (as defined and described below) for the purpose of recording and giving notice of the existence of said Lease. To the extent that notice of such Lease has previously been recorded, then this Memorandum shall constitute an amendment of any such prior recorded notice(s).

1. **Parent Parcel and Lease.** Landlord is the owner of certain real property being described in **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"). Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Ground Lease Agreement dated June 27, 1994 (as the same may have been amended from time to time, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises is also described on **Exhibit A**.
2. **American Tower.** Tenant and/or its parent, affiliates, subsidiaries and other parties identified therein, entered into a sublease agreement with **American Tower Delaware Corporation**, a Delaware corporation and/or its parents, affiliates and subsidiaries ("**American Tower**"), pursuant to which American Tower subleases, manages, operates and maintains, as applicable, the Leased Premises, all as more particularly described therein. In connection with these responsibilities, Tenant has also granted American Tower a limited power of attorney (the "**POA**") to, among other things, prepare, negotiate, execute, deliver, record and/or file certain documents on behalf of Tenant, all as more particularly set forth in the POA.
3. **Expiration Date.** Subject to the terms, provisions, and conditions of the Lease, and assuming the exercise by Tenant of all renewal options contained in the Lease, the final expiration date of the Lease would be May 31, 2064. Notwithstanding the foregoing, in no event shall Tenant be required to exercise any option to renew the term of the Lease.

ATC Site No: 82655
PV Code 1098 / VzW Contract No: 35793
Site Name: WINTERS

4. **Leased Premises Description.** Tenant shall have the right, exercisable by Tenant at any time during the original or renewal terms of the Lease, to cause an as-built survey of the Leased Premises to be prepared and, thereafter, to replace, in whole or in part, the description(s) of the Leased Premises set forth on **Exhibit A** with a legal description or legal descriptions based upon such as-built survey. Upon Tenant's request, Landlord shall execute and deliver any documents reasonably necessary to effectuate such replacement, including, without limitation, amendments to this Memorandum and to the Lease.
5. **Right of First Refusal.** There is a right of first refusal in the Lease.
6. **Effect/Miscellaneous.** This Memorandum is not a complete summary of the terms, provisions and conditions contained in the Lease. In the event of a conflict between this Memorandum and the Lease, the Lease shall control. Landlord hereby grants the right to Tenant to complete and execute on behalf of Landlord any government or transfer tax forms necessary for the recording of this Memorandum. This right shall terminate upon recording of this Memorandum.
7. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: 318 First Street, Winters, CA 95694; to Tenant at: Verizon Wireless, Attn.: Network Real Estate, 180 Washington Valley Road, Bedminster, NJ 07921; with copy to: American Tower, Attn.: Land Management, 10 Presidential Way, Woburn, MA 01801, and also with copy to: Attn.: Legal Dept. 116 Huntington Avenue, Boston, MA 02116. Any of the parties hereto, by thirty (30) days prior written notice to the other in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
8. **Counterparts.** This Memorandum may be executed in multiple counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.
9. **Governing Law.** This Memorandum shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Landlord and Tenant have each executed this Memorandum as of the day and year set forth below.

LANDLORD

2 WITNESSES

The City of Winters,
a municipal corporation,

Signature: _____

Print Name: _____

Title: _____

Date: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

ALL CAPACITY ACKNOWLEDGMENT

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

State of California

County of _____

On _____, before me, _____ personally
(print name)

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 of officer

[SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

TENANT

WITNESS

**Sacramento-Valley Limited Partnership d/b/a
Verizon Wireless**

By: **American Tower Delaware Corporation,**
a Delaware corporation
Title: Attorney-in-Fact

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

Commonwealth of Massachusetts

County of Middlesex

On this ____ day of _____, 201____, before me, _____
the undersigned Notary Public, 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 which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

[SEAL]

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below:

**PARENT PARCEL LEGAL DESCRIPTION
AS PROVIDED:**

THE LAND REFERRED TO IN THIS REPORT IS SITUATED IN THE COUNTY OF YOLO, CITY OF WINTERS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

COMMENCING AT A POINT ON THE SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF THE S.P. RR. SUBDIVISION OF BLOCK 4 OF THE TOWN OF WINTERS, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED IN THE OFFICE OF THE RECORDER OF YOLO COUNTY, CALIFORNIA, ON MARCH 26, 1903, IN BOOK 1 OF MAPS, AT PAGE 4, DISTANT THEREON 150 FEET SOUTHERLY FROM THE SOUTHWEST CORNER OF SAID BLOCK 4; THENCE EASTERLY PARALLEL WITH THE SOUTHERLY LINE OF SAID BLOCK 4, A DISTANCE OF 200 FEET TO A POINT; THENCE NORTHEASTERLY 223.6 FEET, MORE OR LESS TO A POINT ON THE SOUTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID BLOCK 4, DISTANT THEREON SOUTHERLY 50 FEET FROM THE SOUTHEAST CORNER OF SAID BLOCK 4; THENCE SOUTHERLY ALONG THE SOUTHERLY PROLONGATION OF SAID EASTERLY LINE OF BLOCK 4, TO THE CENTER OF PLATAH CREEK; THENCE FOLLOWING THE MEANDERINGS OF THE WESTERLY LINE OF SAID BLOCK 4; THENCE NORTHERLY ALONG SAID SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF SAID BLOCK 4 TO THE POINT OF COMMENCEMENT.

PARCEL TWO:

LOTS 7, 8, 9, AND LOTS 13 THROUGH 24, INCLUSIVE, AS SHOWN ON THE MAP OF M.G. WYATT'S ADDITION TO WINTERS, AS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF YOLO COUNTY IN BOOK 2 OF MAPS, PAGE 5A, YOLO COUNTY RECORDS.

EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOTS 24, OF SAID SUBDIVISION, THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 24 TO THE NORTHEASTERLY CORNER THEREOF, THENCE AT RIGHT ANGLES SOUTHERLY ALONG THE BOUNDARY LINE BETWEEN LOTS 23 AND 24, 38.00 FEET THENCE AT RIGHT ANGLES AND PARALLEL WITH THE NORTH LINE OF SAID LOT 24, 100.00 FEET TO THE WEST LINE OF SAID LOT 24, THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT 24, 38.00 FEET TO THE POINT OF BEGINNING.

APN: 003-222-001
003-222-015

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

THE LAND REFERRED TO IN THIS DESCRIPTION IS SITUATED IN THE COUNTY OF YOLO, CITY OF WINTERS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERLY CORNER OF LOT 13, AS SHOWN ON THE MAP OF M.O. WYATT'S ADDITION TO WINTERS, AS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF YOLO COUNTY IN BOOK 2 OF MAPS, PAGE 5A, YOLO COUNTY RECORDS, THENCE SOUTH 56°45'00" EAST, 119.01 FEET; THENCE SOUTH 33°15'00" WEST, 52.75 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 24°51'22" EAST, 40.20 FEET; THENCE SOUTH 65°08'38" WEST, 48.00 FEET, THENCE NORTH 24°51'22" WEST, 40.20 FEET; THENCE NORTH 65°08'38" EAST, 48.00 FEET TO THE POINT OF BEGINNING.

ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way including but not limited to:

ACCESS EASEMENT

LEGAL DESCRIPTION AS SURVEYED :

THE LAND REFERRED TO IN THIS DESCRIPTION IS SITUATED IN THE COUNTY OF YOLO, CITY OF WINTERS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

A 10 FOOT WIDE ACCESS EASEMENT THAT EXTENDS 5.00 FEET PERPENDICULARLY FROM EACH SIDE OF THE CENTERLINE OF SAID EASEMENT AS DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHWESTERLY CORNER OF LOT 8, AS SHOWN ON THE MAP OF M.O. WYATT'S ADDITION TO WINTERS, AS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF YOLO COUNTY IN BOOK 2 OF MAPS, PAGE 5A, YOLO COUNTY RECORDS, THENCE NORTH 65°00'00" EAST, 5.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 25°00'00" EAST, 197.16 FEET TO A POINT ON THE 25.00 FOOT RADIUS TANGENT CURVE; THENCE ALONG SAID CURVE TO THE LEFT AN INCLUDED ANGLE OF 90°07'22", AN ARC DISTANCE OF 39.32 FEET; THENCE NORTH 64°57'38" EAST, 112.11 FEET TO A POINT ON A 25 FOOT RADIUS TANGENT CURVE; THENCE ALONG SAID CURVE THROUGH AN INCLUDED ANGLE OF 90°16'01", AN ARC DISTANCE OF 39.38 FEET; THENCE SOUTH 24°51'22" WEST, 78.05 FEET TO THE POINT OF TERMINATION.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: May 15, 2018
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Alan Mitchell, City Engineer
Dan Maguire, Economic Development and Housing Manager
SUBJECT: Approve a Consultant Agreement for Design Services for the City Hall Parking Lot Improvements and Newt's Alley Improvements

RECOMMENDATION: Staff recommends the City Council:

1. Approve a Consultant Agreement for Design Services for the City Hall Parking Lot Improvements, in the amount of \$13,220, and Newt's Alley Improvements, in the amount of \$18,180; and
2. Authorize the City Manager to sign the Consultant Agreement on the City's behalf

BACKGROUND: On November 18, 2014, the City entered into a Disposition and Development Agreement with AKM Railroad, LLC, for development of the Downtown Hotel. The purpose of the Agreement was to set forth the obligations of the Parties and the terms and conditions precedent for the purchase and sale of the City Property from the City to the Developer. The Agreement included provisions for the design, development, construction and operation of the Downtown Hotel Project on the Project Site.

DISCUSSION: The Disposition and Development Agreement included a provision that the City construct certain offsite public improvements. The Agreement also provided that those improvements be conducted by the City separate and apart from the Downtown Hotel Project.

The off-site public improvements are:

- A public surface parking lot consisting of approximately 40+ spaces on City-owned property at the corner of First Street and Abbey Street.
- Alleyway and Paseo Improvements between First Street and Railroad Avenue as more particularly described in the City's Downtown Master Plan.
- Installation and/or relocation of water, sewer, storm drainage, electrical, gas and phone lines necessary for the construction of the Hotel Project on the Project Site.

In 2017, the City completed the Downtown - Water and Storm Drain Improvements, which were design by Laugenour and Meikle. City staff are currently coordinating with PG&E on a new electrical service to be used by the Hotel, and staff will be coming to Council soon to establish a Rule 20A District to underground the overhead utilities along Newt's Alley.

Laugenour and Meikle submitted proposals to provide design services for City Hall Parking Lot Improvements and Newt's Alley Improvements. The improvements include a new asphalt parking lot on the corner of Abbey and First, and a new concrete/paver alleyway between First and Railroad.

City staff prepared a Consultant Agreement, which is attached for Council consideration and approval.

ALTERNATIVES: None recommended by staff.

FISCAL IMPACT: The Consultant Agreement for Design Services includes the cost of \$13,220 for the City Hall Parking Lot Improvements, and \$18,180 for Newt's Alley Improvements. Street Capital fund 622 will be used for the expenses.

Attachments: L&M Consultant Agreement



CONSULTANT SERVICES AGREEMENT
AGREEMENT No. 2018- LM01

THIS AGREEMENT is made at Winters, California, as of _____, 2018, by and between the City of Winters ("the CITY") and Laugenour and Meikle (CONSULTANT)", who agree as follows:

1. SERVICES. Subject to the terms and conditions set forth in this Agreement, CONSULTANT shall provide design and surveying services to the City, for the City Hall Parking Lot Improvements and Newt's Alley Improvements, which are described in Exhibit "One", which are the CONSULTANT'S Proposals dated May 7, 2018. Consultant shall provide said services at the time, place, and in the manner specified by this Agreement.
2. PAYMENT. The Consultant shall be paid a Fixed Fee for each project, in accordance with the Compensation section included in Exhibit "One". The Fixed Fees shall be Thirteen-Thousand, Two-Hundred-Twenty Dollars (\$13,220) for City Hall Parking Lot Improvements, and Eighteen-Thousand, One-Hundred-Eighty Dollars (\$18,180) for Newt's Alley Improvements. City shall pay consultant for services rendered pursuant to the Agreement and described in Exhibit "One".
3. FACILITIES AND EQUIPMENT. CONSULTANT shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.
4. GENERAL PROVISIONS. The general provisions set forth in Exhibit "Two" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the other term or condition shall control only insofar as it is inconsistent with general Provisions.
5. EXHIBITS. All exhibits referred to therein are attached hereto and are by this reference incorporated herein.

EXECUTED as of day first above-stated.

CITY OF WINTERS
a municipal corporation

By: _____
John W. Donlevy, Jr., City Manager

CONSULTANT

By: _____
Todd Tommeraason, P.E., Principal

ATTEST:

By: _____
Nanci G. Mills, City Clerk

EXHIBIT "ONE"
CONSULTANT'S PROPOSALS

May 7, 2018

Mr. Alan Mitchell
City of Winters
318 First Street
Winters, California 95694
E-mail: alan.mitchell@ponticello.com

Re: Civil Engineering & Land Surveying Proposal for City Hall Parking Lot Improvements,
Winters, California

Dear Mr. Mitchell:

Laugenour and Meikle is pleased to present this proposal for civil engineering and land surveying services for the above referenced project. A detailed description of the services to be provided is included in the attached Exhibit "A", Scope of Services & Compensation, which reflects the standard items of work required for this type of project.

If you have any questions or comments, please call.

Sincerely,

LAUGENOUR AND MEIKLE



AUTHORIZATION TO BEGIN WORK PRIOR TO
CONTRACT PREPARATION:

Paymon Fardanesh, P.E.

Enclosure

CLIENT SIGNATURE

DATE

EXHIBIT "A"

SCOPE OF SERVICES & COMPENSATION

I. SCOPE OF SERVICES:

A. PROJECT MANAGEMENT & MEETINGS:

- Manage the contract scope, schedule and budget for all project activities.
- Coordination calls with Client and Project Team.
- Periodic project reviews with Client.
- Provide monthly invoices to Client.
- Assumes 4 hours of engineering time, any additional time will be charged on a time and materials basis.

B. ONSITE IMPROVEMENT PLANS:

- Review project conditions of approval and Client design requirements.
- Grading and drainage plan and hydraulic calculations for pipe sizing.
- Design site grading for project site and prepare a Grading Plan showing all surface drainage, curb and asphalt elevations and finish floor elevations of all buildings in conformance to the Site Plan provided.
- Assist the Client in coordination of design services such as geotechnical engineer, traffic engineer, structural engineer, public utility (gas, electric, telephone, cable television, etc.) representative and consultants, environmental consultants, and landscape architect.
- Provide details within said civil plans to identify the construction requirements of appurtenances to be constructed within the project.
- Includes revisions for one (1) round of Agency comments, any additional revisions will be charged on a time and materials basis.

C. LIGHTING PLAN COORDINATION (LIGHTING DESIGN BY OTHERS):

- Coordination with Client's electrical consultant.

D. CONSTRUCTION ADMINISTRATION:

- Attend meeting (progress and coordination meeting at owner's request).
- Site visit during construction (per Owner's request).
- Review and comment on project submittals related to civil design items.
- Conduct final project review of site improvements and assist in preparation of punch list.
- Support costs are based on a time and materials estimate per work item requested.

- Assumes 16 hours of engineering time, any additional time will be charged on a time and materials basis.

II. COMPENSATION:

Consultant shall be compensated on a "Fixed-Fee" basis per project total shown below. New tasks not associated with the above Scope of Services will be negotiated prior to starting any work on any additional new task.

A. Project Management & Meetings	\$ 760.00
B. Public Improvement Plans	\$ 8,680.00
C. Light Plan Coordination (Lighting Design By Others).....	\$ 1,260.00
D. Construction Administration.....	<u>\$ 2,520.00</u>
PROJECT TOTAL.....	\$13,220.00

These costs are based on the following Laugenour and Meikle Prevailing Wage Rate Schedule (Exhibit "B"). Government agency fees are not included in this cost proposal.

III. EXCLUSIONS AND/OR RESPONSIBILITIES OF CLIENT OR OTHERS:

1. To provide Geotechnical Reports upon which Consultant can rely in performing services, including provision for review and approval of Consultant's improvement and grading plans by Client's geotechnical consultant, if required.
2. The design of walls, fences, retaining walls, or soundwalls of any kind and calculations as may be required by the public agency to obtain approvals.
3. To provide Consultant with current title reports, including supporting documents for project site and adjacent properties.
4. Design of dry (electric, gas, telephone and cable television) utility systems.
5. Any structural, acoustical, electrical, geotechnical engineering, traffic engineering for signal design or landscape architecture.
6. Client agrees consultant will not perform on-site construction review, construction management, supervision of construction of engineering structures, or other construction supervision for this project unless specifically provided for in another Agreement.
7. All investigations, work responsibilities, duties, or acts related to or involving archeological resources, endangered species or wetlands and asbestos, pollutants, or contaminants in the atmosphere, on the surface, or in the subsurface.
8. All work pertaining to environmental impact report mitigation monitoring, if required. Client agrees to assume complete responsibility and liability for changes in design, construction quantities, project cost, etc., whenever Client uses unsigned or unapproved survey maps or construction drawings for bidding or construction purposes.

9. To bear the cost of excavation and exposing (“potholing”) utility locations, and/or video inspections thereof, both on-site and off-site, if, in the opinion of the Consultant, it becomes necessary and desirable to do so in order to ascertain precise utility condition, location or elevation information. Consultant will not be responsible for the condition, location or depth of existing underground utilities which are shown on the plans based on utility company, agency or Client records.
10. The improvements are designed with the intent that the firm, Laugenour and Meikle, will be performing the construction staking for the complete project. If, however, another firm should be employed to use the design plans for construction staking, Laugenour and Meikle will not assume any responsibility for errors or omissions, if any, which might occur and which could have been avoided, corrected or mitigated if Laugenour and Meikle had performed the staking work.
11. All submittals of plans/reports for Agency approval are the responsibility of the Client.
12. Any regulatory agency related fees for submitting, checking, filing, inspection, performance of services, etc. are the responsibility of the Client.
13. SWPPP implementation and monitoring.

EXHIBIT "B"
RATE SCHEDULE

<u>PERSONNEL CLASSIFICATION</u>	<u>RATE PER HOUR</u>
Principal Engineer	\$190.00
Principal Surveyor	\$190.00
Senior Engineer/Project Manager	\$180.00
Senior Engineer	\$170.00
Senior Surveyor	\$165.00
Associate Engineer	\$165.00
Surveyor	\$150.00
Assistant Surveyor	\$135.00
Assistant Engineer	\$135.00
Assistant Project Manager	\$135.00
Junior Engineer	\$125.00
Senior Engineering Technician	\$110.00
Engineering Technician	\$ 80.00
Survey Technician	\$ 80.00
Technician	\$ 75.00
Clerical	\$ 60.00
Survey Party, 1-Man*	\$175.00
Survey Party, 2-Man*	\$270.00

REIMBURSABLES:

Field Materials	—	Charged at cost plus 10%
Reproduction Items	—	Charged at cost plus 10%
Subconsultants	—	Charged at cost plus 10%
Fees	—	Charged at cost plus 10%

* Public Works Prevailing Wage Rate

May 7, 2018

Mr. Alan Mitchell
City of Winters
318 First Street
Winters, California 95694
E-mail: alan.mitchell@ponticello.com

Re: **Civil Engineering & Land Surveying Proposal for Newt's Alley Improvements, Winters, California**

Dear Mr. Mitchell:

Laugenour and Meikle is pleased to present this proposal for civil engineering and land surveying services for the above referenced project. A detailed description of the services to be provided is included in the attached Exhibit "A", Scope of Services & Compensation, which reflects the standard items of work required for this type of project.

If you have any questions or comments, please call.

Sincerely,

LAUGENOUR AND MEIKLE



Paymon Fardanesh, P.E.

Enclosure

AUTHORIZATION TO BEGIN WORK PRIOR TO
CONTRACT PREPARATION:

CLIENT SIGNATURE

DATE

EXHIBIT "A"
SCOPE OF SERVICES & COMPENSATION

I. SCOPE OF SERVICES:

A. PROJECT MANAGEMENT & MEETINGS:

- Manage the contract scope, schedule and budget for all project activities.
- Coordination calls with Client and Project Team.
- Periodic project reviews with Client.
- Provide monthly invoices to Client.

B. IMPROVEMENT PLANS:

- Review project conditions of approval and Client design requirements.
- Grading and drainage plan and hydraulic calculations for pipe sizing.
- Design site grading for project site and prepare a Grading Plan showing all surface drainage, curb and asphalt elevations and finish floor elevations of all buildings in conformance to the Site Plan provided.
- Assist the Client in coordination of design services such as geotechnical engineer, traffic engineer, structural engineer, public utility (gas, electric, telephone, cable television, etc.) representative and consultants, environmental consultants, and landscape architect.
- Provide details within said civil plans to identify the construction requirements of appurtenances to be constructed within the project.
- Includes revisions for one (1) round of Agency comments, any additional revisions will be charged on a time and materials basis.

C. CONSTRUCTION ADMINISTRATION:

- Attend meeting (progress and coordination meeting at owner's request).
- Site visit during construction (per Owner's request).
- Review and comment on project submittals related to civil design items.
- Conduct final project review of site improvements and assist in preparation of punch list.
- Support costs are based on a time and materials estimate per work item requested.

D. CONSTRUCTION STAKING:

1. **Assumptions:**

- This proposal is based on Laugenour and Meikle's prevailing wage rates.
- This estimate is based on standard work items for the type of work.
- This proposal is based on Laugenour and Meikle being supplied with architectural and structural AutoCAD compatible files.
- One set of stakes will be provided for use by the Contractor. The Contractor shall protect stakes as required.

2. **Specifics:**

- Standard industry practices regarding staking request lead-time, site readiness and uninterrupted staking for each item of work will be observed.
- Additional staking/restaking services will be provided by Laugenour and Meikle as requested by Contractor on a time and materials basis according to our Rate Schedule (Exhibit "B") and charged to the Contractor.

3. **Construction Surveying:**

- Provide one (1) set of construction stakes, at offsets as directed by Contractor, for the following items of work:
 - Horizontal and vertical control.
 - Office calculations.
 - Rough Grading – high (ridges), lows (DI's), building pad offsets, swales parking lot limits, and roadway layouts.
 - Building corners/grid lines
 - Pad as-built survey.
 - Underground utilities including sanitary sewer, storm drain, water systems, and dry utility (gas, electric and telephone) lines,
 - Finish grades including parking lot curbs, valley gutters, retaining walls, trash enclosures, street curbs, and sidewalks.

E. AS-CONSTRUCTED DRAWINGS:

- Modify files per Contractor's redlines and submit final as-built drawings in electronic format (no field survey work time allowed).

II. COMPENSATION:

Consultant shall be compensated on a “Fixed-Fee” basis per project total shown below. New tasks not associated with the above Scope of Services will be negotiated prior to starting any work on any additional new task.

A. Project Management & Meetings	\$ 900.00
B. Improvement Plans	\$ 8,200.00
C. Construction Administration.....	\$ 2,700.00
D. Construction Staking.....	\$ 4,880.00
E. As-Constructed Drawings.....	<u>\$ 1,500.00</u>
PROJECT TOTAL.....	\$18,180.00

These costs are based on the following Laugenour and Meikle Prevailing Wage Rate Schedule (Exhibit “B”). Government agency fees are not included in this cost proposal.

III. EXCLUSIONS AND/OR RESPONSIBILITIES OF CLIENT OR OTHERS:

1. To provide Geotechnical Reports upon which Consultant can rely in performing services, including provision for review and approval of Consultant's improvement and grading plans by Client's geotechnical consultant, if required.
2. The design of walls, fences, retaining walls, or soundwalls of any kind and calculations as may be required by the public agency to obtain approvals.
3. To provide Consultant with current title reports, including supporting documents for project site and adjacent properties.
4. Design of dry (electric, gas, telephone and cable television) utility systems.
5. Any structural, acoustical, electrical, geotechnical engineering, traffic engineering for signal design or landscape architecture.
6. Client agrees consultant will not perform on-site construction review, construction management, supervision of construction of engineering structures, or other construction supervision for this project unless specifically provided for in another Agreement.
7. All investigations, work responsibilities, duties, or acts related to or involving archeological resources, endangered species or wetlands and asbestos, pollutants, or contaminants in the atmosphere, on the surface, or in the subsurface.
8. All work pertaining to environmental impact report mitigation monitoring, if required. Client agrees to assume complete responsibility and liability for changes in design, construction quantities, project cost, etc., whenever Client uses unsigned or unapproved survey maps or construction drawings for bidding or construction purposes.

9. To bear the cost of excavation and exposing (“potholing”) utility locations, and/or video inspections thereof, both on-site and off-site, if, in the opinion of the Consultant, it becomes necessary and desirable to do so in order to ascertain precise utility condition, location or elevation information. Consultant will not be responsible for the condition, location or depth of existing underground utilities which are shown on the plans based on utility company, agency or Client records.
10. The improvements are designed with the intent that the firm, Laugenour and Meikle, will be performing the construction staking for the complete project. If, however, another firm should be employed to use the design plans for construction staking, Laugenour and Meikle will not assume any responsibility for errors or omissions, if any, which might occur and which could have been avoided, corrected or mitigated if Laugenour and Meikle had performed the staking work.
11. All submittals of plans/reports for Agency approval are the responsibility of the Client.
12. Any regulatory agency related fees for submitting, checking, filing, inspection, performance of services, etc. are the responsibility of the Client.
13. SWPPP implementation and monitoring.

EXHIBIT "B"
RATE SCHEDULE

<u>PERSONNEL CLASSIFICATION</u>	<u>RATE PER HOUR</u>
Principal Engineer	\$190.00
Principal Surveyor	\$190.00
Senior Engineer/Project Manager	\$180.00
Senior Engineer	\$170.00
Senior Surveyor	\$165.00
Associate Engineer	\$165.00
Surveyor	\$150.00
Assistant Surveyor	\$135.00
Assistant Engineer	\$135.00
Assistant Project Manager	\$135.00
Junior Engineer	\$125.00
Senior Engineering Technician	\$110.00
Engineering Technician	\$ 80.00
Survey Technician	\$ 80.00
Technician	\$ 75.00
Clerical	\$ 60.00
Survey Party, 1-Man*	\$175.00
Survey Party, 2-Man*	\$270.00

REIMBURSABLES:

Field Materials	—	Charged at cost plus 10%
Reproduction Items	—	Charged at cost plus 10%
Subconsultants	—	Charged at cost plus 10%
Fees	—	Charged at cost plus 10%

* Public Works Prevailing Wage Rate

EXHIBIT "TWO"
GENERAL PROVISIONS

(1) INDEPENDENT CONTRACTOR. At all times during the term of this Agreement, CONSULTANT shall be an independent contractor and shall not be an employee of CITY. CITY shall have the right to control CONSULTANT only insofar as the results of CONSULTANT'S services rendered pursuant to this Agreement; however, CITY shall not have the right to control the means by which CONSULTANT accomplishes services rendered pursuant to this Agreement.

(2) LICENSES; PERMITS; ETC. CONSULTANT represents and warrants to CITY that CONSULTANT has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONSULTANT to practice CONSULTANT'S profession. CONSULTANT represents and warrants to CITY that CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for CONSULTANT to practice his profession.

(3) TIME. CONSULTANT shall devote such services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of CONSULTANT'S obligations pursuant to this Agreement.

(4) INSURANCE.

(a) WORKER'S COMPENSATION. During the term of this Agreement, CONSULTANT shall fully comply with the terms of the law of California concerning worker's compensation. Said compliance shall include, but not be limited to, maintaining in full force and effect one or more policies of insurance insuring against any liability CONSULTANT may have for worker's compensation.

(b) GENERAL LIABILITY AND AUTOMOBILE INSURANCE. CONSULTANT shall obtain at its sole cost and keep in full force and effect during the term of this agreement broad form property damage, personal injury, automobile, employer, and comprehensive form liability insurance in the amount of \$2,000,000 per occurrence; provided (1) that the CITY, its officers, agents, employees and volunteers shall be named as additional insured under the policy; and (2) that the policy shall stipulate that this insurance will operate as primary insurance; and that (3) no other insurance effected by the CITY or other names insured will be called upon to cover a loss covered there under; and (4) insurance shall be provided by an, at least, A-7 rated company.

(c) PROFESSIONAL LIABILITY INSURANCE. During the term of this Agreement, CONSULTANT shall maintain an Errors and Omissions Insurance policy in the amount of not less than \$1,000,000.

(d) CERTIFICATES OF INSURANCE. CONSULTANT shall file with CITY'S City Clerk upon the execution of this agreement, certificates of insurance which shall provide that no cancellation, major change in coverage, expiration, or non-renewal will be made during the term of this agreement, without thirty (30) days written notice to the CITY'S City Clerk prior to the effective date of such cancellation, or change in coverage.

(5) CONSULTANT NOT AGENT. Except as CITY may specify in writing, CONSULTANT shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONSULTANT shall have no authority, express or implied, pursuant to this Agreement, to bind CITY to any obligation whatsoever.

(6) ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

(7) PERSONNEL. CONSULTANT shall assign only competent personnel to perform services pursuant to this Agreement. In the event that CITY, at its sole discretion, at anytime during the term of this Agreement, desires the removal of any person or persons assigned by CONSULTANT to perform services pursuant to this Agreement, CONSULTANT shall remove any such person immediately upon receiving notice from CITY of the desire of CITY for the removal of such person or persons.

(8) STANDARD OF PERFORMANCE. CONSULTANT shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONSULTANT is engaged in the geographical area in which CONSULTANT practices his profession. CITY pursuant to this Agreement shall be prepared in a substantial, first-class, and workmanlike manner, and conform to the standards of quality normally observed by a person practicing in CONSULTANT'S profession. CITY shall be the sole judge as to whether the product of the CONSULTANT is satisfactory.

(9) CANCELLATION OF AGREEMENT. This Agreement may be canceled at any time by CITY for its convenience upon written notification to CONSULTANT. CONSULTANT shall be entitled to receive full payment for all services performed and all costs incurred to the date of receipt of written notice to cease work on the project. CONSULTANT shall be entitled to no further compensation for work performed after the date of receipt of written notice to cease work. All completed and uncompleted products up to the date of receipt of written notice to cease work shall become the property of the CITY.

(10) PRODUCTS OF CONSULTING. All products of the CONSULTANT resulting from this Agreement shall be the property of the CITY.

(11) INDEMNIFY AND HOLD HARMLESS. CONSULTANT shall indemnify, hold harmless the CITY, its officers, agents and employees from all claims, suits, or actions of every name, kind and description, brought forth on account of injuries to or death of any person or damage to property to the extent arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by the CONSULTANT or any person directly or indirectly employed by or acting as agent for CONSULTANT in the performance of this Agreement, including the concurrent or successive passive negligence of the City, its officers, agents or employees.

It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code.

Acceptance of insurance certificates and endorsements required under this Agreement does not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

(12) PROHIBITED INTERESTS. No employee of the CITY shall have any direct financial interest in this agreement. This agreement shall be voidable at the option of the CITY if this provision is violated.

(13) LOCAL EMPLOYMENT POLICY. The City of Winters desires wherever possible, to hire qualified local residents to work on city projects. Local resident is defined as a person who resides in Yolo County.

The City encourages an active affirmative action program on the part of its contractors, consultants, and developers.

When local projects require, subcontractors, contractors, consultants, and developers will solicit proposals from qualified local firms where possible.

As a way of responding to the provisions of the Davis-Bacon Act and this program, contractor, consultants, and developers will be asked to provide no more frequently than monthly, a report which lists the employee's residence, and ethnic origin.

(14) CONSULTANT NOT PUBLIC OFFICIAL. CONSULTANT is not a "public official" for purposes of Government Code §87200 et seq. CONSULTANT conducts research and arrives at conclusions with respect to his or her rendition of information, advice, recommendation or counsel independent of the control and direction of the CITY or any CITY official, other than normal contract monitoring. In addition, CONSULTANT possesses no authority with respect to any CITY decision beyond the rendition of information, advice, recommendation or counsel.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: May 15, 2018
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Nanci G. Mills, Director of Administrative Services/City Clerk
SUBJECT: Approval of Amplified Sound Permit Application

RECOMMENDATION:

Approve the Amplified Sound Permit Application submitted for a wedding ceremony and reception to be held on Saturday, May 26th, 2018 from 4pm - 10pm in the patio and amphitheater areas at the Winters Community Center.

BACKGROUND:

Winters resident Capri Rivas has submitted the Amplified Sound Permit Application for this event.

Per the Noise Ordinance, the amplified sound permit requires Council approval on the attached form, and the closure of any part of Main Street also requires City Council approval.

FISCAL IMPACT:

None

Date of Application: 5-8-18

To City Council: 5/15/18

Name of Person(s)/ Organization: Capri Rivas & Juvenal Martinez

Contact: Capri

Business Address: 1024 Adams Ln

Telephone: 554-3206

Winters CA, 95164
Telephone: (530) 554-3206

Type of Event: Wedding - Ceremony & Reception

Purpose of Event: (ie; fundraiser, parade, festival, etc.):

Wedding

Date/Time of Event: May 26, 2018

From: 4pm

To: 10pm

Location/Address of Event: 201 Railroad Ave

Winters Community Center

Rated Output of Amplifier in Watts: 1000

Number of Speakers: 2-3

I have provided a list of and contacted all property owners adjacent to and within 300 feet of the event. Their approval of this event is indicated by their signature on the attached petition. Complaints about the sound will result in a warning and a request to reduce the volume. Additional complaints will result in the cessation of amplified sound. All amplified sound must be extinguished no later 10:00 p.m. pursuant to Winters Municipal Code Title VI; Chapter 7-Noise Control. Signing below certifies that all information contained within this application is correct. In the event that any of this information is found to be fraudulent, it may result in an automatic denial of this application.

Signature: Capri Rivas

For City Use Only

Proof of Insurance: N/A (Not City Property) Yes No

Rental Fee Paid: N/A (Not City Property) Yes No

Police Department: Approved Denied

Date: CITY OF WINTERS

Authorized Signature: _____

City Council: Approved Denied

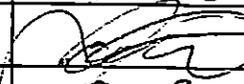
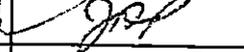
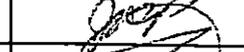
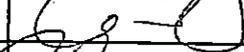
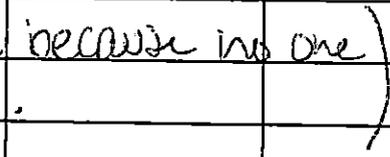
Date: _____

Authorized Signature: _____

RECEIVED

MAY 08 2018

CITY OF WINTERS

Address	Owner's Last Name	Object	Approve/Sign	NH*
5E Main St (Steady Edgys)	WROTHEN			
1 main st. (Putah Creek Cafe)	PECKEREL			
2 main st (Borchorn Steak house)	PECKEREL			
208 Railroad Ave (Chrys Tavernia)				
204 Railroad Ave (Preserve) ^{Dist}	Ogando			
200 Railroad Ave (Preserve)	Ogando			
2 Russell St (Bicy Auto Repair)	BISI			
Cottages at the End of Elliot St. Next to back of Community Center.	All have been noted because no one answered their door.			
				

* NH-Attempted to contact but noone was home.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: May 15, 2018
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Nanci G. Mills, Director of Administrative Services/City Clerk
SUBJECT: Approval of Amplified Sound Permit Applications 

RECOMMENDATION:

Approve the Amplified Sound Permit Applications submitted for a wedding rehearsal and ceremony to be held on Saturday, May 26th, 2018 from 4pm - 6pm (rehearsal), and on Sunday, May 27th, 2018 from 5pm - 5:30pm (ceremony) in the Rotary Park gazebo.

BACKGROUND:

Winters residents Nora Cary and Samantha Arens have submitted the Amplified Sound Permit Application(s) for these events.

Per the Noise Ordinance, the amplified sound permit requires Council approval on the attached form, and the closure of any part of Main Street also requires City Council approval.

FISCAL IMPACT:

None

Date of Application: 5/9/18 To City Council: _____

Name of Person(s)/ Organization: Nora Cary | Samantha Arens Contact: Samantha Arens
~~Business~~ Home Address: 213 Main Street Telephone: 2156679942
Winters, CA
Telephone: (530)902-0712

Type of Event: Wedding ceremony. No music, just speaking, ~ 20 minutes long.

Purpose of Event: (ie; fundraiser, parade, festival, etc.): _____

Date/Time of Event: May 27, 2018 From: 5 PM To: 5:30 PM

Location/Address of Event: Rotary Park Gazebo

Rated Output of Amplifier in Watts: 1000 Number of Speakers: 1

I have provided a list of and contacted all property owners adjacent to and within 300 feet of the event. Their approval of this event is indicated by their signature on the attached petition. Complaints about the sound will result in a warning and a request to reduce the volume. Additional complaints will result in the cessation of amplified sound. All amplified sound must be extinguished no later 10:00 p.m. pursuant to Winters Municipal Code Title VI; Chapter 7-Noise Control. Signing below certifies that all information contained within this application is correct. In the event that any of this information is found to be fraudulent, it may result in an automatic denial of this application.

Signature: [Handwritten Signature]

For City Use Only

Proof of Insurance: N/A (Not City Property) Yes No

Rental Fee Paid: N/A (Not City Property) Yes No

Police Department: Approved Denied

Date: CITY OF WINTERS

Authorized Signature: _____

City Council: Approved Denied

Date: _____

Authorized Signature: _____

RECEIVED

MAY 09 2018

Address	Owner's Last Name	Object	Approve/Sign	NH*
1 Main Street	Orchero			
13 Main St.	Cary			
11 Main St				X
15 Main St				X
19 Main St	Vanderpool			
23 Main St				X
32 MAINE ST	James Quaster			
30 Main St	Gabe Hanna			
26 Main St	Ireland			
22 Main St				X
18 Main St				X
14 Main St	Kreun		SKreun	
10 Main St				X
2 Main St				X
208 Railroad Ave	Alicia Aguirre		Alicia Aguirre	
200 Railroad Ave				X
7 Russell St				X
9 Russell St				X
8 Russell St				X
6 Russell St				X
304 Railroad Ave	Mona Spaulding			
308 Railroad Ave	KANDERSON			
306 Railroad Ave				X
5 EAST MAIN ST.	WRITEN			
5E Main St Suite 7B				X
10 E Main St				X
12 E Main St				X
14 E Main	Weigt			
20 E Main	Main Weigt			X
107 Elliott				

* NH-Attempted to contact but noone was home.

Date of Application: 5/9/18 To City Council: _____

Name of Person(s)/ Organization: Nora Caryl / Samantha Areas Contact: Samantha Areas

Business Address: 213 Main Street Telephone: 215 667 9942
Home
Winters, CA

Telephone: 530 902 0712

Type of Event: Practice Wedding Ceremony, no music, just speaking
~ 1 hr.

Purpose of Event: (ie; fundraiser, parade, festival, etc.): _____

Date/Time of Event: May 26th 2018 From: 4 pm To: 6:00
5:30

Location/Address of Event: Rotary Park Gazebo

Rated Output of Amplifier in Watts: 1000 Number of Speakers: 1

I have provided a list of and contacted all property owners adjacent to and within 300 feet of the event. Their approval of this event is indicated by their signature on the attached petition. Complaints about the sound will result in a warning and a request to reduce the volume. Additional complaints will result in the cessation of amplified sound. All amplified sound must be extinguished no later 10:00 p.m. pursuant to Winters Municipal Code Title VI; Chapter 7-Noise Control. Signing below certifies that all information contained within this application is correct. In the event that any of this information is found to be fraudulent, it may result in an automatic denial of this application.

Signature: [Handwritten Signature]

For City Use Only

Proof of Insurance: N/A (Not City Property) Yes No

Rental Fee Paid: N/A (Not City Property) Yes No

Police Department: Approved Denied Date: CITY OF WINTERS

Authorized Signature: _____

City Council: Approved Denied Date: _____

Authorized Signature: _____

RECEIVED

MAY 09 2018

Address	Owner's Last Name	Object	Approve/Sign	NH*
1 Main St.	Pacheco		<i>[Signature]</i>	
13 Main St.	Cary		<i>[Signature]</i>	
9 Main St.	Denham		<i>[Signature]</i>	
11 Main St.				X
15 Main St.				X
19 Main St.	Vanderpool		<i>[Signature]</i>	
23 Main St.				X
38 MAIN ST.	Jane Dutz		<i>[Signature]</i>	
30 Main St.	Ebbe Ibarra		<i>[Signature]</i>	
26 Main St.	Ireland		<i>[Signature]</i>	
22 Main St.				X
18 Main St.				X
14 Main St.	Skreun		<i>[Signature]</i>	
10 Main St.				X
2 Main St.				X
208 Railroad Ave	Alicia Aguirre		<i>[Signature]</i>	
200 Railroad Ave				X
7 Russell St				X
9 Russell St				X
8 Russell St				X
6 Russell St				X
304 Railroad Ave	Maria Spaulding		<i>[Signature]</i>	
308 Railroad Ave	CALDERA		<i>[Signature]</i>	
306 Railroad Ave				X
5 EAST MAIN ST. SUITE A	WROTEN		<i>[Signature]</i>	
5E Main St Suite 7B				X
10E Main St				X
12E Main St				X
14 E Main St	Weigt		<i>[Signature]</i>	
20 E Main				X

* NH-Attempted to contact but noone was home.

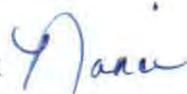


**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers

DATE: May 15, 2018

THROUGH: John W. Donlevy, Jr., City Manager 

FROM: Nanci Mills, Director of Administrative Services/City Clerk 

SUBJECT: Street Closure Request

RECOMMENDATION: Approve the attached Request for Street Closure submitted by Winters resident Renee Raffetto for a wedding reception to be held on Saturday, May 19th, 2018, from 4pm to 10pm at 621 Ivy Loop, Winters.

FISCAL IMPACT: None



City of Winters Request for Street Closure

This application is for citizens or groups that have occasion to request that streets be temporarily closed for such things as bicycle races, running contests, block parties and other such events requiring the re-routing of traffic. For a parade or amplified sound an additional permit is required.

A request to close streets shall be filed with the Police and Public Works Departments at least ten (10) business days prior to the date the street would be closed.

There shall be no closure of the following streets without Council approval:

1. Main Street
2. Railroad Street
3. Grant Avenue
4. Valley Oak Drive
5. Abbey Street

Request to close these streets shall be processed in much the same manner except that the request shall be submitted to the City Council by the Police Department. Requests to close the streets herein listed shall be submitted at least thirty (30) business days prior to the street closure.

Requests for street closures that are not submitted by the minimum time lines may be granted only by the Winters City Council.

Name: <u>RENEE RAFFETTO</u>	Organization: _____
Address: <u>621 IVY LOOP</u>	Mailing Address: _____
Telephone: <u>(916) 605-9607</u>	Today's Date: <u>5/7/18</u>
Streets Requested: <u>Dead end of Ivy Loop/partial Alley as well</u>	
Date of Street Closure: <u>5/19/18</u>	Time of Street Closure: <u>4pm - 10pm</u>
Description of Activity: <u>Wedding reception @ end of block at our house & part of street & Alley way.</u>	
Services Requested of City: <u>Road closure & parking assistance</u>	
<u>Barricades-</u>	
APPROVED: <u>TM</u> Police Department <u>CS</u> Public Works Department	

Main table OK



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: May 15, 2018
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Eric Lucero, Public Works Superintendent
SUBJECT: Staff Promotion to Mid Management Position

RECOMMENDATION:

Approve the Reclassification and promotion of a Maintenance IV position to Mid Management Public Works Field/ Facilities Manager

BACKGROUND:

Through our ongoing improvement and development of the individual Public Works Departments we have established levels of responsibilities with advancement requirements that go along with each level. We have Maintenance Worker I, II, III, IV and since taking over the operations of the Wastewater Treatment Facility in 2014 we have created a Mid-Management position which oversees “facilities” of each department. This position requires more managerial responsibilities that are required to run each department (scheduling projects and staff’s day to day routine, recording and reporting necessary documents, developing other staff members, help create capital projects, etc.)

This employee has been with the City since 1985 and since then has met the requirements to advance to Maintenance Worker II, Maintenance Worker III, and in 2012 advanced to Maintenance Worker IV. In the last several years, this position has evolved past the current responsibilities of Maintenance Worker IV and is now managing the Facilities/Parks/Streets and Storm Drain Departments. As displayed in our presentation in April, you were able to see just a small portion of what the responsibilities include on a daily bases.

This item is brought before the City Council for the approval of the classification change within the existing budget and provide transparency for Staff process in advancement, promotion and reclassification.

FISCAL IMPACT: Fiscal impact will include salary adjustments which are included in the current budget.



TO: Honorable Mayor and Council Members
DATE: May 15, 2018
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Ethan Walsh, City Attorney
SUBJECT: 1) Adoption of Yolo Habitat Conservation Plan/Natural Community Conversation Plan (“Yolo HCP/NCCP”);
2) Consideration of Yolo HCP/NCCP Final Environmental Impact Statement/Environmental Impact Report;
3) Introduction of Ordinance No. 2018-02 Providing for Implementation of the Yolo HCP/NCCP, including Related Procedures and Fees;
4) Approval of the First Amended and Restated Joint Powers Agreement for the Yolo Habitat Conservancy.

RECOMMENDATION:

Staff recommends that the City Council take the following actions:

1. Receive staff presentation
2. Accept public comments
3. Adopt Resolution No. 2018-12, Considering the Yolo HCP/NCCP Final EIS/EIR Pursuant to CEQA Guidelines 15096, Including Adoption of Findings of Fact and Other Actions Required by CEQA for Responsible Agencies (*Attachment A*)
4. Adopt Resolution No. 2018-13, Adopting the Final HCP/NCCP; 2) Certifying the Yolo HCP/NCCP as Consistent with the City of Winters General Plan; and 3) Authorizing the City Manager to Execute the Implementing Agreement with the USFWS, CDFW, Yolo Habitat Conservancy, Yolo County, and the cities of Davis, West Sacramento, Woodland, and Winters (*Attachment B*)
5. Introduce, waive first reading, and receive public comment on Ordinance No. 2018-02, Providing for Implementation of the Yolo HCP/NCCP, Including Related Procedures and Fees and direct staff to schedule the ordinance for second reading

and adoption and the next regularly meeting of the City Council/Board of Supervisors (*Attachment C*)

6. Approve execution of the First Amended and Restated Joint Powers Agreement for the Yolo Habitat Conservancy, reflecting the transition to Plan implementation (*Attachment D*), subject to minor, non-substantive changes that may be approved by the City Manager, in consultation with the City Attorney
7. Direct staff to file a CEQA Notice of Determination

SUMMARY:

This item is to consider certification of the Final EIS/EIR, adoption of the Final Yolo Habitat Conservation Plan/Natural Community Conservation Plan (Yolo HCP/NCCP), and related actions. The Yolo HCP/NCCP is a comprehensive, county-wide plan to provide for the conservation of 12 sensitive species (“covered species”) and the natural communities and agricultural land on which they depend. The Yolo HCP/NCCP will provide a streamlined permitting process to address the effects of a range of future anticipated public and private activities (“covered activities”) on these 12 species. The Yolo HCP/NCCP Plan Area encompasses the entire area of Yolo County, approximately 653,549 acres, and includes conservation activities outside of Yolo County within an additional 1,174 acres along Putah Creek in Solano County.

Copies of the Yolo HCP/NCCP and EIS/EIR may be viewed and downloaded at:
<http://www.yolohabitatconservancy.org/documents>

BACKGROUND:

The Yolo Habitat Conservation Plan/Natural Community Conservation Plan (Yolo HCP/NCCP) is a comprehensive, multi-species county-wide plan intended to provide for the conservation of 12 sensitive species (“covered species”) and the natural communities and agricultural land on which they depend while providing a streamlined permitting process to address the effects of a range of future anticipated public and private activities on these 12 species. The Yolo HCP/NCCP is intended to achieve, among other things, the following objectives:

- (a) to protect, enhance, and restore natural communities and cultivated lands, including rare and endangered species habitat, and provide for the conservation of covered species within Yolo County;
- (b) to replace the current system of separately permitting and mitigating individual projects with a conservation and mitigation program, set forth in the Yolo HCP/NCCP, that comprehensively coordinates the implementation of permit requirements through the development of a countywide conservation strategy, including identification of priority acquisition areas in riparian zones and other locations with important species habitat;
- (c) to provide for additional habitat conservation that is otherwise unlikely to take place

in Yolo County and benefit both listed species and project proponents by ensuring a more efficient, effective approach to mitigation; and

(d) to ensure that the Yolo Habitat Conservancy, in its capacity as the implementing entity for the Yolo HCP/NCCP, collects the local development mitigation fees necessary to assist with plan implementation.

To finalize the Yolo HCP/NCCP and establish the administrative structures necessary to meet these objectives, the member agencies must take the recommended actions identified above.

From 1993 through 2001, Yolo County led an extensive effort to produce a countywide HCP. That effort culminated in 2001 with the rejection of a prior Draft HCP in favor of a combined HCP/NCCP that would be larger in scope and scale and result in more comprehensive conservation outcomes.

Yolo County and the cities of Davis, West Sacramento, Winters, and Woodland formed the Yolo Habitat/Natural Community Conservation Plan Joint Powers Agency (now called the Yolo Habitat Conservancy) in August 2002 for the purpose of cooperative development of a regional HCP/NCCP. The Yolo Habitat Conservancy Board of Directors consists of representatives from the Yolo County Board of Supervisors, each of the City Councils, and a representative from the University of California, Davis who serves as a nonvoting ex officio member. In 2005, the Yolo Habitat Conservancy, the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Wildlife (CDFW) signed a Planning Agreement directing the preparation of the Yolo HCP/NCCP. An intensive public and stakeholder outreach program was undertaken to provide input into, and critical oversight of, the development of the Yolo HCP/NCCP.

In August of 2012, the staff of the Yolo Habitat Conservancy underwent a significant change. The Board of Directors hired a new contract Executive Director and Project Manager to propose a new path forward for the organization and the Yolo HCP/NCCP. The Yolo Habitat Conservancy released the First Administrative Draft of the HCP/NCCP in June 2013, the Second Administrative Draft of the Yolo HCP/NCCP in March 2015, and a Public Review Draft in June 2017.

The USFWS published a NEPA Notice of Availability announcing the release and availability of the Public Review Draft HCP/NCCP and Draft EIS/EIR in the Federal Register and the Conservancy filed a CEQA NOA with the California Governor's Office of Planning and Research State Clearinghouse, the Yolo County Clerk-Recorder's Office, and Solano County Clerk-Recorder's Office. The Conservancy also posted the documents on the Conservancy's website, provided copies to five libraries in Yolo County, sent a press release to local media, distributed the CEQA NOA to state, regional, and local agencies, distributed the CEQA NOA by mail and email to interested stakeholders, and published it in the Davis Enterprise and Vacaville Reporter newspapers.

Between June 1, 2017 and August 30, 2017, the Yolo Habitat Conservancy and member agencies held nine public meetings to present the Public Review Draft Yolo HCP/NCCP and Draft EIS/EIR and accept public comment. In addition to comments received during public meetings, the Yolo Habitat Conservancy accepted public comments by mail, comment card, and email throughout the public comment period. A total of 32 comment submissions were made during the public comment period. These comments, along with responses to these comments, are included in the Final EIS/EIR. Yolo Habitat Conservancy staff and representatives also gave presentations to a variety of stakeholder groups, provided Yolo HCP/NCCP updates at all Yolo Habitat Conservancy Board meetings and Advisory Committee meetings, regularly updated the Yolo Habitat Conservancy's website to provide information about upcoming public meetings and HCP/NCCP information, and developed a series of four informational brochures that summarize key elements of the Yolo HCP/NCCP in both English and Spanish.

Since release of the Draft HCP/NCCP on June 1, 2017, the Yolo Habitat Conservancy has proposed a number of changes to the HCP/NCCP. These proposed changes fall into the following categories: copy edits, minor text clarifications and corrections, minor numeric corrections, providing updated information since the release of the Draft HCP/NCCP, clarifications or enhancements to particular HCP/NCCP elements, increased details on HCP/NCCP implementation, and updating cost and funding information. The Final EIS/EIR evaluated the environmental effects of the Final HCP/NCCP, including the proposed changes since release of the Public Review Draft HCP/NCCP. The analysis substantiates that the proposed changes to the HCP/NCCP do not alter the impact conclusions provided in the Public Review Draft EIS/EIR for environmental issue areas.

DISCUSSION:

1. Yolo HCP/NCCP Overview

The Yolo HCP/NCCP is a comprehensive, multi-species county-wide plan prepared by the Yolo Habitat Conservancy to provide for the conservation of 12 sensitive species ("covered species") and the natural communities and agricultural land on which they depend. The Yolo HCP/NCCP will provide a streamlined permitting process to address the effects of a range of future anticipated public and private activities ("covered activities") on these 12 species: palmate-bracted bird's beak, valley elderberry longhorn beetle, California tiger salamander, western pond turtle, giant garter snake, Swainson's hawk, white-tailed kite, western yellow-billed cuckoo, western burrowing owl, Least Bell's vireo, bank swallow, and tricolored blackbird. The Plan Area encompasses the entire area of Yolo County, approximately 653,549 acres, and includes potential conservation activities outside of Yolo County within an additional 1,174 acres along Putah Creek in Solano County.

The Yolo HCP/NCCP will provide the basis for issuance of long-term (50-year) permits under the Federal Endangered Species Act (FESA) and California Natural Community Conservation Planning Act (NCCPA) for covered activities. The Yolo HCP/NCCP will provide the Permittees (Yolo County, the four incorporated cities, and the Conservancy) with incidental take permits from both USFWS and CDFW for the 12 covered species. This action is allowed under Section 10(a)(1)(B) of the FESA and Section 2835 of the NCCPA chapter of the California Fish and Game Code.

The Yolo HCP/NCCP ensures compliance with the FESA, NCCPA, and the California Endangered Species Act (CESA) for covered activities that may affect the covered species. In addition to the Permittees, the Yolo HCP/NCCP permits may be used by other entities through certificates of inclusion. Private projects under the discretionary authority of Permittees submit an HCP/NCCP application and associated fees prior to any project related ground disturbance (this is reflected in the implementing ordinance included herewith). Projects proposed by entities that are not subject to the land use authority of the Permittees can submit a request to the Yolo Habitat Conservancy for coverage under the Yolo HCP/NCCP as a Special Participating Entity. All parties receiving take coverage under the Yolo HCP/NCCP will be required to adhere to avoidance and minimization measures to help ensure that the effects of covered activities are reduced.

The Yolo HCP/NCCP will streamline and coordinate the process for approval and mitigation of impacts to covered species and their habitats. It will also add certainty in that no further commitments of funds, land, or other resources may be required by the USFWS and CDFW for impacts to the covered species, unless changed circumstances occur.

Covered activities include actions and land uses contemplated in the local General Plans for Yolo County, Davis, West Sacramento, Winters, and Woodland. The covered activities have been organized into five broad categories: urban projects and activities, rural projects and activities, operations and maintenance, conservation strategy implementation, and neighboring landowner protection program. The first two categories comprise the "spatially defined" activities identified in the Yolo HCP/NCCP. This refers to activities where the location is currently known. These two categories total 17,550 acres, within which 11,510 acres of impact to natural communities are modeled to occur over the life of the permit. The remaining three categories comprise the "spatially undefined" categories (activities where a specific location is not yet known) consisting of 706 acres for operation and maintenance, 956 acres for restoration and enhancement, and 2,347 acres for the neighboring landowner protection program (applicable only to four of the 12 covered species). Within the three spatially undefined categories an additional 1,134 acres of impact to natural communities are assumed to occur for a total of 12,644 acres of impact (11,510 acres + 1,134 acres).

The conservation strategy for the Yolo HCP/NCCP was designed to mitigate for the effects of covered activities and to provide for the conservation of covered species in the Plan Area. The conservation strategy is based on a set of biological goals and objectives developed specifically for the Yolo HCP/NCCP and include establishment of a conservation easement reserve system, restoration of natural communities, and management and enhancement of the reserve system as conservation measures. The reserve system will include up to 17,087 acres of conservation to mitigate for impacts from covered activities and an additional 16,275 acres of conservation beyond mitigation (including 8,000 acres of pre-permit reserve lands) for total conservation of 33,362 acres. The Conservancy will partner with landowners to manage the reserve system and maintain and enhance the ecological values of protected natural communities and other covered species habitats.

The Conservancy will implement monitoring and adaptive management to inform management and enhancement actions. In addition to the protection of covered species habitat in the reserve system, the Conservancy will restore up to 956 acres of riparian woodland and scrub, fresh emergent wetlands, and lacustrine and riverine natural communities. To help guide other efforts to protect and conserve both species and habitat that are not the focus of the Yolo HCP/NCCP, the Conservancy is also preparing a Regional Conservation Investment Strategy/Local Conservation Plan (RCIS/LCP). This is a voluntary, non-regulatory plan to fill in conservation gaps not covered by the Yolo HCP/NCCP. The California Department of Fish & Wildlife will release the RCIS/LCP for public comment in the near future. The Yolo HCP/NCCP and its take permits are not dependent upon later approval of the RCIS/LCP.

2. EIS/EIR Overview

The EIS component of the Final EIS/EIR was prepared pursuant to the National Environmental Policy Act (NEPA) under the oversight of the USFWS serving as the NEPA Lead Agency. In accordance with NEPA, the USFWS is publishing a separate NEPA Notice of Availability (NOA) in the Federal Register. Information about the Federal Register Notice is available at the following Service website: <https://www.fws.gov/sacramento/>.

The EIR component of the Final EIS/EIR was prepared pursuant to the California Environmental Quality Act (CEQA) under the oversight of the Yolo Habitat Conservancy serving as the CEQA Lead Agency and CDFW serving as a CEQA Responsible Agency. The member agencies of the Yolo Habitat Conservancy (i.e., each city and Yolo County) are also CEQA Responsible Agencies. As such, each is obligated to consider the EIR and adopt certain findings pursuant to CEQA Guidelines § 15096 (included within the Resolution attached as Exhibit A).

Both NEPA and CEQA contemplate different levels of analysis for different types of decisions. The level of analysis typically used for planning documents like a regional conservation plan is described as “programmatically,” which reflects that the site-specific

and project-specific details for the entire plan area are not known, but sufficient information is available so that the general potential for impact in various topical areas can be sufficiently assessed. The EIS/EIR prepared for the Yolo HCP/NCCP is a programmatic document.

The EIS/EIR analyzes and discloses the potential for significant adverse environmental impacts associated with the Yolo HCP/NCCP as proposed, and a suite of project alternatives that came from sources including the Yolo HCP/NCCP development process, the public scoping process under NEPA and CEQA, and the lead and responsible agencies. Ten alternatives, including the proposed action alternative, were initially identified. Each of these alternatives went through a screening process to determine if they met both NEPA and CEQA screening criteria. Of the initial alternatives, four met the required criteria and were evaluated more closely.

Alternative B, the proposed action alternative, was identified as the preferred alternative. As substantiated in the EIS/EIR, Alternative B will result in less-than-significant impacts in all CEQA impact categories with two exceptions. Alternative B would result in the potential for conflict with the Solano HCP (Effect LAND-3), as related to plan area overlap among the two HCPs. This impact is fully mitigated for under Alternative B by the Yolo Habitat Conservancy entering into an agreement with Solano County Water Agency recognizing that the Yolo HCP/NCCP's acquisition areas must not conflict with the covered activities of the Solano HCP, as further described in the Mitigation Monitoring and Reporting Program (MMRP), so the ultimate outcome is less-than-significant. The mitigation measure has been clarified since release of the Final EIR to change the required timing of the measure from "before adopting the HCP/NCCP" to prior to "prior to undertaking any HCP/NCCP implementation activity within the area of overlap with the Solano County Water Agency (SCWA) Multispecies HCP". This modification to the measure is not substantive and will in no way diminish the effectiveness of the measure in reducing the identified impact.

Alternative B would result in the permanent conversion of 702 acres of agricultural land to restored habitat (Effect AG-1); however, it would also result in the associated preservation of 19,962 acres of agricultural land in perpetuity resulting in a benefit ratio of over 28:1. While the other alternatives described in the EIS/EIR attempt to reduce impacts to the environment, none achieves the same level of environmental protection or successfully achieves the project's objectives to the same degree as the final HCP/NCCP.

3. Yolo HCP/NCCP and EIS/EIR Review

The Final HCP/NCCP and the Final EIS/EIR were released April 30th and can be viewed at the following website: <http://www.yolohabitatconservancy.org/documents>. Interested parties may purchase printed copies and electronic copies (USB flash drive) by contacting the Yolo Habitat Conservancy. The documents are also available for public review at the Woodland Public Library, 250 First Street, Woodland, the Mary L.

Stephens Davis Library, 315 E 14th Street, Davis, the Arthur F. Turner Community Library, 1212 Merkley Ave., West Sacramento, the Winters Community Library, 708 Railroad Ave., Winters, and the Yolo Branch Library, 37750 Sacramento Street, Yolo.

For more information about the HCP/NCCP and EIS/EIR, please contact Yolo Habitat Conservancy staff at (530) 723-5504, info@yolohabitatconservancy.org, or visit the Yolo Habitat Conservancy's website at: <http://www.yolohabitatconservancy.org>.

4. Implementing Agreement and Related Ordinance

CDFW may not approve an NCCP unless it includes an implementing agreement containing certain provisions. (Cal. Fish & G. Code § 2820(b).) Therefore, approval of an Implementing Agreement for the Yolo HCP/NCCP (Exhibit to Attachment B) is necessary and appropriate for purposes of obtaining approval of the NCCP and obtaining incidental take authorizations from CDFW under state law. (Cal. Fish & G. Code § 2835.)

The attached Implementing Agreement fulfills all of the statutory requirements for an implementing agreement under the NCCPA. It reflects HCP/NCCP content regarding how the Plan will be implemented, including the responsibilities of an "implementing entity" (here, the Yolo Habitat Conservancy), the duties and obligations of CDFW and the USFWS, and opportunities for third party participation (e.g., PG&E or other entities needing take authorization for activities not subject to local regulation) in the Plan. The Implementing Agreement also addresses integrating Plan implementation with the approval of local development projects, and includes a template Implementing Ordinance for each member agency to adopt.

The Implementing Ordinance template has been modified to include all language necessary for its adoption by the City {or County} (Attachment C). The Ordinance provides that certain "avoidance, minimization, and mitigation measures" will be followed for projects undertaken or approved by each member agency, and that each project constituting a "covered activity" must pay an impact fee to support Plan implementation. Impact fees will be established by the Conservancy and, once in effect, will replace the current Swainson's hawk mitigation fee applied to most projects. Under the Ordinance, the City will collect fees from affected projects and remit revenues each quarter to the Conservancy.

5. Amended and Restated Joint Powers Agreement

The Yolo Habitat Conservancy has operated since 2002 under its original joint powers agreement, which was drafted largely in contemplation of the agency's role in implementing Swainson's hawk mitigation and in guiding preparation of the HCP/NCCP. Although the original agreement contemplated HCP/NCCP implementation, it provided little detail on that topic and no specifics regarding the duties and obligations of the Conservancy in that regard.

For these reasons, a First Amended and Restated Joint Powers Agreement (Attachment D) has been prepared to more fully reflect the transition to Plan implementation and the evolving role of the Conservancy. Among other things, the Agreement affirms the Conservancy's role as the local agency responsible for implementation and ensures that the Conservancy has adequate legal authority to carry out the duties of the Implementing Entity as set forth in the Implementing Agreement (described briefly above). No changes in the governance structure are proposed, and other provisions of the Agreement addressing staffing, administration, and fiscal matters were drafted to reflect current practices and anticipated future operations of the Conservancy.

6. Other Public Meetings

The following additional public meetings to consider the Yolo HCP/NCCP have or will be held before the Conservancy and other member agencies in May and June 2018:

May 7, 2018 – The Board of Directors of the **Yolo Habitat Conservancy** will meet at 625 Court Street in Woodland CA in the Yolo County Board Chambers (Room 206) at 5:30 pm to consider the following actions: 1) certification of Final EIS/EIR including adoption of findings of fact and other actions required by CEQA for a lead agency; 2) adoption of Final HCP/NCCP; and 3) authorization to execute Implementing Agreement with the USFWS, CDFW, and member agencies.

May 10, 2018 – The **Yolo County Planning Commission** will meet at 625 Court Street in Woodland CA in the Yolo County Board Chambers (Room 206) at 8:30 am to make recommendations to the Yolo Board of Supervisors regarding the following actions: 1) consideration of the Final EIR pursuant to CEQA Guidelines 15096, including adoption of findings of fact and other actions required by CEQA for a responsible agency; 2) determination of consistency with General Plan, 3) adoption of Final HCP/NCCP; 4) adoption of Implementing Ordinance, and 5) authorization to execute Implementing Agreement with the USFWS, CDFW, Yolo Habitat Conservancy, and other member agencies.

May 15, 2018 – The **Davis City Council** will meet at Davis City Hall at 23 Russell Boulevard in Davis CA in the Community Chambers at 6:30pm to consider the following actions: 1) consideration of the Final EIR pursuant to CEQA Guidelines 15096, including adoption of findings of fact and other actions required by CEQA for a responsible agency; 2) determination of consistency with General Plan, 3) adoption of Final HCP/NCCP; 4) adoption of Implementing Ordinance, and 5) authorization to execute Implementing Agreement with the USFWS, CDFW, Yolo Habitat Conservancy, and other member agencies.

May 22, 2018 – The **Yolo County Board of Supervisors** will meet at 625 Court Street in Woodland CA in the Yolo County Board Chambers (Room 206) at 9:00 am to consider the following actions: 1) consideration of the Final EIR pursuant to CEQA

Guidelines 15096, including adoption of findings of fact and other actions required by CEQA for a responsible agency; 2) determination of consistency with General Plan, 3) adoption of Final HCP/NCCP; 4) adoption of Implementing Ordinance, and 5) authorization to execute Implementing Agreement with the USFWS, CDFW, Yolo Habitat Conservancy, and other member agencies.

May 23, 2018 – The **West Sacramento City Council** will meet at West Sacramento City Hall at 1110 West Capitol Avenue, West Sacramento, CA in the Council Chambers at 7:00 pm to consider the following actions: 1) consideration of the Final EIR pursuant to CEQA Guidelines 15096, including adoption of findings of fact and other actions required by CEQA for a responsible agency; 2) determination of consistency with General Plan, 3) adoption of Final HCP/NCCP; 4) adoption of Implementing Ordinance, and 5) authorization to execute Implementing Agreement with USFWS, CDFW, Yolo Habitat Conservancy, and other member agencies.

June 5, 2018 – The **Woodland City Council** will meet at Woodland City Hall at 300 First Street in Woodland CA at 6:00pm to consider the Final EIS/EIR and consider the following actions: 1) consideration of the Final EIR pursuant to CEQA Guidelines 15096, including adoption of findings of fact and other actions required by CEQA for a responsible agency; 2) determination of consistency with General Plan, 3) adoption of Final HCP/NCCP; 4) adoption of Implementing Ordinance, and 5) authorization to execute Implementing Agreement with USFWS, CDFW, Yolo Habitat Conservancy, and other member agencies.

7. Next Steps

The USFWS is expected to document its final action on the Yolo HCP/NCCP in a Record of Decision (ROD) prepared pursuant to NEPA. The Yolo Habitat Conservancy and each member agency will file a Notice of Determination pursuant to CEQA with the Yolo County Clerk-Recorder within five days of final adoption of the Plan. If all member agencies adopt the Yolo HCP/NCCP, if USFWS approves the HCP and issues findings in favor of issuance of federal incidental take permits for the Yolo HCP/NCCP, and if CDFW approves the NCCP and issues findings in favor of issuance of state incidental take permits for the Yolo HCP/NCCP, the final execution of Implementing Agreements, issuance of incidental take permits, and commencement of Yolo HCP/NCCP implementation will occur in late summer of 2018.

FISCAL IMPACT:

Overall implementation of the Yolo HCP/NCCP is estimated to cost \$406,187,000 during the 50-year permit term. Plan funding will come from a variety of sources including HCP/NCCP mitigation funding from fees (66%), conservation funding from local sources (10%), conservation funding from state and federal sources (17%), endowment and operational fund interest (3%), and additional conservation funding from other local, state, and federal sources (4%). Mitigation funding obligations will be satisfied by the payment of per-acres fees by project proponents, the most common of

which will be the base fee of \$12,952 per acre (subject to periodic adjustments over the course of plan implementation).

Conservation funding from local sources include: in-kind contributions from the City of Davis' Open Space Program as conservation easements acquired as part of that program are enrolled in the Yolo HCP/NCCP reserve system; in-kind contributions associated with the enrollment of Yolo County properties into the reserve system, monitoring, and restoration activities along Cache Creek consistent with the Cache Creek Area Plan; and in-kind contributions associated with monitoring and restoration activities conducted by the Solano County Water Agency and Lower Putah Creek Coordinating Committee along Putah Creek. These local contributions are associated with existing local programs and involve activities that support the terms of the Yolo HCP/NCCP. Additionally, approximately \$10,000,000 is anticipated to come from foundations and other local sources that have yet to be identified. State and federal conservation funding is estimated to provide funding for up to 8,231 acres of land acquisition and 44 acres of restoration/creation of wetlands. A small source of income to the Yolo HCP/NCCP will come from interest and other earnings on fund balances, particularly from earnings on the Yolo HCP/NCCP endowment prior to the end of the permit term.

Attachments:

Attachment A -- Resolution No. 2018-12: Considering the Yolo HCP/NCCP Final EIS/EIR Pursuant to CEQA Guidelines 15096, Including Adoption of Findings of Fact and Other Actions Required by CEQA for Responsible Agencies

Attachment B -- Resolution No. 2018-13: 1) Adopting the Final HCP/NCCP; 2) Certifying the Yolo HCP/NCCP as Consistent with the [insert member agency name here] General Plan; and 3) Authorizing the City Manager [replace City Manager with County Administrator in the case of the county] to Execute the Implementing Agreement with the USFWS, CDFW, Yolo Habitat Conservancy, Yolo County, and the cities of Davis, West Sacramento, Woodland, and Winters

Attachment C -- Ordinance No. 2018-02: Providing for Implementation of the Yolo HCP/NCCP, Including Related Procedures and Fees

Attachment D -- First Amended and Restated Joint Powers Agreement of the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency

RESOLUTION NO. 2018-12

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS
CONSIDERING THE FINAL ENVIRONMENTAL IMPACT
STATEMENT/ENVIRONMENTAL IMPACT REPORT FOR THE YOLO HABITAT
CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN
PURSUANT TO SECTION 15096 OF THE CALIFORNIA ENVIRONMENTAL
QUALITY ACT (CEQA) GUIDELINES, INCLUDING ADOPTION OF FINDINGS OF
FACT, AND OTHER ACTIONS REQUIRED BY CEQA FOR RESPONSIBLE
AGENCIES**

WHEREAS, the Yolo Habitat Conservancy (YHC or Conservancy) is adopting the Final Yolo Habitat Conservation Plan/Natural Community Conservation Plan (Yolo HCP/NCCP) pursuant to Section 10 of the Federal Endangered Species Act (16 U.S.C. § 1539) and the Natural Community Conservation Planning Act (Cal. Fish & Game Code § 2800 *et seq.*);

WHEREAS, the City of Winters is a member agency of the Conservancy;

WHEREAS, to satisfy the requirements under the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 *et seq.*) and under the California Environmental Quality Act (CEQA) (Cal. Public Resources Code § 21000 *et seq.*), a joint Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) on the Yolo HCP/NCCP (SCH #2011102043) was prepared to analyze the potential for environmental effects associated with implementation of the Yolo HCP/NCCP.

WHEREAS, the EIS component of the Final EIS/EIR was prepared pursuant to NEPA under the oversight of the United States Fish and Wildlife Service (USFWS) serving as the NEPA Lead Agency;

WHEREAS, the EIR component of the Final EIS/EIR was prepared pursuant to the CEQA Guidelines (14 Cal. Code Regs. § 15000 *et seq.*) under the oversight of the Conservancy serving as the CEQA Lead Agency;

WHEREAS, the City of Winters, the other Conservancy member agencies, and the California Department of Fish and Wildlife (CDFW) are each Responsible Agencies pursuant to Public Resources Code § 21069 and CEQA Guidelines § 15381;

WHEREAS, the Conservancy commenced the environmental review process on October 21, 2011 with issuance of a CEQA Notice of Preparation (NOP) soliciting written comments regarding the scope of the EIS/EIR;

WHEREAS, the scoping period outlined in the NOP extended from October 21 to December 5, 2011 during which time the Lead Agencies solicited comments. In addition, notices with information relevant to the scoping period and associated meetings were sent to various media outlets, the Conservancy's email distribution list, and posted to the Conservancy and USFWS websites. The Conservancy and USFWS held two scoping meetings for the public and interested

parties on Monday, November 7, 2011. Comments were received from 17 individuals and entities;

WHEREAS, the comments received during the scoping period assisted in determining the scope of the alternatives and the issues evaluated in detail in the Draft EIS/EIR for the Yolo HCP/NCCP;

WHEREAS, the Draft EIS/EIR was released on June 1, 2017 and a CEQA NOA was released on that same date. Information announcing the release and availability of the Draft HCP/NCCP and Draft EIS/EIR was also posted on the Conservancy website, incorporated into a press release to local media, filed with the California Governor's Office of Planning and Research State Clearinghouse, distributed to state, regional, and local agencies, and published in the Davis Enterprise and Vacaville Reporter newspapers;

WHEREAS, the public was provided a 90-day period, ending August 30, 2017, to review and comment on both the Draft HCP/NCCP and the Draft EIS/EIR. Nine public meetings were held during the comment period so the public and agencies could learn more about the Draft EIS/EIR and Draft HCP/NCCP and provide comments on the documents. Comments were received from 32 individuals and entities on the Draft EIS/EIR and Draft HCP/NCCP during the comment period;

WHEREAS, all workshops, meetings, and hearings throughout the process were publicly posted and/or noticed (including direct mailing and/or advertisement) in compliance with State law and local requirements;

WHEREAS, at all workshops and hearings throughout this process, all individuals wishing to speak have been heard, with some speakers returning to the podium numerous times to make comments;

WHEREAS, Section 15132 of the CEQA Guidelines requires that a final EIR include, among other elements, a list of those who commented on the Draft EIR, copies of the comments and recommendations received on the Draft EIR, and responses to significant environmental concerns raised in the comments. A Final EIS/EIR was prepared in accordance with these requirements and other relevant regulatory guidance and released on April 30, 2018. Edits to the Draft EIS/EIR resulting from responses to comments, edits to the Draft HCP/NCCP, or other occurrences and observations (e.g., spelling or grammatical corrections identified by document preparers) are reflected in the Final EIS/EIR;

WHEREAS, on May 7, 2018, the Conservancy Board of Directors held a duly noticed meeting to deliberate the Yolo HCP/NCCP and the Final EIS/EIR. At that meeting the Conservancy Board, acting as the CEQA Lead Agency, certified the Final EIS/EIR and adopted the Final Yolo HCP/NCCP (dated April 2018);

WHEREAS, on May 15, 2018, City of Winters, acting in its capacity as a Conservancy member agency and CEQA Responsible Agency held a meeting to deliberate on the Yolo HCP/NCCP, Final EIS/EIR, and certain related matters;

WHEREAS, during these meetings oral and documentary evidence was received by the Conservancy Board of Directors and the City of Winters for use in their deliberations;

WHEREAS, the City Council of the City of Winters has independently reviewed and considered the EIS/EIR, related staff reports, the Conservancy record of proceedings, and all evidence including testimony and correspondence received by the City, all of which documents and evidence are hereby incorporated by reference into this Resolution;

WHEREAS, the Final EIS/EIR identified certain significant and potentially significant adverse effects on the environment caused by the Project and also described certain project alternatives;

WHEREAS, the City desires, in accordance with CEQA, to declare that, despite the occurrence of significant environmental effects that cannot be substantially lessened or avoided through the adoption of feasible mitigation measures or feasible alternatives, there exist certain overriding economic, social, and other considerations for approving the project that the City Council believes justify the occurrence of those impacts; and

WHEREAS, the City Council/Board of Supervisors specifically finds that where more than one reason for approving the Project and rejecting alternatives is given in its findings or in the record, where more than one reason for modifying mitigation measures is given in the record, and where more than one reason is given for adopting the Statement of Overriding Considerations, the Council would have made its decision on the basis of any one of those reasons.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters as follows:

1. Pursuant to Section 15096(f) of the CEQA Guidelines, the City Council hereby affirms that it has considered the EIS/EIR prior to reaching a decision on the project, including consideration of the environmental effects of the project as identified in the EIS/EIR.
2. Pursuant to Section 15096(g)(1) and (2) of the CEQA Guidelines, the City Council hereby affirms that there are no feasible alternatives or mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment.
3. Attachments to this Resolution provide the findings required under Section 15091 of the CEQA Guidelines for significant effects of the project, feasibility of mitigation measures, and feasibility of alternatives. The City Council hereby adopts these various findings of fact attached hereto.
4. Attachments to this Resolution provide the findings required under Section 15093 of the CEQA Guidelines relating to accepting adverse impacts of the project due to overriding considerations. The City Council has balanced the economic, legal, social, technological, and other benefits of the project against the unavoidable environmental risks that may result, and finds that the specific economic, legal, social, technological, and other benefits outweigh the unavoidable adverse

environmental effects. The City Council, therefore, finds the adverse environmental effects of the project to be "acceptable". The City Council hereby adopts the Statement of Overriding Considerations included in attachments to this Resolution.

PASSED AND ADOPTED by the City Council of the City of Winters this 15th day of May, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Wade Cowan, Mayor

ATTEST:

Nanci G. Mills, City Clerk

APPROVED AS TO FORM:

Ethan Walsh, City Attorney

Exhibits Attached:

CEQA Findings of Fact (including Conservancy CEQA Findings of Fact as an Attachment)

**CEQA FINDINGS OF FACT
OF THE
CITY OF WINTERS
FOR THE
YOLO HABITAT CONSERVATION PLAN/
NATURAL COMMUNITY CONSERVATION PLAN
(YOLO HCP/NCCP)**

MAY 15, 2018

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I. INTRODUCTION

This document sets forth the findings of the City of Winters in its capacity as a member agency of the joint powers agency known as the Yolo Habitat Conservancy (“Conservancy” or “YHC”) and a responsible agency for the Environmental Impact Statement/Environmental Impact Report (“EIS/EIR”) for the 2018 Yolo Habitat Conservation Plan/Natural Community Conservation Plan (“Yolo HCP/NCCP,” “HCP/NCCP,” or the “Plan”; also proposed project or proposed action).

The purpose of these findings is to satisfy the requirements of Section 15096(f), 15091, and 15093 of the California Environmental Quality Act (“CEQA”) Guidelines, and relevant statutes, associated with approval and implementation of the HCP/NCCP. These findings pertain to the Final HCP/NCCP (dated April 2018) and the EIS/EIR prepared for the project pursuant to the National Environmental Quality Act (“NEPA”) and its state law counterpart, CEQA.

The CEQA Statutes (Public Resources Code (PRC) Sections 21000 et seq.) and Guidelines (Code of Regulations Sections 15000 et seq.) state that if it has been determined that a project may or will have significant impacts on the environment, then an Environmental Impact Report (EIR) must be prepared. Pursuant to Section 15096(f) of the CEQA Guidelines, prior to reaching a decision on the project, a responsible agency must consider the environmental effects of the project as shown in the EIR. Pursuant to Section 15096(g)(1) of the CEQA Guidelines, when considering alternatives and mitigation measures, a responsible agency has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve. (Pub. Resources Code, § 21002.1, subd. (d).)

Pursuant to Section 15096(g)(2) of the CEQA Guidelines, when an EIR has been prepared for a project, the responsible agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers would substantially lessen or avoid any significant effect the project would have on the environment.

Pursuant to Section 15096(h), the responsible agency shall make findings required by Section 15091 for each significant effect of the project and shall make the findings in Section 15093 if necessary.

Pursuant to Section 15091 of the CEQA Guidelines, when an EIR has been certified which identifies one or more significant environmental impacts, the approving agency must make one or more of the following findings, accompanied by a brief explanation of the rationale, for each identified significant impact:

- a) Changes or alterations have been required in, or incorporated into, such project which avoid or substantially lessen the significant environmental effect as identified in the final environmental impact report.

- b) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency, or can and should be adopted by such other agency.
- c) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

Pursuant to Section 15093 of the CEQA Guidelines, in the absence of feasible mitigation, an agency may approve a project with significant and unavoidable impacts, if there are specific economic, legal, social, technological, or other considerations that outweigh the unavoidable adverse environmental effects. Section 15093 of the CEQA Guidelines requires the agency to document and substantiate any such determination in "statements of overriding considerations" as a part of the record.

The requirements of Sections 15096, 15091, and 15093 of the CEQA Guidelines as summarized above are all addressed herein. This document is intended to serve as the findings of fact and statement of overriding considerations authorized by those provisions of the CEQA Guidelines.

II. TERMINOLOGY OF FINDINGS

For purposes of these findings, the terms listed below will have the following definitions:

- The term "mitigation measures" shall constitute the "changes or alterations" discussed above.
- The term "avoid or substantially lessen" will refer to the effectiveness of one or more of the mitigation measures or alternatives to reduce an otherwise significant environmental effect to a less-than-significant level.
- The term "feasible," pursuant to the CEQA Guidelines, means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

These findings use the same definitions and acronyms set forth in the EIS/EIR.

III. PROJECT DESCRIPTION

A. PROJECT OVERVIEW

The proposed project (also referenced as Alternative B, Proposed Action Alternative [Permit Issuance/Plan Implementation]) is adoption and implementation of the HCP/NCCP, including subsequent issuance of incidental take permits, pursuant to Section 10(a)(1)(B) of the federal Endangered Species Act ("FESA") FESA and Section 2835 of the Natural Community

Conservation Planning Act (“NCCPA”) chapter of the California Fish and Game Code (Fish & Game Code). The proposed project is identified and described in the EIS/EIR as Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation) (see EIS/EIR Section 2.3.2).

Adoption of the Plan and execution of the various supporting agreements and regulations will commit the City, the YHC, and the other member agencies to the conservation of 33,362 acres of habitat for 12 covered rare and endangered species over 50 years, including an obligation to permanently manage those properties to the benefit of the covered species. The permits will allow for 19,212 acres of planned land development and associated activities, called covered activities, to take place within the planning areas of the adopted general plans of member agencies. The proposed action includes establishment of the appropriate authority for the City, the YHC, and other member agencies to establish and collect fees to support implementation of the Plan.

Adoption of the Plan realizes the long-standing and fundamental goal of the City, the YHC, and the other member agencies to maximize and protect the long-term viability of agricultural operations in the Plan area through an HCP/NCCP that is intertwined and relies on the agricultural working landscape to achieve habitat protection and enhancement. The premise of habitat and species conservation through preserved and carefully managed agriculture is foundational to the HCP/NCCP and integral to the values of Yolo County, each of the Cities, and local stakeholders.

B. PROJECT LOCATION

The plan area encompasses the entire area of Yolo County, approximately 653,549 acres, and includes potential conservation activities outside of Yolo County within an additional 1,174 acres along the south side of Putah Creek in Solano County.

C. PROJECT DETAILS

The Final Yolo HCP/NCCP (dated April 2018) is a comprehensive, county-wide plan to provide for the conservation of 12 sensitive species (“covered species”) and the natural communities and agricultural land on which they depend. The Plan will provide a streamlined permitting process under the state and federal Endangered Species Acts to address the effects of a range of planned public and private activities (“covered activities”) on these 12 species. The Plan is comprised of an Executive Summary, 11 chapters, and various appendices.

In exchange for incidental take permits from the Federal and State governments that will allow build-out of land uses already identified and approved in local general plans, the Yolo HCP/NCCP commits the City, YHC, and the other member agencies to implement a conservation strategy including creation of a habitat reserve system consisting primarily of conservation easements on agricultural lands, and management and monitoring of that system in perpetuity, in a manner that will benefit the species covered by the plan. Pursuant to the requirements of

State law, the Plan provides for both mitigation for impacts of covered activities, and additional conservation to benefit the covered species.

The primary benefits of the HCP/NCCP are that it:

- increases local control over permitting and mitigation
- improves and increases species conservation
- streamlines the permitting process
- supports and helps preserve the working agricultural environment

The Yolo Habitat Conservancy (Conservancy), a joint powers agency created by Yolo County and the incorporated cities of Davis, West Sacramento, Winters, and Woodland, including the University of California at Davis (UCD) as an ex-officio participant, prepared the Yolo HCP/NCCP. The Yolo HCP/NCCP will provide the basis for issuance of long-term (50-year) permits under the FESA and the NCCPA for take of species as a result of specified covered activities. The Yolo HCP/NCCP will provide the Permittees (Yolo County, the four incorporated cities, and the Conservancy) with incidental take permits (ITPs) from both the U.S. Fish and Wildlife Service (“USFWS”) and the California Department of Fish and Wildlife (“CDFW”) for the 12 covered species. This action is allowed under Section 10(a)(1)(B) of the FESA and Section 2835 of the NCCPA chapter of the California Fish and Game Code.

The Yolo HCP/NCCP ensures compliance with the FESA, NCCPA, California Endangered Species Act (CESA), and CEQA for covered activities that may affect the covered species. In addition to the Permittees, the Yolo HCP/NCCP permits may be used other entities through certificates of inclusion, as described further in the Plan.

The covered activities include infrastructure and land uses contemplated in the local General Plans for Yolo County, Davis, West Sacramento, Winters, and Woodland totaling 19,212 acres, and implementation of the HCP/NCCP conservation strategy. The covered activities have been organized into five broad categories: urban projects and activities, rural projects and activities, operations and maintenance, conservation strategy implementation, and neighboring landowner protection program.

The first two categories comprise the “spatially defined” activities. This refers to activities where the location is currently known. These two categories total 17,550 acres, within which 11,510 acres of impact are modeled to occur over the life of the permit. The next three categories comprise the “spatially undefined” categories (activities where a specific location is not yet known) consisting of 706 acres for operation and maintenance, up to 956 acres for restoration and enhancement, and up to 2,347 acres for the neighboring landowner protection program (applicable only to four of the 12 covered species). Within the three spatially undefined categories, approximately 1,134 acres of impact are assumed to occur for an overall total of up to 12,649 acres of impact (11,510 modeled acres plus 1,134 acres).

For the purposes of the Yolo HCP/NCCP, the County is divided into 22 geographically based planning units. These include four urban planning units centered around each of the

incorporated cities, where most of the covered activities are planned to occur. The conservation strategy focuses most of the conservation in the 13 planning units in the eastern portion of the County where most of the covered species habitat is found. Yolo County and its cities have already conserved 90,967 acres throughout the County, of which 34,264 acres are in permanent conservation easements. The Yolo HCP/NCCP conservation strategy builds on these efforts.

Habitat within the Yolo HCP/NCCP plan area is mapped as 15 natural communities and four other land cover types. Impacts from the identified covered activities will affect approximately 12,649 acres of natural communities. The Yolo HCP/NCCP includes a conservation strategy based on biological goals and objectives to provide for the conservation of covered species within the plan area and to mitigate the effects of the covered activities.

As mitigation for impacts to 12,649 acres, the Yolo HCP/NCCP will require permanent protection and management of 17,131 acres of mitigation (16,175 acres of newly protected lands and 956 acres of restored/created lands) and 16,231 acres of conservation beyond mitigation (including 8,000 acres of pre-permit reserve lands and 8,231 acres of newly protected conservation lands) for a total conservation reserve system of 33,362 acres.

The species covered by the Yolo HCP/NCCP have adapted over time to use agricultural land as habitat. The HCP/NCCP will therefore be one of the first conservation plans in the state to focus primarily on conserving habitat on working agricultural land. In return for the permits, the Conservancy will protect 33,362 acres of primarily agricultural land over 50 years in the priority areas identified in the Plan. The Conservancy will only purchase habitat conservation easements from willing landowners. These easements will primarily prevent the conversion to orchards and vineyards since row crops provide better habitat for the species covered by the Yolo HCP/NCCP.

In Chapter 4, the Yolo HCP/NCCP also identifies 21 Avoidance and Minimization Measures (AMMs) as conditions on approved covered activities to avoid and minimize adverse effects of implementation of the plan. All permittees and private applicants must adhere to these measures to receive take authorization.

Overall implementation of the Yolo HCP/NCCP is estimated to cost \$425 million over 50 years, of which 66 percent will be paid by per-acre project fees, 10 percent will be paid by local funding sources, 17 percent is estimated to be paid by state and federal grants, 4 percent will be paid by other as-of-yet unidentified local, State, and Federal sources, and 2 percent will be paid from investment interest. The typical per-acre fee that will be paid by most applicants will be the base fee of \$12,952 per acre (subject to periodic adjustments over the course of plan implementation).

D. PROJECT OBJECTIVES

The objectives of the project are listed below (EIS/EIR, Section 1.8.2):

- Respond to the Yolo Conservancy application for an incidental take permit for the proposed covered species related to activities that have the potential to result in take, pursuant to the FESA section 10(a)(1)(B) and its implementing regulations and policies.
- Receive take authorization from USFWS for federally listed species covered by the proposed HCP/NCCP, pursuant to Section 10(a)(1)(B) of the FESA, to accommodate covered activities that are part of necessary growth in Yolo County.
- Receive take authorization from CDFW for state-listed species covered by the proposed HCP/NCCP, pursuant to Section 2835 of the NCCPA, to accommodate covered activities that are part of necessary growth in Yolo County.
- Provide for issuance of take permits for other species that are not currently listed, but that may become listed in the future.
- Assemble and maintain, through long-term monitoring and management, a reserve system within the Plan Area that focuses on preservation and enhancement actions that provide for the protection of species, natural communities, and ecosystems on a landscape level.
- Include an interconnected reserve system throughout the Plan Area that is large enough to maintain in perpetuity each type of natural community that is native to the Plan Area, and maintain in perpetuity or expand the existing distribution of native animal and plant species within the Plan Area.
- Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements of FESA, CEQA, NEPA, NCCPA, and other applicable laws and regulations relating to biological and natural resources within the planning area so that public and private actions will be governed equally and consistently, thus reducing delays, expenses, and regulatory duplication.
- Provide a less costly, more efficient project review process that results in greater conservation values than the current project-by-project, species-by-species review and regulatory regime.
- Rely solely on willing sellers for the purchase of land or easements when establishing habitat reserves.
- Protect the long-term viability of agricultural operations in the Plan Area (consistent with other objectives).

E. DISCRETIONARY ACTIONS

The City, as a responsible agency, has taken the following actions and approvals to implement the project:

- Adopt Resolution No. _____: 1) Considering the Final EIS/EIR Pursuant to CEQA Guidelines 15096, Including Adoption of Findings of Fact and Other Actions Required by CEQA for Responsible Agencies
- Adopt Resolution No. ____: 1) Adopting the Final HCP/NCCP; 2) Certifying the Yolo HCP/NCCP as Consistent with the City of Winters General Plan; and 3) Authorizing the City Manager to Execute the Implementing Agreement with the USFWS, CDFW, Yolo Habitat Conservancy, Yolo County, and the cities of Davis, West Sacramento, and Woodland
- Approve Ordinance No. 2018-02: Providing for Implementation of the Yolo HCP/NCCP, Including Related Procedures and Fees

The Conservancy, as the lead agency, has taken the following actions in order to adopt the Yolo HCP/NCCP and secure the ITPs:

1) Adopted a Resolution Certifying Final EIS/EIR Including Adoption of Findings of Fact and Other Actions Required by CEQA.

2) Adopted a Resolution: 1) Adopting the Final Yolo HCP/NCCP; and 2) Authorizing the Executive Director to Execute the Implementing Agreement with the USFWS, CDFW, Yolo County, and the cities of Davis, West Sacramento, Winters, and Woodland.

The Conservancy will also adopt fees necessary to implement the HCP/NCCP, which will occur a short time after the actions set forth above.

In addition to Plan adoption by the Conservancy, the Yolo HCP/NCCP must also be adopted by each of the other four member/responsible agencies.

The City and other member agencies will also adopt an Amended and Restated Joint Powers Agreement to reflect the completion of the HCP/NCCP and the Conservancy's role as the implementing entity.

IV. PROJECT BACKGROUND AND HISTORY

A. YOLO HABITAT CONSERVANCY HISTORY

From 1993 through 2001, Yolo County undertook an extensive effort to produce an HCP. That effort culminated in 2001 with local rejection of the draft HCP in favor of a combined HCP/NCCP that would be larger in scope and scale and result in more comprehensive conservation outcomes.

The Yolo County and the four cities subsequently embarked on the “Gaining Ground” cooperative effort to develop a common plan to protect agriculture, habitat, and open space in Yolo County. The Gaining Ground committee sought to find agreement on which parts of the county to focus preservation, with particular emphasis on establishing buffers between the cities.

In 2002, Yolo County and the four cities (with the University of California, Davis as an *ex officio* member) formed the Yolo Habitat Conservation Plan/Natural Community Conservation Plan Joint Powers Agency (JPA) for the purpose of cooperative development of a regional HCP/NCCP. In 2005, the JPA, USFWS, and CDFW signed a Planning Agreement directing the preparation of the HCP/NCCP and work on the plan commenced. An intensive public and stakeholder outreach program was undertaken to provide stakeholder input into and critical oversight of the development of the plan.

The First Administrative Draft of the Yolo HCP/NCCP, completed in June 2013, proposed 32 covered species. The JPA determined, however, that the conservation commitments in the First Administrative Draft were economically infeasible for the permittees to achieve. Therefore, in late 2013, the JPA coordinated closely with the USFWS and CDFW to modify the scope of the Yolo HCP/NCCP by decreasing the number of covered species. This approach was reflected in subsequent drafts of the plan. In 2014, the Yolo Habitat JPA informally changed its name to the Yolo Habitat Conservancy. In March 2015, the Yolo Habitat Conservancy released the Second Administrative Draft Yolo HCP/NCCP. The Conservancy released the Public Review draft in June 2017 and the Final Yolo HCP/NCCP in April 2018.

B. ENVIRONMENTAL REVIEW PROCESS

Generally, adoption of the Yolo HCP/NCCP and issuance of the requested ITPs involves actions by three agencies: the USFWS as the federal lead agency, the CDFW as a state responsible agency, and the Conservancy as the local lead agency. To satisfy the requirements under the National Environmental Policy Act (NEPA) and under the California Environmental Quality Act (CEQA), the USFWS and the Conservancy (as the federal and local lead agencies) prepared a joint environmental impact statement (EIS)/environmental impact report (EIR) in connection with the HCP/NCCP.

The USFWS published a Notice of Intent (NOI) to prepare an EIS in the Federal Register on October 21, 2011. The Conservancy published a Notice of Preparation (NOP) for the CEQA EIR component during that same period of time. The NOI and NOP solicited public and agency participation in determining the scope of the EIS/EIR. The scoping period outlined in both the NOI and the NOP was October 21 to December 5, 2011 during which time the Lead Agencies solicited comment. In addition, notices with information relevant to the scoping period and associated meetings were sent to various media outlets, the Conservancy’s email distribution list, and posted to the Conservancy and USFWS websites. The Conservancy and USFWS held two scoping meetings for the public and interested parties on Monday, November 7, 2011. Comments were received from 17 individuals and entities.

The comments received during the scoping period assisted in determining the scope of the alternatives and the issues to be evaluated in detail in the Draft EIS/EIR for the Plan. The Draft EIS/EIR was released on June 1, 2017. A NEPA Notice of Availability (NOA) was published in the Federal Register and a CEQA NOA was released on that same date. Information announcing the release and availability of the Draft HCP/NCCP and Draft EIS/EIR was also posted on the Conservancy website, incorporated into a press release to local media, filed with the California Governor's Office of Planning and Research State Clearinghouse, distributed to state, regional, and local agencies, and published in the Davis Enterprise and Vacaville Reporter newspapers.

The public was provided a 90-day period, ending August 30, 2017, to review and comment on both the Draft HCP/NCCP and the Draft EIS/EIR. Nine public meetings were held during the comment period so the public and agencies could learn more about the Draft EIS/EIR and Draft HCP/NCCP and provide comments on the documents. Comments were received from 32 individuals and entities on the Draft EIS/EIR and Draft HCP/NCCP during the comment period.

The CEQ NEPA regulations require the lead agency or agencies to consider comments on a Draft EIS and prepare a Final EIS, which must include and respond to all substantive comments received on the Draft EIS (40 C.F. R. 1502.9(b) and 1603.4(b)). Similarly, Section 15132 of the State CEQA Guidelines requires that a final EIR include, among other elements, a list of those who commented on the Draft EIR, copies of the comments and recommendations received on the Draft EIR, and responses to significant environmental concerns raised in the comments.

A Final EIS/EIR was prepared by the Conservancy in accordance with these requirements and other relevant regulatory guidance and released on April 30, 2018. Edits to the Draft EIS/EIR resulting from responses to comments, edits to the Draft HCP/NCCP, or other occurrences and observations (e.g., spelling or grammatical corrections identified by document preparers) are reflected in the Final EIS/EIR.

As set forth more fully herein, the Final EIS/EIR was considered by decision-makers before taking action on the HCP/NCCP. The USFWS is expected to document its final action on the Yolo HCP/NCCP in a Record of Decision (ROD) prepared pursuant to NEPA. The City will file a Notice of Determination pursuant to CEQA with the Yolo County Clerk-Recorder within five days of consideration of the Final EIS/EIR (including adoption of the subject Findings of Fact) and project approval.

V. TYPE OF EIR

The CEQA component of the Yolo HCP/NCCP Final EIS/EIR is a Program EIR. A Program EIR is prepared for a series of actions that can be characterized as one project. An advantage of a Program EIR is that it allows the lead agency to consider broad policy alternatives and "program wide mitigation measures" at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts (CEQA Guidelines Section 15168(b)(4)). The Program EIR can serve as a first-tier document for later CEQA review of individual projects included in the program. These project-specific CEQA reviews will focus on project-specific impacts and mitigation measures and need not repeat the broad analyses contained in the Program EIR. As

discussed by the California Supreme Court, "it is proper for a lead agency to use its discretion to focus a first-tier EIR on only the... program, leaving project-specific details to subsequent EIRs when specific projects are considered." (*In re Bay Delta* (2008) 43 Cal. 4th 1143, 1174.)

VI. RECORD OF PROCEEDINGS

A. FINAL EIS/EIR

In compliance with Section 15132 of the State CEQA Guidelines, the Final EIS/EIR for the project consists of a revised version of the two volume Draft EIS/EIR and Appendices, with the addition of the following information:

- Discussion and analysis of changes in the HCP/NCCP since release of the Draft EIS/EIR
- A list of persons, organizations, and public agencies commenting on the Draft EIS/EIR.
- Copies of all comments and recommendations received on the Draft EIS/EIR and Draft HCP/NCCP
- Responses to all comments received

Within these findings, the terms Final EIS/EIR and EIS/EIR are used interchangeably.

B. CONTENTS AND LOCATION OF RECORD

For the purposes of CEQA and the findings herein set forth, the administrative record for the City consists of those items listed in PRC Section 21167.6, subdivision (e), including but not limited to the following documents, which are incorporated by reference and made part of the record supporting these findings:

- The NOP and all other public notices issued by the Conservancy in conjunction with the Project
- The Final EIS/EIR and all documents referenced in or relied upon by the Final EIS/EIR
- The Mitigation Monitoring and Reporting Program (MMRP) for the Project (located at the back of Attachment A hereto)
- All findings and resolutions adopted by the Conservancy in connection with the Project, and all documents cited or referred to therein
- All information including written evidence and testimony provided to the Conservancy relating to the Final EIS/EIR, the Project, and the alternatives set forth in the Final EIS/EIR or these CEQA findings

- All information provided by the public, including the proceedings of the public hearings on the adequacy of the Final EIS/EIR, the minutes and transcripts of the meetings and hearings, and written correspondence received by the Conservancy during the public comment period on the Draft HCP/NCCP and Draft EIS/EIR
- All information and documents included on the website prepared for the Project which are available at the following link: <https://www.yolohabitatconservancy.org/>

Pursuant to CEQA Guidelines Section 15091(e), the location and custodian of the documents and other materials which constitute the record of proceedings upon which these decisions are based is as follows: Executive Director, Yolo Habitat Conservancy, 611 North Street, Woodland, CA 95695, (530) 723-5504. The administrative record, including the Final EIS/EIR, is hereby incorporated by reference into these findings.

City has relied on all the documents listed above in reaching its decision on the Project, even if not every document was formally presented to it. Without exception, any documents set forth above not found in the City Project files are prior planning or legislative decisions of which the City was familiar with when approving the Project. (See *City of Santa Cruz v. Local Agency Formation Com.* (1978) 76 Cal.App.3d 381, 391-392; *Dominey v. Dept. of Personnel Admin.* (1988) 205 Cal.App.3d 729, 738, fn. 6.)

VII. FINDINGS REQUIRED UNDER CEQA

PRC Section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” Section 21002 also provides that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Further, Section 21002 states “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles announced in PRC Section 21002 are implemented, in part, through the requirement that agencies adopt findings before approving projects for which EIRs are required. For each significant environmental effect identified in an EIR for a project, the approving agency must issue a written finding reaching one or more of three permissible conclusions:

- Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- Changes or alterations that avoid or substantially lessen each significant environmental effect are within the responsibility and jurisdiction of another public agency, and not the

agency making the finding. In such circumstances, the approving agency must affirm that such changes have been adopted by such other agency or can and should be adopted by such other agency.

- Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR. (CEQA Guidelines Section 15091)

CEQA requires that lead and responsible agencies adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. For the purposes of CEQA, a mitigation measure is “feasible” if it is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors. (PRC Section 21061.1) CEQA Guidelines Section 15364 adds another factor: “legal” considerations. (See also *Citizens of Goleta Valley v. Bd. of Supervisors* (“*Goleta II*”) (1990) 52 Cal.3d 553, 565.) The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417.) Moreover, “feasibility” under CEQA encompasses “desirability” to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.” (*Ibid.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) The _____ **City/County**, however, is not required to implement project modifications or alternatives where such changes are infeasible or where the responsibility for modifying the project lies with some other agency. (CEQA Guidelines Section 15091(a) and (b).)

In general, with respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project’s “benefits” rendered “acceptable” its “unavoidable adverse environmental effects.” (CEQA Guidelines Section 15093 and 15043(b); see also PRC Section 21081(b).) The California Supreme Court has stated, “[t]he wisdom of approving . . . [any] development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Goleta II, supra*, 52 Cal.3d at p. 576.)

As described above, where the agency does not have the discretion to implement mitigation measures identified in the EIS/EIR, it must find that “[s]uch changes have been adopted by such other agency or *can* and should be adopted by such other agency” or determine that “specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.” (CEQA Guidelines Sections 15091(a)(2) and (a)(3) (emphasis added).)

In making these findings, City has considered the opinions of staff and experts, other agencies and members of the public. City finds that the determination of significance thresholds is generally a decision requiring judgment within the discretion of the Conservancy as the lead agency; the significance thresholds used in the EIS/EIR are supported by substantial evidence in the record, including the expert opinion of the EIS/EIR preparers and Conservancy staff and consultants; and the significance thresholds used in the EIS/EIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project. Thus, although as a legal matter, City is not bound by the significance determinations in the EIS/EIR (see Pub. Resources Code, § 21082.2, subd. (e)), City finds them persuasive and hereby adopts them as its own.

To avoid duplication and redundancy, and because City agrees with, and hereby adopts, the conclusions in the EIS/EIR certified by the Conservancy and in the CEQA Findings of Fact adopted by the Conservancy as the lead agency under CEQA, these findings will not repeat the analysis and conclusions in the EIS/EIR and/or in the Conservancy CEQA Findings of Fact (Attachment A), but instead incorporates them by reference in these findings and relies upon them as substantial evidence supporting these findings. The full text of all mitigation measures is contained in the EIS/EIR and in the MMRP (Attachment A to Attachment A of these findings). City finds that the implementation of the mitigation measures within the responsibility and jurisdiction of the Conservancy as lead agency will mitigate the associated impacts identified in the EIS/EIR as described further below.

These findings constitute the City's best efforts to set forth the evidentiary and policy bases for its decision to approve the HCP/NCCP in a manner consistent with the requirements of CEQA.

A. FINDINGS REGARDING RECIRCULATION OF THE DRAFT EIS/EIR

The Draft EIS/EIR analyzed impacts associated with the June 1, 2017 Public Review Draft of the HCP/NCCP. Since the release of the Draft EIS/EIR, in response to public comments, requirements of the permitting agencies, and continued staff analysis, there have been several text changes incorporated into the final HCP/NCCP. There have also been a few modifications to the Draft EIS/EIR, as documented in the Final EIS/EIR.

Under Section 15088.5 of the CEQA Guidelines, recirculation of an EIR is required when "significant new information" is added to the EIR after public notice is given of the availability of the Draft EIR for public review but prior to certification of the Final EIR. The term "information" can include changes in the project or environmental setting, as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. The above standard is "not intend[ed] to promote endless rounds of revision and recirculation of EIRs." (*Laurel Heights Improvement Assn. v. Regents of the University of California* (1993) 6 Cal. 4th 1112, 1132.) "Recirculation was intended to be an exception, rather than the general rule." (*Id*)

CEQA case law emphasizes that "[t]he CEQA reporting process is not designed to freeze the ultimate proposal in the precise mold of the initial project; indeed, new and unforeseen insights may emerge during investigation, evoking revision of the original proposal." (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736-737; see also *River Valley Preservation Project v. Metropolitan Transit Development Bd.* (1995) 37 Cal.App.4th 154, 168, fn. 11.) "CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process.' In short, a project must be open for public discussion and subject to agency modification during the CEQA process." (*Concerned Citizens of Costa Mesa, Inc. v. 33rd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 936; *Citizens for East Shore Parks v. State Lands Com.* (2011) 202 Cal.App.4th 549, 563 ["Administrative agencies not only can, but should, make appropriate adjustments... as the environmental review process unfolds."].)

The changes proposed by the Conservancy to the HCP/NCCP since release of the Draft HCP/NCCP on June 1, 2017 fall into several categories summarized below and described in detail in EIS/EIR Section 2.3.2:

- Copy edits such as correction of spelling errors
- Minor text clarifications and corrections such as providing or correcting cross references to other parts of the document

- Minor numeric corrections, such as small adjustments to acreages of particular land cover types
- Providing updated information since publication of the Draft HCP/NCCP such as including information from the City of Woodland General Plan Update 2035, which was adopted after the Draft HCP/NCCP was published,
- Clarifications or enhancements to particular plan elements such as new or updated Avoidance and Minimization Measures (AMMs),
- Increased details on plan implementation such as providing additional information on the content of the Implementation Handbook (forthcoming), and
- Changes in assumptions regarding costs and funding to reflect updated information.

In addition, as explained in the Conservancy’s findings, there are a few instances in which the Final EIS/EIR contains information unchanged from the Draft EIS/EIR that is not consistent with the Final HCP/NCCP in minor respects. The Conservancy’s findings identify five such instances and concludes that “[b]oth individually and taken together, these inconsistencies do not alter the analysis or impact conclusions set forth in the Final EIS/EIR or constitute “significant new information” requiring recirculation. The City concurs with this analysis and incorporates it herein by this reference.

This Final EIS/EIR evaluates the environmental effects of the Final HCP/NCCP, including the proposed changes since release of the Draft HCP/NCCP. In addition, an impact analysis specifically addressing the proposed HCP/NCCP changes is provided in the Final EIS/EIR Section 24.2, *Evaluation of Proposed Modifications to the Draft HCP/NCCP*. The analysis substantiates that the proposed changes to the HCP/NCCP do not alter the analysis or impact conclusions provided in the Draft EIS/EIR for environmental issue areas or constitute “significant new information” requiring circulation.

The City hereby concurs with the findings of the Conservancy Board of Directors that the potential impacts from implementation of the Final HCP/NCCP (dated April 2018) fit within the range of impact analysis contained in the EIS/EIR. There are no substantial changes in the project or the circumstances under which the project is being undertaken that necessitate revisions of the EIS/EIR. Nor has new information become available. The changes described in the Final EIS/EIR supplement or clarify the existing language. The circumstances, impacts, and mitigation requirements identified in the EIS/EIR remain applicable to the Final HCP/NCCP and support the finding that the Final HCP/NCCP does not raise any new issues and does not cause the levels of impacts identified in the EIS/EIR to be exceeded.

The Final HCP/NCCP does not result in any new impacts, nor does it cause the level of significance for any previously identified impacts to change. No new mitigation measures are required. Thus, no changes made since release of the Draft EIS/EIR involve “significant new information” triggering recirculation because the changes do not result in any new significant environmental

effects, any substantial increase in the severity of any previously identified significant effects, or otherwise trigger recirculation. Instead, the modifications are either environmentally benign or environmentally neutral, and thus represent the kinds of changes that commonly occur as the environmental review process works towards its conclusion.

For all of the foregoing reasons, City hereby concurs, based on the standards provided in Section 15088.5 of the CEQA Guidelines, that recirculation of the Draft EIS/EIR is not required.

B. MITIGATION MONITORING AND REPORTING PROGRAM

As required by PRC Section 21081.6, and Sections 15091(d) and 15097 of the CEQA Guidelines, the Conservancy, in adopting these findings, also adopts an MMRP. The MMRP is designed to ensure implementation of the adopted mitigation measures. This plan is provided at the back of Attachment A and is approved by City in conjunction with certification of the Final EIS/EIR and adoption of these Findings of Fact.

C. IMPACTS AND MITIGATION MEASURES

Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, § 21002; CEQA Guidelines, §§ 15126.4, subd. (a)(3), 15091.) Based on substantial evidence in the whole record of this proceeding, City agrees with the Conservancy's conclusion that implementation of the project will not result in any significant impacts in any of the impact areas analyzed in the EIS/EIR (including cumulative effects, growth inducing effects, and significant irreversible environmental changes), with two exceptions, and that these less-than-significant impact areas, therefore, do not require mitigation. The two exceptions are discussed below:

Effect LAND-3: Conflict With Any Applicable Habitat Conservation Plan or Natural Community Conservation Plan

This impact is potentially significant but fully mitigated by the identified mitigation measure. Implementation of Mitigation Measure LAND-1 will prevent circumstances where the HCP/NCCP acquisition areas will conflict with the covered activities of the Solano HCP. With implementation of this mitigation measure, the impact is reduced to a less than significant level.

The Conservancy Board of Directors incorporated the measure into the project as a requirement of implementing the Plan, with a clarification of the timing of the measure to require implementation of the measure after adoption of the HCP/NCCP but prior to commencement by the Conservancy of any plan implementation activity within the area of overlap with the Solano County Water Agency Multispecies HCP. This modification to the measure is not substantive and will in no way diminish the effectiveness of the measure in reducing the identified impact. By direction of the Conservancy Board of Directors, the mitigation measure was revised as follows:

Mitigation Measure LAND-1: Agreement with SCWA

Prior to undertaking any HCP/NCCP implementation activity within the area of overlap with the Solano County Water Agency (SCWA) Multispecies HCP, the Conservancy must enter into an agreement with SCWA recognizing that the Conservancy's acquisition areas must not conflict with the covered activities of the Solano HCP. The agreement should ensure that implementing the Yolo HCP/NCCP will not preclude the implementation of the Solano HCP.

City finds that the changes or alterations embodied in Mitigation Measure LAND-1 are within the responsibility and jurisdiction of the Conservancy and that the measure has been adopted by the Conservancy, or can and should be adopted by such other agency. (CEQA Guidelines, § 15091, subd. (a)(2).) City hereby finds that this mitigation measure constitutes a change or alteration of the project that is within the responsibility and jurisdiction of the Conservancy to impose, and the Conservancy has elected to do so. (CEQA Guidelines, § 15091, subd. (a)(2).) The City concurs based on substantial evidence in the record, that this measure is appropriate and feasible, and will lessen to a less-than-significant (acceptable) level, or avoid, the impact.

Effect AG-1: Potential to Convert Farmland to Non-Agricultural Use

The EIS/EIR and the Conservancy Board of Directors concluded that is impact is significant and unavoidable because implementation of the Yolo HCP/NCCP will result in the conversion of up to 702 acres of cultivated lands and up to 210 acres of grazing lands to a non-agricultural use, and this loss is considered significant at the local level.

The Yolo HCP/NCCP will result in protection in perpetuity of 14,362 acres of cultivated lands (non-rice), 2,800 acres of cultivated lands (rice), and at least 4,430 acres of Grassland (potentially suitable for grazing) as part of the reserve system. Moreover, the HCP/NCCP will result in permanent protection of more than 21,000 acres of agriculture as habitat for various species and permanent loss of approximately 700 acres of agricultural land for riparian restoration. This will result in a net increase of protected land because of the conservation strategy.

While implementation of the HCP/NCCP will result in permanent protection of many acres of agricultural land, the loss of agricultural land is permanent. Permanently protecting some agricultural land cannot fully mitigate for the loss of other agricultural land to non-agricultural use. Therefore, impacts to agricultural lands, including Important Farmland, as a result of implementation of the HCP/NCCP are considered significant and unavoidable.

For this and other reasons discussed further in the EIS/EIR and Conservancy CEQA Findings of Fact (Attachment A), City agrees that for this impact, no feasible mitigation is currently available to render the effects less than significant. The effects therefore remain significant and unavoidable. Based on the analysis contained within the EIS/EIR, other considerations in the record and stated herein, and the standards of significance, the City agrees that because some aspects of the Project would cause potentially significant impacts for which feasible mitigation

measures are not available to reduce the impact to a less-than-significant level, the impacts are significant and unavoidable.

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).) The California Supreme Court has stated, "[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law requires that those decisions be informed, and therefore balanced." (*Goleta II, supra*, 52 Cal.3d at p. 576.)

City agrees that Effect AG-1 and cumulative effects contributing considerably to loss of agricultural land, as reflected in the EIS/EIR, are unavoidable, but under Public Resources Code Section 21081, subdivisions (a)(3) and (b), and CEQA Guidelines 15091, subdivision (a)(3), 15092, subdivision (b)(2)(B), and 15093, City determines that the impacts are acceptable due to the overriding considerations described below. This finding is supported by substantial evidence in the record of this proceeding.

D. MITIGATION MEASURES AND PROJECT ALTERNATIVES PROPOSED BY COMMENTERS

Occasional comments throughout the process of preparation of the EIS/EIR have suggested additional mitigation measures and/or modifications to the measures or alternatives recommended in the Draft EIS/EIR. In considering specific recommendations from commenters, City finds that the Conservancy has been cognizant of its legal obligation under CEQA to substantially lessen or avoid significant environmental effects to the extent feasible. It is recognized that comments frequently offer thoughtful suggestions regarding how a commenter believes that a particular mitigation measure or alternative can be modified, or perhaps changed significantly, in order to more effectively, in the commenter's eyes, reduce the severity of environmental effects. City is also cognizant, however, that the analysis, conclusions, and recommendations in the EIS/EIR represent the professional judgment and long experience of the Conservancy and environmental consultants. It is thus the position of the City that the determination by the Conservancy Board of Directors that these recommendations should not be altered without considerable thought and compelling analysis is the correct conclusion and incorporates the Conservancy's CEQA Findings of Fact on this issue into its own findings.

VIII. EVALUATION OF ALTERNATIVES

A. INTRODUCTION

This section describes the Project, Project objectives, as well as the Project alternatives (the “Alternatives”). When a public agency acts as a responsible agency for a project, the agency has more limited authority than a lead agency. The responsible agency may require changes in a project to lessen or avoid only the effects, either direct or indirect, of that part of the project which the agency will be called on to carry out or approve. (CEQA Guidelines, § 15041, subd. (a).) Therefore, the scope of the alternatives analysis set forth in the EIS/EIR and discussed in the Conservancy CEQA Findings of Fact (Attachment A) exceeds the scope of City’s obligations as a responsible agency pursuant to CEQA. Nevertheless, City has independently reviewed and considered the information on alternatives provided in the EIS/EIR and in the administrative record. Additionally, City has considered and agrees that the evidence and analysis included in the Conservancy CEQA Findings of Fact (Attachment A) demonstrates that all of the alternatives discussed therein are either infeasible or undesirable in comparison to the Project.

CEQA mandates that an EIR evaluate a reasonable range of potentially feasible alternatives to a proposed project or the project location that would meet most of the project objectives while reducing or avoiding any of the significant environmental impacts of the proposed project. CEQA requires that every EIR also evaluate a “No Project” alternative. Alternatives provide a basis of comparison to the Project in terms of their significant impacts and their effectiveness in meeting Project objectives. This comparative analysis is used to consider reasonable, potentially feasible options for minimizing the significant environmental impacts of the Project.

B. FEASIBILITY OF ALTERNATIVES

Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: failure to meet most of the basic project objectives; infeasibility; and, inability to avoid significant environmental impacts (CEQA Guidelines Section 15126.6(a)(c)). Under CEQA, “(f)feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors” (CEQA Guidelines Section 15364.) The concept of feasibility permits agency decision-makers to consider the extent to which an alternative is able to meet some or all of a project’s objectives. In addition, the definition of feasibility encompasses desirability to the extent that an agency’s determination of infeasibility represents a reasonable balancing of competing economic, environmental, social, and technological factors.

Section 15126.6(f)(1) and (2) of the CEQA Guidelines provides a discussion of factors that can be taken into account in determining the feasibility of alternatives. These factors include:

- Project Objectives
- Avoid or Substantially Lessen Significant Effects
- Site Suitability
- General Plan Consistency
- Other Plans or Regulatory Limitations
- Economic Viability

- Availability of Infrastructure
- Jurisdictional Boundaries/Regional Context
- Property Ownership and Control
- Other Reasons for Rejecting as Infeasible (e.g. effects cannot be reasonably ascertained or implementation is remote and speculative)

C. PROJECT OBJECTIVES

The objectives of the project are listed below (EIS/EIR Section 1.8.2, Statement of Objectives):

1. Respond to the Yolo Conservancy application for an incidental take permit for the proposed Covered Species related to activities that have the potential to result in take, pursuant to the FESA section 10(a)(1)(B) and its implementing regulations and policies.
2. Receive take authorization from USFWS for federally listed species covered by the proposed HCP/NCCP, pursuant to Section 10(a)(1)(B) of the FESA, to accommodate covered activities that are part of necessary growth in Yolo County.
3. Receive take authorization from CDFW for state-listed species covered by the proposed HCP/NCCP, pursuant to Section 2835 of the NCCPA, to accommodate covered activities that are part of necessary growth in Yolo County.
4. Provide for issuance of take permits for other species that are not currently listed, but that may become listed in the future.
5. Assemble and maintain, through long-term monitoring and management, a reserve system within the Plan Area that focuses on preservation and enhancement actions that provide for the protection of species, natural communities, and ecosystems on a landscape level.
6. Include an interconnected reserve system throughout the Plan Area that is large enough to maintain in perpetuity each type of natural community that is native to the Plan Area, and maintain in perpetuity or expand the existing distribution of native animal and plant species within the Plan Area.
7. Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements of FESA, CEQA, NEPA, NCCPA, and other applicable laws and regulations relating to biological and natural resources within the planning area so that public and private actions will be governed equally and consistently, thus reducing delays, expenses, and regulatory duplication.
8. Provide a less costly, more efficient project review process that results in greater conservation values than the current project-by-project, species-by-species review and regulatory regime.

9. Rely solely on willing sellers for the purchase of land or easements when establishing habitat reserves.
10. Protect the long-term viability of agricultural operations in the Plan Area (consistent with other objectives).

D. RANGE OF ALTERNATIVES

The following categories of potential alternatives to the Yolo HCP/NCCP were considered by the Conservancy. All alternatives considered were different types of conservation plans that varied in the ways described below:

- Variation in permit term. Permit term of 30 or 40 years (instead of 50 years);
- Variation in covered species. More or different covered species;
- Variation in Plan Area. All or a portion of Yolo County. Lands outside of Yolo County;
- Variation in covered activities. More or less development. More or fewer categories of covered activities; and
- Variation in the conservation strategy. Changes in the type, location, magnitude, or frequency of implementing certain conservation measures.

Pursuant to Section 15126.6 of the CEQA Guidelines, the EIS/EIR considered ten alternatives to the proposed project. The potential alternatives were screened against a set of criteria. The criteria addressed two primary topics: the ability of the alternative to meet the project objectives and purpose, and the feasibility and reasonableness of the alternative (EIS/EIR, page 2-3 through 2-5, and Appendix B, Alternatives Evaluation, Table B-1). Alternatives that met the screening criteria in both topic areas were carried forward in this EIS/EIR for detailed analysis. Six of these were rejected from further analysis in the EIS/EIR through application of the screening criteria, and the remaining four were subsequently comprehensively analyzed at an equal level of detail, consistent with the requirements of NEPA, and in excess of the requirements of CEQA (which does not require an equal weight analysis of alternatives). The alternatives that were analyzed are as follows:

1. Reduced Permit Term Alternative
2. Additional Covered Species Alternative
3. Reduced Plan Area Alternative
4. Exclusion of Expanded Area Alternative
5. Reduced Agricultural Impacts Alternative
6. Increased Extent of Covered Activities Alternative
7. Alternative A – No Action Alternative (No Permit/No Plan Implementation)
8. Alternative B – Proposed Action Alternative (Permit Issuance/Plan Implementation)
9. Alternative C – Reduced Take Alternative

10. Alternative D – Reduced Development Alternative

In addition to the alternatives listed above that were considered in the EIS/EIR, the HCP/NCCP also explored the feasibility of additional project alternatives including the No Take Alternative (HCP/NCCP Section 9.2.1), the Reduced Development Take Alternative (HCP/NCCP Section 9.2.2), and Reduced Number of Covered Species Take Alternative (HCP/NCCP Section 9.2.3.) All were found to be infeasible and rejected for reasons summarized below.

The examination of this broad range of alternatives was an iterative effort with significant wildlife agency involvement, which informed the Board of Directors in its development and refinement of, and ultimate decision to adopt, the final HCP/NCCP. These alternatives cover a comprehensive range of reasonable possibilities in support of the final action of the Conservancy Board of Directors and the Board confirmed in their CEQA Findings of Fact that this range of alternatives fully satisfies, and in fact exceeds, the basic CEQA requirements of reasonability.

Based on impacts identified in the EIS/EIR, and other reasons documented in the Conservancy CEQA Findings of Fact (Attachment A), the Conservancy Board of Directors concluded that adoption and implementation of the HCP/NCCP (Alternative B, Proposed Action Alternative) including issuance of incidental take permits, as approved is the most desirable, feasible, and appropriate action and rejects the other alternatives as infeasible based on consideration of the relevant factors identified herein. A summary of each alternative, its relative characteristics, and documentation of the Conservancy's considerations and conclusions in support of rejecting the alternative as infeasible are provided in the Conservancy's CEQA Findings of Fact which are incorporated herein in support of these findings.

City agrees that each of these reasons discussed in the Conservancy CEQA Findings of Fact (Attachment A) provides sufficient independent grounds for rejecting all Alternatives with the exception of Alternative B – Proposed Action Alternative (Permit Issuance/Plan Implementation), as infeasible. While the alternatives attempt to reduce impacts to the environment, none achieves the same level of environmental protection or successfully achieves the project's objectives to the same degree as the final HCP/NCCP. Therefore, none warrants approval in lieu of the Proposed Action as proposed. Based on the analysis contained in the EIS/EIR and the summary discussion above, _____ **City/County** hereby rejects all other project alternatives as infeasible, and confirms that adoption of the HCP/NCCP (Alternative B) is the superior choice when comparing and balancing relevant factors.

IX. STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to CEQA section 21081, subdivision (b), and CEQA Guideline 15093, City hereby finds, after consideration of the EIS/EIR and all other evidence in the record, that each of the specific overriding economic, legal, social, technological and other benefits of the Project as set forth below independently and collectively outweighs the significant and unavoidable impacts of the Project and is an overriding consideration warranting its approval including implementation of Mitigation Measure LAND-1 which is within the responsibility and jurisdiction of the

Conservancy. Any one of the reasons for approval cited below is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, City will stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this Section, and in the documents found in the Record of Proceedings, as defined herein.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, City finds that there are significant benefits of the Project to support approval of the Project, in spite of the unavoidable significant impacts, and therefore makes this Statement of Overriding Considerations. City further finds that, as part of the process of obtaining Project approval, all significant effects on the environment from implementation of the Project have been eliminated or substantially lessened where, and to the extent, feasible. Mitigation Measure LAND-1 as non-substantially modified in the Conservancy CEQA Findings of Fact in within the Conservancy's enforcement authority and applicable to the Project, and was adopted by the Conservancy as part of its approval action. Furthermore, City has determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to the following specific overriding economic, technical, legal, social and other considerations.

The Project has the following benefits:

Statement 1: The Yolo HCP/NCCP provides for conservation beyond mitigation requirements.

The Yolo HCP/NCCP will coordinate mitigation to maximize benefits to 12 identified sensitive species, as well as provide more than 8,230 acres of additional habitat conservation beyond mitigation. The Yolo HCP/NCCP will coordinate these conservation efforts to ensure that lands are selected consistent with a strategy based on biological criteria, including the selection of lands that provide habitat to multiple species; and are located near existing protected lands and riparian areas. The Yolo Habitat Conservancy and its member agencies, including City will implement this conservation strategy in close coordination with the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS), as well as the Yolo Habitat Conservancy's Advisory Committee and other partners. This approach will improve species conservation while complying with existing state and federal laws, promoting agricultural preservation, and assisting in the completion of economic development activities associated with existing local land use plans.

Statement 2: The HCP/NCCP will result in local control over endangered species permitting.

The Yolo HCP/NCCP moves compliance with state and federal endangered species laws for public and private activities from state and federal agencies to the local level. The Conservancy

will administer the permits with oversight from the CDFW and the USFWS to streamline the existing process while still providing comprehensive regulatory coverage for currently listed species and those that may be listed in the future.

Statement 3: The HCP/NCCP will replace piecemeal mitigation.

Coordinated conservation planning through the Yolo HCP/NCCP will provide significant benefits to endangered and threatened species in Yolo County, including the Swainson's hawk, and the giant garter snake, as it replaces piecemeal mitigation and adds conservation beyond mitigation.

Without the HCP/NCCP, local governments, private entities, or individuals evaluate projects and activities individually in consultation with a variety of federal and state regulators to mitigate for potential impacts on species. This is a lengthy process that can cost all parties considerable time and money. This approach also does less to protect wildlife because mitigation measures result in land being set aside haphazardly. This haphazard process is less ecologically viable and more difficult to manage than the HCP/NCCP.

The Yolo HCP/NCCP will provide a more efficient process for protecting natural resources by creating a new reserve system that will be larger in scale, more ecologically valuable, and easier to manage than the individual mitigation sites.

Statement 4: The HCP/NCCP will streamline the endangered species permitting process.

The Yolo HCP/NCCP moves compliance with state and federal endangered species laws for public and private activities from state and federal agencies to the local level. The Conservancy will administer the permits with oversight from the CDFW and USFWS to streamline the existing process while still providing comprehensive regulatory coverage for currently listed species and those that may be listed in the future.

Statement 5: The HCP/NCCP creates new economic opportunity for local farmers.

Landowners and farmers are the backbone of the conservation strategies at the core of the Yolo HCP/NCCP. The Yolo HCP/NCCP relies on the voluntary establishment of conservation easements on lands that provide habitat value for HCP/NCCP covered species and their habitats. The Conservancy will work with willing landowners to jointly agree to wildlife-friendly agricultural practices in a management plan that accompanies each individual easement.

Yolo County's long history of responsible land use planning has directed growth to cities, thus resulting in contained urban areas and the preservation of extensive agricultural and open space lands. Many of the working farms and rangelands within the county provide important habitat for the Yolo HCP/NCCP's covered species by providing foraging, cover, and nesting habitat. Given the significant role agriculture plays in the provision of covered species habitat in

Yolo County, the Yolo HCP/NCCP conservation strategy places a strong emphasis on the purchase of habitat conservation easements on agricultural lands from willing sellers.

Statement 6: The HCP/NCCP supports planned land use and economic growth in Yolo County.

The HCP/NCCP is consistent with local plans for future growth and infrastructure. It reflects the adopted general plans of each of the member agencies and supports the planned growth in each of these communities consistent with local community values and adopted direction.

Statement 7: The HCP/NCCP provides protections for neighboring landowners.

The Yolo HCP/NCCP provides the Neighboring Landowner Protection Program as an option for landowners with actively farmed properties located adjacent to Yolo HCP/NCCP reserve lands. Covered species populations may increase because of implementation of conservation activities under the plan, particularly in areas where habitat is restored and populations of these species may move to adjacent lands that are not part of the reserve system. In recognition of this potential, the Yolo HCP/NCCP includes a process by which neighboring landowners may receive assurances through certificates of inclusion under the Federal Endangered Species Act and the Natural Community Conservation Plan Act permits. Such landowners can opt in to a voluntary program from which they can receive permit coverage for incidental take of endangered species for routine agricultural activities that occur during the Yolo HCP/NCCP permit term. Coverage under the program is for four covered species: California tiger salamander, valley elderberry longhorn beetle, giant garter snake, and western pond turtle. The Neighboring Landowner Protection Program only covers take of endangered species above the baseline number of species that existed prior to the establishment of the neighboring Yolo HCP/NCCP conservation easement.

Statement 8: The HCP/NCCP supports and helps preserve the working agricultural environment.

Adoption of the Plan realizes a long-standing and fundamental goal of Conservancy and member agencies, including City, which is to maximize and protect the long-term viability of agricultural operations in the Plan area through an HCP/NCCP that is intertwined and relies on the agricultural working landscape to achieve habitat protection and enhancement. The premise of habitat and species conservation through preserved and carefully managed agriculture is foundational to the HCP/NCCP and integral to the values of Yolo County, local stakeholders, and the member agencies.

The species covered by the Yolo HCP/NCCP have adapted over time to agricultural land as habitat. The HCP/NCCP will therefore be one of the first conservation plans in the state to focus primarily on conserving habitat on working agricultural land. In return for the permits, the Conservancy will protect 33,362 acres of primarily agricultural land over 50 years in the priority areas identified in the Plan.

Also, the Yolo HCP/NCCP recognizes there are future agricultural commercial and agricultural industrial development activities within Yolo County that will require take coverage. The Yolo HCP/NCCP provides coverage for 332 acres of activities associated with agricultural commercial and agricultural industrial development that is consistent with the Yolo County General Plan and under the discretionary authority of Yolo County. Agricultural industrial uses include agricultural research, processing, and storage; supply; service; crop dusting; agricultural chemical and equipment sales; and surface mining. Agricultural commercial uses include roadside stands, wineries, farm-based tourism (e.g., u-pick, dude ranches, lodging), horseshows, rodeos, crop-based seasonal events, and ancillary restaurants and/or stores.

Statement 9: The HCP/NCCCP is a cost-effective mechanism for maximizing regional biological benefits.

Ninety percent of the costs of implementing the plan will be paid through applicant fees, state and federal grants, and other sources. Local government funding sources are only ten percent of the total cost of the plan, and there is no requirement to use general fund monies to implement the Plan.

Statement 10: The HCP/NCCP is a well-crafted plan that meets the needs of the community, landowners, stakeholders, the member agencies, and the wildlife agencies.

The HCP/NCCP addresses the ongoing viability and needs of the covered species, it provides an interconnected reserve system, and protects and enhances biological resources at the landscape level. The HCP/NCCP achieves all of the objectives of the Conservancy related to adoption and implementation of a successful conservation strategy and issuance of incidental take permits. It is a financially sound Plan that relies on willing sellers. It will provide a less costly, more efficient project review process with greater conservation values. It will provide take coverage for planned member agency land use and infrastructure activities. It will be implemented within the identified 50-year time frame and will result in desirable biological outcomes.

Having considered these benefits, City finds that the benefits of the Project outweigh the unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

**Attachment A, Yolo Habitat Conservancy CEQA Findings of Fact, Resolution No. _____
adopted by the Conservancy Board of Directors May 7, 2018**

**CEQA FINDINGS OF FACT
OF THE
YOLO HABITAT CONSERVANCY
FOR THE
YOLO HABITAT CONSERVATION PLAN/
NATURAL COMMUNITY CONSERVATION PLAN
(YOLO HCP/NCCP)**

MAY 7, 2018

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I. INTRODUCTION

This document sets forth the findings of the Yolo Habitat Conservancy (Conservancy or YHC)—a joint powers agency consisting of the County of Yolo and the cities of Davis, Woodland, West Sacramento, and Winters—in its capacity as lead agency for the 2018 Yolo Habitat Conservation Plan/Natural Community Conservation Plan (Yolo HCP/NCCP, HCP/NCCP, or the Plan; also proposed project or proposed action). The purpose of these findings is to satisfy the requirements of Sections 15091, 15092, and 15093 of the California Environmental Quality Act (CEQA) Guidelines, and relevant statutes, associated with approval and implementation of the HCP/NCCP. These findings pertain to the Final HCP/NCCP (dated April 2018) and the Environmental Impact Statement/Environmental Impact Report (EIS/EIR) prepared for the project pursuant to the National Environmental Quality Act and its state law counterpart, CEQA.

The CEQA Statutes (Public Resources Code (PRC) Sections 21000 et seq.) and Guidelines (Code of Regulations Sections 15000 et seq.) state that if it has been determined that a project may or will have significant impacts on the environment, then an Environmental Impact Report (EIR) must be prepared. Prior to approval of the project, the EIR must be certified pursuant to Section 15090 of the CEQA Guidelines. When an EIR has been certified which identifies one or more significant environmental impacts, the approving agency must make one or more of the following findings, accompanied by a brief explanation of the rationale, pursuant to Section 15091 of the CEQA Guidelines, for each identified significant impact:

- a) Changes or alterations have been required in, or incorporated into, such project which avoid or substantially lessen the significant environmental effect as identified in the final environmental impact report.
- b) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency, or can and should be adopted by such other agency.
- c) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

Section 15092 of the CEQA Guidelines states that after consideration of an EIR, and in conjunction with making the Section 15091 findings identified above, the lead agency may decide whether or how to approve or carry out the project. A project that would result in a significant environmental impact cannot be approved if feasible mitigation measures or feasible alternatives can avoid or substantially lessen the impact.

However, in the absence of feasible mitigation, an agency may approve a project with significant and unavoidable impacts, if there are specific economic, legal, social, technological, or other considerations that outweigh the unavoidable adverse environmental effects. Section 15093 of

the CEQA Guidelines requires the lead agency to document and substantiate any such determination in "statements of overriding considerations" as a part of the record.

The requirements of Sections 15091, 15092, and 15093 of the CEQA Guidelines as summarized above are all addressed herein. This document is intended to serve as the findings of fact and statement of overriding considerations authorized by those provisions of the CEQA Guidelines.

II. TERMINOLOGY OF FINDINGS

For purposes of these findings, the terms listed below will have the following definitions:

- The term "mitigation measures" shall constitute the "changes or alterations" discussed above.
- The term "avoid or substantially lessen" will refer to the effectiveness of one or more of the mitigation measures or alternatives to reduce an otherwise significant environmental effect to a less-than-significant level.
- The term "feasible," pursuant to the CEQA Guidelines, means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

When the Conservancy Board of Directors (also referred to as "the Board") finds a measure is not feasible, it must provide substantial evidence for its decision and may adopt substitute mitigation that is feasible and designed to reduce the magnitude of the impact. In other cases, the Board may decide to modify the proposed mitigation. Modifications generally update, clarify, streamline, or revise a mitigation measure proposed in the EIS/EIR to comport with current industry practices, budget conditions, market conditions, or existing Conservancy policies, practices, and/or goals. Modifications achieve the intent of the proposed mitigation without reducing the level of protection.

These findings use the same definitions and acronyms set forth in the EIS/EIR.

III. PROJECT DESCRIPTION

A. PROJECT OVERVIEW

The proposed project (also referenced as Alternative B, Proposed Action Alternative [Permit Issuance/Plan Implementation]) is adoption and implementation of the HCP/NCCP, including subsequent issuance of incidental take permits, pursuant to Section 10(a)(1)(B) of the FESA and Section 2835 of the NCCPA chapter of the California Fish and Game Code (Fish & Game Code).

The proposed project is identified and described in the EIS/EIR as Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation) (see EIS/EIR Section 2.3.2).

Adoption of the Plan and execution of the various supporting agreements and regulations will commit the YHC and its member agencies to the conservation of 33,362 acres of habitat for 12 covered rare and endangered species over 50 years, including an obligation to permanently manage those properties to the benefit of the covered species. The permits will allow for 19,212 acres of planned land development and associated activities, called covered activities, to take place within the planning areas of the adopted general plans of member agencies. The proposed action includes establishment of the appropriate authority for the Conservancy and its member agencies to establish and collect fees to support implementation of the Plan.

Adoption of the Plan realizes the long-standing and fundamental goal of Conservancy and its member agencies to maximize and protect the long-term viability of agricultural operations in the Plan area through an HCP/NCCP that is intertwined and relies on the agricultural working landscape to achieve habitat protection and enhancement. The premise of habitat and species conservation through preserved and carefully managed agriculture is foundational to the HCP/NCCP and integral to the values of Yolo County, each of the Cities, and local stakeholders.

B. PROJECT LOCATION

The plan area encompasses the entire area of Yolo County, approximately 653,549 acres, and includes potential conservation activities outside of Yolo County within an additional 1,174 acres along the south side of Putah Creek in Solano County.

C. PROJECT DETAILS

The Final Yolo HCP/NCCP (dated April 2018) is a comprehensive, county-wide plan to provide for the conservation of 12 sensitive species (“covered species”) and the natural communities and agricultural land on which they depend. The Plan will provide a streamlined permitting process under the state and federal Endangered Species Acts to address the effects of a range of planned public and private activities (“covered activities”) on these 12 species. The Plan is comprised of an Executive Summary, 11 chapters, and various appendices.

In exchange for incidental take permits from the Federal and State governments that will allow build-out of land uses already identified and approved in local general plans, the Yolo HCP/NCCP commits the Conservancy and its member agencies to implement a conservation strategy including creation of a habitat reserve system consisting primarily of conservation easements on agricultural lands, and management and monitoring of that system in perpetuity, in a manner that will benefit the species covered by the plan. Pursuant to the requirements of State law, the Plan provides for both mitigation for impacts of covered activities, and additional conservation to benefit the covered species.

The primary benefits of the HCP/NCCP are that it:

- increases local control over permitting and mitigation
- improves and increases species conservation
- streamlines the permitting process
- supports and helps preserve the working agricultural environment

The Yolo Habitat Conservancy (Conservancy), a joint powers agency created by Yolo County and the incorporated cities of Davis, West Sacramento, Winters, and Woodland, including the University of California at Davis (UCD) as an ex-officio participant, prepared the Yolo HCP/NCCP. The Yolo HCP/NCCP will provide the basis for issuance of long-term (50-year) permits under the Federal Endangered Species Act (FESA) and California Natural Community Conservation Planning Act (NCCPA) for take of species as a result of specified covered activities. The Yolo HCP/NCCP will provide the Permittees (Yolo County, the four incorporated cities, and the Conservancy) with incidental take permits (ITPs) from both the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) for the 12 covered species. This action is allowed under Section 10(a)(1)(B) of the FESA and Section 2835 of the NCCPA chapter of the California Fish and Game Code.

The Yolo HCP/NCCP ensures compliance with the FESA, NCCPA, California Endangered Species Act (CESA), and California Environmental Quality Act (CEQA) for covered activities that may affect the covered species. In addition to the Permittees, the Yolo HCP/NCCP permits may be used other entities through certificates of inclusion, as described further in the Plan.

The covered activities include infrastructure and land uses contemplated in the local General Plans for Yolo County, Davis, West Sacramento, Winters, and Woodland totaling 19,212 acres, and implementation of the HCP/NCCP conservation strategy. The planned infrastructure and land uses included as part of the covered activities are not within the authority of the Conservancy to control. The Conservancy does, however, have authority over implementation of the HCP/NCCP including in particular, the conservation strategy.

The covered activities have been organized into five broad categories: urban projects and activities, rural projects and activities, operations and maintenance, conservation strategy implementation, and neighboring landowner protection program. The first two categories comprise the “spatially defined” activities. This refers to activities where the location is currently known. These two categories total 17,550 acres, within which 11,510 acres of impact are modeled to occur over the life of the permit. The next three categories comprise the “spatially undefined” categories (activities where a specific location is not yet known) consisting of 706 acres for operation and maintenance, up to 956 acres for restoration and enhancement, and up to 2,347 acres for the neighboring landowner protection program (applicable only to four of the 12 covered species). Within the three spatially undefined categories, approximately 1,134 acres of impact are assumed to occur for an overall total of up to 12,649 acres of impact (11,510 modeled acres plus 1,134 acres).

For the purposes of the Yolo HCP/NCCP, the County is divided into 22 geographically based planning units. These include four urban planning units centered around each of the incorporated cities, where most of the covered activities are planned to occur. The conservation strategy focuses most of the conservation in the 13 planning units in the eastern portion of the County where most of the covered species habitat is found. Yolo County and its cities have already conserved 90,967 acres throughout the County, of which 34,264 acres are in permanent conservation easements. The Yolo HCP/NCCP conservation strategy builds on these efforts.

Habitat within the Yolo HCP/NCCP plan area is mapped as 15 natural communities and four other land cover types. Impacts from the identified covered activities will affect approximately 12,649 acres of natural communities. The Yolo HCP/NCCP includes a conservation strategy based on biological goals and objectives to provide for the conservation of covered species within the plan area and to mitigate the effects of the covered activities.

As mitigation for impacts to 12,649 acres, the Yolo HCP/NCCP will require permanent protection and management of 17,131 acres of mitigation (16,175 acres of newly protected lands and 956 acres of restored/created lands) and 16,231 acres of conservation beyond mitigation (including 8,000 acres of pre-permit reserve lands and 8,231 acres of newly protected conservation lands) for a total conservation reserve system of 33,362 acres.

The species covered by the Yolo HCP/NCCP have adapted over time to use agricultural land as habitat. The HCP/NCCP will therefore be one of the first conservation plans in the state to focus primarily on conserving habitat on working agricultural land. In return for the permits, the Conservancy will protect 33,362 acres of primarily agricultural land over 50 years in the priority areas identified in the Plan. The Conservancy will only purchase habitat conservation easements from willing landowners. These easements will primarily prevent the conversion to orchards and vineyards since row crops provide better habitat for the species covered by the Yolo HCP/NCCP.

In Chapter 4, the Yolo HCP/NCCP also identifies 21 Avoidance and Minimization Measures (AMMs) as conditions on approved covered activities to avoid and minimize adverse effects of implementation of the plan. All permittees and private applicants must adhere to these measures to receive take authorization.

Overall implementation of the Yolo HCP/NCCP is estimated to cost \$425 million over 50 years, of which 66 percent will be paid by per-acre project fees, 10 percent will be paid by local funding sources, 17 percent is estimated to be paid by state and federal grants, 4 percent will be paid by other as-of-yet unidentified local, State, and Federal sources, and 2 percent will be paid from investment interest. The typical per-acre fee that will be paid by most applicants will be the base fee of \$12,952 per acre (subject to periodic adjustments over the course of plan implementation).

D. PROJECT OBJECTIVES

The objectives of the project are listed below (EIS/EIR, Section 1.8.2):

- Respond to the Yolo Conservancy application for an incidental take permit for the proposed covered species related to activities that have the potential to result in take, pursuant to the FESA section 10(a)(1)(B) and its implementing regulations and policies.
- Receive take authorization from USFWS for federally listed species covered by the proposed HCP/NCCP, pursuant to Section 10(a)(1)(B) of the FESA, to accommodate covered activities that are part of necessary growth in Yolo County.
- Receive take authorization from CDFW for state-listed species covered by the proposed HCP/NCCP, pursuant to Section 2835 of the NCCPA, to accommodate covered activities that are part of necessary growth in Yolo County.
- Provide for issuance of take permits for other species that are not currently listed, but that may become listed in the future.
- Assemble and maintain, through long-term monitoring and management, a reserve system within the Plan Area that focuses on preservation and enhancement actions that provide for the protection of species, natural communities, and ecosystems on a landscape level.
- Include an interconnected reserve system throughout the Plan Area that is large enough to maintain in perpetuity each type of natural community that is native to the Plan Area, and maintain in perpetuity or expand the existing distribution of native animal and plant species within the Plan Area.
- Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements of FESA, CEQA, NEPA, NCCPA, and other applicable laws and regulations relating to biological and natural resources within the planning area so that public and private actions will be governed equally and consistently, thus reducing delays, expenses, and regulatory duplication.
- Provide a less costly, more efficient project review process that results in greater conservation values than the current project-by-project, species-by-species review and regulatory regime.
- Rely solely on willing sellers for the purchase of land or easements when establishing habitat reserves.
- Protect the long-term viability of agricultural operations in the Plan Area (consistent with other objectives).

E. DISCRETIONARY ACTIONS

The Conservancy Board of Directors has taken the following actions and approvals to implement the project:

- 1) Adopt Resolution No. _____ Certifying Final EIS/EIR Including Adoption of Findings of Fact and Other Actions Required by CEQA.
- 2) Adopt Resolution No. ____: 1) Adopting the Final Yolo HCP/NCCP; and 2) Authorizing the Board Chair to Execute the Implementing Agreement with the USFWS, CDFW, Yolo County, and the cities of Davis, West Sacramento, Winters, and Woodland.

The Conservancy must also adopt fees necessary to implement the HCP/NCCP, which will occur a short time after the actions set forth above.

In addition to Plan adoption by the Conservancy, the Yolo HCP/NCCP must also be adopted by each of the five member agencies: County of Yolo and cities of Davis, West Sacramento, Winters, and Woodland. The member agencies must take the following actions to adopt the HCP/NCCP and secure the ITPs:

- 1) Adopt a resolution: 1) Considering the Final EIS/EIR Including Adoption of Findings of Fact and Other Actions Required by CEQA for Responsible Agencies.
- 2) Adopt a resolution: 1) Adopting the Final HCP/NCCP; 2) Certifying the Yolo HCP/NCCP as Consistent with the local General Plan; and 3) Authorizing the City Manager/County Administrator to Execute the Implementing Agreement with the USFWS, CDFW, Yolo Habitat Conservancy, Yolo County, and the cities of Davis, West Sacramento, and Woodland.
- 3) Approve an Ordinance Providing for Implementation of the Yolo HCP/NCCP, Including Related Procedures and Fees.

The member agencies are also expected to adopt an Amended and Restated Joint Powers Agreement to reflect the completion of the HCP/NCCP and the Conservancy's role as the implementing entity.

IV. PROJECT BACKGROUND AND HISTORY

A. YOLO HABITAT CONSERVANCY HISTORY

From 1993 through 2001, Yolo County undertook an extensive effort to produce an HCP. That effort culminated in 2001 with local rejection of the draft HCP in favor of a combined HCP/NCCP

that would be larger in scope and scale and result in more comprehensive conservation outcomes.

The Yolo County and the four cities subsequently embarked on the “Gaining Ground” cooperative effort to develop a common plan to protect agriculture, habitat, and open space in Yolo County. The Gaining Ground committee sought to find agreement on which parts of the county to focus preservation, with particular emphasis on establishing buffers between the cities.

In 2002, Yolo County and the four cities (with the University of California, Davis as an *ex officio* member) formed the Yolo Habitat Conservation Plan/Natural Community Conservation Plan Joint Powers Agency (JPA) for the purpose of cooperative development of a regional HCP/NCCP. In 2005, the JPA, USFWS, and CDFW signed a Planning Agreement directing the preparation of the HCP/NCCP and work on the plan commenced. An intensive public and stakeholder outreach program was undertaken to provide stakeholder input into and critical oversight of the development of the plan.

The First Administrative Draft of the Yolo HCP/NCCP, completed in June 2013, proposed 32 covered species. The JPA determined, however, that the conservation commitments in the First Administrative Draft were economically infeasible for the permittees to achieve. Therefore, in late 2013, the JPA coordinated closely with the USFWS and CDFW to modify the scope of the Yolo HCP/NCCP by decreasing the number of covered species. This approach was reflected in subsequent drafts of the plan. In 2014, the Yolo Habitat JPA informally changed its name to the Yolo Habitat Conservancy. In March 2015, the Yolo Habitat Conservancy released the Second Administrative Draft Yolo HCP/NCCP. The Conservancy released the Public Review draft in June 2017 and the Final Yolo HCP/NCCP in April 2018.

B. ENVIRONMENTAL REVIEW PROCESS

Generally, adoption of the Yolo HCP/NCCP and issuance of the requested ITPs involves actions by three agencies: the USFWS as the federal lead agency, the CDFW as a state responsible agency, and the Conservancy as the local lead agency. To satisfy the requirements under the National Environmental Policy Act (NEPA) and under the California Environmental Quality Act (CEQA), the USFWS and the Conservancy (as the federal and local lead agencies) prepared a joint environmental impact statement (EIS)/environmental impact report (EIR) in connection with the HCP/NCCP.

The USFWS published a Notice of Intent (NOI) to prepare an EIS in the Federal Register on October 21, 2011. The Conservancy published a Notice of Preparation (NOP) for the CEQA EIR component during that same period of time. The NOI and NOP solicited public and agency participation in determining the scope of the EIS/EIR. The scoping period outlined in both the NOI and the NOP was October 21 to December 5, 2011 during which time the Lead Agencies solicited comment. In addition, notices with information relevant to the scoping period and associated meetings were sent to various media outlets, the Conservancy’s email distribution

list, and posted to the Conservancy and USFWS websites. The Conservancy and USFWS held two scoping meetings for the public and interested parties on Monday, November 7, 2011. Comments were received from 17 individuals and entities.

The comments received during the scoping period assisted in determining the scope of the alternatives and the issues to be evaluated in detail in the Draft EIS/EIR for the Plan. The Draft EIS/EIR was released on June 1, 2017. A NEPA Notice of Availability (NOA) was published in the Federal Register and a CEQA NOA was released on that same date. Information announcing the release and availability of the Draft HCP/NCCP and Draft EIS/EIR was also posted on the Conservancy website, incorporated into a press release to local media, filed with the California Governor's Office of Planning and Research State Clearinghouse, distributed to state, regional, and local agencies, and published in the Davis Enterprise and Vacaville Reporter newspapers.

The public was provided a 90-day period, ending August 30, 2017, to review and comment on both the Draft HCP/NCCP and the Draft EIS/EIR. Nine public meetings were held during the comment period so the public and agencies could learn more about the Draft EIS/EIR and Draft HCP/NCCP and provide comments on the documents. Comments were received from 32 individuals and entities on the Draft EIS/EIR and Draft HCP/NCCP during the comment period.

The CEQ NEPA regulations require the lead agency or agencies to consider comments on a Draft EIS and prepare a Final EIS, which must include and respond to all substantive comments received on the Draft EIS (40 C.F. R. 1502.9(b) and 1603.4(b)). Similarly, Section 15132 of the State CEQA Guidelines requires that a final EIR include, among other elements, a list of those who commented on the Draft EIR, copies of the comments and recommendations received on the Draft EIR, and responses to significant environmental concerns raised in the comments.

A Final EIS/EIR was prepared in accordance with these requirements and other relevant regulatory guidance and released on April 30, 2018. Edits to the Draft EIS/EIR resulting from responses to comments, edits to the Draft HCP/NCCP, or other occurrences and observations (e.g., spelling or grammatical corrections identified by document preparers) are reflected in the Final EIS/EIR.

As set forth more fully herein, the Final EIS/EIR was considered by decision-makers before taking action on the HCP/NCCP. The USFWS is expected to document its final action on the Yolo HCP/NCCP in a Record of Decision (ROD) prepared pursuant to NEPA. The Conservancy will file a Notice of Determination pursuant to CEQA with the Yolo County Clerk-Recorder within five days of certification of the Final EIS/EIR (including adoption of the subject Findings of Fact) and project approval.

V. TYPE OF EIR

The CEQA component of the Yolo HCP/NCCP Final EIS/EIR is a Program EIR. A Program EIR is prepared for a series of actions that can be characterized as one project. An advantage of a Program EIR is that it allows the lead agency to consider broad policy alternatives and "program wide mitigation measures" at an early time when the agency has greater flexibility to deal with

basic problems or cumulative impacts (CEQA Guidelines Section 15168(b)(4)). The Program EIR can serve as a first-tier document for later CEQA review of individual projects included in the program. These project-specific CEQA reviews will focus on project-specific impacts and mitigation measures and need not repeat the broad analyses contained in the Program EIR. As discussed by the California Supreme Court, "it is proper for a lead agency to use its discretion to focus a first-tier EIR on only the... program, leaving project-specific details to subsequent EIRs when specific projects are considered." (*In re Bay Delta* (2008) 43 Cal. 4th 1143, 1174.)

VI. RECORD OF PROCEEDINGS

A. FINAL EIS/EIR

In compliance with Section 15132 of the State CEQA Guidelines, the Final EIS/EIR for the project consists of a revised version of the two volume Draft EIS/EIR and Appendices, with the addition of the following information:

- Discussion and analysis of changes in the HCP/NCCP since release of the Draft EIS/EIR
- A list of persons, organizations, and public agencies commenting on the Draft EIS/EIR.
- Copies of all comments and recommendations received on the Draft EIS/EIR and Draft HCP/NCCP
- Responses to all comments received

Within these findings, the terms Final EIS/EIR and EIS/EIR are used interchangeably.

B. CONTENTS AND LOCATION OF RECORD

For the purposes of CEQA and the findings herein set forth, the administrative record for the Conservancy consists of those items listed in PRC Section 21167.6, subdivision (e), including but not limited to the following documents, which are incorporated by reference and made part of the record supporting these findings:

- The NOP and all other public notices issued by the Conservancy in conjunction with the Project
- The Final EIS/EIR and all documents referenced in or relied upon by the Final EIS/EIR
- The Mitigation Monitoring and Reporting Program (MMRP) for the Project (Attachment A hereto)

- All findings and resolutions adopted by the Conservancy in connection with the Project, and all documents cited or referred to therein
- All information including written evidence and testimony provided to the Conservancy relating to the Final EIS/EIR, the Project, and the alternatives set forth in the Final EIS/EIR or these CEQA findings
- All information provided by the public, including the proceedings of the public hearings on the adequacy of the Final EIS/EIR, the minutes and transcripts of the meetings and hearings, and written correspondence received by the Conservancy during the public comment period on the Draft HCP/NCCP and Draft EIS/EIR
- All information and documents included on the website prepared for the Project which are available at the following link: <https://www.yolohabitatconservancy.org/>

Pursuant to CEQA Guidelines Section 15091(e), the location and custodian of the documents and other materials which constitute the record of proceedings upon which these decisions are based is as follows: Executive Director, Yolo Habitat Conservancy, 611 North Street, Woodland, CA 95695, (530) 723-5504. The administrative record, including the Final EIS/EIR, is hereby incorporated by reference into these findings.

VII. FINDINGS REQUIRED UNDER CEQA

PRC Section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” Section 21002 also provides that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Further, Section 21002 states “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles announced in PRC Section 21002 are implemented, in part, through the requirement that agencies adopt findings before approving projects for which EIRs are required. For each significant environmental effect identified in an EIR for a project, the approving agency must issue a written finding reaching one or more of three permissible conclusions:

- Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

- Changes or alterations that avoid or substantially lessen each significant environmental effect are within the responsibility and jurisdiction of another public agency, and not the agency making the finding. In such circumstances, the approving agency must affirm that such changes have been adopted by such other agency or can and should be adopted by such other agency.
- Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR. (CEQA Guidelines Section 15091)

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. For the purposes of CEQA, a mitigation measure is “feasible” if it is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors. (PRC Section 21061.1) CEQA Guidelines Section 15364 adds another factor: “legal” considerations. (See also *Citizens of Goleta Valley v. Bd. of Supervisors* (“*Goleta II*”) (1990) 52 Cal.3d 553, 565.) The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417.) Moreover, “feasibility” under CEQA encompasses “desirability” to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.” (*Ibid.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) The Conservancy, however, is not required to implement project modifications or alternatives where such changes are infeasible or where the responsibility for modifying the project lies with some other agency. (CEQA Guidelines Section 15091(a) and (b).)

In general, with respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project’s “benefits” rendered “acceptable” its “unavoidable adverse environmental effects.” (CEQA Guidelines Section 15093 and 15043(b); see also PRC Section 21081(b).) The California Supreme Court has stated, “[t]he wisdom of approving . . . [any] development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Goleta II, supra*, 52 Cal.3d at p. 576.)

As described above, where the Conservancy does not have the discretion to implement mitigation measures identified in the EIS/EIR, it must find that “[s]uch changes have been adopted by such other agency or *can* and should be adopted by such other agency” or determine that “specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible

the mitigation measures or project alternatives identified in the final EIR.” (CEQA Guidelines Sections 15091(a)(2) and (a)(3) (emphasis added).)

These findings constitute the Conservancy’s best efforts to set forth the evidentiary and policy bases for its decision to approve the HCP/NCCP in a manner consistent with the requirements of CEQA. To the extent that these findings conclude that various mitigation measures outlined in the Final EIS/EIR are feasible, are within the Conservancy’s responsibility and jurisdiction, and have not been modified, superseded or withdrawn, the Conservancy hereby binds itself to implement these measures. These findings, in other words, are not merely informational, but rather constitute a binding set of obligations that are effectuated by the Conservancy’s approval of a resolution adopting the HCP/NCCP.

A. FINDINGS REGARDING RECIRCULATION OF THE DRAFT EIS/EIR

The Draft EIS/EIR analyzed impacts associated with the June 1, 2017 Public Review Draft of the HCP/NCCP. Since the release of the Draft EIS/EIR, in response to public comments, Board of Directors considerations, requirements of the permitting agencies, and continued staff analysis, there have been several text changes incorporated into the final HCP/NCCP. There have also been a few modifications to the Draft EIS/EIR, as documented in the Final EIS/EIR.

Under Section 15088.5 of the CEQA Guidelines, recirculation of an EIR is required when “significant new information” is added to the EIR after public notice is given of the availability of the Draft EIR for public review but prior to certification of the Final EIR. The term “information” can include changes in the project or environmental setting, as well as additional data or other information. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement. “Significant new information” requiring recirculation includes, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it.
- (4) The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. The above standard is “not intend[ed] to promote endless rounds of revision and recirculation of EIRs.” (*Laurel Heights Improvement Assn. v. Regents of the University of California* (1993) 6 Cal. 4th 1112, 1132.) “Recirculation was intended to be an exception, rather than the general rule.” (*Id*)

CEQA case law emphasizes that “[t]he CEQA reporting process is not designed to freeze the ultimate proposal in the precise mold of the initial project; indeed, new and unforeseen insights may emerge during investigation, evoking revision of the original proposal.” (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736-737; see also *River Valley Preservation Project v. Metropolitan Transit Development Bd.* (1995) 37 Cal.App.4th 154, 168, fn. 11.) “CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process.’ In short, a project must be open for public discussion and subject to agency modification during the CEQA process.” (*Concerned Citizens of Costa Mesa, Inc. v. 33rd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 936; *Citizens for East Shore Parks v. State Lands Com.* (2011) 202 Cal.App.4th 549, 563 [“Administrative agencies not only can, but should, make appropriate adjustments... as the environmental review process unfolds.”].)

The changes proposed by the Conservancy to the HCP/NCCP since release of the Draft HCP/NCCP on June 1, 2017 fall into several categories summarized below and described in detail in EIS/EIR Section 2.3.2:

- Copy edits such as correction of spelling errors
- Minor text clarifications and corrections such as providing or correcting cross references to other parts of the document
- Minor numeric corrections, such as small adjustments to acreages of particular land cover types
- Providing updated information since publication of the Draft HCP/NCCP such as including information from the City of Woodland General Plan Update 2035, which was adopted after the Draft HCP/NCCP was published,
- Clarifications or enhancements to particular plan elements such as new or updated Avoidance and Minimization Measures (AMMs),
- Increased details on plan implementation such as providing additional information on the content of the Implementation Handbook (forthcoming), and
- Changes in assumptions regarding costs and funding to reflect updated information.

In addition, in a few instances, the Final EIS/EIR contains information unchanged from the Draft EIS/EIR that is not consistent with the Final HCP/NCCP in minor respects. These specific instances are as follows:

- In describing potential effects on palmate-bracted bird's beak, the EIS/EIR erroneously states at p. 4-54 that three acres of habitat will be restored for palmate-bracted bird's beak. The Final HCP/NCCP does not propose habitat restoration for this species.
- In discussing Effect BIO-16 (Special Status Birds Not Covered by Yolo HCP/NCCP), the EIS/EIR states that, with regard to mountain plover, loggerhead shrike, and grasshopper sparrow, "[w]ithin the Plan Area there are 80,911 acres of grassland and 214,939 acres of non-rice cultivated lands that could provide suitable habitat for these species. However, the non-rice cultivated lands cover category also includes orchards and other more specific categories of agricultural lands that are not suitable for these species." (EIS/EIR at p. 4-47.) The latter statement is inaccurate, as the non-rice cultivated lands category does not include orchards and other more specific categories of agricultural lands that are unsuitable for the three special-status grassland bird species.
- The EIS/EIR describes the conservation strategy for the Swainson's hawk as including the protection of at least 40 nest trees. (EIS/EIR at p. 4-59.) The Final HCP/NCCP, however, requires the protection of at least 20 nest trees. This commitment is accurately reflected in a number of places in the EIS/EIR (e.g., Tables 2-3, 2-5, and 2-6).
- Table 4-1 in the EIS/EIR states that there are 531 nest trees for the White-tailed kite. The same number appears on p. 4-42 and on p. 4-60. This number, however, is erroneous and the Final HCP/NCCP does not include an estimate for the number of nest trees for this species.
- The EIS/EIR states that at least one tricolored blackbird colony will be permanently protected. (EIS/EIR at p. 4-63.) Under the Final HCP/NCCP, two tricolored blackbird colonies will be permanently protected.

Both individually and taken together, these inconsistencies do not alter the analysis or impact conclusions set forth in the Final EIS/EIR or constitute "significant new information" requiring recirculation. Bullet 1 pertains to a reference to habitat restoration that appears only once in the EIS/EIR and not at all in the Final HCP/NCCP. In the overall context of the HCP/NCCP commitments regarding habitat conservation for the palmate bracted bird's beak, the erroneous reference to restoration in Chapter 4 of the EIS/EIR is immaterial to the integrity of the analysis in the document and does not alter its impact conclusions. Bullets 2 through 5 reflect inconsistencies that are simply errata with no bearing on the potential environmental effects of Plan implementation on the species addressed in related EIS/EIR text.

This Final EIS/EIR evaluates the environmental effects of the Final HCP/NCCP, including the proposed changes since release of the Draft HCP/NCCP. In addition, an impact analysis specifically addressing the proposed HCP/NCCP changes is provided in the Final EIS/EIR Section 24.2, *Evaluation of Proposed Modifications to the Draft HCP/NCCP*. The analysis substantiates that the proposed changes to the HCP/NCCP do not alter the analysis or impact conclusions provided in the Draft EIS/EIR for environmental issue areas or constitute “significant new information” requiring circulation.

The Board of Directors hereby finds that the potential impacts from implementation of the Final HCP/NCCP (dated April 2018) fit within the range of impact analysis contained in the EIS/EIR. There are no substantial changes in the project or the circumstances under which the project is being undertaken that necessitate revisions of the EIS/EIR. Nor has new information become available. The changes described in the Final EIS/EIR supplement or clarify the existing language. The circumstances, impacts, and mitigation requirements identified in the EIS/EIR remain applicable to the Final HCP/NCCP and support the finding that the Final HCP/NCCP does not raise any new issues and does not cause the levels of impacts identified in the EIS/EIR to be exceeded.

The Final HCP/NCCP does not result in any new impacts, nor does it cause the level of significance for any previously identified impacts to change. No new mitigation measures are required. Thus, no changes made since release of the Draft EIS/EIR involve “significant new information” triggering recirculation because the changes do not result in any new significant environmental effects, any substantial increase in the severity of any previously identified significant effects, or otherwise trigger recirculation. Instead, the modifications are either environmentally benign or environmentally neutral, and thus represent the kinds of changes that commonly occur as the environmental review process works towards its conclusion.

For all of the foregoing reasons, the Board of Directors hereby determines, based on the standards provided in Section 15088.5 of the CEQA Guidelines, that recirculation of the Draft EIS/EIR is not required.

B. MITIGATION MONITORING AND REPORTING PROGRAM

As required by PRC Section 21081.6, and Sections 15091(d) and 15097 of the CEQA Guidelines, the Conservancy, in adopting these findings, also adopts an MMRP. The MMRP is designed to ensure implementation of the adopted mitigation measures. This plan is contained in Attachment A (MMRP) which is approved in conjunction with certification of the Final EIS/EIR and adoption of these Findings of Fact.

C. IMPACTS AND MITIGATION MEASURES

The EIS/EIR identifies environmental effects (or impacts) that may be caused in whole or in part by implementation of the HCP/NCCP. Some of these significant effects can be fully avoided or substantially lessened through the adoption of the mitigation measures identified in this EIS/EIR.

As discussed in further detail below, one environmental effect cannot be fully avoided or substantially lessened through the adoption of feasible mitigation measures and thus may be significant and unavoidable. For reasons set forth in Section X (Statement of Overriding Considerations), however, the Board of Directors has determined that overriding economic, social, and other considerations outweigh the significant, unavoidable effects of the project.

The findings of the Board of Directors with respect to the project's significant effects and mitigation measures are set forth in the Final EIS/EIR and summarized below. This discussion does not attempt to describe the full analysis of each environmental impact contained in the EIS/EIR. Rather, the following information is provided: the impact statement, a summary of the analytical conclusions, summary of mitigation measures deemed potentially feasible by the Conservancy, and the findings of the Board. A full documentation of the environmental analysis and conclusions can be found in the EIS/EIR and associated record (described herein) both of which are incorporated by reference. The Board of Directors hereby ratifies, adopts and incorporates the analysis and explanation in the record into these findings, and ratifies, adopts and incorporates in these findings the determinations and conclusions of the EIS/EIR relating to environmental impacts and potential mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings. The Board of Directors hereby adopts all of the mitigation measures identified in the EIS/EIR, which are set forth in the MMRP, with a clarification to a single measure (relating to the Solano County portion of the reserve system) set forth in detail below.

In these findings, the Conservancy discusses each potential environmental impact analyzed in the EIS/EIR. Within each impact discussion, the Conservancy identifies whether an impact was determined to be less-than-significant. Where an impact is less-than-significant, the discussion of the impact in these findings is brief because PRC Section 21081 and CEQA Guidelines Section 15091 do not require findings of fact for impacts that are less-than-significant.

Where an impact is determined to be significant before mitigation, these findings identify those geographies under the heading "Significant Impact." Under the heading "Mitigation," the findings then describe the potential mitigation measure(s) adopted by the Conservancy to mitigate each potentially significant impact identified in the EIS/EIR. Finally, for each impact that is significant before mitigation, the Conservancy sets forth its conclusions under the heading "Findings" as to whether the identified mitigation measures will reduce the impact to a less-than-significant level. Where an impact will remain significant and unavoidable (as is the case for one impact described below, relating to agricultural land conversion), the Conservancy

identifies the specific reasons for why the mitigation measures are unable to reduce the impact to a less-than-significant level.

Based on the discussion of impacts in the Draft EIS/EIR, as well as relevant responses to comments in the Final EIS/EIR and other evidence in the record, the Conservancy Board of Directors hereby finds the environmental impacts of implementation of the HCP/NCCP, Alternative B – Proposed Action (Permit Issuance/Plan Implementation) to be as follows:

1. Biological Resources

Effect Bio-1: Effects on Palmate-Bracted Bird's Beak.

A detailed description of the species and known occurrences, along with identification of modeled suitable habitat can be found in EIS/EIR Appendix D. As reported in EIS/EIR Table 4-2, palmate-bracted bird's beak modeled habitat within the Plan Area totals 312 acres. The Plan allows for maximum permanent take of 4 acres of habitat for the species and no temporary take.

Activities under the conservation strategy that require ground or vegetation disturbance could result in adverse effects on this species. Projects and activities under the Proposed Action Alternative, including conservation strategy activities that have the potential to result in palmate-bracted bird's-beak habitat loss and/or mortality will be required to implement general project and construction AMMs, to reduce these effects to the greatest extent practicable. In addition to these general project and construction AMMs, covered activities will be required to implement AMMs specific to the avoidance and minimization of take of palmate-bracted bird's-beak. These species-specific AMMs are detailed in EIS/EIR Appendix C and include identification of suitable habitat, surveys, and avoidance of activity within 250 feet of occupied habitat unless a shorter distance is determined to avoid effects and approved by the Conservancy, USFWS, and CDFW.

The conservation strategy includes a monitoring and adaptive management component, incorporation of pre-permit reserve lands, and a specific biological objective to manage and enhance habitat for the conservation of palmate-bracted bird's-beak. In addition to this species-specific objective, the conservation strategy also has three objectives related to the protection and management of the alkali prairie natural community as a whole. The conservation strategy also prioritizes the incorporation of lands into the reserve system that are adjacent to existing conservation lands that will further limit the effects on the species from habitat fragmentation [See EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*].

As a result of the conservation strategy, 174 acres of palmate-bracted bird's-beak habitat will be protected, monitored and adaptively managed, including 141 acres of pre-permit reserve lands and 33 newly protected acres.

The conservation strategy is expected to result in additional benefits to the species through the inclusion of habitat in a reserve system that is incorporated and connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and species specific AMMs that will further reduce adverse effects on palmate-bracted bird's-beak.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** under CEQA as implementation of the conservation strategy results in the minimization of effects on this species and compensation for effects that cannot be fully avoided.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-2: Effects on Valley Elderberry Longhorn Beetle.

A detailed description of the species and known occurrences, along with identification of modeled suitable habitat can be found in EIS/EIR Appendix D. As reported in EIS/EIR Table 4-2, Valley elderberry longhorn beetle modeled habitat within the Plan Area includes 9,447 acres of riparian habitat and 3,932 acres of non-riparian habitat for a total of 13,379 acres of modeled habitat for the species.

The Plan allows for maximum permanent take of 523 acres of riparian habitat and 61 acres of non-riparian habitat for a total maximum take of 584 acres. The Plan allows for maximum temporary take of 1 acre of non-riparian habitat.

Activities under the conservation strategy that require ground or vegetation disturbance could result in adverse effects on this species. In addition to management activities under the conservation strategy, the Neighboring Landowner Protection Program provides take coverage for valley elderberry longhorn beetle on private lands adjacent to reserve system lands as discussed in EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*.

Projects and activities under the Proposed Action Alternative, including conservation strategy activities that have the potential to result in valley elderberry longhorn beetle habitat loss and/or mortality will be required to implement general project and construction AMMs (EIS/EIR Table 2-7) to reduce these effects to the greatest extent practicable. In addition to these

general project and construction AMMs, covered activities will be required to implement AMMs specific to the avoidance and minimization of take on valley elderberry longhorn beetle. These species-specific AMMs are shown in EIS/EIR Table 2-7 and detailed in EIS/EIR Appendix C and include surveys and designing projects to avoid mapped elderberry shrubs as well as protective measures consistent with USFWS guidelines (EIS/EIR, USFWS 1999).

The conservation strategy includes a monitoring and adaptive management component as well as the incorporation of pre-permit reserve lands, and two specific biological objectives for the conservation of valley elderberry longhorn beetle. The first objective is to prioritize protection of populations of valley elderberry longhorn beetle along Lower Cache Creek, Lower Putah Creek and the Sacramento River, and adjacent lands within the 1,600 acres of valley foothill riparian habitat in the reserve system to provide for valley elderberry longhorn beetle population expansion. The second objective is to establish elderberry shrubs and associated riparian plant species within valley foothill riparian habitats on reserve system lands and prioritize lands adjacent to existing populations to provide for population expansion. In addition to species specific objectives, the conservation strategy prioritizes the incorporation of lands into the reserve system that are adjacent to baseline public and easement lands; these lands will further limit the effects on the species from habitat fragmentation [See EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*].

As the result of the conservation strategy, 2,306 acres of valley elderberry longhorn beetle habitat will be protected, monitored and adaptively managed. This figure includes pre-permit reserve lands protected for the species. In addition, riparian habitat for valley elderberry longhorn beetle restored is estimated to exceed the acres lost by 53 acres (EIS/EIR, Yolo Habitat Conservancy 2018). Although there is a net loss of the less valuable non-riparian habitat of 61 acres, the incorporation of specific elderberry planting ratios (EIS/EIR, Yolo Habitat Conservancy 2018), as well as monitoring and adaptive management into the conservation strategy will ensure successful restoration of riparian habitat.

The conservation strategy is also expected to result in additional benefits to the species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and species specific AMMs that will further reduce adverse effects on valley elderberry longhorn beetle. Take granted through the Neighboring Landowner Protection Program could slightly reduce the beneficial effects of the conservation strategy, but will not result in significant adverse impact.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** under CEQA as implementation of the conservation strategy results in the minimization of effects on this species and compensation for effects that cannot be fully avoided.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-3: Effects on California Tiger Salamander

A detailed description of the species and known occurrences, along with identification of modeled suitable habitat can be found in EIS/EIR Appendix D. As reported in EIS/EIR Table 4-2, California tiger salamander modeled habitat within the Plan Area includes 1,004 acres of aquatic breeding habitat and 86,505 acres of upland habitat for a total of 87,509 acres of modeled habitat for the species.

The Plan allows for maximum permanent take of 12 acres of aquatic breeding habitat and 398 acres of upland habitat for a maximum total take of 410 acres. The Plan allows for maximum temporary take of 1 acre of aquatic breeding habitat and 1 acre of upland habitat.

Activities under the conservation strategy that require ground or vegetation disturbance could result in adverse effects on this species. In addition to management activities under the conservation strategy, the Neighboring Landowner Protection Program provides take coverage for California tiger salamander on private lands adjacent to reserve system lands as discussed in EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*.

Projects and activities under the Proposed Action Alternative, including conservation strategy activities that have the potential to result in California tiger salamander habitat loss and/or mortality will be required to implement general project and construction AMMs to reduce these effects to the greatest extent practicable. In addition to these general project and construction AMMs, covered activities will be required to implement AMMs specific to the avoidance and minimization of take on California tiger salamander. These species-specific AMMs are shown in EIS/EIR Table 2-7 and detailed in EIS/EIR Appendix C, and include surveys for suitable habitat and occurrences in accordance with CDFW protocols (EIS/EIR, California Department of Fish and Game 2003). Examples of species specific AMMs include: a 500-foot setback from suitable habitat for projects other than habitat management and enhancement; a requirement that projects that affect occupied or assumed to be occupied habitat will not be implemented until four new occurrences are documented and protected in the Plan Area; and a requirement that habitat will not be removed if the wildlife agencies determine that the covered activity will remove a significant occurrence of this species that could be necessary for maintaining the genetic diversity or regional distribution of the species.

The conservation strategy includes a monitoring and adaptive management component as well as the incorporation of pre-permit reserve lands, and specific biological objectives for the conservation of California tiger salamander. The first objective is to prioritize protection of at least 2,000 acres of modeled upland habitat (within 1.3 miles of aquatic habitat) with the Dunnigan Hills Planning Unit and to prioritize protection of designated critical habitat. The second objective is to protect at least 36 acres of aquatic habitat and to restore or create an additional 36 acres that includes at least five breeding pools that support all life stages through all water years. In addition to species-specific objectives, the conservation strategy includes objectives related to the natural grassland community that will protect 3,000 acres of grassland within the Dunnigan Hills Planning Unit and enhance habitat quality through the increase in abundance of rodent burrows and reducing invasive plant occurrences. The conservation strategy also prioritizes the incorporation of lands into the reserve system that are adjacent to baseline public and easement lands will further limit the effects on the species from habitat fragmentation [See EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*].

As the result of the conservation strategy, a total of 2,439 acres of California tiger salamander habitat will be protected, monitored and adaptively managed. This figure includes pre-permit reserve lands protected for the species, as well as lands restored to habitat for the species. Aquatic habitat for California tiger salamander restored is estimated to exceed that lost by 24 acres.

The conservation strategy is expected to result in a net gain in restored aquatic habitat. The conservation strategy is also expected to result in additional benefits to the species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and species-specific AMMs that will further reduce adverse effects on California tiger salamander. Take granted through the Neighboring Landowner Protection Program could slightly reduce the beneficial effects of the conservation strategy, but will not result in significant adverse impact.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** under CEQA as implementation of the conservation strategy results in the minimization of effects on this species and compensation for effects that cannot be fully avoided.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-4: Effects on Western Pond Turtle

The description of modeled western pond turtle habitat and occurrences in the Plan Area can be found in EIS/EIR Appendix D, along with a detailed species account. As reported in EIS/EIR Table 4-2, western pond turtle modeled habitat includes 53,907 acres of aquatic habitat and 137,158 acres of nesting and overwintering habitat (upland habitat) for a total of 191,092 acres of modeled habitat for this species. As reported in EIS/EIR Table 4-1, there are 1,152 perennial ponds providing habitat for this species within the Plan Area.

The Plan allows for maximum permanent take of 369 acres of aquatic habitat and 3,133 acres of nesting and overwintering habitat for a maximum total take of 3,502 acres. The Plan allows for maximum temporary take of 31 acres of aquatic habitat and 112 acres of nesting and overwintering habitat for a maximum temporary take of 143 acres, and up to 24 ponds.

Activities under the conservation strategy that require ground or vegetation disturbance could result in adverse effects on this species. In addition to management activities under the conservation strategy, the Neighboring Landowner Protection Program provides take coverage for western pond turtle on private lands adjacent to reserve system lands as discussed in EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*.

Projects and activities under the Proposed Action Alternative, including conservation strategy activities that have the potential to result in western pond turtle habitat loss and/or mortality will be required to implement general project and construction AMMs, to reduce these effects to the greatest extent practicable. In addition to these general project and construction AMMs, covered activities will be required to implement AMMs specific to the avoidance and minimization of take on western pond turtle. These species specific AMMs are detailed in EIS/EIR Appendix C and are the same as those for the valley foothill riparian and lacustrine and riverine natural communities that require 100-foot setbacks for construction.

The conservation strategy includes a monitoring and adaptive management component as well as the incorporation of pre-permit reserve lands, and a specific biological objective for the conservation of western pond turtle to include habitat features within restored and enhanced lacustrine and riverine habitats that benefit western pond turtle. In addition to the species-specific objective, the conservation strategy includes objectives to protect 2,800 acres of rice fields and 500 acres of emergent wetland as well as 600 acres of lacustrine and riverine habitat suitable for western pond turtle. Under the Proposed Action, western pond turtle will also benefit from objectives for giant garter snake that will provide suitable habitat in the form of at least 3,475 acres of upland giant garter snake habitat. The conservation strategy also prioritizes

the incorporation of lands into the reserve system that are adjacent to baseline public and easement lands will further limit the effects on the species from habitat fragmentation [See EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*].

As the result of the conservation strategy, a total of 9,320 acres of western pond turtle habitat will be protected, monitored and adaptively managed. This figure includes pre-permit reserve lands protected for the species. It also includes restoration of 369 acres of aquatic habitat for western pond turtle under the conservation strategy which is expected to result in a no net loss of aquatic habitat.

The conservation strategy is expected to result in a net gain in restored aquatic habitat. The conservation strategy is also expected to result in additional benefits to the species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and species-specific AMMs that will further reduce adverse effects on western pond turtle. Take granted through the Neighboring Landowner Protection Program could slightly reduce the beneficial effects of the conservation strategy, but will not result in significant adverse impact.

Significance Before Mitigation

As compared to existing conditions, this impact is less than **significant** under CEQA as implementation of the conservation strategy results in the minimization of effects on this species and compensation for effects that cannot be fully avoided.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-5: Effects on Giant Garter Snake

The description of modeled giant garter snake habitat and list of occurrences in the Plan Area can be found in EIS/EIR Appendix D, along with a detailed species account. As reported in EIS/EIR Table 4-2, giant garter snake modeled habitat includes 31,168 acres of rice habitat, 6,596 acres of aquatic habitat, 25,897 acres of freshwater emergent habitat, 6,612 acres of active season upland movement habitat, and 6,783 acres of overwintering habitat for a total of 77,056 acres of modeled habitat for this species.

The Plan allows for maximum permanent take of 87 acres of rice habitat, 109 acres of aquatic habitat, 76 acres of freshwater emergent habitat, 441 acres of active season upland movement habitat, and 1,235 acres of overwintering habitat for a maximum total of 1,966 acres of permanent impact. The Plan allows for maximum temporary take of 1 acre of aquatic habitat, 3 acres of active season upland movement habitat, and 5 acres of overwintering habitat for a total of 9 acres of temporary impact

Activities under the conservation strategy that require ground or vegetation disturbance could result in adverse effects on this species. In addition to management activities under the conservation strategy, the Neighboring Landowner Protection Program provides take coverage for giant garter snake on private lands adjacent to reserve system lands as discussed in EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*.

Projects and activities under the Proposed Action Alternative, including conservation strategy activities that have the potential to result in giant garter snake habitat loss and/or mortality, will be required to implement general project and construction AMMs to reduce these effects to the greatest extent practicable. In addition to these general project and construction AMMs, covered activities will be required to implement an AMM specific to the avoidance and minimization of take of giant garter snake. This species specific AMM is shown in EIS/EIR Table 2-7 and detailed in EIS/EIR Appendix C. This AMM requires avoidance of development in or within 200 feet of aquatic habitat, and if habitat cannot be avoided a survey shall be performed using the USFWS protocol (EIS/EIR, USFWS 1997), as well as implementation of additional measures to encourage giant garter snakes to leave the site on their own accord, and measures to avoid injury or mortality if giant garter snakes are encountered during construction.

The conservation strategy includes a monitoring and adaptive management component as well as the incorporation of 2,910 acres of giant garter snake habitat on pre-permit reserve lands, and specific biological objectives for the conservation of giant garter snake including; protecting 2,800 acres of rice fields, 1,160 acres of upland habitat, 500 acres of emergent wetland, and 420 acres of lacustrine and riverine suitable habitat for giant garter snake. The conservation strategy also prioritizes the incorporation of lands into the reserve system that are adjacent to existing conservation lands which will further limit the effects on the species from habitat fragmentation [See EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*].

As the result of the conservation strategy, a total of 10,290 acres of giant garter snake will be protected, monitored and adaptively managed. This figure includes pre-permit reserve lands conserved for the species. In addition, the connectivity of habitat, as well as monitoring and adaptive management under the conservation strategy will provide additional value.

The conservation strategy is expected to result in a net gain in restored aquatic habitat. The conservation strategy is also expected to result in additional benefits to the species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public

and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and species-specific AMMs that will further reduce adverse effects on giant garter snake. Take granted through the Neighboring Landowner Protection Program could slightly reduce the beneficial effects of the conservation strategy, but will not result in significant adverse impact.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** under CEQA as implementation of the conservation strategy results in the minimization of effects on this species and compensation for effects that cannot be fully avoided.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-6: Effects on Swainson's Hawk

A complete description of modeled Swainson's hawk habitat, a detailed species account, and a list of occurrences in the Plan Area can be found in EIS/EIR Appendix D. As reported in EIS/EIR Table 4-2, Swainson's hawk modeled habitat includes 15,673 acres of nesting habitat, 79,336 acres of natural foraging habitat, and 214,078 acres of cultivated lands foraging habitat in the Plan Area for a total of 309,087 acres for modeled habitat for this species. There are also 534 nesting sites (nest trees) for this species within habitat in the Plan Area.

The Plan allows maximum permanent take of 651 acres of nesting habitat, 1,407 acres of natural foraging habitat, and 9,399 acres of cultivated lands foraging habitat for a maximum total of 11,457 acres of permanent take. The Plan allows for maximum temporary take of 22 acres of natural foraging habitat and 202 acres of cultivated lands foraging habitat for a maximum total of 224 acres of temporary take. The Plan allows for the removal of up to 20¹ nest trees.

Activities under the conservation strategy that require ground or vegetation disturbance could result in adverse effects on this species. Projects and activities under the Proposed Action

¹ The effects analysis based on the covered activities footprint and operations and maintenance assumptions predicts 37 nest trees may be removed. However, the Swainson's hawk nest tree take limit is set at 20 to account for the implementation of avoidance and minimization measures. The number of nest trees per planning unit will not exceed those provided in Table 5-5 of the HCP/NCCP, and the total will not exceed 20 nest trees total.

Alternative, including conservation strategy activities that have the potential to result in Swainson's hawk habitat loss and/or mortality, will be required to implement general project and construction AMMs, to reduce these effects to the greatest extent practicable. In addition to these general project and construction AMMs, covered activities will be required to implement an AMM specific to the avoidance and minimization of take on Swainson's hawk and white-tailed kite. This species specific AMM is detailed in EIS/EIR Appendix C and requires avoidance of nest trees, or implementation of surveys for active nests (EIS/EIR, Swainson's Hawk Technical Advisory Committee, 2000) and buffers around active nests. This AMM does allow for the removal of up to 20 nest trees (documented nesting within last 5 years) over the permit term, but not while occupied during the nesting season.

The conservation strategy includes a monitoring and adaptive management component as well as the incorporation of 4,795 acres of Swainson's hawk habitat on pre-permit reserve lands, and biological objectives for the conservation of Swainson's hawk including; maintaining crop types that support Swainson's hawk habitat within the 14,362 acres of protected agricultural lands, provide 4,430 acres of natural foraging habitat, protect and maintain as least 20 nest trees, and maintain a density of one suitable nest tree per 10 acres of agricultural lands in the reserve system. The conservation strategy also prioritizes the incorporation of lands into the reserve system that are adjacent to existing conservation lands, which will further limit the effects on the species from habitat fragmentation [See EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*]. As the result of the conservation strategy and pre-permit reserve land conservation, at total of 26,031 acres of Swainson's hawk habitat will be protected, monitored and adaptively managed.

The conservation strategy is also expected to result in additional benefits to the species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and species-specific AMMs that will further reduce adverse effects on Swainson's hawk.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** under CEQA as implementation of the conservation strategy results in the minimization of effects on this species and compensation for effects that cannot be fully avoided.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-7: Effects on White-Tailed Kite

A complete description of modeled white-tailed kite habitat, a detailed species account, and a list of occurrences in the Plan Area can be found in EIS/EIR Appendix D. As reported in EIS/EIR Table 4-2, white-tailed kite modeled habitat includes 31,732 acres of nesting habitat, 101,758 acres of primary foraging habitat, and 134,740 acres of secondary foraging habitat in the Plan Area for a total of 268,230 acres of modeled habitat for this species.

The Plan allows maximum permanent take of 661 acres of nesting habitat, 2,609 acres of primary foraging habitat, and 7,969 acres of cultivated lands foraging habitat for a maximum total of 11,239 acres of permanent take. The Plan allows for maximum temporary take of 29 acres of primary foraging habitat and 205 acres of cultivated lands foraging habitat for a maximum total of 234 acres of temporary take. The Plan allows for removal of up to one nest tree.

Activities under the conservation strategy that require ground or vegetation disturbance could result in adverse effects on this species. Projects and activities under the Proposed Action Alternative, including conservation strategy activities that have the potential to result in white-tailed kite habitat loss and/or mortality will be required to implement general project and construction AMMs and the same species specific AMMs as required for Swainson's hawk.

The conservation strategy includes a monitoring and adaptive management component as well as the incorporation of 3,545 acres of white-tailed kite habitat on pre-permit reserve lands. There are no specific biological objectives for the conservation of white-tailed kite, however the natural community objectives related to its habitat provide conservation for the species. The conservation strategy also prioritizes the incorporation of lands into the reserve system that are adjacent to existing conservation lands will further limit the effects on the species from habitat fragmentation [See EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*]. As the result of the conservation strategy and pre-permit reserve land conservation, a total of 23,902 acres of white-tailed kite habitat will be protected, monitored and adaptively managed.

The conservation strategy is also expected to result in additional benefits to the species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and species-specific AMMs that will further reduce adverse effects on white-tailed kite.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** under CEQA as implementation of the conservation strategy results in the minimization of effects on this species and compensation for effects that cannot be fully avoided.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-8: Effects on Western Burrowing Owl

A complete description of modeled western burrowing owl habitat, a detailed species account, and a list of occurrences in the Plan Area can be found in EIS/EIR Appendix D. As reported in EIS/EIR Table 4-2, western burrowing owl modeled habitat includes 37,694 acres of primary habitat and 66,160 acres of other habitat (e.g. margins of agricultural fields) in the Plan Area for a total of 103,854 acres of modeled habitat for the species.

The Plan allows maximum permanent take of 861 acres of primary habitat, and 2,311 acres of other habitat for a maximum total of 3,172² acres of permanent take. The Plan allows for maximum temporary take of 1 acre of primary habitat and 218 acres of other habitat for a maximum total of 219 acres of temporary take.

Projects and activities under the Proposed Action Alternative, including conservation strategy activities that have the potential to result in western burrowing owl habitat loss and/or mortality will be required to implement general project and construction AMMs as well as species-specific AMMs. These species-specific AMMs include survey and avoidance of burrows and if needed passive relocation (or active relocation with Wildlife Agency approval). This species specific AMM is detailed in EIS/EIR Appendix C.

The conservation strategy includes a monitoring and adaptive management component as well as the incorporation of 1,100 acres of western burrowing owl habitat on pre-permit reserve lands. In addition, there are several biological objectives for the conservation of western burrowing owl that include 3,000 acres of western burrowing owl habitat within the protected grassland natural community and 2,500 acres within the protected non-rice agricultural lands. Biological objectives also include maintaining a minimum of two active nest sites for each nesting pair displaced by covered activities, prioritization of protecting occupied habitat in the Yolo Bypass and vicinity, and implementation of management and enhancement practices within the reserve system. The conservation strategy also prioritizes the incorporation of lands

² Within the affected western burrowing owl habitat, covered activities will displace no more than four occupied sites. Within the protected burrowing owl habitat, the Conservancy will protect at least two active burrowing owl nest sites, and will additionally protect two active nest sites for each nesting pair displaced, and one active nesting site or single owl site for each non-breeding single owl displaced by covered activities. See HCP/NCCP Section 6.3.4.9, *Western Burrowing Owl*, for more detail.

into the reserve system that are adjacent to existing conservation lands, which will further limit the effects on the species from habitat fragmentation [See EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*]. As the result of the conservation strategy, a total of 6,600 acres of western burrowing owl habitat will be protected, monitored and adaptively managed. This figure includes pre-permit reserve lands protected for the species.

The conservation strategy is also expected to result in additional benefits to the species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and species-specific AMMs that will further reduce adverse effects on western burrowing owl.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** under CEQA as implementation of the conservation strategy results in the minimization of effects on this species and compensation for effects that cannot be fully avoided.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-9: Effects on Least Bell's Vireo

A complete description of modeled least Bell's vireo habitat, a detailed species account, and a list of occurrences in the Plan Area can be found in EIS/EIR Appendix D. As reported in EIS/EIR Table 4-2, least Bell's vireo modeled habitat includes 4,719 acres of nesting/foraging habitat in the Plan Area. The Plan allows for maximum permanent take of 39 acres of nesting/foraging habitat for this species and no temporary take.

Activities under the conservation strategy that require ground or vegetation disturbance could result in adverse effects on this species. Projects and activities under the Proposed Action Alternative, including conservation strategy activities that have the potential to result in least Bell's vireo habitat loss and/or mortality will be required to implement general project and construction AMMs as well as a species specific AMM. This species specific AMM includes USFWS protocol surveys and buffers from suitable nesting habitat and nests, or a limited operating period if activities occur within the buffer. This species specific AMM is detailed in EIS/EIR Appendix C.

The conservation strategy includes a monitoring and adaptive management component as well as the incorporation of 110 acres of least Bell's vireo habitat on pre-permit reserve lands. There is also a biological objective for the conservation of least Bell's vireo that includes at least 600 acres of least Bell's vireo habitat within the protected valley foothill riparian natural community. The conservation strategy also prioritizes the incorporation of lands into the reserve system that are adjacent to existing conservation lands will further limit the effects on the species from habitat fragmentation [See EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*]. As the result of the conservation strategy, a total of 1,318 acres of least bell's vireo habitat will be protected, monitored and adaptively managed. This figure includes pre-permit reserve lands protected for the species.

The conservation strategy is also expected to result in additional habitat conserved and other benefits to the species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and species specific AMMs that will further reduce adverse effects on least Bell's vireo.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** under CEQA as implementation of the conservation strategy results in the minimization of effects on this species and compensation for effects that cannot be fully avoided.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-10: Effects on Bank Swallow

A complete description of modeled bank swallow habitat, a detailed species account, and a list of occurrences in the Plan Area can be found in EIS/EIR Appendix D. As reported in EIS/EIR Table 4-2, bank swallow modeled habitat includes 962 acres of nesting habitat in the Plan Area. The Plan allows for maximum permanent take of 37 acres of nesting habitat³ for this species and no temporary take.

³ Actual nest sites will be avoided. Up to 37 acres of barren floodplain may be permanently affected by bank stabilization activities along Cache Creek undertaken through the CCRMP as needed to protect property or

Activities under the conservation strategy, such as implementation of conservation easements will not cause adverse effects on bank swallow, nor will covered management activities under the conservation strategy that require construction or other similar activities as none of these activities are anticipated to occur with bank swallow habitat.

Mining and bank stabilization activities under the Proposed Action Alternative that have the potential to result in bank swallow habitat loss and/or mortality will be required to implement general project and construction AMMs and comply with the Cache Creek Resources Management Plan. In addition, a species-specific AMM will also be required that includes USFWS protocol surveys and buffers of suitable nesting habitat and colonies, or a limited operating period if activities occur within the buffer. This species-specific AMM is detailed in EIS/EIR Appendix C.

The conservation strategy includes a monitoring and adaptive management component as well as the implementation of biological objectives for the conservation of bank swallow that includes at least 50 acres of nesting habitat within occupied habitat within the Lower Cache Creek Planning Unit or along the Sacramento River and managing of this habitat to enhance habitat value. This figure includes pre-permit reserve lands protected for the species. The conservation strategy also prioritizes the incorporation of lands into the reserve system that are adjacent to existing conservation lands will further limit the effects on the species from habitat fragmentation [See EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*].

The conservation strategy is also expected to result in additional benefits to the species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and species specific AMMs that will further reduce adverse effects on bank swallow.

Significance Before Mitigation

As compared to existing conditions, this impact is less than significant under CEQA as implementation of the conservation strategy results in the minimization of effects on this species and compensation for effects that cannot be fully avoided.

Mitigation

No mitigation is required.

valuable resources. Additional barren floodplain is expected to be created during the 50-year permit term as a result of the natural, dynamic fluvial processes along Cache Creek.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-11: Effects on Tricolored Blackbird

A complete description of modeled bank swallow habitat, a detailed species account, and a list of occurrences in the Plan Area can be found in EIS/EIR Appendix D. As reported in EIS/EIR Table 4-2, tricolored blackbird modeled habitat includes 4,680 acres of nesting habitat and 261,133 acres of foraging habitat in the Plan Area for an estimated of 265,813 acres of modeled habitat for this species. The Plan allows for maximum permanent take of 86 acres of nesting habitat and 8,942 acres of foraging habitat for a total of 9,028 acres, and a maximum temporary take of 230 acres of foraging habitat.

Activities under the conservation strategy that require ground or vegetation disturbance could result in adverse effects on this species. Projects and activities under the Proposed Action Alternative, including conservation strategy activities that have the potential to result in tricolored blackbird habitat loss and/or mortality, will be required to implement general project and construction AMMs as well as a species-specific AMM. This species specific AMM includes surveys for habitat and nesting colonies, buffers, and limited operating periods. This species-specific AMM is detailed in EIS/EIR Appendix D.

The conservation strategy includes a monitoring and adaptive management component as well as the incorporation of 4,150 acres of tricolored blackbird habitat on pre-permit reserve lands. There are also biological objectives for the conservation of tricolored blackbird that include at least 200 acres of modeled tricolor blackbird habitat within the protected emergent wetland natural community, and maintenance of at least two tricolored blackbird colonies within the reserve system and prioritization protection of additional colonies as they are found. The conservation strategy also prioritizes the incorporation of lands into the reserve system that are adjacent to existing conservation lands, which will further limit the effects on the species from habitat fragmentation [See EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*]. As the result of the conservation strategy, a total of 21,046 acres of tricolored blackbird habitat will be protected, monitored and adaptively managed. This figure includes pre-permit reserve lands protected for the species.

The conservation strategy is also expected to result in additional habitat conserved and other benefits to the species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and species specific AMMs that will further reduce adverse effects on tricolored blackbird.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** under CEQA as implementation of the conservation strategy results in the minimization of effects on this species and compensation for effects that cannot be fully avoided.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-12: Effects on Western Yellow-Billed Cuckoo

A complete description of modeled western yellow-billed cuckoo habitat, a detailed species account, and a list of occurrences in the Plan Area can be found in EIS/EIR Appendix D. As reported in EIS/EIR Table 4-2, western yellow-billed cuckoo modeled habitat includes 3,868 acres of nesting/foraging habitat in the Plan Area for this species. The Plan allows for maximum permanent take of 59 acres of nesting/foraging habitat and no temporary take.

Activities under the conservation strategy that require ground or vegetation disturbance could result in adverse effects on this species. Projects and activities under the Proposed Action Alternative, including conservation strategy activities that have the potential to result in western yellow-billed cuckoo habitat loss and/or mortality, will be required to implement general project and construction AMMs as well as a species specific AMM. This species specific AMM includes surveys for habitat and nests, buffers, and limited operating periods. This species specific AMM is detailed in EIS/EIR Appendix C.

The conservation strategy includes a monitoring and adaptive management component as well as the incorporation of 135 acres of western yellow-billed cuckoo habitat on pre-permit reserve lands. There is also a biological objective for the conservation of western yellow-billed cuckoo to conserve at least 500 acres of modeled western yellow-billed cuckoo habitat within the protected valley foothill riparian natural community, and restore at least 60 acres of habitat for the species within the reserve system. The conservation strategy also prioritizes the incorporation of lands into the reserve system that are adjacent to existing conservation lands will further limit the effects on the species from habitat fragmentation [See EIS/EIR Section 2.3.2, *Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation)*]. As the result of the conservation strategy, a total of 695 acres of western yellow-billed cuckoo habitat will be protected, monitored and adaptively managed. This figure includes pre-permit reserve lands protected for the species.

The conservation strategy is also expected to result in additional habitat conserved and other benefits to the species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and species specific AMMs that will further reduce adverse effects on western yellow-billed cuckoo.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** under CEQA as implementation of the conservation strategy results in the minimization of effects on this species and compensation for effects that cannot be fully avoided.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-13: Special-Status Plants Not Covered by Yolo HCP/NCCP

There are 27 special-status plant species that are either known to occur or have at least a moderate chance to occur in the Plan Area, and potentially be subject to impacts from covered activities. Complete descriptions of the legal status of these species, Plan Area habitats and known occurrences in the Plan Area can be found in EIS/EIR Appendix D.

For the purpose of this analysis, these species are further categorized by the natural land cover types in which they are predominately found. Those species associated within the serpentine community are; Jepson's milk-vetch, pink creamsacs, Snow Mountain buckwheat, Hall's harmonia, drymaria-like western flax, Colusa layia, and green jewel-flower. Species associated with alkali prairie are; alkali milk-vetch, brittlescale, San Joaquin spearscale, and Heckard's pepper-grass. Species associated with grassland, blue oak woodland, blue oak and foothill pine, and valley oak woodland are; bent-flowered fiddleneck, round-leaved filaree, deep-scarred cryptantha, adobe-lily, and Jepson's leptosiphon. Plant species associated with fresh emergent wetland are Ferris' milk-vetch, woolly rose-mallow, Mason's lilaeopsis, delta tule pea, Baker's navarretia, Colusa grass, bearded popcorn flower, Suisun Marsh aster, saline clover, and Solano grass. Plant species associated with vernal pool complex are dwarf downingia and vernal pool smallscale. Northern California Black walnut is associated with the valley foothill riparian natural community type.

Projects and activities under the Proposed Action Alternative, including conservation strategy activities, will be required to implement general project and construction AMMs. These AMMs

will reduce adverse effects on special-status plant species not covered by the Yolo HCP/NCCP from covered activities by requiring actions such as designing projects to minimize indirect effects to non-agricultural natural communities, confining and delineating work areas, and locating construction and staging areas to avoid and minimize temporary effects on sensitive habitats. Other AMMs require buffers on sensitive natural communities and to avoid and minimize effects on wetlands and waters. When covered and non-covered species habitat overlap, these AMMs could prevent adverse effects on special-status plant species not covered by the Yolo HCP/NCCP that are associated with these sensitive natural communities and aquatic habitats. Each project will also be required to comply with CEQA which will include measures to identify and avoid special-status plant species.

The conservation strategy under the Proposed Action Alternative does not include commitments or objectives to protect special-status plant species not covered by the Yolo HCP/NCCP. However, there are specific goals and objectives for natural community types that provide potentially suitable habitat for these species including: Alkali prairie and vernal complex, valley foothill riparian, and freshwater emergent wetlands. For those species associated with alkali prairie (i.e. alkali milk-vetch, brittlescale, San Joaquin spearscale, Heckard's pepper-grass), the species specific AMM, goal and objective for palmate-bracted bird's-beak will also provide additional habitat benefits.

Overall, the Proposed Action Alternative will result in over 24,000 acres of various natural community types being protected as new conservation lands. Where suitable habitats for these plant species overlap with Covered Species habitat located within the reserve system, these species could also benefit from the reserve connectivity that limits effects of habitat fragmentation, as well as the same monitoring and adaptive management strategies as the rest of the reserve system.

The conservation strategy is also expected to result in additional benefits to these species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general AMMs that will further reduce adverse effects on special-status plant species not covered by the Yolo HCP/NCCP.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Implementation of the conservation strategy indirectly results in the minimization of effects on these species, compliance of future projects with CEQA further reduces effects on these species, and there is compensation for effects that cannot be fully avoided through protection of over 24,000 acres of various natural communities in newly protected conservation lands.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-14: Special-Status Vernal Pool Vertebrates

Three special-status vernal pool invertebrates are known to occur within the Plan Area: conservancy fairy shrimp, vernal pool fairy shrimp, and vernal pool tadpole shrimp. Critical habitat has been designated within the Plan Area for these species. These three species are associated almost exclusively with vernal pool habitats with associated seasonal wetlands. There is approximately 299 acres of vernal pool complex habitat within the Plan Area. A more complete description of Plan Area habitats and known occurrences of these species in the Plan Area can be found in EIS/EIR Appendix D.

There are no projects and activities under the Proposed Action Alternative, including conservation strategy activities, that have the potential to result in vernal pool invertebrate habitat loss and/or mortality. Adverse effects on vernal pools and vernal pool invertebrates is not a covered activity. AMM9 requires a 250-foot buffer around vernal pool habitat. Land cover mapping required as part of the process for obtaining HCP/NCCP coverage for a project (see Section 4.2.2 of the HCP/NCCP) will identify whether vernal pool habitats are in a project site. In addition, covered activities are required to implement general project and construction AMMs. AMMs that have water quality benefits (AMM1, 2, 3, 8, 9, and 10 as described in EIS/EIR Table 9-1) will further benefit vernal pool invertebrate species when habitats for these species are near the edge of the buffer required by AMM9. The conservation strategy under the Proposed Action Alternative does not include commitments or objectives to protect vernal pool complex habitat; however, 96 percent of this habitat type is currently located on baseline public and easement lands (EIS/EIR, Yolo Habitat Conservancy 2018).

Conservation activities under the Proposed Action Alternative and other covered activities will not receive take coverage for adverse effects to vernal pool invertebrates, including loss of vernal pool species habitat. Therefore, there are no potential adverse effects on vernal pool habitat, vernal pool invertebrate species, or critical habitat for vernal pool tadpole shrimp that will result from the conservation strategy or implementation of the covered activities under the Proposed Action Alternative. If an individual project or activity may affect federally listed vernal pool species or their designated critical habitats those projects will not qualify for coverage under the Plan and will be required to seek individual incidental take authorization (through ESA Section 7 or 10) from the USFWS. As part of authorization, a qualified biologist will conduct surveys for vernal pool species, following applicable USFWS protocols.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. There are no covered activities under the Proposed Action Alternative that will result in vernal pool invertebrate habitat loss and/or mortality.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-15: Special-Status Amphibians Not Covered by Yolo HCP/NCCP

Two CDFW species of special concern amphibians that are not covered species under the Yolo HCP/NCCP are known to occur within the Plan Area: western spadefoot and foothill yellow-legged frog. A description of the habitats and known occurrences of these species within the Plan Area can be found in EIS/EIR Appendix D.

Habitat for these species were not specifically modeled for the EIS/EIR analysis, but land cover types in the Plan Area that are likely to include suitable habitat for one or both of these species consist of: lacustrine and riverine, fresh emergent wetland, vernal pool complex, valley foothill riparian, chamise chaparral, mixed chaparral, blue oak woodland, valley oak woodland, and grassland.

Projects and activities under the Proposed Action Alternative, including conservation strategy activities, will be required to implement general project and construction AMMs, along with AMMs to establish buffers around sensitive natural communities, and to avoid and minimize effects on wetlands and waters. These AMMs will reduce adverse effects on western spadefoot and foothill yellow-legged frog from covered activities by requiring actions such as designing projects to minimize indirect effects to non-agricultural natural communities, confining and delineating work areas, and locating construction and staging areas to avoid and minimize temporary effects on sensitive habitats. Other AMMs require buffers on sensitive natural communities and to avoid and minimize effects on wetlands and waters. When covered species habitat overlaps with habitat for western spadefoot toad and foothill yellow-legged frog, these AMMs will prevent adverse effects on these two amphibian species. Each project will also be required to comply with CEQA which will include measures to identify and avoid special-status amphibian species. Adverse effects on foothill yellow-legged frog will also require authorization under CESA.

Specific to vernal pool habitats, there are no projects and activities under the Proposed Action Alternative, including conservation strategy activities, that have the potential to result in vernal pool habitat loss. Adverse effects on vernal pools is not a covered activity. AMM9 requires establishment of a 250-foot buffer around vernal pool habitat. Land cover mapping required as part of the process for obtaining HCP/NCCP coverage for a project (see HCP/NCCP Section 4.2.2) will identify whether vernal pool habitats are in a project site. In addition, covered activities will be required to implement general project and construction AMMs. AMMs that have water quality benefits (AMM1, 2, 3, 8, 9, and 10 as described in EIS/EIR Table 9-1) will further benefit special-status amphibian species not covered by the HCP/NCCP when habitats for these species are near the edge of the buffer required by AMM9.

The conservation strategy under the Proposed Action Alternative does not include commitments or objectives to protect western spadefoot or foothill yellow-legged frog. There are specific goals and objectives for natural community types that provide potentially suitable habitat for these species, however, including; lacustrine and riverine, fresh emergent wetland, grassland, and valley foothill riparian. Overall, the Proposed Action Alternative will result in over 24,000 acres of various natural community types being protected as new conservation lands. Where suitable habitats for western spadefoot toad and foothill yellow-legged frog are located within the reserve system, these species will benefit from reserve connectivity that limits the effects of habitat fragmentation, as well as the same monitoring and adaptive management strategies as the rest of the reserve system. Restoration activities under the conservation strategy may impact suitable upland grassland habitat (210 acres) for western spadefoot and foothill yellow-legged frog; however, some of these restoration activities will also result in the creation of suitable aquatic habitat in the form of 956 acres of wetlands and riparian natural communities (EIS/EIR, Yolo Habitat Conservancy 2018).

The conservation strategy is also expected to result in additional benefits to these species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and species specific AMMs that will further reduce adverse effects on western spadefoot and foothill yellow-legged frog.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Implementation of the conservation strategy indirectly results in the minimization of effects on these species, compliance of future projects with CEQA further reduces effects on these species, and there is compensation for effects that cannot be fully avoided through protection of over 24,000 acres of various natural communities in newly protected conservation lands.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-16: Special-Status Birds Not Covered by Yolo HCP/NCCP

There are 17 special-status bird species that are either known to occur or have at least a moderate chance to occur in the Plan Area and may be adversely affected by covered activities. For the purpose of this analysis these species are categorized into the following groups based on potentially suitable natural cover land types and other factors: nesting raptors; wetland birds, riparian birds; and grassland/woodland birds. Habitat for these species has not been specifically modeled for this analysis, but is based on the overall occurrence of potentially suitable natural community types in the Plan Area. Complete descriptions of the legal status, Plan Area habitats, and known occurrences of these species in the Plan Area can be found in EIS/EIR Appendix D.

The nesting raptor group includes; northern harrier, golden eagle, bald eagle, American peregrine falcon, and short-eared owl. There is limited nesting habitat for bald eagle in the western portion of the Plan Area. Bald eagles forage within lacustrine and riverine habitat, however, and perch in the adjacent valley foothill riparian habitat. These habitats may be adversely affected by projects and activities. There are 26,058 acres of potential bald eagle foraging and wintering habitat (lacustrine, riverine, and valley foothill riparian) within the Plan Area.

There is also limited nesting habitat for golden eagle in the western portion of the Plan Area and the species is not documented to nest in the Plan Area. However, golden eagles may forage within 116,983 existing acres of blue oak woodland, valley oak woodland, and grassland communities within the Plan Area.

Northern harrier and short-eared owl are both predominately associated with grassland, cultivated lands, and natural and agricultural wetlands and marshes for both nesting and foraging. There are 80,991 acres of grassland, 26,309 acres of freshwater emergent wetland, 299 acres of vernal pool complex, 214,939 acres of cultivated lands, and 35,724 acres of rice cultivation that may be suitable for these species in the Plan Area.

The special-status bird species included in this analysis that are predominately associated with wetlands are: least bittern, redhead, California black rail, western snowy plover, black tern, and yellow-headed blackbird. There are 26,309 acres of freshwater emergent wetland, and 299 acres of vernal pool complex that may support habitat suitable for these species in the Plan Area.

There are two special-status bird species included in this analysis that are primarily associated with the valley foothill riparian natural community type, purple martin and yellow-breasted

chat, although purple martin are also known to utilize manmade structures such as bridges and highway overpasses for nesting. There are 12,565 acres of valley foothill riparian natural community type within the Plan Area that may be suitable for these.

The special-status grassland bird species considered in this analysis are: mountain plover, loggerhead shrike, and grasshopper sparrow. These species are often associated with open grassland, prairies, and open agricultural areas such as grain crops and pastures. Within the Plan Area there are 80,911 acres of grassland and 214,939 acres of non-rice cultivated lands that could provide suitable habitat for these species. However, the non-rice cultivated lands land cover category also includes orchards and other more specific categories of agricultural lands that are not suitable for these species.

Projects and activities under the Proposed Action Alternative, including conservation strategy activities, will be required to implement general project and construction AMMs, along with AMMs to require buffers on sensitive natural communities and to avoid and minimize effects on wetlands and waters. These AMMs will reduce adverse effects on special-status bird species not covered by the Yolo HCP/NCCP. Project specific compliance with CEQA and the MBTA will also be required and measures to identify and avoid active bird nests.

The conservation strategy under the Proposed Action Alternative does not include commitments or objectives to protect special-status bird species not covered by the Yolo HCP/NCCP. There are specific goals and objectives for natural community types that provide potentially suitable habitat for these species; however, including; cultivated lands, grassland, valley foothill riparian, lacustrine and riverine, and freshwater emergent wetlands. Overall, the Proposed Action Alternative will result in over 24,000 acres of various natural community types being protected as new conservation lands. Where suitable habitats for these species are located within the reserve system, these species will also benefit from the reserve connectivity that limits effects of habitat fragmentation, as well as the same monitoring and adaptive management strategies as the rest of the reserve system. In addition, there is a specific objective for maintaining or enhancing cultivated lands for raptors that will benefit non-covered raptor species. Biological objectives for covered bird species may also provide benefits for non-covered bird species; for example, maintaining crops that support Swainson's hawk habitat will also benefit species that utilize these types of crops as habitat (e.g. northern harrier, short-eared owl, and loggerhead shrike).

The conservation strategy is also expected to result in additional benefits to these species through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general AMMs that will further reduce adverse effects on special-status bird species not covered by the Yolo HCP/NCCP.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Implementation of the conservation strategy indirectly results in the minimization of effects on these species, compliance of future projects with CEQA further reduces effects on these species, and there is compensation for effects that cannot be fully avoided through protection of over 24,000 acres of various natural communities in newly protected conservation lands.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-17: Special-Status Bats

There are three special-status bat species that are known to occur in the Plan Area. Townsend's big-eared bat, which is a candidate species under CESA and a California species of special concern, roosts in caves, tunnels, mines, bridges and abandoned buildings and forages in nearby habitats ranging from forests to prairies, but predominately along riparian woodlands. Pallid bat and western red bat are both California species of special concern and are associated with blue oak woodland, blue oak and foothill pine, closed-cone pine-cypress, montane hardwood, valley oak woodland, and valley foothill riparian natural community types. In addition to crevices in trees within these natural community types, pallid bat is also known to use cracks in cliffs and structures (e.g. bridges and buildings) for roosts. Western red bat utilizes the foliage of trees within the above mentioned natural community types for roosts and is also known to utilize orchards for roosts within the foliage of fruit trees.

A description of the habitats and known occurrences of these species in the Plan Area can be found in EIS/EIR Appendix D. Suitable habitat for these species has not been specifically modeled for this analysis, but includes natural community types that occur in the Plan Area, as summarized below.

Townsend's big-eared bat roosts in mines, tunnels, bridges, and abandoned buildings (EIS/EIR, Pierson and Rainey 1998). While projects and activities under the Proposed Action will not affect mine shafts and tunnels abandoned mines or tunnels suitable for Townsend's big-eared bat, abandoned buildings may be demolished as part of projects and activities associated with implementation of the Plan. These activities could result in loss of day and maternity roosts for the species.

Of the natural community types that are potentially suitable habitat for pallid bat and western red bat, blue oak woodland and valley foothill riparian are anticipated to be subject to permanent loss with implementation of the Plan. The western red bat is also known to utilize

orchards for roosts within the foliage of trees. Orchard habitat falls within the broader Other Agriculture land cover type. However, there will be permanent loss of habitat within the Other Agriculture land cover type.

Projects and activities under the Proposed Action Alternative, including conservation strategy activities, will be required to implement general project and construction AMMs, along with AMMs to require buffers on sensitive natural communities, including valley foothill riparian. By requiring actions such as designing projects to minimize indirect effects to non-agricultural natural communities, confining and delineating work areas, and locating construction and staging areas to avoid and minimize temporary effects on sensitive habitats, these AMMs will reduce adverse effects on special-status bat species from covered activities, including roosts of western red bat that utilizes the foliage of riparian trees for day and maternity roosts. Additional AMMs will minimize the potential for destruction of some pallid bat or Townsend's big-eared bat maternity roosts through minimizing disturbance to adjacent properties (Townsend's big-eared bat is highly sensitive to disturbance) and protecting oak woodland habitats. Each project is required to comply with CEQA which will include measures to identify and avoid special-status bat species, and in particular, bat roosts.

The conservation strategy under the Proposed Action Alternative does not include commitments or objectives to protect special-status bat species not covered by the Yolo HCP/NCCP. However, there are specific goals and objectives for natural community types that provide potentially suitable foraging habitat for these species including; cultivated lands, grassland, and valley foothill riparian. These goals and objectives will also increase the number of potential roosts for pallid bat and western red bat.

Overall, the Proposed Action Alternative will result in over 24,000 acres of various natural community types being protected as new conservation lands. Where any suitable habitats for these special-status bat species overlap with covered species habitat located within the reserve system, these bat species could also benefit from the reserve connectivity that limits effects of habitat fragmentation, as well as the same monitoring and adaptive management strategies as the rest of the reserve system.

The conservation strategy is also expected to result in additional benefits through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general AMMs that will further reduce adverse effects.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Implementation of the conservation strategy indirectly results in the minimization of effects on these species, compliance of future projects with CEQA further reduces effects on these species, and there is compensation for effects that cannot be fully avoided through protection of over 24,000 acres of various natural communities in newly protected conservation lands.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-18: American Badger

Within the Plan Area, American badgers are likely to be associated with blue oak woodland, blue oak and foothill pine, closed-cone pine-cypress, montane hardwood, valley oak woodland, grassland, and alkali prairie where suitable soils for burrows are available. Suitable habitat for these species has not been specifically modeled for this analysis, but includes the natural community types listed above.

Projects and activities under the Proposed Action Alternative, including conservation strategy activities will be required to implement general project and construction AMMs, along with AMMs to require buffers alkali prairie. These AMMs could reduce any adverse effects on American badger. Project specific compliance with CEQA will also be required for many projects and activities and will result in implementation of measures to identify, minimize, and/or compensate for effects on American badger.

The conservation strategy under the Proposed Action Alternative does not include commitments or objectives to protect American badger. However, there are specific goals and objectives for natural community types that provide potentially suitable habitat for the species including; grassland, and alkali prairie. American badger will benefit from over 4,400 acres of suitable habitats included in the reserve system as new conservation lands. American badger could also benefit from the reserve connectivity that limits the effects of habitat fragmentation as well as the monitoring and adaptive management strategies applied to the reserve system.

The conservation strategy is also expected to result in additional benefits to American badger through the inclusion of habitat in a reserve system that incorporates and is connected to baseline public and easement lands and is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general AMMs that will further reduce adverse effects on American badger.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** as implementation of the conservation strategy indirectly results in the minimization of effects on American badger, future projects compliance with CEQA further reduces effects on this species, this species, and

there is compensation for effects that cannot be fully avoided through protection of over 4,400 acres of suitable habitat types in newly protected conservation lands.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-19: Special-Status Fish Species

There are 10 special-status fish species, Distinct Population Segments (DPS), and Evolutionarily Significant Units (ESU) that are either known to occur or have at least a moderate chance to occur in the Plan Area: North American green sturgeon, southern DPS, delta smelt, longfin smelt, steelhead – Central Valley DPS, chinook salmon – Sacramento River winter-run ESU, chinook salmon – Central Valley spring-run ESU, chinook salmon – Central Valley fall/late--run ESU, eulachon, Sacramento splittail, and river lamprey. Critical habitat for delta smelt, North American green sturgeon, steelhead, chinook salmon Sacramento River winter-run ESU, chinook salmon – Central Valley spring-run ESU, chinook salmon also has been designated within the Plan Area.

Complete descriptions of the legal status, Plan Area habitats, and known occurrences of these species within the Plan Area can be found in EIS/EIR Appendix D. Suitable habitat for these species has not been specifically modeled for this analysis; however, the analysis is based on the potentially suitable natural community types in the Plan Area.

Projects and activities under the Proposed Action Alternative, including conservation strategy activities will be required to implement general project and construction AMMs, along with AMMs to require buffers on sensitive natural communities and to avoid and minimize effects on wetlands and waters. These AMMs are anticipated to reduce any adverse effects on special-status fishes and designated critical habitat from covered activities.

If an individual project or activity may result in take of federal or state listed fish species or adversely affects designated critical habitats, those projects will not qualify for coverage under the Plan for impacts to those species and will be required to seek individual incidental take authorization (through ESA Section 7 or 10) from the NMFS and/or USFWS for federally listed species and take authorization from CDFW for state listed species. In addition, implementation of any minimization and mitigation measures will be required.

The conservation strategy under the Proposed Action Alternative does not include commitments or objectives to protect special-status fish species or designated critical habitat.

However, there are specific goals and objectives for natural community types that provide potentially suitable habitat for these species including; valley foothill riparian, lacustrine and riverine, and freshwater emergent wetlands.

The conservation strategy is also expected to result in additional benefits to these species through the inclusion of habitat in a reserve system that is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general AMMs that will further reduce adverse effects on special-status fish species and designated critical habitat.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Individual projects or activities that may result in take of a federally listed fish species or adversely affect their designated critical habitats will not qualify for coverage under the Plan and would be required to seek individual permits for such take. Therefore, implementation of the Plan will result in no impacts to special status fish species or on designated critical habitats for fish.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-20: Sensitive Habitat Types Including Wetlands and Other Waters of the United States

Seven of the natural communities identified in the Plan Area are considered sensitive habitats for the purpose of this analysis due to their limited distribution, unique plant communities that exist within these types and/or their relative importance to wildlife species: alkali prairie, blue oak woodland, freshwater emergent wetland, lacustrine and riverine, serpentine, valley foothill riparian and valley oak woodland.

Projects and activities under the Proposed Action Alternative, including conservation strategy activities will be required to implement general project and construction AMMs, along with AMMs to require buffers on sensitive natural communities and to avoid and minimize effects on wetlands and waters by meeting the requirements of the applicable State and federal regulations. These AMMs are anticipated to reduce adverse effects on sensitive habitat types from covered activities, though loss of sensitive habitats and wetlands will occur.

The conservation strategy under the Proposed Action Alternative includes commitments and objectives to protect natural communities including those considered sensitive that will be

adversely affected by the proposed action. These objectives will protect manage, enhance and restore sensitive habitats within the reserve system that are subject to loss under the Proposed Action Alternative including; protection of 33 acres of alkali prairie; protection of 1,600 acres and restoration of 608 acres of valley foothill riparian; protect 500 acres and restore 88 acres of freshwater emergent wetland; and protect 600 acres and restore 236 acres of lacustrine and riverine. This restoration of freshwater emergent wetland; and protect 600 acres and restore 236 acres of lacustrine and riverine freshwater emergent wetland and lacustrine and riverine achieves no net loss of these types, while protecting additional acres.

The conservation strategy is also expected to result in additional benefits to sensitive habitats and wetlands and waters of the United States through the inclusion of protected acreage in a reserve system that is subject to monitoring and adaptive management. In addition, all covered activities will be subject to general and sensitive habitat AMMs that will further reduce adverse effects sensitive habitats and wetlands and waters of the United States.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** as implementation of the conservation strategy results in the minimization of effects on sensitive habitats and compensation for effects that cannot be fully avoided.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect Bio-21: Wildlife Movement Corridors

The California Essential Habitat Connectivity Project is a recently-completed, peer-reviewed statewide assessment of important habitat linkages (Spencer et al. 2010). The project's goal was to identify large remaining blocks of intact habitat or natural landscape at a coarse spatial scale, and model linkages between them that are important to maintain as corridors for wildlife ECAs (Exhibit 4-2. The English Hills - Blue Ridge/ Rocky Ridge ECA, Blue Ridge/ Rocky Ridge - Capay Hills ECA, Dunnigan Hills/ Smith Creek - Dunnigan Hills ECA, Stone Lake - Yolo Bypass ECA, Yolo Bypass - Sacramento Bypass ECA, and Little Holland Tract/ Yolo Bypass - Yolo Bypass ECA all pass through or are wholly within the Plan Area.

Under the Proposed Action covered activities will implement AMMs, as discussed in the description of this alternative above, that will avoid and mitigate adverse effects on the natural communities that function to provide movement within ECAs. In addition, one of the landscape

level goals of the conservation strategy is to provide large interconnected landscapes through the conservation of natural community types (EIS/EIR, Yolo Habitat Conservancy 2018). This goal will limit the effects of habitat fragmentation on wildlife movement corridors in the Plan Area.

The conservation strategy is also expected to result in additional benefits to wildlife movement corridors through the inclusion of protected acreage in a connected reserve system. In addition, all covered activities will be subject to AMMs that will further reduce adverse effects on wildlife movement corridors.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** because wildlife movement corridors will be retained, and in some cases, will be enhanced relative to existing conditions.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

2. Land Use

Effect LAND-1: Physically Divide an Established Community

Under the Proposed Action Alternative, the Yolo HCP/NCCP will be adopted and implemented, including the conservation strategy which creates a reserve system and includes biological goals and objectives for the covered species. Lands in the reserve system will either be retained in their existing condition (generally including agriculture and open space uses) through conservation easements or other mechanisms, or will be used for habitat enhancement, restoration, or creation.

Activities that involve continuation of an existing agricultural use will not physically divide an established community. Purchasing, or obtaining an easement on currently private lands to enhance, restore, or create habitat, even if this were to occur between two portions of a community, will not further restrict access or the ability for individual to move between areas. Existing roads and existing travel corridors will be retained.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not result in dividing an established community.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect LAND-2: Conflict With Any Applicable Land Use Plan, Policy, or Regulation of an Agency With Jurisdiction Over the Project (Including, But Not Limited to, a General Plan, Specific Plan, Local Coastal Program, or Zoning Ordinance) Adopted for the Purpose of Avoiding or Mitigating an Environmental Effect

Implementation of the HCP/NCCP Conservation Strategy is consistent with the County and city general plans. Within the various general plans, there are policies which encourage habitat restoration, land conservation, and species preservation including the policies listed in EIS/EIR Section 5.2.2 *Regulatory Setting*. In addition, several of the general plans include specific goals, policies, and implementing actions which direct the member agency jurisdictions to conserve habitat and, in some cases, adopt and/or implement a habitat conservation plan.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not result in conflicts with applicable, plans, policies, and regulations.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect LAND-3: Conflict With Any Applicable Habitat Conservation Plan or Natural Community Conservation Plan

Currently, no HCPs or NCCPs initiated by Yolo County municipalities or entities cover the Plan Area. The Yolo HCP/NCCP will serve as the HCP and NCCP for the Plan Area. The Solano HCP overlaps with a portion of the Plan Area. The Solano HCP covers the expanded Plan Area along the south bank of Putah Creek as well as 8,000 acres in southern Yolo County. The Yolo HCP/NCCP expanded Plan Area overlaps with an area that is planned for conservation in the Solano HCP.

In a February 12, 2015 action by the Solano County Water Agency (SCWA 2015), the lead agency for the Solano HCP, SCWA agreed to act in partnership with the Yolo Habitat Conservancy for habitat projects along the south bank of Putah Creek. Both plans look to this area for habitat preservation and conservation; therefore, this agreement ensures that the Yolo HCP/NCCP is consistent with the Solano HCP for this area.

The Solano HCP provides coverage for three Solano HCP plan participants (Reclamation District 2068, Dixon Resource Conservation District, and Dixon Regional Watershed Joint Powers Authority) whose activities⁴ extend into Yolo County. These three plan participants are not participants in the Yolo HCP/NCCP and their activities are not covered under the Yolo HCP/NCCP. The area for which the Solano HCP provides take coverage to its plan participants contains some of the higher priority land acquisition areas identified for the Yolo HCP/NCCP. There is a potential conflict between these two plans should the Conservancy seek to acquire land for habitat conservation at a location where the Solano HCP is providing take coverage for covered activities.

Significance Before Mitigation

As compared to existing conditions, this impact is **potentially significant**. Under existing conditions there is no Yolo HCP/NCCP, and therefore no potential conflict between the Yolo HCP/NCCP and Solano HCP. The potential for conflicts between the two Plans occurs with implementation of the Proposed Action Alternative.

Mitigation

Mitigation Measure LAND-1: Agreement with SCWA

Before adopting the HCP/NCCP, the Conservancy must enter into an agreement with SCWA recognizing that the Conservancy's acquisition areas must not conflict with the covered

⁴ Solano HCP covered activities within Yolo County include routine operations and maintenance activities, such as culvert repair and replacement; weed control; silt and trash removal; ditch gate repair and replacement; and drainage pipe repair and replacement.

activities of the Solano HCP. The agreement should ensure that implementing the Yolo HCP/NCCP would not preclude the implementation of the Solano HCP.

Findings After Mitigation

Implementation of Mitigation Measure LAND-1 will prevent circumstances where the Conservancy's acquisition areas will conflict with the covered activities of the Solano HCP. With implementation of this mitigation measure, the impact is reduced to a less than significant level.

The Board of Directors hereby directs that the stated mitigation measure(s) be incorporated into the project as a requirement of implementing the Plan. The Board further directs that the timing of the measure be clarified to require implementation of the measure after adoption of the HCP/NCCP but prior to commencement by the Conservancy of any plan implementation activity within the area of overlap with the Solano County Water Agency Multispecies HCP. This modification to the measure is not substantive and will in no way diminish the effectiveness of the measure in reducing the identified impact. By direction of the Board, the mitigation measure is revised as follows:

Mitigation Measure LAND-1: Agreement with SCWA

Prior to undertaking any HCP/NCCP implementation activity within the area of overlap with the Solano County Water Agency (SCWA) Multispecies HCP, the Conservancy must enter into an agreement with SCWA recognizing that the Conservancy's acquisition areas must not conflict with the covered activities of the Solano HCP. The agreement should ensure that implementing the Yolo HCP/NCCP will not preclude the implementation of the Solano HCP.

This mitigation measure constitutes a change or alteration of the project that is within the responsibility and jurisdiction of the Conservancy to impose. The Board finds, based on substantial evidence in the record, that this measure is appropriate and feasible, and will lessen to a less-than-significant (acceptable) level, or avoid, the impact.

3. Agriculture and Forestry Resources

Effect AG-1: Potential to Convert Farmland to Non-Agricultural Use.

A primary activity of the conservation strategy is the protection of agricultural lands in the reserve system. Most of the lands protected as part of the reserve system will have conservation easements placed on them and will be subject to a conservation management plan. Agricultural lands will have some restrictions on the types of crops that could be grown on the land (i.e., not converting the lands to vineyards, orchards, nurseries, livestock feed lots) and grazing lands will be subject to provisions guiding appropriate grazing practices. Although restrictions may be placed on the lands acquired by easement that are to be retained as agricultural lands, these lands will remain in agricultural production under the proposed Yolo

HCP/NCCP and will not be converted to non-agricultural use. Since agricultural operations will continue, there will not be a conflict with Williamson Act provisions.

In the Plan, it is identified that implementation of the conservation strategy could result in the conversion of up to 702 acres of the Cultivated Lands (non-rice) land cover to habitat as part of habitat restoration activities (EIS/EIR, Yolo Habitat Conservancy 2018, Table 5-3). The conversion of cultivated lands to habitat is considered a conversion of existing agricultural land to a non-agricultural use. Since it is not known at this time where the habitat restoration will occur, all, or part of this agricultural land conversion could also occur on FMMP designated Important Farmland. The Plan also identifies the conversion of up to 210 acres of grassland to another habitat type as part of habitat restoration activities. Because the location of the habitat restoration is not known at this time, all or part of the 210 acres could be located grassland that serves as grazing land, and the ongoing management of the restoration area could require exclusion of grazing activity. Although it is unlikely that all of the 210 acres of grassland land cover converted to another habitat will result in the removal of grazing lands, for the purposes of this analysis, it is assumed that this could occur for up to the entire 210 acres.

Implementation of the conservation strategy under the Yolo HCP/NCCP may also increase populations of covered species in the reserve system. As a result, some species may disperse to neighboring private lands where the presence of listed species could interfere with routine agricultural activities, other activities, or allowed use of the land. With certain provisions and restrictions described in the HCP/NCCP, farmlands in the vicinity of the reserve system boundary are eligible for take coverage through the neighboring landowner protection program. For neighboring landowners that do not participate in the protection program, implementation of the conservation strategy could increase the presence of endangered species on adjacent agricultural lands. The presence of listed species could interfere with (e.g., delay) routine agricultural activities if those activities will result in take of listed species. For example, if mowing will take a listed species, the activity could require a permit before being carried out. However, it is unlikely to result in conversion of agricultural lands to non-agricultural uses.

Significance Before Mitigation

As compared to existing conditions, this impact is significant and unavoidable. The Proposed Action Alternative will result in the conversion of up to 702 acres of cultivated lands and up to 210 acres of grazing lands to a non-agricultural use. This loss is considered significant at the local level. The Yolo HCP/NCCP will result in protection in perpetuity of 14,362 acres of cultivated lands (non-rice), 2,800 acres of cultivated lands (rice), and at least 4,430 acres of Grassland (potentially suitable for grazing) as part of the reserve system.

The Proposed Action Alternative will result in permanent protection of more than 21,000 acres of agriculture as habitat for various species and permanent loss of approximately 700 acres of agricultural land for riparian restoration. This will result in a net increase of protected land because of the conservation strategy.

While the Proposed Action Alternative will result in permanent protection of many acres of agricultural land, the loss of agricultural land is permanent. Permanently protecting some agricultural land cannot fully mitigate for the loss of other agricultural land to non-agricultural use. Therefore, impacts (including cumulative) to agricultural lands, including Important Farmland, as a result of implementation of the Proposed Action Alternative are considered significant and unavoidable.

Mitigation

Additional mitigation is not feasible. Minimizing this significant and unavoidable impact by reducing the amount of agricultural land placed in the reserve system, as well as minimizing habitat enhancement/restoration/creation on agricultural lands will not meet the project objectives. As described in EIS/EIR Section 2.2, *Alternatives Eliminated from Further Analysis*, a *Reduced Agricultural Impacts* alternative was considered where placement of agricultural lands into the reserve system will be minimized and purchases of conservation easements and habitat enhancement/restoration/creation will be shifted to non-agricultural habitat types. This alternative was eliminated from further analysis during the screening process primarily because of the inability to provide a sufficient reserve system for all covered species and natural communities (see EIS/EIR Section 2.2.5 for further details). Conversely, if more agricultural land was placed in the reserve system to increase the acreage of agricultural land protected by conservation easement, this could adversely affect the economic viability of the Yolo HCP/NCCP because fees will need to be raised to fund the additional easement acquisition. Elevated fees could adversely affect the ability to obtain local approvals and continued support of the Yolo HCP/NCCP by the development community during implementation. In addition, the impact will remain significant and unavoidable even if more agricultural land were put under conservation easements, because, as stated above, permanently protecting some agricultural land cannot fully mitigate for the loss of other agricultural land to non-agricultural use.

Findings After Mitigation

The Board further finds that there are no feasible mitigation measures or alternatives that the Board could adopt at this time that will reduce this impact to a less-than-significant level, or partially reduce this measure. This impact, therefore, remains **significant and unavoidable**.

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the Board finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the project as modified, despite unavoidable residual impacts.

Effect AG-2: Conflict With Existing Zoning for Agricultural Use or Conflict With a Williamson Act Contract

Under the proposed conservation strategy as part of the Yolo HCP/NCCP, lands currently zoned for agriculture or under Williamson Act contract may have conservation easements placed on them and will be subject to a conservation management plan. On the majority of the agricultural lands brought into the HCP/NCCP reserve system, agricultural operations will continue. Yolo County does not prohibit habitat restoration on agriculturally-zoned land. Continuing agricultural operations on lands within areas zoned for agricultural use will not conflict with the permitted uses of agriculturally zoned lands, even if some restrictions are placed on the land, such as limiting certain crop rotations or not allowing planting of vineyards or orchards to protect values for covered species.

In addition, in accordance with Section 51293 of the Williamson Act, acquisition of a fee interest or conservation easement for a term of at least 10 years to restrict the land to agricultural or open space uses does not conflict with the Act. Therefore, conservation easements under the HCP/NCCP will not conflict with the Williamson Act.

There is the possibility, although remote, that lands under Williamson Act contract will be planned for habitat restoration or creation, resulting in the conversion of agricultural land to habitat. However, pursuant to State law open space uses are an allowed use within Williamson Act contracts.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** because implementation of the conservation strategy under the Proposed Action Alternative will not cause a conflict with Williamson Act contracts or agricultural zoning.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect AG-3: Conflict With Existing Zoning/Loss of Forest Land

There is no zoning in Yolo County specifically for forest or timberland; therefore, this analysis does not discuss whether there will be a conflict with zoning. Implementation of the conservation strategy is not expected to convert forest lands to non-forest uses as there are no circumstances where forest land will be converted to a non-forest habitat type. In addition, the

Proposed Action Alternative will involve natural resources conservation, and implementation of the conservation strategy, which will result in preservation and creation of woodland and riparian forest lands. The Yolo HCP/NCCP will protect as least 1,600 acres of currently unprotected valley foothill riparian natural community distributed primarily in the Cache Creek and Putah Creek planning units (planning units are shown in EIS/EIR Figure 2-1) (EIS/EIR, Yolo Habitat Conservancy 2018; Table 6-2(a)). The HCP/NCCP will also restore sufficient acres of the valley foothill riparian natural community to ensure no net loss as a result of covered activities, and will restore another 20 acres independent of habitat losses (EIS/EIR, Yolo Habitat Conservancy 2018; Objective NC-VFR1.2).

Significance Before Mitigation

As compared to existing conditions, this impact is beneficial because there will be a net gain of protected forest land within the Plan Area compared to existing conditions. Therefore, this impact is considered less than significant under CEQA.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

4. Public Services and Utilities

Effect PSU-1: Changes in the Demand for, or Provision of, Public Services and Utilities

Implementation of the Proposed Action Alternative will involve natural resources conservation through the preservation of natural and seminatural landscapes and maintenance of ecological integrity of large habitat blocks. These activities will result in continuation of existing agricultural operations or the preservation of existing open space, and therefore will not directly or indirectly place additional demands on the existing utilities or public services in the Plan Area.

Where existing agricultural lands are put into conservation easements, this will restrict the types of crops that can be cultivated on the land, thereby also limiting the range of possible water demand needed to support the allowable crops. Without the conservation easement, it is possible that over time, the land in question could be used to cultivate various crop types that use more water, or less water, than existing conditions. It is speculative to conclude that placing the land under a conservation easement as part of the Plan will have an effect of either permanently increasing or decreasing water demand relative to the conditions with no easement, because absent the easements, crop patterns will change based on the business

decisions of farmers in response to unforeseeable future agricultural economic conditions, making it speculative to predict future water demand.

The conservation strategy included in the Proposed Action Alternative also includes habitat enhancement, where existing habitat conditions and values to covered species will be improved in an area, and habitat restoration and creation where an existing natural or seminatural land cover types will be converted to a different natural land cover types (e.g., restoration of riparian habitat on land that once supported riparian habitat, but currently supports annual grassland vegetation). Vegetation plantings associated with habitat enhancement, restoration, and/or creation may require irrigation to support vegetation establishment. If the land where plantings are undertaken does not already have irrigation available, water delivery and irrigation infrastructure maybe required, and the irrigation will constitute a new water demand. However, irrigation needs for habitat enhancement/restoration/creation are typically relatively modest compared to more intensive land uses, and are often on the scale that water delivery can be achieved with water trucks if needed. Irrigation needs are also temporary, typically occurring for one-to-three years until plantings are established. Therefore, any effects related to water supply and water infrastructure will be minimal.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Overall, with implementation of the conservation strategy included in the Proposed Action Alternative, there will be no new or expanded water or wastewater facilities and no changes in treatment capacity. Any potential increases in water demand will be minor for reserve establishment and management activities. Substantial speculation will be required to attempt to predict any changes in water demand that might be attributable to agricultural conservation easements included in the conservation strategy. Implementation of the conservation strategy will not generate population increases that could result in the need for new or physically altered governmental services and/or facilities. Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not result in significant impacts to public services or utilities.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

5. Recreation and Open Space

Effect REC-1: Potential Increase in Use of Recreation Facilities or Demand for Recreation Opportunities Such That Substantial Deterioration Would Occur

Implementation of the Proposed Action Alternative will involve natural resources conservation through the preservation of natural and seminatural landscapes and maintenance of ecological integrity of large habitat blocks, ecosystem function, and biological diversity. The conservation strategy included in the Proposed Action Alternative also includes habitat enhancement, where existing habitat conditions and values to covered species will be improved in an area, and habitat restoration and creation where an existing natural or seminatural land cover type will be converted to a different natural land cover type (e.g., restoration of riparian habitat on land that once supported riparian habitat, but currently contains annual grassland vegetation). These elements of the conservation strategy designed to preserve and augment existing ecosystem health and biological diversity could provide additional passive recreation opportunities related to establishment of the reserve system in the Plan Area, but will not increase the demand for recreational facilities or result in any physical deterioration of existing recreation resources.

In addition, preservation of large tracts of land may provide additional recreational opportunities, if passive recreation compatible with preservation, such as wildlife viewing, is allowed. A coordinated system of linked reserve lands will be established for habitat preservation, enhancement, and restoration/creation. Also, additional recreation and open space opportunities will be provided. As a result, continuous areas of land, rather than smaller discrete sites, will be established as reserve areas that could provide additional passive recreation opportunities.

Significance Before Mitigation

As compared to existing conditions, this impact is beneficial because demand for recreation will not be increased and additional passive recreational opportunities will result. Therefore, this impact is considered **less than significant** under CEQA.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect REC-2: Potential construction or expansion of recreational facilities

Implementation of the various elements of the HCP/NCCP conservation strategy will primarily involve the preservation and enhancement of existing land covers and habitat restoration/creation in some areas. These activities will not result in the construction or expansion of additional recreation facilities. Although preservation of lands within the Plan Area may provide additional opportunities for passive recreation such as wildlife viewing, no new or expanded recreation facilities that will require construction are proposed as part of the Proposed Action Alternative.

Implementation of the Proposed Action Alternative will result in the preservation and enhancement of natural and seminatural areas to promote habitat and ecosystem health and biological diversity. The existing recreation opportunities of these sites will be retained, or lands could be modified towards a more natural state (i.e., habitat restoration/creation), which will generally be considered to have a neutral or beneficial effect on recreation resources.

Significance Before Mitigation

As compared to existing conditions, this impact is beneficial because demand for recreation will not be increased and additional passive recreational opportunities will result. Therefore, this impact is considered **less than significant** under CEQA.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

6. Hydrology and Water Quality

Effect HYDRO-1: Result in a Violation of Any Water Quality Standard or Waste Discharge Requirement

Under the Proposed Action Alternative, the implementation of the conservation strategy includes conservation easements that will maintain current agricultural practices. This will not cause changes from existing conditions that will result in violations of a water quality standard or alterations in waste discharge timing, volume, or quality. Implementation of the conservation strategy will also include habitat enhancement, restoration, and creation for covered species, as well as operations and maintenance within the reserve system which may require ground disturbance and have a potential for violations of water quality standards and waste discharge requirements.

Conservation activities under the Proposed Action Alternative will be subject to the various laws, regulations, and policies, that will result in the protection of water quality, and avoid violations of water quality standards and waste discharge. These include water quality discharge standards applicable under the provisions of the Clean Water Act, Porter-Cologne Act, the statewide General Construction Permit, and the Industrial General NPDES Permit as discussed in EIS/EIR Section 8.2.2, *Regulatory Setting*. These activities will also be subject to general plan policies that help reduce and prevent water quality impacts such as, Yolo County Policy CO-2.22, which requires a 100-foot buffer from the top of banks of all lakes, perennial ponds, rivers, creeks, sloughs and perennial streams.

In addition, as discussed above, covered actions which require ground disturbance and the potential for discharge implemented as part of the conservation strategy under the Proposed Action Alternative will be subject to AMMs required by the HCP/NCCP. These AMMs will reduce the likelihood of a violation of any water quality standard or waste discharge requirement. Potential effects from implementation of conservation strategy actions under the Proposed Action Alternative are subject to existing regulations; therefore, they will not result in a violation of any water quality standard or waste discharge requirement. In addition, AMMs will further reduce the likelihood of a violation.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** because compliance with existing regulations and the requirements of the Plan will avoid impacts.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect HYDRO-2: Substantially Deplete Groundwater Supplies or Interfere Substantially With Groundwater Recharge

The covered activities associated with the conservation strategy under the Proposed Action Alternative will maintain agricultural practices on existing agricultural lands through conservation easements which will maintain similar water usage, and maintain the potential for groundwater recharge. Lands where habitat is enhanced, restored, or created may require irrigation on a temporary basis to establish new vegetation. The need for irrigation will be temporary (typically one-to-three years). Where habitat enhancement, restoration, or creation is undertaken on former agricultural lands, the temporary habitat irrigation will generally use

less water than the previous agricultural practices. Habitat areas will also preserve recharge potential when located on lands that are suitable for groundwater recharge.

Conservation actions under the Proposed Action Alternative will be subject to existing regulations and policies to protect and regulate groundwater supplies and recharge, and are anticipated to result in similar ground water usage and infiltration rates as experienced under existing conditions. Implementation of conservation strategy actions under the Proposed Action Alternative will not result in a substantive change in the use of groundwater supplies or contributions to groundwater recharge.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** because compliance with existing regulations and the requirements of the Plan will avoid impacts.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect HYDRO-3: Substantially Alter the Existing Drainage Pattern in a Manner That Would Result in Substantial Erosion, Siltation, and/or Environmental Harm, or Substantially Increase the Rate or Amount of Surface Runoff in a Manner That Would Result in Flooding

The covered activities that are part of the implementation of the conservation strategy under the Proposed Action Alternative (e.g., establishment of a reserve system; habitat enhancement, restoration, and creation) are not anticipated to substantially alter the existing drainage pattern in a manner that will result in substantial erosion, siltation, and/or environmental harm, or substantially increase the rate or amount of surface runoff in a manner that will result in flooding.

Conservation activities under the Proposed Action Alternative will be required to implement AMMs that will result in reduction in erosion and siltation through the implementation of buffers from wetlands, riparian habitats and waters, as well as limiting temporary construction footprints (see EIS/EIR Table 9-1) within the Plan Area. Therefore, no significant effects are anticipated associated with the alteration of drainage patterns that will result in erosion or substantively increase the rate or amount of surface runoff in a manner that will result in flooding as a result of implementation of the Proposed Action Alternative.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** because compliance with existing regulations and the requirements of the Plan will avoid impacts. Potential effects from implementation of conservation strategy actions under the Proposed Action Alternative will not result in the alteration of drainage patterns that will result in erosion or substantively increase the rate or amount of surface runoff in a manner that will result in flooding and will be subject to AMMs.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect HYDRO-4: Create or Contribute Runoff Water That Would Provide Substantial Additional Sources of Polluted Runoff, Exceed the Capacity of Existing or Planned Stormwater Drainage Systems or Otherwise Substantially Degrade Water Quality

Activities that are part of the conservation strategy under the Proposed Action Alternative will maintain existing agricultural uses through conservation easements; enhance, restore, and create habitat for covered species; and maintain and operate reserve system lands. These activities are highly unlikely to create additional sources of polluted runoff, degrade water quality, or alter stormwater drainage. Conservation actions under the Proposed Action Alternative will also be subject to the same regulations and policies related to water quality and stormwater drainage and discharge for the No Action Alternative. Additionally, conservation activities under the Proposed Action Alternative will be subject to AMMs that will have the potential to reduce the volume and increase the quality of runoff reaching impaired waters by the implementation of buffers from wetlands, riparian habitats and waters, as well as limiting temporary construction footprints (Table 9-1). Conservation actions under the Proposed Action Alternative will also be subject to the current regulations and policies related to water quality and stormwater drainage and discharge. Additionally, conservation activities under the Proposed Action Alternative will be subject to AMMs that will have the potential to reduce the volume and increase the quality of runoff.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** because compliance with existing regulations and the requirements of the Plan will avoid impacts. Potential effects from implementation of conservation strategy actions under the Proposed Action Alternative are highly unlikely to create additional sources of polluted runoff, degrade water quality, or alter

stormwater drainage. Additionally, conservation strategy actions will also be subject to AMMs that would tend to reduce such effects.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect HYDRO-5: Place Housing, or Place Structures That Would Impede or Redirect Flood Flows Within a 100-Year Flood Hazard Area as Mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map, or Other Flood Hazard Delineation Map, or Within the 200-Year Flood Hazard Boundary as Defined By the Central Valley Flood Protection Plan in Urban Areas; Within a 100-year Flood Hazard Area

Implementation of the conservation strategy under the Proposed Action Alternative does not include residential development, and as such it will not place housing within flood hazard areas. While there may be structures associated with the reserve system (e.g., gates, fences), they will not be of sufficient size or mass to impede or redirect flood flows. In addition, the purchase of reserve system lands within flood hazard areas will reduce potential future effects from development by removing any potential for residential and other development on those lands.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** because compliance with existing regulations and the requirements of the Plan will avoid impacts. Potential effects from implementation of conservation strategy actions under the Proposed Action Alternative will not result in the placement of housing within a 100-year flood hazard area, or placement of structures within a 100-year flood hazard area that will impede or redirect flood flows.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect HYDRO-6: Expose People or Structures to a Substantial Risk of Loss, Injury or Death Involving Flooding From the Failure of a Levee or Dam

As described in EIS/EIR Section 9.2.1, *Environmental Setting*, there are approximately 215 miles of levees located within the Plan Area, and to the west of the Plan Area are the Cache Creek Dam at Clear Lake, and the Monticello Dam on Putah Creek at Lake Berryessa. If any of these levees or dams were to fail, or if upstream dams located along the Sacramento, Feather, or American rivers failed, there is a potential for flooding to occur in Yolo County.

As discussed in EIS/EIR Effect HYRO-5 above, implementation of the conservation strategy under the Proposed Action Alternative does not include residential development, nor is it anticipated to expose structures to increased risk of loss due to the failure of a levee or dam. Therefore, no impact in this category is anticipated.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant** because implementation of conservation strategy actions under the Proposed Action Alternative does not include residential development, nor is it anticipated to expose structures to increased risk of loss due to the failure of a levee or dam.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

7. Population and Housing

Effect HP-1: Potential to induce substantial population growth in the Plan Area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)

Implementation of the Proposed Action Alternative will involve natural resources conservation through the preservation of natural and seminatural landscapes and maintenance of ecological integrity of large habitat blocks. These activities will result in continuation of existing agricultural operations or the preservation of existing open space. The conservation strategy included in the Proposed Action Alternative also provides for habitat enhancement, where existing habitat conditions and values to covered species will be improved in an area, and habitat restoration and creation where an existing natural or seminatural land cover type will

be converted to a different natural land cover type (e.g., restoration of riparian habitat on land that once supported riparian habitat, but currently contains annual grassland vegetation).

These activities will not include new homes or infrastructure that could promote population growth. Implementation of the conservation strategy will result in the creation of a small number of employment opportunities to establish, manage, and monitor reserves and implement habitat enhancement, restoration, and creation efforts. As indicated in the HCP/NCCP in Chapter 8, *Costs and Funding*, much of this work is expected to be implemented by contractors, local partners, and others. There will not be large numbers of permanent Conservancy staff hired to implement the HCP/NCCP. Existing employees and businesses within the county and the region will be able to accommodate work efforts and any increased employment demand. If a small number of new employees were to relocate to the Plan Area, available housing stock (see vacancy rates in EIS/EIR Table 10-2) will be able to accommodate the minor increase in demand.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Implementation of the conservation strategy included in the Proposed Action Alternative is not anticipated to result in substantial population growth.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect HP-2: Potential to displace substantial numbers of existing housing or people, necessitating the construction of replacement housing elsewhere.

Implementation of the Proposed Action Alternative will involve natural resources conservation through the preservation of natural and seminatural landscapes and maintenance of ecological integrity of large habitat blocks. These activities will result in continuation of existing agricultural operations or the preservation of existing open space. The conservation strategy included in the Proposed Action Alternative also provides for habitat enhancement, where existing habitat conditions and values to covered species will be improved in an area, and habitat restoration and creation where an existing natural or seminatural land cover type will be converted to a different natural land cover type (e.g., restoration of riparian habitat on land that once supported riparian habitat, but currently contains annual grassland vegetation).

These activities will not include new homes or infrastructure that could promote population growth. Implementation of the conservation strategy will result in the creation of a small number of employment opportunities to establish, manage, and monitor reserves and implement habitat enhancement, restoration, and creation efforts. As indicated in the HCP/NCCP in Chapter 8, *Costs and Funding*, much of this work is expected to be implemented by contractors, local partners, and others. There will not be large numbers of permanent Conservancy staff hired to implement the HCP/NCCP. Existing employees and businesses within the county and the region will be able to accommodate work efforts and any increased employment demand. If a small number of new employees were to relocate to the Plan Area, available housing stock (see vacancy rates in EIS/EIR Table 10-2) will be able to accommodate the minor increase in demand.

Significance Before Mitigation

As compared to existing conditions, this impact is less than significant. Implementation of the conservation strategy included in the Proposed Action Alternative is not anticipated to result in substantial population growth.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

8. Socioeconomics and Environmental Justice

Effect SOC-1: Substantially change economic activity within the Plan Area.

Implementation of the Proposed Action Alternative will involve natural resources conservation through the preservation of natural and seminatural landscapes and maintenance of ecological integrity of large habitat blocks. These activities will result in continuation of existing agricultural operations or the preservation of existing open space. The conservation strategy included in the Proposed Action Alternative also provides for habitat enhancement, where existing habitat conditions and values to covered species will be improved in an area, and habitat restoration and creation where an existing natural or seminatural land cover type will be converted to a different natural land cover type (e.g., restoration of riparian habitat on land that once supported riparian habitat, but currently contains annual grassland vegetation).

Issuance of take permits to local authorities will streamline the development process for certain planned land use projects and clearly define project mitigation requirements for future

projects. The streamlined process may allow for quicker completion of projects and greater efficiency in land development, which could affect overall economic activity in the Plan Area.

Implementation of the conservation strategy will result in the creation of a small number of employment opportunities to establish, manage, and monitor reserves and implement habitat enhancement, restoration, and creation efforts. As indicated in the HCP/NCCP in Chapter 8, *Costs and Funding*, much of this work is expected to be implemented by contractors, local partners, and others. The Conservancy will not hire large numbers of permanent staff to implement the HCP/NCCP. Work efforts and any increased employment demand will be accommodated by existing employees and businesses within the county and the region.

The conservation strategy will result in the conversion of 702 acres of cultivated agricultural lands and up to 210 acres of grazing land to create habitat. However, the conservation strategy will also acquire 14,362 acres of cultivated lands (non-rice), 2,800 acres of cultivated lands (rice), and at least 4,430 acres of grassland natural community (potentially suitable for grazing) for inclusion in the reserve system.

Significance Before Mitigation

The analysis of socioeconomics and environmental justice is a NEPA requirement only and is not required or merited under CEQA. This effect does not result in significant adverse environmental impact.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record. The Board further finds that there is no potential for adverse significant impact to result; this issue falls outside of the purview of CEQA.

Effect EJ-1: Substantially affect property tax revenue.

Implementation of the conservation strategy will result in the conversion of up to 702 acres of cultivated lands and 210 acres of grazing land to create habitat and acquisition of up to 21,592 acres of agricultural lands for inclusion in the reserve system. Land acquisition for the conservation strategy could indirectly affect tax revenue by removing 702 acres of cultivated lands and 210 acres of grazing land from production and therefore reducing taxable economic activity. Converting agricultural land to habitat could also reduce County property tax rolls if these habitat reserves pay no, or reduced, property taxes.

There are also various mechanisms by which lands that are put under conservation easement, including agricultural lands put under an agricultural conservation easement, could pay reduced property taxes. When a landowner sells a conservation easement, they often receive a reduced assessed value to reflect the transfer of rights associated with the easement. However, a non-profit entity that purchases the easement may have a lower tax obligation on the value of the easement than the original land owner. In this scenario, less total property taxes may be paid on the easement acreage than if an easement had not been sold. In addition, in California, the Natural Heritage Preservation Tax Credit Act offers incentives to preserve wildlife and plant habitat, agricultural lands, open spaces, and water rights on private lands. Landowners, including pass-through entities who donate land, an easement, or water rights are eligible for the credit. Landowners are allowed an income tax credit of 55 percent of the fair market value of the donated property against their income, with an eight-year carry-forward period (EIS/EIR, CWCB 2016). Therefore, donation of land or an easement could reduce income taxes collected.

The Proposed Action Alternative specifies the amount of fee-title versus easement acquisition for establishing the reserve system (i.e. 1,091 acres in fee title, or less than 3% of total acreage proposed) but has not yet identified specific parcels for acquisition; therefore, a detailed determination of impact on property tax revenue is not feasible. However, the conservation strategy will use conservation easements wherever feasible, thereby keeping the land in production, maintaining economic activity, and reducing the effects on tax revenue.

Significance Before Mitigation

The analysis of socioeconomics and environmental justice is a NEPA requirement only and is not required or merited under CEQA. This effect does not result in significant adverse environmental impact.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record. The Board further finds that there is no potential for adverse significant impact to result; this issue falls outside of the purview of CEQA.

Effect EJ-2: Substantially disproportionately affect minority or low-income populations.

As indicated in EIS/EIR Table 11-2, minority individuals constitute a meaningfully larger percentage of the population (more than 50 percent) within the City of Winters (i.e. In 2010, Hispanic or Latino population made up 52.4 percent of city of Winters population) than in the general population. As shown in EIS/EIR Table 11-4, low-income individuals constitute a

meaningfully larger percentage of the population (more than 20 percent) within Davis and West Sacramento than in the general population.

When creating general plans, the County and cities conduct public outreach and engagement programs to involve the residents, business owners, and other stakeholders in the development of the vision, goals, and policies. Each jurisdiction is required to accommodate low-income residents as part of housing element policies. In addition, the general plans contain other policies which aim to provide for the needs of all residents, including minorities and low-income persons. For example, the City of Davis General Plan has a diversity chapter; in which they provide goals, policies, and actions aimed at equal opportunities for all residents and to reflect the ethnic diversity of the City in the makeup of City staff and leadership.

There is no anticipation that implementation of the HCP/NCCP will result in disproportionately high and/or adverse effects on minorities and low-income persons.

Significance Before Mitigation

The analysis of socioeconomics and environmental justice is a NEPA requirement only and is not required or merited under CEQA. This effect does not result in significant adverse environmental impact.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record. The Board further finds that there is no potential for adverse significant impact to result; this issue falls outside of the purview of CEQA.

9. Cultural and Paleontological Resources

Effect CUL-1: Change in the significance of historical resources.

Under the Proposed Action Alternative, biological resource mitigation lands will be grouped into larger areas as opposed to the anticipated use of smaller and more dispersed preservation lands that might otherwise occur without the Plan in place. Implementation of the Plan will result in a reserve lands being retained in their existing conditions (i.e., preserved habitat) and managed for improved biological values, or converted to a more natural state (i.e., habitat restoration or creation). Retaining lands in their existing conditions will result in no change in conditions for historical resources. While it is unlikely that any land selected for habitat restoration or creation will contain known historical resources that are listed in the National Register of Historic Places or the California Register of Historic Resources, it is possible that

unevaluated standing buildings (e.g., houses, barns, outbuildings, cabins) or intact structures (e.g., dams, bridges) will be located on the lands selected to be restored or converted. Given the regulatory and permitting requirements associated with modifying such a resource, the resource will be avoided as part of reserve development and management.

If avoidance were not undertaken, however, potential effects will be evaluated on a case-by-case basis pursuant to applicable laws and regulations including NEPA, CEQA, and the National Historic Preservation Act (NHPA). Potentially significant impacts will be identified and mitigated pursuant to the requirements of each law/regulation. In addition to federal and State laws, the Yolo County General Plan contains policies that provide for the identification of cultural resources. These cultural resources policies and actions require that historical resources (including important examples of the major periods of California history) are identified, evaluated, and appropriately treated.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Implementation of the conservation strategy included in the Proposed Action Alternative is not anticipated to result in impacts to historic resources and there are procedures and regulations in place to address unforeseen discoveries of historic resources.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect CUL-2: Disturb archaeological resources and human remains.

Under the Proposed Action Alternative, biological resource mitigation lands will be grouped into larger areas as opposed to the anticipated use of smaller and more dispersed preservation lands that might otherwise occur without the Plan in place. Implementation of the Plan will result in a reserve lands being retained in their existing conditions (i.e., preserved habitat) and managed for improved biological values, or converted to a more natural state (i.e., habitat restoration or creation). Retaining lands in their existing conditions will result in no change in conditions for cultural resources.

Habitat restoration or creation could involve ground-disturbing activities that could damage or destroy archaeological resources or human remains. These impacts will be evaluated on a case-by-case basis pursuant to NEPA and CEQA, as applicable, and potentially significant impacts will

be identified and avoided or addressed pursuant to the requirements of appropriate laws and regulations. These activities are expected to be conducted in accordance with the regulatory processes described EIS/EIR Section 12.2.2, *Regulatory Setting*.

The combination of existing federal and State regulations (e.g., NEPA, CEQA, NHPA, California Health and Safety Code, AB52) and local codes and policies (e.g., Yolo County code protecting designated historic landmarks and historic districts, various general plan policies requiring the identification and protection of cultural resources) will require the following tasks to address these concerns, as part of the implementation of projects and activities:

- the identification of potential cultural resources through both searches of available records and field investigation;
- coordination with Native American groups and the NAHC;
- the identification and implementation of measures to address the inadvertent discovery of previously unknown cultural resources;
- proper mapping, recordation, reporting, and if appropriate, archiving of newly identified cultural resources; and
- development and implementation of appropriate avoidance, protection measures, or other mitigation depending on the nature and significance of the resource.

The Yolo County General Plan contains policies that provide for the identification of archaeological deposits that qualify as historical resources and that may be subject to impacts from ground disturbance and other activities. These policies and actions require consultation with tribal entities, pre-permitting cultural resource assessments, and the development of feasible mitigation to minimize impacts in advance of project implementation. Policies CO-4.13, CC-1.15, and CC-1.5 call for the mitigation of impacts to architectural resources, encourage the retention of historical structures and trees along scenic roads and in project sites, and provide for the input from preservation professionals and descendant communities in developing mitigation strategies. Policy CC-4.11, in particular, addresses the project-specific identification of cultural resource issues by including pre-permitting resource assessments. Policy CO-2.22, in particular, provides a degree of protection for those archaeological deposits that are located within 100 feet of the top of banks for all lakes, perennial ponds, rivers, creeks, sloughs, and perennial streams. These requirements provide an effective mechanism to ensure that potential impacts to cultural resources are appropriately addressed and mitigated.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Implementation of the conservation strategy included in the Proposed Action Alternative is not anticipated to result in

impacts to archeological resources or human remains, and there are procedures and regulations in place to address unforeseen discoveries of such resources.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect CUL-3: Disturb a paleontological resource.

Under the Proposed Action Alternative, biological resource mitigation lands will be grouped into larger areas as opposed to the anticipated use of smaller and more dispersed preservation lands that might otherwise occur without the Plan in place. Implementation of the Plan will result in a reserve lands being retained in their existing conditions (i.e., preserved habitat) and managed for improved biological values, or converted to a more natural state (i.e., habitat restoration or creation). Retaining lands in their existing conditions will result in no change in conditions for cultural resources. Habitat restoration or creation could involve ground-disturbing activities that could damage or destroy paleontological resources.

Habitat restoration or creation could involve ground-disturbing activities that could damage or destroy paleontological resources. These impacts will be evaluated on a case-by-case basis pursuant to NEPA and CEQA, as applicable, and potentially significant impacts will be identified and avoided or addressed pursuant to the requirements of appropriate laws and regulations. These activities are expected to be conducted in accordance with the regulatory processes described EIS/EIR Section 12.2.2, *Regulatory Setting*.

The combination of existing federal and State regulations (e.g., NEPA, CEQA, NHPA, California Health and Safety Code, AB52) and local codes and policies (e.g., Yolo County code protecting designated historic landmarks and historic districts, various general plan policies requiring the identification and protection of cultural resources) will require the following tasks to address these concerns, as part of the implementation of projects and activities:

- the identification of potential cultural resources through both searches of available records and field investigation;
- coordination with Native American groups and the NAHC;
- the identification and implementation of measures to address the inadvertent discovery of previously unknown cultural resources;

- proper mapping, recordation, reporting, and if appropriate, archiving of newly identified cultural resources; and
- development and implementation of appropriate avoidance, protection measures, or other mitigation depending on the nature and significance of the resource.

The Yolo County General Plan contains policies that provide for the identification of paleontological resources and that may be subject to impacts from ground disturbance and other activities. These policies and actions require consultation with tribal entities, pre-permitting cultural resource assessments, and the development of feasible mitigation to minimize impacts in advance of project implementation. Policies CO-4.13, CC-1.15, and CC-1.5 call for the mitigation of impacts to architectural resources, encourage the retention of historical structures and trees along scenic roads and in project sites, and provide for the input from preservation professionals and descendant communities in developing mitigation strategies. Policy CC-4.11, in particular, addresses the project-specific identification of cultural resource issues by including pre-permitting resource assessments. Policy CO-2.22, in particular, provides a degree of protection for those archaeological deposits that are located within 100 feet of the top of banks for all lakes, perennial ponds, rivers, creeks, sloughs, and perennial streams. These requirements provide an effective mechanism to ensure that potential impacts to cultural resources are appropriately addressed and mitigated.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Implementation of the conservation strategy included in the Proposed Action Alternative is not anticipated to result in impacts to paleontological resources, and there are procedures and regulations in place to address unforeseen discoveries of such resources.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

10. Transportation

Effect TRAN-1: Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system.

Implementation of the Yolo HCP/NCCP and associated conservation strategy will involve natural resources conservation through the preservation of natural and seminatural landscapes and maintenance of ecological integrity of large habitat blocks. Where these activities consist of the continuation of existing agricultural operations and the preservation of existing open space, they will have no impact on transportation given that the land use will remain the same and no new traffic will be generated as a result.

The enhancement, restoration, or creation of habitat included as part of the Plan's conservation strategy has the potential to result in limited transportation impacts. Depending on the specifics of the habitat enhancement, restoration, and creation, several pieces of heavy equipment and the associated crews may use local roadways. These activities could result in localized, temporary increases in vehicle trips on the local roadway system. However, because of the low number of maintenance vehicles needed for these activities, and because these activities will be short term, temporary, and dispersed throughout various portions of the Plan Area, there will not be substantial adverse effects to the performance of the circulation system.

Reserve management could include a variety of activities that generate vehicle trips, such as regular maintenance and monitoring visits. However, these vehicle trips will be infrequent and intermittent, will occur throughout the day, and will not be focused on peak traffic periods. Also, under the Proposed Action Alternative, a single entity will be overseeing management of the overall preserve system, potentially allowing for consolidation of trips to various reserve system lands and an overall reduction in vehicle miles travelled.

Overall, implementation of the conservation strategy included in the Proposed Action Alternative will generate a very limited number of vehicle trips that will be dispersed over various locations and various times. This minor increase in trips will not be sufficient to result in a conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Implementation of the conservation strategy included in the Proposed Action Alternative is not anticipated to result in conflicts with the circulation system.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect TRAN-2: Conflict with an applicable congestion management program.

Implementation of the Yolo HCP/NCCP and associated conservation strategy will not add sufficient vehicle trips to the roadway system to result in a conflict with an applicable congestion management program. Implementation of the Yolo HCP/NCCP and associated conservation strategy will involve natural resources conservation through the preservation of natural and seminatural landscapes and maintenance of ecological integrity of large habitat blocks. Where these activities consist of the continuation of existing agricultural operations and the preservation of existing open space, they will have no impact on transportation given that the land use will remain the same and no new traffic will be generated as a result.

The enhancement, restoration, or creation of habitat included as part of the Plan's conservation strategy has the potential to result in limited transportation impacts. Depending on the specifics of the habitat enhancement, restoration, and creation, several pieces of heavy equipment and the associated crews may use local roadways. These activities could result in localized, temporary increases in vehicle trips on the local roadway system. However, because of the low number of maintenance vehicles needed for these activities, and because these activities will be short term, temporary, and dispersed throughout various portions of the Plan Area, there will not be substantial adverse effects to the performance of the circulation system.

Reserve management could include a variety of activities that generate vehicle trips, such as regular maintenance and monitoring visits. However, these vehicle trips will be infrequent and intermittent, will occur throughout the day, and will not be focused on peak traffic periods. Also, under the Proposed Action Alternative, a single entity will be overseeing management of the overall preserve system, potentially allowing for consolidation of trips to various reserve system lands and an overall reduction in vehicle miles travelled.

Overall, implementation of the conservation strategy included in the Proposed Action Alternative will generate a very limited number of vehicle trips that will be dispersed over various locations and various times. This minor increase in trips will not be sufficient to result in a conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Potential effects from establishment and management of a reserve system under the Proposed Action will not result in significant adverse effects that will conflict with an applicable congestion management program.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect TRAN-3: Result in a substantial increase in hazards because of incompatible uses.

Where implementation of the Yolo HCP/NCCP conservation strategy consists of the continuation of existing agricultural operations and the preservation of existing open space, these activities will have no impact on transportation given that the land use will remain the same and no new traffic, or traffic hazards, will be generated as a result. Habitat enhancement, restoration, and creation within the reserve system could generate a limited number of heavy truck and other maintenance related trips. The limited number of truck trips will not result in a substantial change in traffic patterns or in the types of vehicles found on local roadways because the activities generating the additional truck trips will be geographically and temporally dispersed and will be of relatively short duration. It is common for roadways to be used on a temporary and infrequent basis for the transport of reserve maintenance materials and equipment and this is not an unusual occurrence generating a particular traffic hazard. In addition, habitat enhancement, restoration, and creation activities are likely to be implemented in rural areas where conditions are suitable for the long-term ecological success of reserve system lands. Existing traffic volumes in these areas will be limited, further reducing the potential for the transport materials and equipment to result in conflicts with existing traffic and potential hazards.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Potential effects from establishment and management of a reserve system under the Proposed Action will not result in a substantial increase in hazards because of incompatible uses.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect TRAN-4: Result in inadequate emergency access.

For the reasons described above in Effects TRAN-1 and TRAN-3, implementation of the Yolo HCP/NCCP and associated conservation strategy will not add sufficient vehicle trips, or otherwise obstruct roadways in a manner that will result in inadequate emergency access. There are no proposed road closures or other activities in roadways that could obstruct emergency vehicles. Transportation infrastructure improvements are considered covered activities within the Proposed Action Alternative and will be developed consistent with adopted plans. No significant impacts to emergency access are anticipated.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Potential effects from establishment and management of a reserve system under the Proposed Action will not result in inadequate emergency access.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect TRAN-5: Conflict with adopted policies, plans, or programs supporting public transit, bicycle or pedestrian facilities.

For the reasons described above in Effects TRAN-1 and TRAN-3, implementation of the Yolo HCP/NCCP and associated conservation strategy will not add sufficient vehicle trips, or otherwise obstruct or disrupt transportation rights of way in a manner that will conflict with public transit, bicycle, or pedestrian facilities that might be present in the vicinity of reserve system lands. The establishment of reserves will not conflict with existing public transit, bicycle, or pedestrian facilities as it would be cost prohibitive to establish reserves that required the relocation or replacement of these facilities. There are no plans to place reserves in locations where public transit, bicycle, or pedestrian facilities are currently planned by local jurisdictions. Therefore, the Proposed Action Alternative will not conflict with adopted policies, plans, or programs supporting public transit, bicycle or pedestrian facilities.

Significance Before Mitigation

As compared to existing conditions, this impact is **less than significant**. Potential effects from establishment and management of a reserve system under the Proposed Action will not result

in significant adverse effects that will conflict with adopted policies, plans, or programs supporting public transit, bicycle or pedestrian facilities.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

11. Noise

Effect NOISE-1: Expose people to excessive groundborne vibration or noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

Under the Proposed Action Alternative, implementation of the conservation strategy will include management activities that entail the construction, maintenance, repair, replacement, and use of facilities required to manage the reserve system, including maintenance sheds, shade structures, roads, culverts, fences, gates, wells, stock tanks, and stock ponds. Although facilities existing at the time of land acquisition will be used whenever feasible, new facilities may be constructed. These activities may occur in the vicinity of sensitive receptors, such as residential subdivisions and parks. Any noise or groundborne vibration generated from the construction and ongoing maintenance of reserve system-related structures will be minimal and not expected to exceed acceptable levels. With regard to reserve system activities performed on unincorporated lands, the County has not adopted a comprehensive construction noise or groundborne vibration ordinance, however the policies and standards in the Noise Element of the County General Plan will apply.

Implementation of the Proposed Action Alternative would differ from the No Action Alternative in that the resulting reserve system under the Proposed Action Alternative will be a consolidated, contiguous system. Habitat mitigation under existing conditions without the HCP/NCCP in place occur on a project-by-project basis, which would result in more discrete reserves. The consolidated reserve system under the Proposed Action Alternative will result in fewer vehicle miles traveled (VMT) throughout the Plan Area. A reduction in reserve system-related VMT from these activities will subsequently reduce noise generated from mobile source emissions, which could lower levels of mobile-source ambient noise in the Plan Area.

Additionally, as discussed above, covered actions which require ground disturbance and the potential to generate adverse levels of noise implemented as part of the conservation strategy under the Proposed Action Alternative will be subject to AMMs as required by the Yolo

HCP/NCCP. Four of these AMMs, as identified in EIS/EIR Table 14-3, will result in reductions in potential noise effects to sensitive land uses and receptors by either placing noise generating activities farther from potential sensitive receptors, or reducing the noise generating potential of preserve activities.

Implementation of the Proposed Action Alternative is not anticipated to result in vibration or noise at levels that are significant or adverse.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative relative to an existing conditions baseline could result in increased levels of vibration and ambient noise associated with reserve establishment and maintenance. However, the implementation of AMM's and the minor nature of the increase in mobile source noise emissions will not result in substantial adverse effects related to increases in vibration or levels of ambient noise. As compared to existing conditions, this impact is **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect NOISE-2: Create a substantial permanent increase in ambient noise levels in the project vicinity as compared to without the project.

Under the Proposed Action Alternative, a reserve system will be established and will require the use of various types of motorized equipment for reserve establishment and maintenance. Permanent ambient noise generated from the use of heavy duty equipment (e.g., graders, dozers) for establishment and maintenance of the reserve system will occur, similar to existing noise sources and levels in the area. Increases in noise from these activities will be generally be temporary and occur over short periods (hours or days). Implementation of the Plan is not anticipated to generate significant increases in noise levels.

The reserve system under the Proposed Action Alternative will be consolidated and contiguous. As a result, maintenance- and recreational-related VMT will be minimized, thus, reducing noise generated from mobile source emissions. The more consolidated nature of the reserve system under the Proposed Action Alternative could improve accessibility and reduce the travel distance required for maintenance and recreational activities. Mobile sources comprise the dominant source of ambient noise in the Plan Area; therefore, a reduction in vehicular trips could reduce levels of ambient noise associated with automobiles and trucks. Overall, trip

generation from preserve/reserve system establishment and maintenance is anticipated to be minor and will not result in a significant increase in ambient noise relative to existing conditions.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative relative to an existing conditions baseline will result in increased levels of ambient noise associated with reserve establishment and maintenance. However, the minor nature of the increase in noise emissions will not result in substantial adverse effects to levels of permanent ambient noise. As compared to existing conditions, this impact is **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect NOISE-3: Create a substantial temporary increase in ambient noise levels in the project vicinity as compared to without the project.

For the same reasons described above under Effect NOISE-2 indicating why the Proposed Action Alternative will not result in a substantial permanent increase in ambient noise levels, Plan implementation will also not result in a substantial temporary increase in ambient noise levels. Activities associated with preserve system establishment and maintenance will be of a relatively small scale and will not require large numbers of noise generating equipment. Plan implementation will not generate substantial noise on either a temporary or permanent basis.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative relative to an existing conditions baseline will result in minor increases in levels of temporary ambient noise associated with reserve establishment and maintenance. However, the minor nature of the increase in noise emissions will not result in substantial adverse effects. As compared to existing conditions, this impact is **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect NOISE-4: Expose people to excessive noise associated with air travel.

As discussed in EIS/EIR Section 14.2.1, *Environmental Setting*, the Plan Area contains four airports: Yolo County Airport, Watts-Woodland Airport, University Airport, and Borges-Clarksburg Airport. Additionally, the Sacramento International Airport in adjacent Sacramento County is located one mile from the Plan Area border and generates noise within the Plan Area.

The conservation strategy contained in the Proposed Action Alternative will expand on existing conservation locations to produce a more consolidated and connected reserve system than would otherwise occur under existing conditions. As discussed in EIS/EIR Section 2.3.2, *Alternative B-Proposed Action Alternative*, a total of 33,362 acres will be included in the reserve system. It is likely at least some element of the reserve system will be located within two miles of a private or public airstrip. Although some recreational activity could be allowed under the conservation strategy, the reserve system will typically be unoccupied and will not have structures or uses that will support human habitation or a long-term human presence. Therefore, implementation of the Proposed Action Alternative will not expose people living or working near the vicinity of a private or public airstrip to excessive noise associated with air travel.

Significance Before Mitigation

Implementation of the Proposed Action Alternative would not expose people living or working near the vicinity of a private or public airstrip to excessive noise associated with air travel. As compared to existing conditions, this impact is **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

12. Air Quality

Effect AQ-1: Conflict with or obstruct implementation of an applicable air quality plan.

Under the Proposed Action Alternative, implementation of the conservation strategy will include management activities that entail the construction, maintenance, repair, replacement, and use of facilities required to manage the reserve system, including maintenance sheds, shade structures, roads, culverts, fences, gates, wells, stock tanks, and stock ponds. All reserve system management structures will be constructed to minimize adverse effects on covered species and natural communities. Facilities existing at the time of land acquisition will be used whenever feasible. Habitat enhancement, restoration, creation, management, and monitoring will also be conducted. Implementation of these activities will result in emissions of air pollutants.

The conservation strategy under the Proposed Action Alternative will also include the acquisition of agricultural land. Although agricultural use will have some restrictions, (i.e., not converting the lands to orchards or vineyards), agriculture-related activity will continue to occur. Use of agriculture-related equipment (e.g., tractors and other diesel equipment) will result in emissions of ROG, NO_x, PM₁₀, and PM_{2.5}; however, such emissions will be identical to agricultural activity occurring under existing conditions without the Plan in place.

Construction- and operational-related emissions of ROG, NO_x, PM₁₀, and PM_{2.5} related to reserve system establishment and management activities will not exceed YSAQMD numeric standards and therefore will not conflict with or obstruct implementation of air quality plans applicable to Yolo County. The reserve system will cover approximately 24,000 acres and be established over a 50-year study period. Emissions will reflect that the Proposed Action Alternative will result in a reserve system that is consolidated and more contiguous and managed by a single entity. As a result, reserve system management will be more coordinated. This will support more efficient reserve system operations, such as allowing a single vehicle trip to be used to conduct reserve system management and monitoring on multiple reserves, as opposed to multiple reserve management entities each making separate trips to conduct management and monitoring on individual preserves. Reduced vehicle trips, and associated reductions in VMT, will also result in slightly reduced mobile source emissions from reserve operations and maintenance.

Further, construction of the covered activities under the Proposed Action Alternative will be subject to AMMs as required by the Yolo HCP/NCCP. These AMMs will provide an additional mechanism for impact reduction and oversight beyond existing regulations to reduce air quality effects associated with PM₁₀ and PM_{2.5}. The Proposed Action Alternative will not result in conflicts with, or obstruction of, implementation of an applicable air quality plan.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not conflict or obstruct an air quality management plan. As compared to existing conditions, this impact is **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect AQ-2: Violate any air quality standard or contribute substantially to an existing or projected air quality violation.

For the same reasons described above for Effect AQ-1, establishment and management of reserves under the Proposed Action Alternative will not result in a violation of an air quality standard or contribute substantially to an existing projected air quality violation.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not result in a violation of an air quality standard. As compared to existing conditions, this impact is **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect AQ-3: Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard

For the same reasons described above for Effect AQ-1, establishment and management of a reserve system under the Proposed Action Alternative will not result in a cumulatively

considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or State ambient air quality standard.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not contribute a cumulatively considerable net increase of air pollutants to the Plan Area. As compared to existing conditions, this impact is **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect AQ-4: Expose sensitive receptors to substantial pollutant concentrations.

Activities associated with reserve system establishment and management that will generate pollutants will be short-term, temporary, and relatively minor. The activity with the greatest potential for emissions will be where grading or earth moving is completed as part of habitat restoration or creation. This will typically be a one-time activity at each reserve where it is conducted. As such, any exposure of nearby sensitive receptors to construction emissions will be minimal. More common reserve system establishment and management activities, such as installing and maintaining fences and habitat monitoring, will result in little to no pollutant emissions. Because reserves will most frequently be established in existing rural or open space areas most suitable for providing habitat value to covered species, there will typically be few or no sensitive receptors in close proximity to reserve system establishment and management activities.

Under the Proposed Action Alternative, agricultural land will also be preserved as a component of the conservation strategy. Agricultural practices such as tilling and plowing will continue to occur similar to existing conditions.

Given these conditions, the establishment and management of the reserve system under the Proposed Action Alternative will not expose sensitive receptors to substantial pollutant concentrations.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not expose sensitive receptors to substantial concentrations of pollutants. As compared to existing conditions, this impact is less than significant.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect AQ-5: Create objectionable odors affecting a substantial number of people.

The small scale of reserve system establishment and management activities, the short-term and temporary nature of these activities, and the anticipated low density of potential sensitive receptors in the vicinity of reserves will prevent any odors generated by these activities from affecting a substantial number of people. Although exhaust from heavy-duty diesel construction equipment can be considered to create an objectionable odor, the smell of the exhaust dissipates rapidly with distance and will not be discernable to a substantial number of people even if higher than anticipated numbers of diesel equipment were operating simultaneously in the reserve system. There are no other proposed reserve system activities that will generate objectionable odors that will cross the reserve boundary. The potential for generating odors that could affect people outside the reserve system will not be appreciably different from agricultural and construction equipment activities taking place under existing conditions without the Plan in place.

The conservation strategy under the Proposed Action Alternative will include emphasis on preserving agricultural land use. Agricultural activities that may produce odors such as deployment of manure and chemical compounds (e.g., pesticides, fungicides) will continue to occur. Odor impacts associated with project related agricultural activity will be identical to odor emitted under existing conditions.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not expose sensitive receptors to objectionable odors. As compared to existing conditions, this impact is less than significant.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

13. Climate Change

Effect CC-1: Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.

Under the Proposed Action Alternative, implementation of the conservation strategy will include management activities that entail the construction, maintenance, repair, replacement, and use of facilities required to operate the reserve system, including maintenance sheds, shade structures, roads, culverts, fences, gates, wells, stock tanks, and stock ponds. Habitat enhancement, restoration, creation, management, and monitoring will also be conducted. Though the Proposed Action Alternative relies on the continued agricultural use of the land, changes to the types and quantities of agricultural activities, and related GHG emissions, are not expected to result from implementation of the Proposed Action Alternative. The level of agricultural-related GHG emissions under the Proposed Action Alternative will not differ from emissions occurring from existing ongoing activities. GHG emissions resulting from implementation of the Plan's management activities under the Proposed Action Alternative will not exceed applicable significance criteria for GHG emissions of 660 MT CO₂e/year.

The conservation strategy under the Proposed Action Alternative will result in a reserve system that is consolidated, interconnected, and managed by a single entity. This will support more efficient reserve system lands operation, such as allowing a single vehicle trip to be used to conduct reserve management and monitoring on multiple reserve system lands, as opposed to multiple reserve system management entities each making separate trips to conduct management and monitoring on individual preserves. Reduced vehicle trips, and associated reductions in VMT, will also result in reduced GHG emissions from reserve system operations and maintenance.

Establishment and operation of reserves under the Proposed Action Alternative will not result in GHG emissions that will have a significant effect on the environment, overall emissions from reserve system operations are anticipated to be slightly less or similar to existing conditions.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not generate a substantial level of GHGs. As compared to existing conditions, this impact is **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect CC-2: Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

As discussed above for Effect CC-1, establishment and operation of the reserve system under the Proposed Action Alternative will not exceed the applicable GHG significance criteria, and therefore will not constitute a substantial contribution of GHG emission that will conflict with an applicable plan, policy, or regulation adopted for the purposes of reducing GHG emissions. Overall GHG emissions from reserve system operations will be slightly less or similar under the Proposed Action Alternative than under existing conditions.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not conflict with any greenhouse gas reduction plans. As compared to existing conditions, this impact is **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect CC-3: Result in inefficient and wasteful consumption of energy, or require new or expanded energy facilities.

Appendix F of the State CEQA Guidelines requires consideration of the potentially significant energy implications of a project. CEQA requires mitigation measures to reduce “wasteful, inefficient and unnecessary” energy usage (Public Resources Code Section 21100, subdivision [b][3]). However, neither the law nor the State CEQA Guidelines establish thresholds that define wasteful, inefficient, or unnecessary use. Therefore, this section includes a qualitative discussion of the potential for the project to result in the inefficient or wasteful consumption of energy.

Energy will be required to construct projects provided incidental take authorization through the HCP/NCCP. This one-time energy expenditure required to construct physical infrastructure will be non-recoverable. Most energy consumption will result from operation of reserve maintenance equipment, and indirect energy consumption will be associated with the production and transport of reserve maintenance materials. There are no unusual project characteristics that will necessitate the use of reserve maintenance equipment that would be less energy efficient than those used for comparable activities in other parts of the State. The incremental increase in the use of energy associated with reserve maintenance will be less-than-significant. Energy efficiency is also expected for the offsite production of reserve maintenance materials, based on the economic incentive for efficiency. Non-renewable energy will not be consumed in a wasteful, inefficient, or unnecessary manner when compared to other reserve maintenance sites in the region.

Energy demand for establishment and operation of reserve system lands has been quantified through CalEEMod calculations for a habitat restoration effort, which will be the greatest energy consuming activity related to the reserve system. Reserve system establishment that includes habitat restoration or creation could produce up to 472 MT CO₂/ year from the use of heavy-duty equipment, worker commute, and vendor haul trips; reserve system maintenance and operational activities could result in emissions of up to 442 MT CO₂/year. Overall energy consumption for establishment and management of reserve system lands will not be substantial and there are no unique or special circumstances that will result in a wasteful use of energy. The projected energy consumption will not require additional capacity or substantially increase peak or base period demands for electricity and other forms of energy.

Significance Before Mitigation

Implementation of the Plan will not result in inefficient and wasteful consumption of energy, or require new or expanded energy facilities. As compared to existing conditions, this impact is less than significant.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect CC-4: Effects of climate change to the action.

As discussed in EIS/EIR Section 16.2.1 and the evaluation of the No Action Alternative, climate change may result in various effects on reserves in the Plan Area related to precipitation amounts and patterns, temperature, wildfire risk, and snow pack effects on river flows. These changes could result in adverse effects to reserve systems. Given the amount of uncertainty and number of variables involved, it would be speculative to attempt to predict the future effects of climate change on any particular species or ecosystem in the Plan Area.

If adverse effects from climate change were to occur in reserve system lands, the larger interconnected reserve system associated with the Proposed Action Alternative will be more resilient to changing climatic conditions than the smaller more discrete reserves that will result without the Plan. Also, the buffers provided between reserves and adjacent land uses included as part of the conservation strategy under the Proposed Action Alternative will add further resiliency to potential climate change effects.

Significance Before Mitigation

Implementation of the Plan will not result in inefficient and wasteful consumption of energy or require new or expanded energy facilities. As compared to existing conditions, this impact is less than significant.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

14. Geology, Soils, and Mineral Resources

Effect GEO-1: Expose people or structures to substantial adverse effects due to rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, or landslides.

Portions of the northwestern area of Yolo County have a high landslide susceptibility. Lateral spreading is a moderate to significant hazard in the eastern portion of the Plan Area. Historical and recent subsidence is present throughout northern and central Yolo County, and is likely to occur in the future. Liquefaction hazards are moderate and differential settlement or ground collapse is a common hazard for the Great Valley geomorphic province in the eastern portion of the Plan Area. Other soil stability conditions may occur in the agricultural and open space areas of the County.

The only seismic fault in the Plan Area considered subject to surface rupture is the Hunting Creek Fault, which extends into Planning Unit #1 (Little Blue Ridge). The Proposed Action Alternative does not include any covered activities in this planning unit, nor have any priority acquisition areas been identified:

Implementation of the conservation strategy under the Proposed Action Alternative does not include residential development or other habitable structures and, as such, it will not place housing within geotechnical hazard areas or expose people to seismic risk or other geohazards. While there may be structures associated with the reserve system such as gates and fences, they are not habitable structures and can be easily repaired if damage from a seismic event or other geohazard were to occur.

Potential effects from establishing and managing a reserve system under the Proposed Action Alternative will not expose people or structures to substantial adverse effects due to rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, or landslides.

Significance Before Mitigation

Potential effects from establishing and managing a reserve system under the Proposed Action Alternative will not expose people or structures to substantial adverse effects due to rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, or landslides. As compared to existing conditions, this impact is **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect GEO-2: Result in substantial soil erosion or the loss of topsoil.

Implementation of the Proposed Action Alternative will involve natural resources conservation through the preservation of natural and seminatural landscapes and maintenance of ecological integrity of large habitat blocks. These activities will result in continuation of existing agricultural operations or the preservation of existing open space, and therefore will not cause or contribute to erosion.

The conservation strategy included in the Proposed Action Alternative also includes habitat enhancement, where existing habitat conditions and values to covered species will be improved in an area, and habitat restoration and creation where an existing natural or seminatural land cover type will be converted to a different natural land cover type (e.g., restoration of riparian habitat on land that once supported riparian habitat, but currently contains annual grassland vegetation). Where these activities include ground disturbance they could cause or accelerate erosion. However, compliance with applicable regulations and building codes will effectively reduce this potential hazard. In addition, ground disturbing activities on reserve system lands will be required to implement AMM3 and AMM8, which will reduce the potential for erosion by limiting temporary construction footprints within the Plan Area.

Grading activities that will occur in conjunction with the Proposed Action Alternative are regulated by the local jurisdictions in which they will occur. Each jurisdiction in the Plan Area has a unique permitting process. Generally, the Conservancy will submit an application that includes a description of the work. Additional reports, such as a soil engineering report, engineering geology report, or plans and specifications for grading may be required by the local building or engineering departments, depending on the proposal. The application, plans, and specifications (if any) will be checked by the appropriate building official or engineer, and may be reviewed by other departments of the County or City to check compliance with the laws and ordinances under their jurisdiction. Earthwork recommendations to ensure slope stability and erosion controls, based on site conditions, will be incorporated into the project construction documents. The Conservancy may also be required to secure a National Pollutant Discharge Elimination System permit, depending on the size of the project footprint. The SWPPP and best management practices required by the permit will limit the potential for reserve maintenance to generate substantial soil erosion or result in the loss of topsoil.

Significance Before Mitigation

Potential effects from establishing and managing a reserve system under the Proposed Action Alternative will not result in substantial soil erosion or the loss of topsoil. As compared to existing conditions, this impact is less than significant.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect GEO-3: Create a substantial risk to life or property by locating structures on expansive soil.

The soils of the Plan Area have moderate to high shrink-swell potential; soils with high shrink-swell potential generally occur in the far western edge of the Plan Area. Therefore, portions of the Yolo HCP/NCCP reserve system could be located on expansive soils. However, implementation of the conservation strategy under the Proposed Action Alternative does not include construction of structures susceptible to damage from expansive/shrink swell soils; therefore, no substantial risk to life or property from expansive soils will occur.

Potential effects from establishing and managing a reserve system under the Proposed Action Alternative will not create a substantial risk to life or property by locating structures on expansive soil.

Significance Before Mitigation

Potential effects from establishing and managing a reserve system under the Proposed Action Alternative will not result in creation of a substantial risk to life or property by locating structures on expansive soil. As compared to existing conditions, this impact is less than significant.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect GEO-4: Result in the loss of availability of a known mineral resource.

As shown in EIS/EIR Exhibit 17-3, mineral resources in the Plan Area identified pursuant to SMARA are concentrated in the area around Cache Creek. Natural gas fields are located throughout the low-lying portions of the Plan Area, including the expanded Plan Area along Putah Creek. These areas correspond with high priority reserve system acquisition areas

identified for the Proposed Action Alternative (see EIS/EIR Exhibit 2-5 in Chapter 2, *Proposed Action and Alternatives*). Therefore, mineral rights, which could be exercised for the extraction of oil, gas, precious metals, trace elements, or other resources (i.e., aggregate), may occur on properties that the Conservancy considers for the reserve system. These rights may be owned separately (severed) from the surface rights of the real property.

HCP/NCCP Section 7.5.12 addresses Mineral Rights and establishes a process and protocols for evaluating whether a severed mineral right exists for any given property and appropriate considerations during property acquisition evaluation. For properties with moderate to high risk of a severed mineral right being exercised, the Conservancy will be required to take additional steps to preclude the mineral right from interfering with the habitat value of the land. Evaluation of properties prior to acquisition will include determination, through the due diligence process, of whether a separate mineral estate exists. If a separate mineral estate exists, Conservancy staff members will assess the risk of mineral extraction occurring. Since exercise of a severed mineral right will generally conflict with the intent of the conservation easements placed on lands enrolled in the reserve system, the Conservancy is likely to avoid purchasing conservation easements on properties where the mineral rights are separately owned, or consider purchase of the mineral rights together with the conservation easement if such action is possible and feasible. This could reduce the availability of mineral resources in the Plan Area.

Although access to mineral resources could conceivably be restricted on land enrolled in the reserve system, lands with mineable resources typically have much higher monetary value and it becomes less cost effective, or cost prohibitive, to purchase these lands for the reserve system.

The Yolo HCP/NCCP covers aggregate mining within the Cache Creek Area Plan (CCAP) boundary, consistent with the requirements of the CCAP (EIS/EIR, Yolo County 1996), which is expected to continue throughout the 50-year study period and beyond. The CCAP and relevant implementing ordinances currently authorize seven off-channel mining operations along Cache Creek. This includes approximately 968 acres of planned aggregate mining and 1,282 acres of additional future mining. The HCP/NCCP assumes 2,250 acres of new mining beyond those approved for the seven authorized operations (see EIS/EIR Exhibit 2-4 in Chapter 2, *Proposed Action and Alternatives*). This area coincides with the MRZ-2 zones identified in the County, as depicted in EIS/EIR Exhibit 17-4. Although both High Priority and Low Priority reserve system acquisition areas are identified in the MRZ-2 zone around Cache Creek, lands anticipated for mining are typically located outside the priority acquisition areas. Comparing the Cache Creek aggregate mining areas identified in EIS/EIR Exhibit 2-4 to EIS/EIR Exhibit 17-4, the mining areas have been deliberately excluded from the priority acquisition areas. In other words, the HCP/NCCP reserve area was designed to avoid the potential for conflict between mining operations and reserve land acquisition. Reserves will not be established under the Yolo HCP/NCCP that conflict with the CCAP. In addition, through incorporation of aggregate mining

in the CCAP as a Yolo HCP/NCCP covered activity, the Proposed Action Alternative may streamline the permitting and approval process for existing and future mining activities.

Overall, the potential loss of availability of known mineral resources from implementation of the conservation strategy under Proposed Action Alternative is minimal. Therefore, implementation of the Proposed Action Alternative will have a less-than-significant impact relative to the No Action Alternative.

Significance Before Mitigation

Although the Plan includes priority acquisition areas within the CCAP boundary, establishing and managing a reserve system under the Proposed Action Alternative will not substantially limit the availability of a known mineral resource compared to an existing conditions baseline. As compared to existing conditions, this impact is **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

15. Visual Resources

Effect VIS-1: Potential for substantial adverse effects on scenic vistas.

A scenic vista is generally considered to be a location from which the public can experience unique and exemplary high-quality views, including panoramic views of great breadth and depth, often from elevated vantage points. While much of the Plan Area is generally flat, some locations afford sweeping views of the landscape that provide scenic vistas. Implementation of the Proposed Action Alternative will involve natural resources conservation through the preservation of natural and seminatural landscapes and maintenance of ecological integrity of large habitat blocks, ecosystem function, and biological diversity. The conservation strategy included in the Proposed Action Alternative also includes habitat enhancement, where existing habitat conditions and value for covered species will be improved in an area, and habitat establishment/re-establishment where an existing natural or seminatural land cover type will be converted to a different natural land cover type (e.g., re-establishment of riparian habitat on land that once supported riparian habitat, but currently contains annual grassland vegetation).

These elements of the conservation strategy designed to preserve and augment existing ecosystem health and biological diversity will produce visual benefits to scenic vistas because existing areas containing natural habitat or agricultural lands will be preserved, and in some

cases improved or expanded. Vegetation and tree growth will be encouraged in locations where such habitat will benefit target covered species, such as along the Putah Creek corridor. Because a coordinated system of a linked reserves will be established for habitat preservation, enhancement, and establishment/re-establishment, scenic vistas will be improved because continuous areas of land, rather than smaller discrete sites, will be established as reserve areas.

Significance Before Mitigation

In the context of effects associated with scenic vistas, potential effects from establishment and management of a reserve system as result of implementation of the Proposed Action Alternative would be considered beneficial. Therefore, this impact is considered **less than significant** under CEQA.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect VIS-2: Potential damage to scenic resources.

Implementation of the various elements of the HCP/NCCP conservation strategy will primarily involve the preservation, enhancement, and establishment/re-establishment of existing land covers. It is highly unlikely that these activities, which are intended to preserve and enhance natural communities, will adversely affect trees, rock outcroppings, or similar natural features of sufficient size or prominence to be considered scenic resources. If an historical structure were to occur on lands acquired as a part of the reserve system, it would be evaluated as described in EIS/EIR Chapter 12, *Cultural Resources*, and avoided by reserve activities if it was found to be a significant historic resource. Therefore, historic buildings of sufficient quality and stature to be considered a scenic resource will not be damaged by reserve activities.

Yolo County contains a segment of State Route 16 which is considered an Eligible State Scenic Highway by Caltrans, but is not officially designated as a State Scenic Highway; therefore, effects to scenic resources along a State Scenic Highway will not occur as a result of implementation of the Proposed Action Alternative. However, there are several segments of highways that are designated as local scenic highways:

- State Route 16: Colusa County line to Capay
- State Route 128: Winters to the Napa County line
- County Roads 116 and 116B: Knights Landing to the eastern terminus of County Road 16

- County Roads 16 and 117 and Old River Road: County Road 107 to West Sacramento
- South River Road: West Sacramento city limits to Sacramento County line

Implementation of the Proposed Action Alternative will result in the preservation and enhancement of natural and semi natural areas to promote habitat and ecosystem health and biological diversity. The existing visual character of these sites will be retained, or lands could be modified towards a more natural state (i.e., habitat establishment/re-establishment), which would generally be considered to have a neutral or beneficial effect on scenic conditions. In particular, portions of the reaches of County Roads 116, 116B, 16, and 117 that are considered scenic cross through locations identified as HCP/NCCP priority acquisition areas (see EIS/EIR Exhibit 2-5, *Reserve System Priority Acquisition Areas*, in Chapter 2). Reserve system lands will be more likely to be established at locations visible from these road segments. Areas along scenic highways will not be adversely altered as a result of preservation and enhancement of agricultural lands and habitats.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not result in significant adverse effects to scenic resources. This impact is considered **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect VIS-3: Potential degradation of visual character and quality.

Implementation of the conservation strategy associated with the Proposed Action Alternative will result in the preservation, enhancement, and establishment/re-establishment of natural and semi natural areas to promote habitat and ecosystem health and biological diversity. The existing visual character of reserve system sites will generally be maintained. Sites that incorporate habitat enhancement or establishment/re-establishment will typically be perceived as a benefit to visual character as the extent and quality of native habitats is improved. Lands included in the conservation system would not be adversely altered by preservation, enhancement, and establishment/re-establishment activities, and these activities would not substantially affect the character and quality of the Plan Area and surroundings from a viewer's perspective. Because a coordinated linked reserve system will be established under the Proposed Action Alternative, enhancements to visual character and quality will be improved

because continuous areas of land, rather than smaller discrete sites, will be established as mitigation sites.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not result in significant adverse effects to visual quality or character. The creation of a reserve system will enhance the visual quality and character of discrete preserve sites established as mitigation for covered activities. This impact is considered **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect VIS-4: Potential for substantial light or glare.

As discussed above, the Proposed Action Alternative will result in the conservation and enhancement of natural and semi natural areas for the protected of covered species in the County. Construction materials known to produce glare or permanent lighting structures that could generate substantial sources of nighttime lighting will not be required. It is highly unlikely that any activities associated with establishment and maintenance of reserve sites or habitat enhancement, establishment, re-establishment will require nighttime construction; although if earth moving is required, equipment and materials could be stored overnight in staging areas with security lighting. AMM number 7 (AMM7) from the HCP/NCCP requires construction workers to direct all lights for night-time lighting of project construction sites into the project construction area and minimize the lighting of natural habitat areas adjacent to the project construction area (all AMMs are described in EIS/EIR Chapter 2, *Proposed Action and Alternatives*). This AMM will be applicable to construction associated with all covered activities, including preserve development, operations, and maintenance. AMM7 provides an additional mechanism for impact avoidance and oversight related to construction lighting at preserve locations not included in the No Action Alternative.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not result in the introduction of new sources of glare or nighttime lighting, and will therefore not contribute to adverse light or glare effects. This impact is considered **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

16. Hazardous Materials

Effect HAZ-1: Create a significant hazard through the routine transport, use, or disposal of hazardous materials, including along existing transportation corridors and in proximity to school sites.

Title 49 of the CFR, Hazardous Materials Regulations, includes requirements for the classification of materials, packaging, hazard communication, transportation, handling, hazardous materials employee training, and incident reporting. The California Department of Public Health regulates the haulers of hazardous waste. A valid registration issued by DTSC is required, unless specifically exempted, to transport hazardous wastes and DMV requires all hazardous materials transporters to possess a commercial driver's license with a hazardous materials endorsement. Vehicle Code Section 31303 outlines general routing and parking restrictions for hazardous material and hazardous waste shipments and CHP publishes a list of restricted or prohibited highways. FMCSA also maintains a Hazmat Route Registry that describes the highway routes that must be utilized for the transport of certain classes of hazardous waste that is monitored and regulated by the FMCSA field office and CHP.

Adherence to existing regulations and compliance with safety standards will reduce potential hazards associated with the routine use of hazardous materials. Pesticides and other chemicals are routinely used in the management of agriculture and open space areas. Use of pesticides is not a covered activity; therefore, authorization is not provided for pesticide use that will result in take of covered species.

Schools are considered a particularly sensitive receptor relative to hazardous material exposure because there is a concentration of children that is repeatedly exposed to environmental conditions at the school site for extended periods of time. Existing protective measures and regulations will be sufficient to ensure that hazardous materials stored, used, transported, and disposed of as part of projects covered under the HCP/NCCP will not pose a significant hazard to the public or the environment, including children at schools, under normal conditions.

It is not known if reserves established under the Proposed Action Alternative will be located near existing or proposed schools because the precise location of reserve lands will be determined during implementation of the Plan. However, the high priority reserve system

acquisition areas identified for the Proposed Action Alternative (see Figure 2-5 in Chapter 2, *Proposed Action and Alternatives*) are generally outside of established communities, where most schools are located. In addition, use of hazardous materials on reserve system properties will occur in a manner consistent with applicable regulations such that no take of protected species will occur. This is anticipated to substantially limit the potential for effect to students attending nearby schools.

Significance Before Mitigation

Establishing and operating the reserve system will not result in a significant adverse effect related to the routine transport, use, or disposal of hazardous materials. This impact is considered **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect HAZ-2: Result in the release of hazardous materials from a site of known or potential contamination.

Known Sites of Contamination

Since the location of future reserve system lands is unknown, an evaluation of the potential for specific sites of known contamination within the Plan Area to be affected by reserve system activities cannot be conducted at this time. However, EIS/EIR Appendix F identifies sites of known contamination. The majority of these are associated with development and historical use of the property. Since reserve system lands will be frequently located on land that is in a seminatural condition, there is a greatly reduced potential for these sites to be located on properties with known contamination.

Agricultural Chemicals

Due to historical use for agricultural purposes, it is anticipated that residue from pesticides, fertilizers, and other agricultural chemicals may be present in the Plan Area. As detailed in the setting section above, current agricultural practices do not generally employ toxic chemicals with long persistence; however, chemicals formerly used in agriculture included heavy metals and organic compounds, such as DDT, which may persist in soil for decades. These residues could potentially pose a health risk to persons coming into contact with those chemicals. The HCP/NCCP includes a requirement that a Phase I Environmental Site Assessment will be conducted in general accordance with the American Society for Testing and Materials Standard Practice E1527-05 prior to the Conservancy acquiring lands for conservation (see Section 7.5.5.2

of the HCP/NCCP). This assessment will identify potential environmental contamination and provide recommendation regarding the need for further evaluation of the property.

Common Road and Railway Contaminants

Properties located adjacent to roadways may contain elevated concentrations of lead in exposed surface soils, which could pose a health hazard to construction workers and users of the properties. Lead is a State-recognized carcinogen and reproductive toxicant. Exposure of construction workers or future site occupants to lead in soil could result in adverse health effects, depending on the duration and extent of exposure. Substantial quantities of aerially-deposited lead are understood to be generally confined to within 30 feet of a roadway. Other potential contaminants, including herbicides associated with weed abatement and contaminated ballast rock, are generally confined to the immediate transportation right-of-way. Conservation activities associated with the Proposed Action Alternative are not anticipated to result in disturbance of ballast rock and soils in established transportation corridors that could result in the release of potentially hazardous materials.

Undocumented Contamination Sites

The disturbance of undocumented hazardous wastes could also result in hazards to the environment and human health. Due diligence performed prior to acquisition will ensure that the Conservancy understands the potential limitations of any given property prior to purchase of conservation easements.

As established in the HCP/NCCP, newly protected lands that will be included in the reserve system must not have hazardous materials or property encumbrances that conflict with HCP/NCCP goals and objectives (see Section 7.5.1 of the HCP/NCCP). In addition, as described in Appendix K of the HCP/NCCP, the conservation template easement includes language that requires landowners to verify to the best of their knowledge that land entering into an easement is free of hazardous materials and that the landowner will comply with all environmental regulations regarding hazardous materials.

Significance Before Mitigation

Although the Proposed Action Alternative will result in land use that could expose people or the environment to existing contamination, established regulations and practices incorporated into the Plan will effectively reduce the potential for a significant adverse effect related to release of hazardous materials from a site of known or potential contamination. This impact is considered **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect HAZ-3: Result in a safety hazard for people residing or working in the project area because of proximity to public airports or private airstrips.

The HCP/NCCP will result in a net gain of 44 acres of wetland natural community types, including 20 acres of riparian habitat and 24 acres of aquatic habitat for California tiger salamander (see Table 6-1(b) of the HCP/NCCP). The tiger salamander habitat, which will be in the Dunnigan Hills area, could attract waterfowl since they are attracted to open bodies of water. There are no public airports or private airstrips in that area, however. Therefore, this will have no effect on the potential for hazardous conditions associated with bird-aircraft collisions. Given the proposed creation of wetlands will not be located near an existing airport or airstrip, there is no potential increase in bird aircraft strike hazard.

Significance Before Mitigation

Potential effects from establishment and management of a reserve system under the Proposed Action Alternative will not result in significant adverse safety hazards associated with public airports or private airstrips. This impact is considered **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect HAZ-4: Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.

Establishing and operating a reserve system, as planned under the Proposed Action Alternative, is not anticipated to impair implementation of emergency response or evacuation plans because such plans are typically geared towards urban areas. The reserve system is not anticipated to affect implementation of emergency response or evacuation plans and implementation of the Proposed Action Alternative is not anticipated to influence the quantity or character of development that would otherwise occur.

Significance Before Mitigation

Potential effects from establishing and managing a reserve system under the Proposed Action Alternative will not result in significant interference with an adopted emergency response or evacuation plan. This impact is considered **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect HAZ-5: Expose people or structures to a significant risk of loss, injury, or death involving wildland fires.

Existing regulations help prevent damage to structures and people by reducing wildfire hazards. As part of the public and private operations and maintenance covered activities, the Proposed Action Alternative includes weed abatement to manage fire hazards outside the reserve system, including the removal of dead and dying wood, trees, and vegetation in agricultural areas; and fuel management activities, including the maintenance of fire management zones along existing infrastructure. The conservation strategy also includes fire management, including prescribed burning, mowing, and fuel-break establishment and maintenance. This will reduce the potential to expose people or structures to a significant risk of loss, injury, or death involving wildland fires.

Significance Before Mitigation

Potential effects from establishing and managing a reserve system under the Proposed Action Alternative will not expose people or structures to significant risk of loss, injury, or death involving wildlife fires. This impact is considered **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Effect HAZ-6: Substantially affect public health due to increased presence of potential natural disease vectors.

The practice of flooding previously dry land that can be part of restoration or creation of aquatic habitats can create favorable mosquito development habitat. High temperatures may promote rapid mosquito development, as well as amplification of some vector-borne viruses (e.g., West Nile Virus). In addition, dense emergent vegetation in aquatic habitats may also increase the numbers of mosquitoes produced and impede the success of mosquito control practices such as the use of larvicides and mosquito fish.

The Plan Area is within the jurisdiction of the Sacramento-Yolo Mosquito Vector Control District. Control activities will be consistent with the BMPs in the District's Mosquito Reduction Best Management Practices Manual. The HCP/NCCP anticipates ongoing use of approved pesticides, herbicides, and other agri-chemicals in accordance with EPA labels on HCP/NCCP reserve lands. For rice land application, the recommended application shall not be harmful to mammals, reptiles, and amphibians (use of these chemicals is not a covered activity under the Yolo HCP/NCCP). Public health will not be adversely affected because the implementation of mosquito-reducing BMPs will prevent or reduce mosquito production in areas where standing water may occur.

Although implementation of the Proposed Action Alternative could result in more area preserved as open space and wetland habitat, which could provide habitat for mosquitoes, the Proposed Action Alternative allows for mosquito abatement (Section 7.5.5.4) if it does not result in incidental take of listed or Covered Species, and as long as the intended conservation benefits and conservation values of the reserve lands are not compromised. Although pesticide use will not be considered a covered activity (i.e., the Permittees may not cause take of a State or federally listed species as a result of pesticide use), Permittees may use pesticides in accordance with labeling instructions. Pesticide use must comply with applicable judicial orders related to the use of pesticides.

Significance Before Mitigation

Potential effects from establishing and managing a reserve system under the Proposed Action Alternative will not result in substantial increased presence of natural disease vectors. This impact is considered **less than significant**.

Mitigation

No mitigation is required.

Findings After Mitigation

The determination of less-than-significant impact is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

17. Cumulative Impacts

The impact analysis conducted for all CEQA impact areas and provided in the sections above is cumulative by nature given the countywide focus of the HCP/NCCP. The cumulative effects analysis methodology is described in EIS/EIR Section 3.6. The following provides a summary of the potential for adverse cumulative effect in each impact area:

Biological Resources -- For all of the biological resources considered in this analysis, the Proposed Action Alternative will result in a beneficial impact or less than significant impact. Relative to Existing Conditions, all impacts will be less than significant either before or after mitigation. Given the regional benefits to biological resources provided by the Conservation Strategy, no impact under the Proposed Action will result in a cumulatively considerable contribution to a significant adverse cumulative effect. This impact is **less than significant**.

Land Use -- The contribution of the Proposed Action Alternative to the cumulative condition for land use will be similar to existing conditions without the Plan in place (No Action Alternative). Implementation of urban projects and activities, rural projects and activities, rural public services (infrastructure and utilities, agriculture economic development, and open space), and public and private operations and maintenance receiving incidental take authorization under the Proposed Action Alternative will occur at generally the same intensity as the same categories of activities under the No Action Alternative. As described under "Cumulative Effects" for the No Action Alternative, the Proposed Action Alternative also will not contribute to potential divisions in existing communities. In addition, the Proposed Action Alternative will have the same effects regarding consistency with regional plans as the No Action Alternative. Implementation of Mitigation Measure LAND-1 prevents any contribution to potential conflicts between the Yolo HCP/NCCP and the Solano HCP. Adopting an HCP/NCCP as described for the Proposed Action Alternative will not result in a cumulatively considerable contribution to a significant adverse cumulative land use effect. This impact is **less than significant**.

Agriculture and Forestry Resources -- The contribution of the Proposed Action Alternative to cumulative conditions for agricultural and forestry resources will include an increase in the acres of preserved agricultural lands, including Important Farmland, and an increase in restored and preserved forest lands in the Plan Area. Protection of agricultural and forest lands will be improved as a result of the implementation of the conservation strategy and neighboring landowner protection program under the Proposed Action Alternative through preservation and enhancement of large areas of agricultural lands and valley foothill riparian natural community compared to the existing conditions and the opportunity for Endangered Species Act protection for neighboring agricultural lands. However, up to approximately 700 acres of cultivated land and 210 acres of grazing land could be permanently converted to a non-agricultural use. This is considered to be a cumulatively considerable contribution to a significant adverse cumulative agricultural impact. This impact is **significant and unavoidable**. See discussion of findings of fact for Effect Ag-1 above.

Public Services and Utilities -- Implementation of the Proposed Action Alternative will not directly or indirectly place additional demands on existing utilities or public services in the Plan Area. Therefore, implementation of the Proposed Action Alternative will not result in a cumulatively considerable contribution to a significant adverse cumulative effect on public services and utilities. This impact is **less than significant**.

Recreation and Open Space -- The contribution of the Proposed Action Alternative to the cumulative condition for recreation resources will include a potential increase in passive recreation opportunities from establishment of the reserve system in the Plan Area. These enhancements to recreation resources will result from the enhancement and restoration/creation of habitats and open space and be retained through the ongoing maintenance and monitoring of conservation areas. Recreation resources will be improved as a result of the implementation of the Proposed Action Alternative through preservation and enhancement of large areas of open space compared to the existing conditions. Therefore, implementation of the Proposed Action Alternative will not result in a cumulatively considerable contribution to a significant adverse cumulative effect on recreation resources and open space. This impact is beneficial and therefore, **less than significant** under CEQA.

Hydrology and Water Quality -- The contribution of the conservation strategy under the Proposed Action Alternative to the cumulative condition of hydrology and water quality in the Plan Area will include the establishment of conservation easements which will maintain existing agricultural uses, and the restoration, enhancements, and creation of habitat for covered species which may have a benefit to the hydrology and water quality in the Plan Area over existing conditions by removing the development potential and restoring natural communities on reserve system lands. In addition, conservation activities that require ground disturbance such as some habitat restoration will be subject to the AMMs listed in EIS/EIR Table 9-1. When implemented, these AMMs will further reduce the potential effects to hydrology and water quality from conservation activities. Therefore, implementation of the conservation strategy under the Proposed Action Alternative will not result in a cumulatively considerable contribution to a significant adverse cumulative effect related to hydrology and water quality resources in the Plan Area. This impact is **less than significant**.

Population and Housing -- Implementation of the Proposed Action Alternative will not directly or indirectly place additional demands on housing, induce population growth, or displace substantial numbers of existing housing or people in the Plan Area. Therefore, implementation of the Proposed Action Alternative will not result in a cumulatively considerable contribution to significant adverse cumulative effects related to population and housing. This impact is **less than significant**.

Socioeconomics and Environmental Justice -- With implementation of the Proposed Action Alternative, issuance of take permits to local authorities will streamline the permit process and clearly define project mitigation requirements for future projects. A small number of employment opportunities will be created, and substantial acreage of agricultural lands will be protected in perpetuity through the reserve system, resulting in a beneficial effect on the

agricultural economy in the Plan Area. Therefore, implementation of the Proposed Action Alternative will not result in a considerable adverse contribution to any combined effects of past, present, and probable future projects on socioeconomics. The Proposed Action Alternative will not result in disproportionate impacts to minority and low-income populations. Accordingly, the Proposed Action Alternative will not result in a cumulatively considerable contribution to a significant adverse cumulative effect related to environmental justice. There is **no impact** under CEQA in this category – this analysis is performed pursuant to NEPA requirements.

Cultural and Paleontological Resources – Existing regulatory requirements to avoid and mitigate for impacts to cultural and paleontological resources will ensure that implementation of the Proposed Action Alternative will not result in a considerable adverse contribution to the combined effects of past, current, and probable future projects on paleontological and cultural resources. Moreover, impacts to cultural resources are generally site specific or location specific. While some cultural resources may have regional significance, the resources themselves are site-specific, and impacts to them are project-specific. For example, impacts to a subsurface archeological find at one project site are generally not made worse by impacts from another project to a cultural resource at another site. Rather the resources and the effects upon them are generally independent. Accordingly, the Proposed Action Alternative will not result in a cumulatively considerable contribution to a significant adverse cumulative effect related to cultural and paleontological resources. This impact is **less than significant**.

Transportation – As described above for individual impacts, the contribution of the Proposed Action Alternative to the cumulative traffic condition will be minimal and implementation of the alternative will not result in conflicts with transportation related plans, ordinance, or policies. Therefore, implementation of the Proposed Action Alternative will not result in a cumulatively considerable contribution to a significant adverse cumulative effect related to transportation. This impact is **less than significant**.

Noise – Establishment and management of a reserve system as part of the implementation of the conservation strategy will add relatively minor amounts of noise, typically in locations distant from potential sensitive receptors. Also, implementation of the AMMs listed in EIS/EIR Table 14-13 and discussed in detail in EIS/EIR Appendix C, will further reduce the potential effects from noise during reserve establishment and maintenance activities. Therefore, implementation of the Proposed Action Alternative will not result in a cumulatively considerable contribution to a significant adverse cumulative effect related to noise. This impact is **less than significant**.

Air Quality – Establishment and management of a reserve system as part of the implementation of the conservation strategy will contribute relatively minor amounts of air emissions including regulated pollutants and odors, typically in locations distant from potential sensitive receptors. These minor emissions will not result in a cumulatively considerable contribution to a significant adverse cumulative effect related to air quality. This impact is **less than significant**.

Climate Change – Effects related to GHG emissions and global climate change, by their nature, are cumulative. Therefore, cumulative impacts of the Proposed Action Alternative are identical to those described above. Climate change effects associated with the project are minor and will not result in a cumulatively considerable contribution to a significant adverse cumulative effect related to climate change. This impact is **less than significant**.

Geology, Soils, and Mineral Resources – Impacts related to geology and soils are generally site-specific, rather than regional in nature. The geologic effects of multiple projects over large distances typically do not interact relative to issues such as seismic risk or the presence of expansive soils. However, for issues such as erosion, projects in close proximity may combine cumulatively to create a larger areawide erosion impact than will occur from a single project.

Compliance with applicable regulations and building codes will effectively reduce erosion hazards. In addition, ground disturbing activities on reserve system lands will be required to implement AMM3 and AMM8, which will reduce the potential for erosion by limiting temporary construction footprints within the Plan Area.

Geology, soils, and mineral resources in the Plan Area have been altered by agricultural operations, urban and rural development, and mining operations. However, no particular cumulative interactions or cumulative changes related to seismic risk, landslide, erosion, unstable soils, or expansive soils have been identified in the Plan Area. Due to the extensive regulations, standards, and policies related to these issues, as well as the limited ability for projects to interact on a cumulative basis related to geology and soils, it is not anticipated that projects or actions under the Proposed Action Alternative will contribute to a cumulative impact associated with these issues.

Existing land subsidence in the area between the towns of Zamora, Knights Landing, and Woodland can be attributed to the cumulative extraction of groundwater from past and present projects in this area. Implementation of the Plan will generally use no more water than under existing conditions.

Although past and present projects may have limited access to mineral resources in isolated locations, such as a road crossing a site with mineable aggregate below the road bed, there are large areas remaining in the County where aggregate and natural gas are available (see EIS/EIR Exhibit 17-3). It is not anticipated that development and activities associated with the Proposed Action Alternative will substantially limit access to mineral resources due to the various planning documents directing development away from important mineral resource areas and/or identifying important areas for continued mineral extraction. Continued extraction of aggregate according to adopted plans is a covered activity in the HCP/NCCP.

The extent of potential effects will be further reduced under the Proposed Action Alternative because the implementation of adopted AMMs will provide an additional mechanism for impact avoidance and oversight during reserve activities, and inclusion of aggregate mining in

the CCAP as a covered activity could streamline access to mineral resources in this area. Geology and related impacts associated with the project are minor and will not result in a cumulatively considerable contribution to a significant adverse cumulative effect related to geology, soils, or mineral resources. This impact is **less than significant**.

Visual Resources – Establishment of the reserve system will include enhanced viewsheds and landscapes from in the Plan Area as compared to the No Action Alternative. These enhancements to visual resources will result from the enhancement and establishment/re-establishment of habitats and will be retained through the ongoing maintenance and monitoring of conservation areas. As described above, visual resources will be improved as a result of the implementation of the Proposed Action Alternative through preservation and enhancement of large areas of habitat and agricultural lands compared to the existing conditions. In addition, any benefits to visual resources are greater because continuous areas of land, rather than smaller discrete sites, will be established as reserve areas. Also, AMM7 provides an additional mechanism for impact avoidance and oversight related to construction lighting at reserve system sites. Therefore, implementation of the Proposed Action Alternative will not result in a cumulatively considerable contribution to a significant adverse cumulative effect related to visual resources. This impact is **less than significant**.

Hazardous Materials – The potential impacts associated with the Proposed Action Alternative (e.g., acquiring lands containing hazardous materials, unearthing hazardous materials during restoration and other reserve system activities, and using hazardous materials as part of reserve system management) are site-specific in nature, and are expected to comply with applicable regulations, as described in the EIS/EIR. Impacts associated with hazards, hazardous materials, and other public health and safety issues are generally site-specific and/or project-specific, and will not be significantly affected by other development outside of the area. For example, an underground tank or residual pesticides on a project site at one location is not affected or cumulatively worsened by the same findings at another location. These are distinct, site-specific outcomes. Therefore, implementation of the Proposed Action Alternative will not result in a cumulatively considerable contribution to a significant adverse cumulative effect related to hazardous materials. This impact is **less than significant**.

D. GROWTH INDUCEMENT

CEQA requires that an EIR discuss the extent to which a proposed action will directly or indirectly foster economic or population growth or the construction of new housing, including removing obstacles to growth that may result in significant environmental effects (State CEQA Guidelines Section 15126.2[d]). The Yolo HCP/NCCP include covered activities that will have direct growth-inducing impacts. The action alternatives also include covered activities that would not directly cause growth to occur, but rather would accommodate growth that is already planned in the County's and Cities' general plans.

Future development that is included as a covered activity under the Proposed Action Alternative is considered planned development because it is derived directly from the County's and Cities' general plans and from transportation plans adopted by regional transportation authorities. The direct and indirect impacts of this planned growth and any mitigation requirements is provided under the general plan EIRs for each jurisdiction, as well as under project-specific environmental compliance that would be required for specific developments in the future. A summary of the analysis of growth inducement in the County and City general plan EIRs is provided in EIS/EIR Section 20.5.

The 50-year term of the action alternatives and the incidental take permits would extend beyond the planning horizon of the local general plans. General plans provide for growth while the Proposed Action Alternative (implementation of the Yolo HCP/NCCP) will provide authorization for take associated with lawfully undertaken covered activities associated with this growth. The Proposed Action Alternative provides a streamlined mechanism for specific projects to comply with FESA and CESA.

An improved permitting mechanism will not remove a barrier to growth but will arguably lower it, as described in the following text. Under the Proposed Action Alternative, development applicants could secure FESA permit approval more efficiently, resulting in improved project efficiencies and potential development cost savings. The efficiencies and cost savings will affect different types of development projects differently. For example, development of lands where there are few species concerns will not be substantially affected by the action alternatives since FESA and CESA permitting without the HCP/NCCP will be a minor issue or in some cases not relevant at all. Projects with a greater level of species concerns will be most affected by implementation of the action alternatives since these projects will benefit most from streamlined FESA and CESA processes. Nevertheless, without the HCP/NCCP, these projects would be able to proceed, under the existing case-by-case take permit approval process.

Given the historically and current low rate of development and growth being experienced in the Plan Area, the time and cost of issuing permit approvals on a project-by-project basis has not resulted in a meaningful disincentive to development. Thus, the Proposed Action Alternative may influence the speed with which development could proceed, but not the extent of development. The speed of development will be more substantially influenced by larger economic conditions, population growth, the housing market, as well as local land use and growth-management planning and regulation.

E. FINDINGS REGARDING SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES

Section 15126.2(c) of the CEQA Guidelines requires a discussion of significant irreversible environmental changes that would be caused by the proposed project. Section 15126.2(c) states:

Uses of nonrenewable resources during the initial and continued phases of the project may be irreversible, since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, particularly, secondary impacts (such as highway improvement which provides access to a previously inaccessible area) generally commit future generations to similar uses. Also, irreversible damage can result from environmental accidents associated with the project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified.

The Proposed Action Alternative will result in an irreversible commitment of fossil fuel resources for habitat restoration and enhancement activities, as well as irreversible commitment of fossil fuels to perform surveys, manage the administrative functions of the action alternatives, and maintain and operate the reserve system. Reserves will be established under the action alternatives to provide for ecosystem viability and species enhancement. Reserves may be purchased in-fee or may be accomplished through conservation easements. While establishing a reserve through a conservation easement will commit the land to this use for the future, changes could be made at the agreement of the Conservancy and both Wildlife Agencies. If an agreement is made, land could be removed from a conservation easement if similar land is used to replace the first (in some instances, judicial approval of easement termination is required). All of the same is equally applicable to a habitat creation or restoration project. Soil and other resources affected by the project are not used or consumed in the sense intended by Section 15126.2(c), and restoration to a prior use is feasible subject to conservation of replacement lands, easement extinguishment, and compliance with other legal requirements.

No specific development activities are authorized under the Proposed Action Alternative that will result in the irreversible commitment of resources; however, urban development as described by the County and City general plans is included as a covered activity. The conversion of existing agricultural or other land to urban uses is considered an irreversible environmental commitment. Conversion of land to urban uses is among the covered activities included in the HCP/NCCP, but such conversion is not authorized by the Plan. The irreversible commitment of lands to urban uses and of nonrenewable and renewable resources was evaluated in the County and City general plan EIRs, as summarized in the EIS/EIR in Section 20.4. While the general planning horizons end well before the 50-year study period of the Yolo HCP/NCCP EIS/EIR, it is reasonable to assume future general plan updates would authorize development that would cause similar types of resources being irreversibly committed and similar significant irreversible environmental changes.

In summary, any growth in the Plan area will result in significant irreversible resource commitments. In evaluating the significance of a project's irreversible resource commitments, CEQA requires a lead agency to consider whether such commitments are "justified" (CEQA Guidelines Section 15126.2(c)). As discussed above, and consistent with the project objectives, the HCP/NCCP is designed to minimize irreversible resource commitments, thus maximizing opportunities for future generations. While implementation of the HCP/NCCP will result in contributions to irreversible resource commitments, by encouraging improved habitat preservation, cohesive reserve preservation, and improved interconnectedness of protected habitats, as compared to the environmental baseline and forecasted conditions, the commitments are justified and beneficial. Therefore, these commitments are considered a less than significant impact under CEQA.

F. MITIGATION MEASURES AND PROJECT ALTERNATIVES PROPOSED BY COMMENTERS

Occasional comments throughout the process of preparation of the EIS/EIR have suggested additional mitigation measures and/or modifications to the measures or alternatives recommended in the Draft EIS/EIR. In considering specific recommendations from commenters, the Conservancy has been cognizant of its legal obligation under CEQA to substantially lessen or avoid significant environmental effects to the extent feasible. It is recognized that comments frequently offer thoughtful suggestions regarding how a commenter believes that a particular mitigation measure or alternative can be modified, or perhaps changed significantly, in order to more effectively, in the commenter's eyes, reduce the severity of environmental effects. The Board of Directors is also cognizant, however, that the analysis, conclusions, and recommendations in the EIS/EIR represent the professional judgment and long experience of the Conservancy expert staff and environmental consultants. It is thus the position of the Board of Directors that these recommendations should not be altered without considerable thought and compelling analysis.

Thus, in considering commenters' suggested changes or additions to the mitigation measures and alternatives as set forth in the EIS/EIR, the Conservancy, in determining whether to accept such suggestions, either in whole or in part, has considered the following factors, among others: (i) whether the suggestion relates to an environmental impact that is less-than-significant or can already be mitigated to less than significant levels by proposed mitigation measures in the Draft EIS/EIR; (ii) whether the proposed language represents a clear improvement, from an environmental standpoint, over the draft language that a commenter seeks to replace; (iii) whether the proposed language is sufficiently clear as to be easily understood by those who will implement the mitigation as finally adopted; (iv) whether the language might be too inflexible to allow for pragmatic implementation; (v) whether the suggestions are feasible from an economic, technical, legal, or other standpoint; and (vi) whether the proposed language is consistent with the project objectives.

As is evident from the specific responses given to specific suggestions, the Conservancy has spent large amounts of time carefully considering and weighing proposed mitigation language and

project alternatives. In response, Conservancy developed alternative language addressing the same issue that was of concern to a commenter or explained why changes to the EIS/EIR were not required to address the concerns of the commenter. In no instance, however, did the Conservancy fail to take seriously a suggestion made by a commenter or fail to appreciate the sincere effort that went into the formulation of suggestions.

The Board of Directors finds that the responses to comments in the Final EIS/EIR are supported by substantial evidence and that the Final EIS/EIR provides adequate and appropriate responses to all comments on the Draft EIS/EIR, including all comments proposing new or modified mitigation measures or alternatives. The Board of Directors, therefore, incorporates those responses into these findings.

VIII. PROJECT ALTERNATIVES

A. INTRODUCTION

The primary intent of the alternatives analysis in an EIR, as stated in Section 15126.6(a) of the CEQA Guidelines, is to “describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” Further, the CEQA Guidelines provide that “the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly” (CEQA Guidelines Section 15126.6(b)). These findings address whether the various alternatives lessen or avoid any of the significant impacts associated with the Project and consider the feasibility of each alternative.

B. FEASIBILITY OF ALTERNATIVES

Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: failure to meet most of the basic project objectives; infeasibility; and, inability to avoid significant environmental impacts (CEQA Guidelines Section 15126.6(a)(c)). Under CEQA, “(f)feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors” (CEQA Guidelines Section 15364.) The concept of feasibility permits agency decision-makers to consider the extent to which an alternative is able to meet some or all of a project’s objectives. In addition, the definition of feasibility encompasses desirability to the extent that an agency’s determination of infeasibility represents a reasonable balancing of competing economic, environmental, social, and technological factors.

Section 15126.6(f)(1) and (2) of the CEQA Guidelines provides a discussion of factors that can be taken into account in determining the feasibility of alternatives. These factors include:

- Project Objectives
- Avoid or Substantially Lessen Significant Effects
- Site Suitability
- General Plan Consistency
- Other Plans or Regulatory Limitations
- Economic Viability
- Availability of Infrastructure
- Jurisdictional Boundaries/Regional Context
- Property Ownership and Control
- Other Reasons for Rejecting as Infeasible (e.g. effects cannot be reasonably ascertained or implementation is remote and speculative)

C. PROJECT OBJECTIVES

The objectives of the project are listed below (EIS/EIR Section 1.8.2, Statement of Objectives):

1. Respond to the Yolo Habitat Conservancy application for an incidental take permit for the proposed covered species related to activities that have the potential to result in take, pursuant to the FESA section 10(a)(1)(B) and its implementing regulations and policies.
2. Receive take authorization from USFWS for federally listed species covered by the proposed HCP/NCCP, pursuant to Section 10(a)(1)(B) of the FESA, to accommodate covered activities that are part of necessary growth in Yolo County.
3. Receive take authorization from CDFW for state-listed species covered by the proposed HCP/NCCP, pursuant to Section 2835 of the NCCPA, to accommodate covered activities that are part of necessary growth in Yolo County.
4. Provide for issuance of take permits for other species that are not currently listed, but that may become listed in the future.
5. Assemble and maintain, through long-term monitoring and management, a reserve system within the Plan Area that focuses on preservation and enhancement actions that provide for the protection of species, natural communities, and ecosystems on a landscape level.
6. Include an interconnected reserve system throughout the Plan Area that is large enough to maintain in perpetuity each type of natural community that is native to the Plan Area, and maintain in perpetuity or expand the existing distribution of native animal and plant species within the Plan Area.

7. Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements of FESA, CEQA, NEPA, NCCPA, and other applicable laws and regulations relating to biological and natural resources within the planning area so that public and private actions will be governed equally and consistently, thus reducing delays, expenses, and regulatory duplication.
8. Provide a less costly, more efficient project review process that results in greater conservation values than the current project-by-project, species-by-species review and regulatory regime.
9. Rely solely on willing sellers for the purchase of land or easements when establishing habitat reserves.
10. Protect the long-term viability of agricultural operations in the Plan Area (consistent with other objectives).

D. RANGE OF ALTERNATIVES

The following categories of potential alternatives to the Yolo HCP/NCCP were considered by the lead agencies. All alternatives considered were different types of conservation plans that varied in the ways described below:

- Variation in permit term. Permit term of 30 or 40 years (instead of 50 years);
- Variation in covered species. More or different covered species;
- Variation in Plan Area. All or a portion of Yolo County. Lands outside of Yolo County;
- Variation in covered activities. More or less development. More or fewer categories of covered activities; and
- Variation in the conservation strategy. Changes in the type, location, magnitude, or frequency of implementing certain conservation measures.

Pursuant to Section 15126.6 of the CEQA Guidelines, the EIS/EIR considered ten alternatives to the proposed project. The potential alternatives were screened against a set of criteria. The criteria addressed two primary topics: the ability of the alternative to meet the project objectives and purpose, and the feasibility and reasonableness of the alternative (EIS/EIR, page 2-3 through 2-5, and Appendix B, Alternatives Evaluation, Table B-1). Alternatives that met the screening criteria in both topic areas were carried forward in this EIS/EIR for detailed analysis. Six of these were rejected from further analysis in the EIS/EIR through application of the screening criteria, and the remaining four were subsequently comprehensively analyzed at an equal level of detail, consistent with the requirements of NEPA, and in excess of the requirements of CEQA (which does not require an equal weight analysis of alternatives). The alternatives that were analyzed are as follows:

1. Reduced Permit Term Alternative
2. Additional Covered Species Alternative
3. Reduced Plan Area Alternative
4. Exclusion of Expanded Area Alternative
5. Reduced Agricultural Impacts Alternative
6. Increased Extent of Covered Activities Alternative
7. Alternative A -- No Action Alternative (No Permit/No Plan Implementation)
8. Alternative B – Proposed Action Alternative (Permit Issuance/Plan Implementation)
9. Alternative C – Reduced Take Alternative
10. Alternative D – Reduced Development Alternative

In addition to the alternatives listed above that were considered in the EIS/EIR, the HCP/NCCP also explored the feasibility of additional project alternatives including the No Take Alternative (HCP/NCCP Section 9.2.1), the Reduced Development Take Alternative (HCP/NCCP Section 9.2.2), and Reduced Number of Covered Species Take Alternative (HCP/NCCP Section 9.2.3.). All were found to be infeasible and rejected for reasons summarized below.

The examination of this broad range of alternatives was an iterative effort with significant wildlife agency involvement, which informed the Board of Directors in its development and refinement of, and ultimate decision to adopt, the final HCP/NCCP. These alternatives cover a comprehensive range of reasonable possibilities in support of the final action of the Board of Directors. The Board of Directors confirms that this range of alternatives fully satisfies, and in fact exceeds, the basic CEQA requirements of reasonability.

Based on impacts identified in the EIS/EIR, and other reasons documented below, the Board of Directors finds that adoption and implementation of the HCP/NCCP (Alternative B, Proposed Action Alternative) including issuance of incidental take permits, as approved is the most desirable, feasible, and appropriate action and rejects the other alternatives as infeasible based on consideration of the relevant factors identified herein. A summary of each alternative, its relative characteristics, and documentation of the Board's findings in support of rejecting the alternative as infeasible are provided below.

While the alternatives attempt to reduce impacts to the environment, none achieves the same level of environmental protection or successfully achieves the project's objectives to the same degree as the final HCP/NCCP. Therefore, none warrants approval in lieu of the Proposed Action as proposed.

1. Alternatives Considered and Rejected

Reduced Permit Term Alternative – Under this alternative, the permit term for the Yolo HCP/NCCP would be less than the currently proposed 50-year term. Permit terms of both 40 years and 30 years were considered. The result of a reduced permit term would be that less future covered activities would receive incidental take authorization through the HCP/NCCP,

and consequently, the amount of fees collected and conservation lands established would also be reduced.

Findings for Rejection of Reduced Permit Term Alternative: This alternative was rejected during the screening process primarily because a shorter permit term would not provide sufficient time to accomplish the following:

- Fully implement the general plans and other long-range plans of the cities and Yolo County.
- Assemble the reserve system from willing sellers and partnerships with local agencies and private landowners.
- Develop an effective adaptive management program that will be implemented in perpetuity, given the current uncertainties regarding the ecology of covered species and responses to resource management.
- Secure all necessary funding for implementation during the permit term from local, state, and federal sources, and generate funding for the Yolo HCP/NCCP in perpetuity.
- Charge an acceptable fee on development that will facilitate local approvals and continued support of the Yolo HCP/NCCP by the development community during implementation.
- Provide sufficient incentive for the Conservancy to commit the substantial resources necessary to complete the Yolo HCP/NCCP.

Therefore, the alternative would preclude the Conservancy from successfully achieving the project objectives related to successful adoption of a financially sound Plan that would support agency issuance of incidental take permits. Rejection of this alternative is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Additional Covered Species Alternative – Various lists of covered species have been considered as the Yolo HCP/NCCP has been prepared. For this alternative, the list of covered species from the June 2013 First Administrative Draft of the Plan, titled the *Yolo County Natural Heritage Program Plan* was used (this first administrative draft plan is available on the Conservancy website at <http://www.yolohabitatconservancy.org/#!documents/csyl>). Under this alternative, 32 covered species would be included in the Plan, including eight plants, five vernal pool crustacean species, three amphibians, two reptiles, 12 birds, and one mammal (the Townsend’s big-eared bat).

Findings for Rejection of Additional Covered Species: This alternative was rejected during the screening process primarily because of cost and the inability to provide a sufficient reserve system for all species. To address these 32 species in the Yolo HCP/NCCP would result in significant additional costs related to collection of data for each species in the Plan Area,

preparation of the HCP/NCCP, analysis of each species in the EIS/EIR, and monitoring and management for each species once reserve lands were established. The costs for pre-plan implementation activities exceed the Conservancy's available funding and would be impractical to implement. The costs to manage and monitor a reserve system for these species would require local funding above and beyond funding collected through the Yolo HCP/NCCP and place an unreasonable financial burden on the Conservancy. Also, several of the covered species under this alternative have very limited ranges in the Plan Area and/or require specialized habitat conditions that are uncommon in the Plan Area.

As a result of the factors described above, the Conservancy would be precluded from contributing to the goals of long-term conservation of the covered species, and conservation and enhancement of the natural and seminatural communities within the Plan area. The Conservancy would be unable to assemble and manage a reserve system that successfully provides these biological outcomes. Moreover, the Conservancy would be unable to provide an interconnected reserve system within the Plan area that is sufficiently large in size to maintain in perpetuity and expand over time the distribution of covered species. Therefore, the alternative would preclude the Conservancy from successfully achieving the project objectives related to successful adoption of a financially sound Plan that would support agency issuance of incidental take permits. Rejection of this alternative is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Reduced Plan Area Alternative – Under this alternative, only lands with natural communities associated with the Central Valley floor would be included in the Yolo HCP/NCCP. Lands and associated natural communities, as well as covered activities in the eastern part of the County associated with the coast range would not be included. Some natural communities occurring only in this area, such as closed-cone pine-cypress and montane hardwood, would not be included in the Plan under this alternative.

Findings for Rejection of Reduced Plan Area Alternative: This alternative was rejected during the screening process primarily because of the inability to provide a sufficient reserve system for all covered species. Several covered species and the natural communities they use occur in both the valley floor and coast range portions of the County. Excluding the coast range portion of the County would limit the amount of covered take under the Plan and would also limit opportunities for establishment or reserve system lands. Without the ability to incorporate coast range lands into the reserve system, this alternative would fail to address the ongoing viability and needs of the species, would fail to provide an interconnected reserve system, and would not protect and enhance biological resources at the landscape level. This alternative would also preclude the ability to implement the Plan within an acceptable time frame and reflect an undesirable biological outcome.

As a result of the factors described above, the Conservancy would be precluded from contributing to the goals of long-term conservation of the covered species, and conservation and enhancement of the natural and seminatural communities within the Plan area. The Conservancy would be unable to assemble and manage a reserve system that successfully

provides these biological outcomes. Moreover, the Conservancy would be unable to provide an interconnected reserve system within the Plan area that is sufficiently large in size to maintain in perpetuity and expand over time the distribution of covered species. Therefore, this alternative would preclude the Conservancy from successfully achieving the project objectives related to successful adoption of a financially sound Plan that would support agency issuance of incidental take permits. Rejection of this alternative is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Exclusion of Expanded Plan Area Alternative – Under this alternative, the 1,174-acre expanded Plan Area in Solano County would not be included in the Yolo HCP/NCCP. As described in EIS/EIR Chapter 1 and discussed in more detail in EIS/EIR Section 2.3.2, Alternative B—Proposed Action Alternative (Permit Issuance/Plan Implementation), the Yolo HCP/NCCP includes a corridor on 1,174 acres along the south bank of Putah Creek, in Solano County, where lands can be added into the reserve system. No other activities related to the HCP/NCCP would occur in this corridor, which is referred to as the expanded Plan Area.

Findings for Rejection of Expanded Plan Area Alternative: This alternative was rejected during the screening process primarily because of the hindrances to providing a sufficient reserve system for all covered species and natural communities if natural resource protection and enhanced activities on the south side of Putah Creek could not be incorporated into the Plan. In addition, providing an expanded habitat corridor on both sides of Putah Creek would better support wildlife movement across the Plan Area. Without the inclusion of the expanded Plan Area, this alternative would fail to address the ongoing viability and needs of the species, would fail to provide an interconnected reserve system, and would not protect and enhance biological resources at the landscape level. This alternative would also preclude the ability to implement the Plan within an acceptable time frame and reflect an undesirable biological outcome.

As a result of the factors described above, the Conservancy would be precluded from contributing to the goals of long-term conservation of the covered species, and conservation and enhancement of the natural and seminatural communities within the Plan area. The Conservancy would be unable to assemble and manage a reserve system that successfully provides these biological outcomes. Moreover, the Conservancy would be unable to provide an interconnected reserve system within the Plan area that is sufficiently large in size to maintain in perpetuity and expand over time the distribution of covered species. Therefore, this alternative would preclude the Conservancy from successfully achieving the project objectives related to successful adoption of a financially sound Plan that would support agency issuance of incidental take permits. Rejection of this alternative is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Reduced Agricultural Impacts Alternative – Under this alternative, the placement of agricultural lands into the reserve system would be minimized. This would reduce the acreage of agricultural lands placed under conservation easements and conversion of agricultural land to natural communities as part of the operations and management of some reserve system lands; thereby minimizing changes to type and extent of agricultural lands in the Plan Area relative to

existing conditions. To meet conservation objectives, purchases of conservation easements and habitat enhancement and establishment/re-establishment would be shifted to other land cover types.

Findings for Rejection of Reduced Agricultural Impacts Alternative: This alternative was rejected during the screening process primarily because of the inability to provide a sufficient reserve system for all covered species and natural communities. Several covered species use agricultural lands for foraging or other ecological functions (e.g., giant garter snake, Swainson's hawk, white-tailed kite, tricolored blackbird). Placing conservation easements on agricultural lands provides a cost-effective means to preserve agricultural lands in a condition that continues to provide benefits to these species. Minimizing the placement of agricultural lands in the reserve system reduces the overall pool of lands available in the Plan Area for reserves and could shift reserve system acquisitions to land cover types that are costlier to acquire and enhance or modify to provide necessary ecological functions. This alternative would fail to address the ongoing viability and needs of the species, would fail to provide an interconnected reserve system, and would not protect and enhance biological resources at the landscape level. This alternative would also preclude the ability to implement the Plan within an acceptable time frame and reflect an undesirable biological outcome.

This alternative would fail to fully realize a fundamental goal of Conservancy and member agencies which is to maximize and protect the long-term viability of agricultural operations in the Plan area through an HCP/NCCP that is intertwined and relies on the agricultural working landscape to achieve habitat protection and enhancement. The premise of habitat and species conservation through preserved and carefully managed agriculture is foundational to the HCP/NCCP and integral to the values of Yolo County, local stakeholders, and the member agencies.

Therefore, the alternative would preclude the Conservancy from successfully achieving the project objectives related to successful adoption of a financially sound Plan that would support agency issuance of incidental take permits. Rejection of this alternative is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

Increased Extent of Covered Activities Alternative – As the Plan was being prepared, various iterations of the type and extent of covered activities were considered. Alternatives were considered that incorporated covered activities extending over approximately 20,000 acres, approximately 2,000 acres greater than the Proposed Action. Alternatives were also considered that affected up to approximately 19,000 acres of species habitat, approximately 6,000 acres more than the Proposed Action.

Findings for Rejection of Increased Extent of Covered Activities Alternative: Based on the increased effects on natural resources and the associated need for increased acreage for the reserve system, this alternative would fail to address the ongoing viability and needs of the species, would fail to provide an interconnected reserve system, and would not protect and enhance biological resources at the landscape level. This alternative would also preclude the

ability to implement the Plan within an acceptable time frame and reflect an undesirable biological outcome.

Therefore, this alternative would preclude the Conservancy from successfully achieving the project objectives related to successful adoption of a financially sound Plan that would support agency issuance of incidental take permits. Rejection of this alternative is confirmed by the Board of Directors based on the evidence and analysis provided in the record.

HCP/NCCP Plan Alternatives -- In addition to the EIS/EIR alternatives listed above that were considered and rejected in the EIS/EIR, the HCP/NCCP also explored the feasibility of additional project alternatives including the No Take Alternative (HCP/NCCP Section 9.2.1), the Reduced Development Take Alternative (HCP/NCCP Section 9.2.2), and Reduced Number of Covered Species Take Alternative (HCP/NCCP Section 9.2.3.)

The No Take Alternative was rejected because it would: 1) severely constrain the implementation of the county and city general plans and thus preclude achieving the objectives for planned growth and development; and 2) preclude improvements and the maintenance of infrastructure that supports the health, safety, and economy of the Plan Area (e.g., road construction, improvements, and maintenance; flood protection).

The Reduced Development Take Alternative was rejected because further reducing development through this alternative would not allow for sufficient development to achieve sustainability in terms of supporting a jobs/housing balance within the community areas, lowering the number of vehicle miles traveled, and providing basic levels of community-serving water, wastewater, storm drainage, and public services for each of the member agencies. Further restricting development through the Reduced Development Take Alternative would not allow the member agencies to meet local growth and development goals.

The Reduced Number of Covered Species Take Alternative was rejected because covering fewer species would result in a biologically inferior program relative to the proposed project. Also, the monitoring program addresses all covered species. The Conservancy will use the results of monitoring throughout the permit term and beyond for adaptive management decisions, which will benefit a wider range of species (covered and not covered). In addition, over the long term, this alternative would not provide take authorization for any species that has a high probability of listing under the FESA or CESA over the permit term. This could require development of individual permits for actions that result in take of these species in the future, when they become listed. Obtaining individual permits for these species could delay covered activities and increase costs above that of the preferred alternative. This alternative would result in less protection of and mitigation for rare and sensitive species and could result in greater long-term costs.

2. Equal Weight Analysis of Remaining Alternatives

A total of four alternatives were identified for detailed equal weight analysis in the Draft EIS/EIR:

1. Alternative A -- No Action Alternative (No Permit/No Plan Implementation)
2. Alternative B -- Proposed Action Alternative (Permit Issuance/Plan Implementation)
3. Alternative C -- Reduced Take Alternative
4. Alternative D -- Reduced Development Alternative

The four alternatives were designed to allow for analysis of truly distinct variations within the bounds of the plan characteristics that could realistically be potentially adopted and implemented. The proposed HCP/NCCP is Alternative B. A summary of the EIS/EIR analysis of each of these four alternatives is provided below with the Board's findings regarding each alternative.

3. General Findings for Project Alternatives

The Board of Directors finds that the range of alternatives studied in the EIS/EIR reflects a reasonable attempt to identify and evaluate various types of alternatives that would potentially be capable of reducing the environmental effects of the HCP/NCCP. The Board of Directors finds that the alternatives analysis is sufficient to inform the Board, other agencies, and the public regarding the tradeoffs between the degree to which alternatives could reduce environmental impacts and the corresponding degree to which the alternatives would hinder achievement of the project objectives and/or be infeasible.

The Board of Directors is free to reject an alternative that it considers undesirable from a policy standpoint, provided that such a decision reflects a reasonable balancing of various "economic, social, and other factors." Based on impacts identified in the EIS/EIR, and other reasons documented below, the Board of Directors finds that adoption and implementation of the final HCP/NCCP as approved, is the most desirable, feasible, and appropriate plan, and rejects other alternatives and other combinations and/or variations of alternatives as infeasible.

E. Alternative A -- No Action Alternative (No Permit/No Plan Implementation)

1. Description of Alternative A

Under the No Action Alternative, permits would not be issued by USFWS or CDFW for incidental take of the proposed covered species through a regional HCP or NCCP. As a result, the member agencies, private developers within the member agencies, and other public agencies in the Plan Area would remain subject to the take prohibition for federally listed species under FESA and for state-listed species under CESA. Entities with ongoing activities or future actions in the Plan Area that may result in the incidental take of federally listed species would apply, on a

project-by-project basis, for incidental take authorization from USFWS through FESA Section 7 (when a federal agency is involved) or Section 10 (for nonfederal actions). Similarly, entities with ongoing activities or future actions having the potential for incidental take of state-listed species in the Plan Area would apply for incidental take authorization under CESA through a Section 2081(b) permit.

Under the No Action Alternative, development would occur over the 50-year study period consistent with the local general plans and other applicable planning documents (e.g., general plans, specific plans, master plans, parkway plans, bicycle plans, area plans, infrastructure plans, and similar adopted plans that are consistent with the applicable general plans). The 50-year study period extends beyond the horizon year for the available plans and it is assumed that growth and development would continue beyond each plan's horizon consistent with past growth rates assumed in each applicable planning document.

Under the No Action Alternative, because the member agencies, other local agencies, and private developers would generate environmental documentation and apply for permits on a project-by-project basis, there would be no established comprehensive means to coordinate and standardize mitigation and compensation requirements of FESA, NCCPA, CEQA, and NEPA within the Plan Area. This is anticipated to result in a more costly and less efficient project review process that would not maximize conservation benefits. Coordinated conservation planning and implementation would not result on a Plan Area-wide basis as proposed in the Yolo HCP/NCCP. Consequently, the establishment of a system of conservation lands to meet the needs of the species covered by the Yolo HCP/NCCP would not occur. In addition, in the absence of regulatory incentives provided by the Plan, the integration of species conservation into the existing agricultural working landscape, contemplated in the Plan, would not occur.

Compliance with applicable regulatory requirements during implementation of projects and activities as part of the No Action Alternative is assumed. For example, for any activity that would divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed, this alternative assumes that CDFW would require a Lake and Streambed Alteration Agreement (LSAA), pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant. CDFW, as a Responsible Agency under CEQA, would consider the CEQA document prepared for each individual activity or project.

A more detailed description of this Alternative A is provided in EIS/EIR Section 2.3.2 and this alternative is analyzed at an equal level of detail throughout the EIS/EIR.

2. Attainment of Project Objectives

Alternative A would fully achieve objective 9 and partially achieve objective 10. It would not achieve objectives 1 through 8.

As compared to Alternative B which is the proposed HCP/NCCP, Alternative A would not achieve objectives 1, 2, 3, or 4 related to securing incidental take permits from the USFWS and the CDFW. This alternative assumes continuance of existing conditions which involve project-by-project mitigation without benefit of an HCP/NCCP.

This alternative would not achieve objective 5 or 6 related to assembling and maintaining an interconnected reserve system or a comprehensive and cohesive conservation strategy that addresses the needs of the biological resources in the County at a landscape level.

This alternative would not achieve objective 7 related to the provision of a comprehensive means to coordinate and standardize mitigation and compensation requirements of various applicable laws and regulations. In failing to achieve this objective this alternative does not provide desired equitability and consistency in mitigation regulation, nor does it reduce delay, expense, or regulatory duplication.

This alternative would not achieve project costs savings, would not improve review process efficiencies, and would not increase conservation values as compared to gains in these areas under Alternative B.

This alternative would achieve objective 9 related to reliance on willing sellers for the purchase of land or easements for habitat preservation.

This alternative would only partially achieve objective 10. To the extent that individual projects mitigate for habitat losses within Yolo County and through the use of working agricultural landscapes, this alternative would partially protect the long-term viability of agricultural operations. However, it would not achieve as much protection as would occur under Alternative B which includes both the mitigation required under the HCP/NCCP and the additional conservation required under the NCCP.

3. Environmental Impacts

As substantiated in the Draft EIS/EIR, Alternative A would generally result in the same overall impacts in all CEQA categories of impact as Alternative B, but without the added beneficial impacts resulting from Alternative B. Alternative A would not result in the potential for conflict with the Solano HCP (Effect LAND-3) however this impact is fully mitigated for Alternative B so the ultimate outcome is the same. Alternative A would not result in the permanent conversion of 702 acres of agricultural land to restored to habitat (Effect AG-1, including cumulative agricultural impacts) which is identified as significant and unavoidable; however Alternative A would also not result in the associated preservation of 19,962 acres of agricultural land in perpetuity. In comparing Alternative A to Alternative B, Alternative B which is the proposed HCP/NCCP would be environmentally superior because of the improved biological outcomes that accompany this alternative.

4. Findings for Alternative A

Overall this alternative is environmental inferior as compared to the proposed project and therefore, would not be a better environmental choice. This alternative would generally result in the same overall level of impact in all CEQA categories but without the associated benefits of the HCP/NCCP conservation strategy, including permanent habitat preservation. This alternative fails to achieve 8 of the 10 project objectives, and it is environmentally inferior to Alternative B which is the proposed HCP/NCCP.

Based on the analysis contained in the EIS/EIR and the summary discussion above, the Board of Directors hereby rejects Alternative A as infeasible, and confirms that adoption of the HCP/NCCP (Alternative B) is the superior choice when comparing and balancing relevant factors.

F. ALTERNATIVE B Proposed Action Alternative (Permit Issuance/Plan Implementation)

1. Description of Alternative B

Alternative B is the Proposed Action which is adoption implementation of the HCP/NCCP including issuance of the incidental take permits. A description of this alternative is provided in Section III of these findings of fact.

2. Attainment of Project Objectives

Alternative B, Proposed Action Alternative achieves all of the project objectives.

3. Environmental Impacts

As substantiated in the Draft EIS/EIR, Alternative B will result in less-than-significant impacts in all CEQA impact categories with two exceptions. Alternative B would result in the potential for conflict with the Solano HCP (Effect LAND-3) however this impact is fully mitigated for Alternative B so the ultimate outcome is less-than-significant. Alternative B would also result in the permanent conversion of 702 acres of agricultural land to restored to habitat (Effect AG-1, including cumulative agricultural impacts); however, it would also result in the associated preservation of 19,962 acres of agricultural land in perpetuity resulting in a benefit ratio of over 28:1. A summary and appropriate findings of fact relevant to each of the identified areas of impact for Alternative B are provided in Section VII of these findings of fact.

4. Findings for Alternative B

Based on impacts identified in the EIS/EIR, and other reasons documented below, the Board of Directors finds that adoption and implementation of the HCP/NCCP (Alternative B, Proposed Action Alternative) including issuance of incidental take permits, as approved is the most desirable,

feasible, and appropriate action and rejects the other alternatives as infeasible based on consideration of the relevant factors identified herein.

While the alternatives attempt to reduce impacts to the environment, none achieves the same level of environmental protection or successfully achieves the project's objectives to the same degree as the final HCP/NCCP. Therefore, none warrants approval in lieu of the Proposed Action as proposed.

Based on the analysis contained in the EIS/EIR and the summary discussion above, the Board of Directors hereby rejects other alternatives as infeasible, and confirms that adoption of the HCP/NCCP (Alternative B) is the superior choice when comparing and balancing relevant factors.

Additional determinations in favor of Alternative B are provided in Section X of these findings of fact.

G. ALTERNATIVE C – REDUCED TAKE ALTERNATIVE

1. Description of Alternative C

The Reduced Take Alternative (Alternative C) would include the same categories of covered activities as the Proposed Action Alternative (Alternative B); however, under the Reduced Take Alternative, there are eight geographic areas assumed for development under the Proposed Action Alternative in which activities that would result in take of covered species would not be permitted. These locations are in the vicinity of Clarksburg, Davis, Dunnigan, West Sacramento, and Woodland and are shown in EIS/EIR Exhibit 2-6. EIS/EIR Table 2-10 identifies the size of each of the eight areas. The total area in which take would not be permitted under the Reduced Take Alternative is 1,335 acres.

It is assumed for the purposes of this alternative that any currently planned development that does not occur in the eight locations because of the take restriction could be displaced to another location within the Plan Area. However, any displaced development would also be subject to the take restriction and no take of covered species would be permitted at any new locations.

Other than assuming that no take of covered species would occur in the identified 1,335 acres, and that development could be displaced to another location under the same take restriction, all other elements of the Plan (e.g., covered species, covered activities, Plan Area, conservation strategy, AMMs, monitoring, funding) remain the same under this alternative.

The selection of areas for reduced take was based on a review of the GIS natural community data and covered species habitat models developed during preparation of the HCP/NCCP. Areas that provided potential habitat for multiple covered species and would be converted to a

developed use as part of covered activities were identified. After identification of these areas, the locations of recorded species observations were reviewed. Additional consideration was given to the selection of habitat areas that had a higher probability of actually supporting covered species based on reported occurrences on, or near the site. Recent aerial images were then consulted to confirm whether conditions at selected sites appeared suitable as potential covered species habitat. Local jurisdictions were contacted to obtain updated information on each location and to select areas most suitable for inclusion in the Reduced Take Alternative. This process led to the selection of the eight areas shown in EIS/EIR Exhibit 2-6 and described in EIS/EIR Table 2-10.

2. Attainment of Project Objectives

Alternative C would fully achieve objectives 1, 4, and 9, and partially achieve objectives 2, 3, 5, 6, 7, 8, and 10.

This alternative would only partially achieve objectives 2 and 3 related to accommodating planned growth and land use activities part of necessary growth in the County. This alternative eliminates 1,335 acres of planned land use activities important to countywide community development over the planning horizon of the member agency general plans near Clarksburg, Davis, Dunnigan, West Sacramento, and Woodland.

This alternative would only partially achieve objectives 5 and 6, establishing and maintaining a comprehensive interconnected reserve system of sufficient size and quality to successfully address species needs. The reduced acreage of planned growth would adversely affect the ability of the member agencies to implement and fund the plan over time.

This alternative would only partially achieve objectives 7 and 8 related to comprehensive, coordinated, and standardized project review and mitigation. Because this alternative is inconsistent with member agency general plans and planned growth, activities that are planned by member agencies but not included as covered activities in this alternative would undergo project-by-project, species-by-species review and mitigation separate from the HCP/NCCP plan and process. This bifurcated process would be cumbersome, confusing, and less effective, as compared to Alternative B, Proposed Action.

This alternative would only partially achieve objective 10. To the extent that individual projects excluded from the covered activities description in this alternative mitigate for habitat losses within Yolo County and through the use of working agricultural landscapes, this alternative would partially protect the long-term viability of agricultural operations. However, it would not achieve as much protection as would occur under Alternative B, which maximizes to the extent feasible both the mitigation required under the HCP/NCCP and the additional conservation required under the NCCP.

3. Environmental Impacts

As substantiated in the Draft EIS/EIR, Alternative C would generally result in the same overall impacts in all CEQA categories of impact as Alternative B, but without covering the full range of planned future land use activities anticipated by the member agencies.

Alternative C would result in the potential for conflict with the Solano HCP (Effect LAND-3) however this impact is fully mitigated for all action alternatives so the ultimate outcome is less-than-significant.

Alternative C would also result in the permanent conversion of agricultural land to restored to habitat (Effect AG-1, including cumulative agricultural impacts). It is anticipated that the amount of land converted under Alternative C would be less than the 702 acres associated with Alternative B; however, development displaced by the Reduced Take Alternative is never-the-less planned future growth under the member agency general plans, and would therefore presumably still occur with mitigation on a project-by-project and species-by-species basis, or be placed on other agricultural lands, thereby resulting in similar impacts to agricultural land as the No Action and Proposed Action Alternatives.

Overall, if the prohibition on take of covered species in the eight designated areas resulted in less overall development in the Plan Area, conversion of agricultural lands from development related activities could be slightly less under the Reduced Take Alternative than under the No Action and Proposed Action Alternatives. However, the prohibition on take in the eight areas would result in the development planned for these locations occurring through individual state and federal permits on a project-by-project and species-by-species basis, or being diverted to another part of the Plan Area. If development in any of the new locations removed agricultural lands, impacts would become more similar to the No Action and Proposed Action Alternatives. Overall, under the Reduced Take Alternative, Effect AG-1 (including cumulative agricultural impacts) would not be measurably different from what is described for the Proposed Action Alternative.

4. Findings for Alternative C

As required by CEQA Section 15126.6(e)(2) the Conservancy is required to identify an environmentally superior alternative from the alternatives considered. Because the Reduced Take Alternative has the potential to result in reduced environmental impacts compared to the Proposed Action and Reduced Development Alternatives while maintaining the same conservation benefits as the Proposed Action Alternative, it was identified in EIS/EIR Section 20.6 as the environmentally preferable/environmentally superior alternative.

However, reducing development through the Reduced Take Alternative would not allow for sufficient development to achieve sustainability in terms of supporting a jobs/housing balance within the community areas, lowering the number of vehicle miles traveled, and providing basic levels of community-serving water, wastewater, storm drainage, and public services for the

affected member agencies. This alternative would not allow the member agencies to meet local growth and development goals.

Because the member agency general plans have shorter planning horizons than the HCP/NCCP, this alternative would have an exacerbated adverse effect on the economic viability of the region as the modest growth identified for a planning horizon of under 20 years would be relied on for the 50-year permit.

This alternative would generally result in the same overall level of impact in all CEQA categories but would not cover all planned land use and development activities in the County and therefore only partially achieve objectives 2, 3, 5, 6, 7, 8, and 10.

Based on the analysis contained in the EIS/EIR and the summary discussion above; the Board of Directors hereby rejects Alternative C as infeasible, and confirms that adoption of the HCP/NCCP (Alternative B) is the superior choice when comparing and balancing relevant factors.

H. ALTERNATIVE D – REDUCED DEVELOPMENT ALTERNATIVE

1. Description of Alternative D

The Reduced Development Alternative (Alternative D) would include the same categories of covered activities as the Proposed Action Alternative (Alternative B), but under the Reduced Development Alternative, development within a portion of the west side of the Dunnigan covered activity area, and the Elkhorn Specific Plan Area, are assumed to not be included in the covered activities (EIS/EIR Exhibit 2-7). The portion of the Dunnigan covered activity area selected for exclusion from the Covered Activities layer under this alternative covers approximately 1,012 acres and the Elkhorn Specific Plan Area covers approximately 383 acres. In each of these two areas it is assumed that some type of development could potentially occur within the term of the permit. If such development were to occur, it would not be considered a covered activity under the Yolo HCP/NCCP; therefore, the HCP/NCCP would not be available as a mechanism to address losses of covered species. Any permitting required for compliance with FESA or CESA for future development would be undertaken for each of these two areas individually on a project-by-project basis. Permitting and mitigation would be implemented in a manner similar to the No Action Alternative.

2. Attainment of Project Objectives

Alternative D would fully achieve objectives 1, 4, and 9, and partially achieve objectives 2, 3, 5, 6, 7, 8, and 10.

This alternative would only partially achieve objectives 2 and 3 related to accommodating planned growth and land use activities part of necessary growth in the County. This alternative

eliminates 1,395 acres of planned land use activities important to countywide community development over the planning horizon of the member agency general plans near the unincorporated communities of Dunnigan and Elkhorn.

This alternative would only partially achieve objectives 5 and 6, establishing and maintaining a comprehensive interconnected reserve system of sufficient size and quality to successfully address species needs. The reduced acreage of planned growth would adversely affect the ability of the member agencies to implement and fund the plan over time.

This alternative would only partially achieve objectives 7 and 8 related to comprehensive, coordinated, and standardized project review and mitigation. Because this alternative is inconsistent with member agency general plans and planned growth, activities that are planned by member agencies but not included as covered activities in this alternative would undergo project-by-project, species-by-species review and mitigation separate from the HCP/NCCP plan and process. This bifurcated process would be cumbersome, confusing, and less effective, as compared to Alternative B, Proposed Action.

This alternative would only partially achieve objective 10. To the extent that individual projects excluded from the covered activities description in this alternative mitigate for habitat losses within Yolo County and through the use of working agricultural landscapes, this alternative would partially protect the long-term viability of agricultural operations. However, it would not achieve as much protection as would occur under Alternative B which maximizes to the extent feasible both the mitigation required under the HCP/NCCP and the additional conservation required under the NCCP.

3. Environmental Impacts

As substantiated in the Draft EIS/EIR, Alternative D would generally result in the same overall impacts in all CEQA categories of impact as Alternative B, but without covering the full range of planned future land use activities anticipated by the member agencies.

Alternative D would result in the potential for conflict with the Solano HCP (Effect LAND-3) however this impact is fully mitigated for all action alternatives so the ultimate outcome is less-than-significant.

Alternative D would also result in the permanent conversion of agricultural land to restored to habitat (Effect AG-1, including cumulative agricultural impacts). It is anticipated that the amount of land converted under Alternative D would be less than the 702 acres associated with Alternative B; however, development displaced by the Reduced Development Alternative is never-the-less planned future growth under the member agency general plans, and would therefore presumably still occur with mitigation on a project-by-project and species-by-species basis, or be placed on other agricultural lands, thereby resulting in similar impacts to agricultural land as the No Action and Proposed Action Alternatives.

Overall, if the reduced development in the two identified areas resulted in less overall development in the Plan Area, conversion of agricultural lands from development related activities could be slightly less under the Reduced Development Alternative than under the No Action and Proposed Action Alternatives. However, the assumption of no development in these two areas would simply result in the development planned for these locations occurring through individual state and federal permits on a project-by-project and species-by-species basis, or potentially being diverted to another part of the Plan Area. If development in any of the new locations removed agricultural lands, impacts would become more similar to the No Action and Proposed Action Alternatives. Overall, under the Reduced Development Alternative, Effect AG-1 (including cumulative agricultural impacts) would not be measurably different from what is described for the Proposed Action Alternative.

4. Findings for Alternative D

Reducing development assumed in Alternative D would not allow for sufficient development to achieve sustainability in terms of supporting a jobs/housing balance within the community areas, lowering the number of vehicle miles traveled, and providing basic levels of community-serving water, wastewater, storm drainage, and public services for the affected member agencies. This alternative would not allow the member agencies to meet local growth and development goals.

Because the member agency general plans have shorter planning horizons than the HCP/NCCP, this alternative would have an exacerbated adverse effect on the economic viability of the region as the modest growth identified for a planning horizon of under 20 years would be relied on for the 50-year permit.

This alternative would generally result in the same overall level of impact in all CEQA categories but would not cover all planned land use and development activities in the County and therefore only partially achieve objectives 2, 3, 5, 6, 7, 8, and 10.

Based on the analysis contained in the EIS/EIR and the summary discussion above, the Board of Directors hereby rejects Alternative D as infeasible, and confirms that adoption of the HCP/NCCP (Alternative B) is the superior choice when comparing and balancing relevant factors.

IX. STATEMENT OF OVERRIDING CONSIDERATION

As set forth in the preceding sections, approval of the HCP/NCCP by the Yolo Habitat Conservancy Board of Directors will result in significant adverse environmental effect (see Effect Ag-1 and cumulative agricultural impacts) related to loss of 702 acres of agricultural land converted to natural habitat, as a requirement of the Plan is to restore this acreage to natural habitat. There are no feasible project alternatives which would mitigate or substantially lessen this impact. Despite the occurrence of this impact, however, the Board of Directors chooses to

approve the HCP/NCCP because, in its view, the economic, social, and other benefits that the project will produce for the region far outweigh the single significant unmitigated adverse impact.

In making this Statement of Overriding Considerations in support of the findings of fact and the project, the Board of Directors has considered the information contained in the Final EIS/EIR for the project as well as the public testimony and record of proceedings in which the project was considered. The following statements identify the reasons why this is the case.

It is the position of the Board of Directors that any one of these reasons is sufficient to justify approval of the HCP/NCCP. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Board of Directors would stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this section, and in the documents found in the Record of Proceedings as defined herein.

Statement 1: The Yolo HCP/NCCP provides for conservation beyond mitigation requirements.

The Yolo HCP/NCCP will coordinate mitigation to maximize benefits to 12 identified sensitive species, as well as provide more than 8,230 acres of additional habitat conservation beyond mitigation. The Yolo HCP/NCCP will coordinate these conservation efforts to ensure that lands are selected consistent with a strategy based on biological criteria, including the selection of lands that provide habitat to multiple species; and are located near existing protected lands and riparian areas. The Yolo Habitat Conservancy will implement this conservation strategy in close coordination with the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS), as well as the Yolo Habitat Conservancy's Advisory Committee and other partners. This approach will improve species conservation while complying with existing state and federal laws, promoting agricultural preservation, and assisting in the completion of economic development activities associated with existing local land use plans.

Statement 2: The HCP/NCCP will result in local control over endangered species permitting.

The Yolo HCP/NCCP moves compliance with state and federal endangered species laws for public and private activities from state and federal agencies to the local level. The Conservancy will administer the permits with oversight from the CDFW and the USFWS to streamline the existing process while still providing comprehensive regulatory coverage for currently listed species and those that may be listed in the future.

Statement 3: The HCP/NCCP will replace piecemeal mitigation.

Coordinated conservation planning through the Yolo HCP/NCCP will provide significant benefits to endangered and threatened species in Yolo County, including the Swainson's hawk, and the

giant garter snake, as it replaces piecemeal mitigation and adds conservation beyond mitigation.

Without the HCP/NCCP, local governments, private entities, or individuals evaluate projects and activities individually in consultation with a variety of federal and state regulators to mitigate for potential impacts on species. This is a lengthy process that can cost all parties considerable time and money. This approach also does less to protect wildlife because mitigation measures result in land being set aside haphazardly. This haphazard process is less ecologically viable and more difficult to manage than the HCP/NCCP.

The Yolo HCP/NCCP will provide a more efficient process for protecting natural resources by creating a new reserve system that will be larger in scale, more ecologically valuable, and easier to manage than the individual mitigation sites.

Statement 4: The HCP/NCCP will streamline the endangered species permitting process.

The Yolo HCP/NCCP moves compliance with state and federal endangered species laws for public and private activities from state and federal agencies to the local level. The Conservancy will administer the permits with oversight from the CDFW and USFWS to streamline the existing process while still providing comprehensive regulatory coverage for currently listed species and those that may be listed in the future.

Statement 5: The HCP/NCCP creates new economic opportunity for local farmers.

Landowners and farmers are the backbone of the conservation strategies at the core of the Yolo HCP/NCCP. The Yolo HCP/NCCP relies on the voluntary establishment of conservation easements on lands that provide habitat value for HCP/NCCP covered species and their habitats. The Conservancy will work with willing landowners to jointly agree to wildlife-friendly agricultural practices in a management plan that accompanies each individual easement.

Yolo County's long history of responsible land use planning has directed growth to cities, thus resulting in contained urban areas and the preservation of extensive agricultural and open space lands. Many of the working farms and rangelands within the county provide important habitat for the Yolo HCP/NCCP's covered species by providing foraging, cover, and nesting habitat. Given the significant role agriculture plays in the provision of covered species habitat in Yolo County, the Yolo HCP/NCCP conservation strategy places a strong emphasis on the purchase of habitat conservation easements on agricultural lands from willing sellers.

Statement 6: The HCP/NCCP supports planned land use and economic growth in Yolo County.

The HCP/NCCP is consistent with local plans for future growth and infrastructure. It reflects the adopted general plans of each of the member agencies and supports the planned growth in each of these communities consistent with local community values and adopted direction.

Statement 7: The HCP/NCCP provides protections for neighboring landowners.

The Yolo HCP/NCCP provides the Neighboring Landowner Protection Program as an option for landowners with actively farmed properties located adjacent to Yolo HCP/NCCP reserve lands. Covered species populations may increase because of implementation of conservation activities under the plan, particularly in areas where habitat is restored and populations of these species may move to adjacent lands that are not part of the reserve system. In recognition of this potential, the Yolo HCP/NCCP includes a process by which neighboring landowners may receive assurances through certificates of inclusion under the Federal Endangered Species Act and the Natural Community Conservation Plan Act permits. Such landowners can opt in to a voluntary program from which they can receive permit coverage for incidental take of endangered species for routine agricultural activities that occur during the Yolo HCP/NCCP permit term. Coverage under the program is for four covered species: California tiger salamander, valley elderberry longhorn beetle, giant garter snake, and western pond turtle. The Neighboring Landowner Protection Program only covers take of endangered species above the baseline number of species that existed prior to the establishment of the neighboring Yolo HCP/NCCP conservation easement.

Statement 8: The HCP/NCCP supports and helps preserve the working agricultural environment.

Adoption of the Plan realizes a long-standing and fundamental goal of Conservancy and member agencies which is to maximize and protect the long-term viability of agricultural operations in the Plan area through an HCP/NCCP that is intertwined and relies on the agricultural working landscape to achieve habitat protection and enhancement. The premise of habitat and species conservation through preserved and carefully managed agriculture is foundational to the HCP/NCCP and integral to the values of Yolo County, local stakeholders, and the member agencies.

The species covered by the Yolo HCP/NCCP have adapted over time to agricultural land as habitat. The HCP/NCCP will therefore be one of the first conservation plans in the state to focus primarily on conserving habitat on working agricultural land. In return for the permits, the Conservancy will protect 33,362 acres of primarily agricultural land over 50 years in the priority areas identified in the Plan.

Also, the Yolo HCP/NCCP recognizes there are future agricultural commercial and agricultural industrial development activities within Yolo County that will require take coverage. The Yolo HCP/NCCP provides coverage for 332 acres of activities associated with agricultural commercial and agricultural industrial development that is consistent with the Yolo County General Plan and under the discretionary authority of Yolo County. Agricultural industrial uses include agricultural research, processing, and storage; supply; service; crop dusting; agricultural chemical and equipment sales; and surface mining. Agricultural commercial uses include

roadside stands, wineries, farm-based tourism (e.g., u-pick, dude ranches, lodging), horseshows, rodeos, crop-based seasonal events, and ancillary restaurants and/or stores.

Statement 9: The HCP/NCCCP is a cost-effective mechanism for maximizing regional biological benefits.

Ninety percent of the costs of implementing the plan will be paid through applicant fees, state and federal grants, and other sources. Local government funding sources are only ten percent of the total cost of the plan, and there is no requirement to use general fund monies to implement the Plan.

Statement 10: The HCP/NCCP is a well-crafted plan that meets the needs of the community, landowners, stakeholders, the member agencies, and the wildlife agencies.

The HCP/NCCP addresses the ongoing viability and needs of the covered species, it provides an interconnected reserve system, and protects and enhances biological resources at the landscape level. The HCP/NCCP achieves all of the objectives of the Conservancy related to adoption and implementation of a successful conservation strategy and issuance of incidental take permits. It is a financially sound Plan that relies on willing sellers. It will provide a less costly, more efficient project review process with greater conservation values. It will provide take coverage for planned member agency land use and infrastructure activities. It will be implemented within the identified 50-year time frame and will result in desirable biological outcomes.

Attachment A, Mitigation Monitoring and Reporting Program (MMRP)

ATTACHMENT A

YOLO HCP/NCCP EIS/EIR CEQA FINDINGS OF FACT

MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Introduction

In accordance with the California Environmental Quality Act (CEQA) Public Resources Code Section 21000 et seq.), the Yolo Habitat Conservancy (Conservancy) prepared an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) (SCH #2011102043) that identified potentially significant adverse effects in a number of CEQA impact areas. The EIS/EIR identifies one mitigation measure that will reduce or avoid identified impacts.

CEQA and the CEQA Guidelines (PRC Section 21081.6 and CEQA Guidelines Sections 15091(d) and 15097 require public agencies “to adopt a reporting and monitoring program for changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment.” A Mitigation Monitoring and Reporting Program (MMRP) is required for the proposed project because the EIS/EIR identifies potential significant adverse impacts related to the project implementation, and mitigation measures have been identified to reduce those impacts. Adoption of the MMRP will occur along with approval of the project.

The following is the MMRP the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (Yolo HCP/NCCP or HCP/NCCP or Plan). The intent of the MMRP is to ensure implementation of the mitigation measures identified within the EIS/EIR for this project.

Purpose of the Mitigation Monitoring and Reporting Program

This MMRP has been prepared to ensure that all required mitigation measures are implemented and completed in a satisfactory manner before and during project construction and operation. The MMRP may be modified by the Conservancy during project implementation, as necessary, in response to changing conditions or other refinements; however, modifications to a mitigation measure that could reduce its effectiveness in reducing impacts may not occur without CEQA compliance.

The information below has been assembled to assist the responsible parties in implementing the mitigation measures. The information provided includes identification of the impact, mitigation measure(s), monitoring responsibility, implementation timing, and provides space to confirm implementation of the mitigation measures. The numbering of mitigation measure(s) follows the numbering sequence found in the EIS/EIR.

Roles and Responsibilities

Unless otherwise specified herein, the Conservancy is responsible for taking all actions necessary to implement the mitigation measures under its jurisdiction according to the specifications provided for each measure and for demonstrating that the action has been successfully completed. The Conservancy, at its discretion, may delegate implementation responsibility or portions thereof to a designated agent. The MMRP includes any applicable requirements for the Conservancy throughout implementation of the project.

Section 21081.6 of the Public Resources Code, requires the lead agency to identify the “custodian of documents and other material” which constitutes the “record of proceedings” upon which the action on the project was based. The Executive Director of the Conservancy or their designee, is the custodian of such documents for the HCP/NCCP.

Inquiries should be directed to:

Executive Director
Yolo Habitat Conservancy
611 North Street
Woodland, CA 95695
(530) 723-5504
info@yolohabitatconservancy.org

The location of this information is:

Yolo Habitat Conservancy
611 North Street
Woodland, CA 95695
(530) 723-5504

The Conservancy is responsible for overall administration of the MRRP and for verifying that Conservancy staff and representatives have completed the necessary actions for each measure.

Reporting

The Conservancy shall prepare an annual monitoring report (until such time as the project is completed and/or the mitigation requirements have been fully satisfied) describing compliance with each measure. Information regarding inspections and other requirements shall be compiled and explained in the report. The report shall be designed to simply and clearly identify whether mitigation measures have been adequately implemented. At a minimum, each report shall identify the mitigation measures or conditions to be monitored for implementation, whether compliance with the mitigation measures or conditions has occurred, the procedures used to assess compliance, and whether further action is required. The report shall be presented to the Board of Directors.

Mitigation Monitoring and Reporting Program Information

The information categories identified in the MMRP provided below are as follows:

- Impact – Verbatim text of the identified impact.
- Mitigation Measure – Verbatim text of the adopted mitigation measure.
- Monitoring Responsibility – Party responsible for enforcing compliance with the requirements of the mitigation measure.
- Implementation Schedule – Time frame in which the mitigation will be implemented.

Mitigation Monitoring and Reporting Program

There is one mitigation measure identified in the EIS/EIR. The MMRP requirements for that measure are as follows:

IMPACT

Effect LAND-3: Conflict With Any Applicable Habitat Conservation Plan or Natural Community Conservation Plan

MITIGATION MEASURE

Mitigation Measure LAND-1: Agreement with SCWA -- Prior to undertaking any HCP/NCCP implementation activity within the area of overlap with the Solano County Water Agency (SCWA) Multispecies HCP, the Conservancy must enter into an agreement with SCWA recognizing that the Conservancy’s acquisition areas must not conflict with the covered activities of the Solano HCP. The agreement should ensure that implementing the Yolo HCP/NCCP will not preclude the implementation of the Solano HCP.

MONITORING RESPONSIBILITY

The Yolo Habitat Conservancy is responsible for ensuring compliance with this measure.

IMPLEMENTATION SCHEDULE

This mitigation measure must be satisfied via execution of an agreement with the Solano County Water Agency (SCWA), prior to undertaking any Yolo HCP/NCCP implementation activities within the area of overlap with the Solano HCP.

RESOLUTION NO. 2018-13

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS ADOPTING
THE FINAL YOLO HABITAT CONSERVATION PLAN/NATURAL COMMUNITY
CONSERVATION PLAN**

WHEREAS, the Yolo Habitat Conservancy (YHC or Conservancy) has adopted the Final Yolo Habitat Conservation Plan/Natural Community Conservation Plan (Yolo HCP/NCCP);

WHEREAS, City of Winters is a member agency of the Conservancy;

WHEREAS, the Yolo HCP/NCCP is a comprehensive, county-wide plan to provide for the conservation of 12 sensitive species (“covered species”) and the natural communities and agricultural land on which they depend;

WHEREAS, among other important benefits, the Yolo HCP/NCCP will provide a streamlined permitting process to address the effects of a range of future anticipated public and private activities (“covered activities”) on these 12 species;

WHEREAS, the Yolo HCP/NCCP Plan Area encompasses the entire area of Yolo County, approximately 653,549 acres, including the area of jurisdiction of the City, and includes conservation activities outside of Yolo County within an additional 1,174 acres along Putah Creek in Solano County;

WHEREAS, the process of developing the Yolo HCP/NCCP began in August of 2002;

WHEREAS, numerous public meetings, workshops, and hearings have been held regarding the Yolo HCP/NCCP over the past 16 years;

WHEREAS, during this process oral and documentary evidence was received by the City Council for use in their deliberations;

WHEREAS, a Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) on the Yolo HCP/NCCP (State Clearinghouse No. 2011102043) has been prepared pursuant to the National Environmental Policy Act (42 U.S.C. § 4321 *et seq.*) and the California Environmental Quality Act (CEQA, Public Resources Code § 21000 *et seq.*) to analyze the environmental impacts of the Final Yolo HCP/NCCP;

WHEREAS, the Conservancy Board of Directors certified the EIS/EIR on May 7, 2018;

WHEREAS, the City Council independently considered the EIS/EIR, related staff reports, the record of proceedings, and all evidence including testimony and correspondence received by City, and is adopting a separate resolution addressing CEQA compliance with its adoption of this resolution;

WHEREAS, the Yolo HCP/NCCP will provide the basis for issuance of long-term (50-year) permits under the Federal Endangered Species Act (FESA) (16 U.S.C. § 1531 *et seq.*) and

California Natural Community Conservation Planning Act (NCCPA) (Cal. Fish & Game Code § 2800 *et seq.*) for covered activities. The Yolo HCP/NCCP will provide the Permittees (Yolo County, the four incorporated cities, and the Conservancy) with incidental take permits from both the United States Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) for the 12 covered species. This action is allowed under Section 10(a)(1)(B) of the FESA and Section 2835 of the California Fish and Game Code;

WHEREAS, all parties receiving take coverage under the Yolo HCP/NCCP will be required to adhere to avoidance and minimization measures to help ensure that the effects of covered actions are reduced;

WHEREAS, the Yolo HCP/NCCP will streamline and coordinate the process for approval and mitigation of impacts to covered species and their habitats. It will also add certainty in that no further commitments of funds, land, or other resources may be required by the USFWS and CDFW for impacts to the covered species, unless changed circumstances occur;

WHEREAS, covered activities include actions and land uses contemplated in the local General Plans for Yolo County, Davis, West Sacramento, Winters, and Woodland;

WHEREAS, as mitigation for impacts to 12,649 acres, the Yolo HCP/NCCP will require permanent protection and management of 17,131 acres of mitigation (16,175 acres of newly protected lands and 956 acres of restored/created lands) and 16,231 acres of conservation beyond mitigation (including 8,000 acres of pre-permit reserve lands and 8,231 acres of newly protected conservation lands) for a total conservation reserve system of 33,362 acres;

WHEREAS, monitoring and adaptive management will be implemented to inform management and enhancement actions. In addition to the protection of covered species habitat in the Reserve System, the Conservancy will restore up to 956 acres of riparian woodland and scrub, fresh emergent wetlands, and lacustrine and riverine natural communities. To help guide other efforts to protect and conserve both species and habitat that are not the focus of the Yolo HCP/NCCP, the Conservancy is also preparing a Regional Conservation Investment Strategy/Local Conservation Plan (RCIS/LCP). This is a voluntary, non-regulatory plan to fill in conservation gaps not covered by the Yolo HCP/NCCP, and the approval and implementation of the HCP/NCCP is not dependent upon approval of the RCIS/LCP;

WHEREAS, overall implementation of the Yolo HCP/NCCP is estimated to cost \$406,187,000 during the 50-year permit term. Plan funding will come from a variety of sources including HCP/NCCP mitigation funding from fees (66%), conservation funding from local sources (10%), conservation funding from state and federal sources (17%), endowment and operational fund interest (3%), and additional conservation funding from other local, state, and federal sources (4%). Mitigation funding obligations will be satisfied by the payment of per-acre fees by project proponents, the most common of which will be the base fee of \$12,952 per acre (subject to periodic adjustments over the course of plan implementation).

WHEREAS, conservation funding from local sources include: in-kind contributions from the City of Davis' Open Space Program as conservation easements acquired as part of that program are enrolled in the Yolo HCP/NCCP Reserve System, in-kind contributions by Yolo

County of conserved lands and Cache Creek Resource Management Plan funding for additional land conservation efforts associated with the enrollment of properties into the reserve system, contributions by the Solano County Water Agency and Lower Putah Creek Coordinating Committee along Putah Creek that are associated with existing local programs and support the terms of the Yolo HCP/NCCP, and an anticipated \$10,000,000 from foundations and other local sources that have yet to be identified. State and federal conservation funding is estimated to provide funding for up to 8,231 acres of land acquisition and 44 acres of restoration/creation of wetlands.

WHEREAS, adoption of the Plan realizes the long-standing and fundamental goal of Conservancy and its member agencies to maximize and protect the long-term viability of agricultural operations in the Plan area through an HCP/NCCP that is intertwined and relies on the agricultural working landscape to achieve habitat protection and enhancement. The premise of habitat and species conservation through preserved and carefully managed agriculture is foundational to the HCP/NCCP and integral to the values of Yolo County, each of the Cities, and local stakeholders.

WHEREAS, the species covered by the Yolo HCP/NCCP have adapted over time to use agricultural land as habitat. The HCP/NCCP will therefore be one of the first conservation plans in the state to focus primarily on conserving habitat on working agricultural land.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters as follows:

1. After considering the certified Final EIS/EIR and in conjunction with making these findings, the City Council hereby finds that adoption of the Final Yolo HCP/NCCP is in the public interest and hereby adopts the Final Yolo HCP/NCCP (dated April 2018). As detailed below, adoption of the Yolo HCP/NCCP is consistent with the City of Winters General Plan. Adoption of the Yolo HCP/NCCP is also a proper exercise of the constitutional police power for at least the following reasons:

- Adoption of the Plan will further public health, safety and welfare because it will allow public and private projects to proceed while ensuring compliance with laws and regulations related to the protection of endangered and other sensitive, at-risk species and their habitats. In this regard, the Plan provides a framework for the Member Agencies of the Yolo Habitat Conservancy to receive permits for public facility and infrastructure projects, as well as for private development projects within the respective jurisdictions for which they have discretionary permitting authority.
- The Plan will protect, enhance and restore natural resources within the Plan Area and thereby contribute to species recovery. The Plan will lead to the creation of a reserve system that is larger in scale, more ecologically valuable, and easier to manage than the individual mitigation sites created under the current approach. By evaluating and addressing certain biological resource impacts and mitigation requirements in a comprehensive way instead of separately permitting and mitigating individual projects, the Plan provides more efficient and effective protection for at-risk species and their habitats while providing a more efficient, streamlined approach for those public and private projects that need incidental take authorizations.

- Because species permitting under the Plan and permits issued pursuant to the Plan will occur at a local level, adoption of the Plan will strengthen local control over land use and species protection. The permits issued by the USFWS and CDFW based on the Plan will also provide assurances to the City and other permittees that no further commitments of funds, land or water will be required beyond what is provided in the Plan to address changed circumstances.

2. The City Council hereby determines that the Yolo HCP/NCCP is consistent with the City of Winters General Plan. The basis for this determination is as follows.

The City of Winters General Plan, adopted by the City Council in 1992, contemplates the adoption and implementation of the Yolo HCP/NCCP. In this regard, it includes a number of goals, policies and actions that address the Yolo HCP/NCCP (referred to in the General Plan as a regional Habitat Management Plan) and the protection of local special status plants, animals, and the habitat and farmland on which they depend. Relevant General Plan goals and policies that are consistent with or that support adoption of the Yolo HCP/NCCP include the following:

Goal VI.C: To protect sensitive native vegetation and wildlife communities and habitat.

Policy VI.C.2 In regulating private development and constructing public improvements, the City shall ensure that there is no net loss of riparian or wetland habitat acreage and value and shall promote projects that avoid sensitive areas. Where habitat loss is unavoidable, the City shall require replacement on at least a 1:1 basis. Replacement entails creating habitat that is similar in extent and ecological value to that displaced by the project. The replacement habitat should consist of locally-occurring, native species and be located as close as possible to the project site. Implementation of this policy should be based on baseline data concerning existing native species..

Policy VI.C.4 The City shall support and participate in local and regional attempts to restore and maintain viable habitat for endangered or threatened plant and animal species. To this end, the City shall work with surrounding jurisdictions and state and federal agencies in developing a regional *Habitat Management Plan*. Such plan shall provide baseline data for the Winters area on special-status plant and animal taxa, including Swainson hawk and the valley elderberry longhorn beetle, and provide guidelines and standards for mitigation of impacts on special status taxa.

Policy VI.C.5 The City shall require mitigation of potential impacts on special-status plant and animal taxa based on a policy of no-net-loss of habitat value. Mitigation measures shall incorporate as the City deems appropriate, the guidelines and recommendations of the U.S. Fish and Wildlife Service and the California Department of Fish and Game. Implementation of this policy may include a requirement that project proponents enter into an agreement with the City satisfactory to the City Attorney to ensure that the proposed projects will be subject to a City fee ordinance to be adopted consistent with the regional *Habitat Management Plan*.

Implementation Program VI.4 The City, in conjunction with other interested agencies, shall prepare a regional *Habitat Management Plan* to provide a comprehensive approach to habitat protection, mitigation, and enhancement in the Winters Area.

3. The City Manager is authorized to execute the Implementing Agreement with USFWS, CDFW, and the other member agencies of the Yolo Habitat Conservancy.

4. The City Council hereby directs staff to: a) immediately (within five working days) file of a Notice of Determination documenting these decisions (Guidelines Section 15094); b) retain a copy of the certified final EIR as a public record and provide a copy to each responsible agency identified in the EIR and to the counties of Colusa, Sutter, Sacramento, Solano, Napa, and Lake and all cities in those counties; c) proceed to coordinate with the member agencies and permitting wildlife agencies to execute the Implementing Agreement and secure issuance of Interim Take Permits; and d) proceed to implement the Yolo HCP/NCCP pursuant to the identified actions, responsibilities, and timeframes.

PASSED AND ADOPTED by the _____ of the _____ at a regular meeting held the 15th day of May 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Wade Cowan, Mayor

ATTEST:

Nanci G. Mills, City Clerk

APPROVED AS TO FORM:

Ethan Walsh, City Attorney

Exhibit Attached:

1-- Final Yolo HCP/NCCP (available at <http://www.yolohabitatconservancy.org/documents>)

2 -- Implementing Agreement

IMPLEMENTING AGREEMENT

for the

**YOLO HABITAT CONSERVATION PLAN/NATURAL COMMUNITY
CONSERVATION PLAN**

by and among

THE UNITED STATES FISH AND WILDLIFE SERVICE

THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

THE YOLO HABITAT CONSERVANCY

THE COUNTY OF YOLO

THE CITY OF DAVIS

THE CITY OF WEST SACRAMENTO

THE CITY OF WINTERS

AND

THE CITY OF WOODLAND

Final—April 2018

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Chapter 1 PARTIES TO THIS AGREEMENT

The Parties to this Implementing Agreement (“Agreement”) are the Yolo Habitat Conservancy (“Conservancy”), the County of Yolo, the City of Davis, the City of West Sacramento, the City of Winters, and the City of Woodland (collectively referred to with the Conservancy as the “Permittees”), the California Department of Fish and Wildlife (“CDFW”), and the United States Fish and Wildlife Service (“USFWS”) (collectively with CDFW, the “Wildlife Agencies”).

Chapter 2 RECITALS; PURPOSES OF THE AGREEMENT

2.1 Recitals

The Parties have entered into this Agreement in consideration of the following facts:

- (a) The Plan Area as defined below and as described in the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (“Yolo HCP/NCCP” or “Plan”) has been determined to provide, or potentially provide, habitat for the Covered Species set forth in Appendix A (Covered Species Accounts) of the Plan; and
- (b) The Permittees have developed a series of conservation measures, described in the Yolo HCP/NCCP, to conserve, manage, avoid, minimize, and mitigate to the maximum extent practicable the effects of Take of Covered Species associated with and/or incidental to the Permittees’ Covered Activities. The same conservation measures also provide for the conservation and management of the Covered Species in the Plan Area.

2.2 Purposes

The purposes of this Agreement are:

- (c) To assure the conservation of Covered Species within the Plan Area by providing for actions that will be taken to conserve, manage, avoid, minimize, and mitigate the effects of Covered Activities on the Covered Species;
- (d) To ensure the efficient, timely, and successful implementation of the terms and conditions of the Yolo HCP/NCCP, this Agreement, and the Permits; and
- (e) To describe remedies and recourse should any Party fail to perform the obligations set forth in this Agreement.
- (f) To note the existence of long term assurances to the Permittees that, pursuant to the federal “No Surprises” provisions of 50 Code of Federal Regulations, sections 17.22(b)(5) and 17.32(b)(5), and California Fish and Game Code section 2820, subdivision (f), as long as the terms and conditions of the Permits, the Yolo HCP/NCCP, and this Agreement are fully satisfied. The Wildlife Agencies will not require of the Permittees the commitment of additional land, water or financial compensation or additional restrictions on the use of land, water, or other natural

resources, either to minimize and mitigate the impacts of Authorized Take, or to provide for the conservation and management of the Covered Species in the Plan Area, except as provided in the Permits, the Yolo HCP/NCCP, and this Agreement.

Chapter 3 DEFINITIONS

The following terms as used in this Agreement will have the meanings set forth below. Terms specifically defined in applicable federal or state statutes or the regulations adopted by USFWS and CDFW under those statutes will have the same meaning when used in this Agreement.

3.1 Agreement

“Agreement” refers to this Implementing Agreement.

3.2 Authorized Take

“Authorized Take” means the extent of incidental Take of Covered Species authorized by USFWS in the Federal Permit issued to the Permittees pursuant to Section 10(a)(1)(B) of the ESA, and the extent of Take of Covered Species authorized by CDFW in the State Permit issued to the Permittees pursuant to California Fish and Game Code section 2835.

3.3 CDFW

“CDFW” means the California Department of Fish and Wildlife, a department of the California Natural Resources Agency.

3.4 CEQA

“CEQA” means the California Environmental Quality Act (Public Resources Code §§ 21000 et seq.) and all regulations promulgated thereunder.

3.5 Certificate of Inclusion

“Certificate of Inclusion” means a document executed by a Permittee and a third party that extends the incidental take authorization granted to Permittee to such third party for the purpose of carrying out a Covered Activity in the Plan Area. Execution of a Certificate of Inclusion by the third party places the third party under the legal control of Permittee for purposes of enforcing and implementing the Permits, including the HCP/NCCP and this Agreement. A Certificate of Inclusion template is included as Exhibit A hereto.

3.6 CESA

“CESA” means the California Endangered Species Act (Fish & Game Code §§ 2050 et seq.) and all regulations promulgated thereunder.

3.7 Changed Circumstances

“Changed Circumstances,” as defined in the “No Surprises” rule at 50 C.F.R. § 17.3, means changes in circumstances affecting a species or the geographic area covered by the Yolo HCP/NCCP that have been reasonably anticipated by the Parties and that have been planned for in the Yolo HCP/NCCP. “Changed Circumstances” are defined under Fish & Game Code § 2805(c) to mean reasonably foreseeable circumstances that could affect a Covered Species or the Plan Area. Changed Circumstances and planned responses to those circumstances are described in Chapter 7 of the Yolo HCP/NCCP. Changes in circumstances that are not identified as Changed Circumstances will be treated as Unforeseen Circumstances.

3.8 Conservancy

“Conservancy” refers to the Yolo Habitat Conservancy, a joint powers agency organized under California law by the County of Yolo and the incorporated cities of Davis, Woodland, Winters, and West Sacramento.

3.9 Covered Activities

“Covered Activities” means the otherwise lawful activities and projects described in Chapter 3 of the Yolo HCP/NCCP that the Permittees or Third Party Participants may implement in the Plan Area for which incidental Take is authorized by the Wildlife Agencies pursuant to the Permits.

3.10 Covered Species

“Covered Species” means the species, listed and non-listed, which the Yolo HCP/NCCP has addressed in a manner sufficient to meet all criteria for issuing an incidental take permit under the ESA and a take permit under the NCCPA. Covered Species are listed in Chapter 1 of the Yolo HCP/NCCP and described in Appendix A to the Yolo HCP/NCCP.

3.11 Effective Date

“Effective Date” means the date of the first business day after all of the following have occurred: this Agreement has been fully executed by all Parties; issuance of both Permits; and all applicable implementing ordinances have been adopted by each of the Cities and County as provided in Section 7.4 of the Yolo HCP/NCCP.

3.12 ESA

“ESA” means the Federal Endangered Species Act of 1973, as amended (16 U.S.C §§ 1531–1544) and all rules, regulations, policies, and guidelines promulgated pursuant to that Act.

3.13 Federal Permit

“Federal Permit” means the federal incidental Take permit issued by USFWS to the Permittees pursuant to Section 10(a)(1)(B) of the ESA.

3.14 Fully Protected Species

“Fully Protected Species” means any species identified in California Fish & Game Code sections 3511, 4700, 5050, or 5515 that occur within the Plan Area.

3.15 HCP

“HCP” means the habitat conservation plan prepared by the Permittees for the Plan Area and approved by the USFWS pursuant to Section 10 of the ESA. The HCP will be referred to in this document collectively with the NCCP as the Yolo HCP/NCCP.

3.16 Listed Species

“Listed Species” means a species (including a subspecies, or a distinct population segment of a species) that is listed as an endangered or threatened species under ESA or as an endangered, threatened or candidate species under CESA.

3.17 NCCP

“NCCP” means the natural community conservation plan prepared by the Permittees for the Plan Area and approved by CDFW pursuant to Section 2820 of the Fish & Game Code and the provisions of the NCCPA. The NCCP will be referred to in this document collectively with the HCP as the Yolo HCP/NCCP.

3.18 NCCPA

“NCCPA” means the California Natural Community Conservation Planning Act (Fish & Game Code §§ 2800 et seq.) and all regulations promulgated thereunder.

3.19 Neighboring Landowner

“Neighboring Landowner” means an owner of specific types of agricultural lands that are within a defined distance of suitable habitat for either Valley elderberry longhorn beetle, giant garter snake, western pond turtle, or California tiger salamander (set forth in Chapter 5, Section 5.4.4 of the Yolo HCP/NCCP) on lands included in the reserve system who has received a Certificate of Inclusion from the Yolo Habitat Conservancy pursuant to the Permits and the Yolo HCP/NCCP (see Section 7.3.3 of this Agreement) that extends Authorized Take coverage for one or more of these four Covered Species resulting from specified agricultural land uses.

3.20 NEPA

“NEPA” means the National Environmental Policy Act (42 U.S.C. §§ 4321 et seq.) and all rules, regulations, policies, and guidelines promulgated pursuant to that Act.

3.21 Non-listed Species

“Non-listed Species” means a species (including a subspecies, variety, or a distinct population segment) that is not listed as endangered or threatened under the ESA or listed as an endangered, threatened, or candidate species under the CESA.

3.22 Party or Parties

“Party” or “Parties” means any or all of the signatories to this Agreement.

3.23 Permits

“Permits” means the State Permit and the Federal Permit, which incorporate the Yolo HCP/NCCP by reference.

3.24 Permit Term

“Permit Term” shall mean the 50-year duration of the Permits, commencing upon the date the Permits are issued.

3.25 Permittees

“Permittees” means the Yolo Habitat Conservancy, the County of Yolo, and the cities of Davis, West Sacramento, Winters, and Woodland.

3.26 Plan

“Plan” refers to the Yolo HCP/NCCP.

3.27 Plan Area

“Plan Area” means the geographic area covered by the Yolo HCP/NCCP, as described in Chapter 1 (Introduction) and depicted in Figure 1-1 thereof. The Plan Area includes the County of Yolo in its entirety, consisting of approximately 653,549 acres and also includes 1,174 acres along the south bank of Putah Creek in Solano County designated the “Extended Plan Area for Riparian Restoration” in Figure 1-1. This area is included in the Plan Area only for the purpose of providing additional sites for riparian restoration to support the Covered Species.

3.28 Rough Proportionality

“Rough Proportionality” means implementation of Yolo HCP/NCCP conservation measures in a manner that is roughly proportional in time and extent to the impact on habitat or Covered Species authorized under the Yolo HCP/NCCP and as required by Fish & Game Code § 2820(b)(9).

3.29 Special Participating Entity

“Special Participating Entity” and “Special Participating Entities” are public entities or private individuals that may conduct projects or undertake other activities in the Plan Area that are

Covered Activities in the Yolo HCP/NCCP and that may affect Covered Species and require Take authorization from USFWS or CDFW, but are not subject to the jurisdiction of one or more Permittees. These entities or individuals may pursue coverage under the Permits and the Yolo HCP/NCCP through the Special Participating Entity process defined in Chapter 4 (Section 4.2.1.3) and also described in Chapter 7 (Section 7.2.5).

3.30 State Permit

“State Permit” means the state Take permits issued to the Permittees pursuant to Section 2835 of the California Fish and Game Code.

3.31 Take

“Take” and “Taking” have the meaning set forth in the ESA and its implementing regulations. Take of listed plant species is not prohibited under the ESA; however, the plant species identified in the Yolo HCP/NCCP are listed on the Federal Permit as Covered Species in recognition of the conservation measures provided for such species under the Yolo HCP/NCCP and receive No Surprises Assurances under the Permit. For purposes of determining any outstanding mitigation owed upon termination of the Permit under Section 16, Take includes impacts to Covered plant species.

In the context of the Fish & Game Code Section 86 Take or Taking means to hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture, or kill.

3.32 Third Party Participants

“Third Party Participants” refers to any or all of the following: private project participants, Special Participating Entities, Neighboring Landowners, and any other person or entity that is not a Permittee and that receives Authorized Take coverage from a Permittee in accordance with the Permits, the Yolo HCP/NCCP and this Agreement.

3.33 Unforeseen Circumstances

“Unforeseen Circumstances” as defined in the “No Surprises” rule and codified at 50 C.F.R § 17.3, means, changes in circumstances affecting a Covered Species or the geographic area covered by the Yolo HCP/NCCP that could not reasonably have been anticipated by the Permittees, USFWS or CDFW during the development of the Yolo HCP/NCCP, and that result in a substantial and adverse change in the status of a Covered Species. In the context of the NCCPA, changes affecting one or more species, habitats, natural communities, or the geographic area covered by a conservation plan that could not reasonably have been anticipated at the time of Yolo HCP/NCCP development, and that result in a substantial adverse change in the status of one or more Covered Species (Fish & Game Code § 2805(k)).

3.34 USFWS

“USFWS” means the United States Fish and Wildlife Service.

3.35 Wildlife Agencies

“Wildlife Agencies” means USFWS and CDFW.

Chapter 4 INCORPORATION

4.1 Incorporation of the Plan

The Yolo HCP/NCCP and each of its provisions are intended to be, and by this reference are, incorporated herein. Notwithstanding such incorporation, the Parties acknowledge that the Permittees drafted the Yolo HCP/NCCP and submitted it to the Wildlife Agencies to support their application for the Permits. Characterizations, analyses, and representations in the Yolo HCP/NCCP, in particular, those regarding Federal or State laws, regulations, policies, and guidance represent the views of the Permittees and shall not control the administration of the Permits by USFWS and CDFW in accordance with Federal and State laws, regulations, policies, and guidance. In the event of any direct contradiction, conflict or inconsistency between this Agreement, the Yolo HCP/NCCP, or the Permits, the terms of the Permits shall control.

Each Party acknowledges that no representation, inducement, promise or agreement, oral or otherwise, has been made by the other Party or anyone acting on behalf of the other Party that is not embodied in the Yolo HCP/NCCP, this Agreement, or the Permits.

Chapter 5 IMPLEMENTATION ROLES AND RESPONSIBILITIES

The general roles and responsibilities of the Parties for the implementation of the Yolo HCP/NCCP are as follows.

5.1 Responsibilities of Permittees

Permittees will fully and faithfully perform all obligations assigned to them collectively, and to each of them individually, under the Permits, the Yolo HCP/NCCP, and this Agreement.

5.2 USFWS Cooperation and Assistance

USFWS will provide timely technical assistance and review, collaboration and consultation to the Permittees regarding implementation of the Yolo HCP/NCCP throughout the duration of the Federal Permit, to the extent appropriate funds are available for that purpose. Nothing in this Agreement shall require the USFWS to act in a manner contrary to the requirements of the Anti-Deficiency Act. Nothing in this Agreement will be construed by the Parties to require the obligation, appropriation, or expenditure of any money from the United States Treasury.

5.3 CDFW Responsibilities

CDFW will provide timely technical assistance and review, collaboration and consultation to the Permittees regarding implementation of the Yolo HCP/NCCP, as provided in this Agreement and the Yolo HCP/NCCP, throughout the duration of the State Permit. CDFW will also use all

reasonable efforts to assist the Permittees to achieve the Yolo HCP/NCCP biological goals and objectives for the Covered Species, as described in Yolo HCP/NCCP Chapter 6.

5.4 Role of Conservancy

The Permittees are individually and collectively responsible for compliance with all applicable terms and conditions of the Permits. As of the Effective Date of this Agreement, the Permittees have elected to assign primary responsibility for implementing the Yolo HCP/NCCP to the Conservancy on behalf of the other Permittees. The Conservancy may delegate the implementation of specific actions to other Parties or qualified third parties, including but not limited to public agencies, private conservation organizations, university scientists, and contractors, but the Conservancy itself will remain responsible for ensuring overall implementation of the Yolo HCP/NCCP on behalf of the other Permittees in accordance with the Permits.

As further described in Chapter 7 (including but not limited to Section 7.3) of the Yolo HCP/NCCP, the Conservancy's responsibilities generally include, but are not necessarily limited to, implementation and management of all of the following elements of the Yolo HCP/NCCP:

Administration of the Yolo HCP/NCCP, including staffing, and providing necessary scientific, legal, and financial expertise and consulting services;

Oversight of Permit compliance and related implementation actions;

Creation of the reserve system;

Management, enhancement, and restoration of reserve system lands;

Monitoring, adaptive management, and efforts to address Changed Circumstances;

Securing necessary funding to implement the Yolo HCP/NCCP; and

Addressing reporting and information management requirements.

At any time during the Permit Term, the Permittees may elect to create a different or additional implementing entity to assume some or all of the responsibilities of the Conservancy with respect to implementing the Yolo HCP/NCCP and ensuring compliance with this Agreement and the Permits. In such event, the Permittees shall notify the Wildlife Agencies of their intentions and

the Parties shall meet and confer in good faith to determine whether an amendment to this Agreement is required.

5.5 Yolo HCP/NCCP Implementation Key Deadlines for Compliance

The Parties' agreement about how key elements of the Yolo HCP/NCCP will be implemented over time is summarized in the implementation compliance deadlines set forth in Table 7-2 of the Yolo HCP/NCCP and further explained in Chapter 7 of the Yolo HCP/NCCP. The Parties recognize that, under certain circumstances, it might be reasonable and appropriate to modify one or more of the deadlines by modifying or amending the Permits, the Yolo HCP/NCCP, or this Agreement, as provided in Section 15 of this Agreement. However, absent such a modification or amendment, the Conservancy, on behalf of the Permittees, will meet the implementation deadlines set forth in Table 7-2 of the Yolo HCP/NCCP. If a changed or unforeseen circumstance occurs, that inhibits the ability to meet the implementation deadlines set forth in Table 7-2 of the Yolo HCP/NCCP, the Conservancy will follow the procedures set forth in Section 7.7.1 of the Yolo HCP/NCCP.

5.6 Duty to Enforce

The Permittees shall undertake all necessary action to enforce all applicable terms of the the Permits, the Yolo HCP/NCCP, and this Agreement as to itself and Third Party Participants over which Permittees have committed to enforce the terms of the Permits, the Yolo HCP/NCCP, and this Agreement. Any non-compliance by a Permittee or a Third Party Participant with applicable terms of the Permits, the Yolo HCP/NCCP, or this Agreement may be deemed by either wildlife agency a violation of the Permit by Permittee. In addition, any failure by Permittee to enforce the applicable provisions of the Permits, the Yolo HCP/NCCP, or this Agreement against itself, a Third Party Participant may be deemed by either wildlife agency a non-compliance by Permittee with the Permit, the Yolo HCP/NCCP, or this Agreement and a violation of the Permit by Permittees. Wildlife agencies shall take into account all efforts undertaken by Permittees to enforce the terms of the Permits, the Yolo HCP/NCCP, and this Agreement as to itself, the Third Party Participant and all actions taken by Permittees to redress the effects of such non-compliance, particularly the enforcement efforts and redress actions specifically described in the Yolo HCP/NCCP.

Chapter 6 COLLABORATION AND DISPUTE RESOLUTION

6.1 Collaboration

The Parties agree that successful collaboration among them is important to the success of the Yolo HCP/NCCP. Notwithstanding any other provision of the Permits, the Yolo HCP/NCCP, or this Agreement, each Party will make a reasonable effort to: meet and confer with any other Party upon the request of that Party to address matters pertaining to the Permits, the Yolo HCP/NCCP, or this Agreement; provide relevant, non-proprietary, non-confidential information pertaining to the Yolo HCP/NCCP upon the request of any Party; and provide timely responses to requests from any Party for advice, concurrence, or review and comment on reports, surveys or other documents relating to the Permits, the Yolo HCP/NCCP, or this Agreement.

6.2 Dispute Resolution

The Parties recognize that disputes concerning implementation of, compliance with, or termination of the Permits, the Yolo HCP/NCCP, or this Agreement may arise from time to time. The Parties intend to resolve most disputes at the staff or field personnel level. However, the Parties recognize that some disputes might not be resolved at the staff or field personnel level. The Parties agree to work together in good faith to resolve such disputes using the informal dispute resolution procedure set forth in this Section. Any Party may seek any available remedy without regard to this Section if the Party concludes, in its reasonable judgment, that the circumstances so warrant. However, unless the Parties agree upon another dispute resolution process, or unless a Party has initiated administrative proceedings or litigation related to the subject of the dispute in federal or state court, the Parties agree to use the following procedures to attempt to resolve disputes.

6.2.1 Notice of Dispute; Meet and Confer

If one or both Wildlife Agencies objects to any action or inaction by the Conservancy or any Permittee on the basis that the action or inaction is inconsistent with the Permits, the Yolo HCP/NCCP, or this Agreement, it will provide written notice to the Conservancy, the Permittee(s), and both Wildlife Agencies, unless providing written notice would preclude a necessary, immediate response to circumstances which may appreciably reduce the likelihood of survival and recovery of a species in the wild as reasonably determined by a Wildlife Agency. The notice shall identify the objection(s) of the Wildlife Agencies and adequately explain the basis thereof.

The Conservancy or a Permittee, as appropriate, will respond in writing to the notice within thirty (30) days of receipt. The response shall describe actions that the Conservancy or Permittee proposes to take to resolve the objection or, alternatively, the response may explain why the objection is unfounded. If the response resolves the objection to the satisfaction of the Wildlife Agencies, the agency will so notify other recipients of the original notice of objection and, in turn, the Conservancy or Permittee will implement any actions proposed in the response.

If the response does not resolve the objection to the Wildlife Agency's satisfaction, the Wildlife Agency will notify the Conservancy or Permittee and any other recipients of the original notice. The Wildlife Agencies, Conservancy, and any relevant Permittee will then meet and confer to attempt to resolve the dispute. The meeting will occur within a reasonable time designated by the Wildlife Agencies, taking all relevant circumstances into account. Generally, unless the circumstances require otherwise, the meeting shall occur within 30 days after the Conservancy and affected Permittee(s) receive the Wildlife Agencies response, but it may also occur at a later time if the Wildlife Agencies, Conservancy, and relevant Permittee agree. A Conservancy representative will take notes at the meeting, summarize the outcome, and distribute meeting notes to each Party in attendance.

If a dispute among the Parties pertains to a specific project, the proponent of the project shall be allowed to provide input into the dispute resolution process by reviewing the initial notice from one or both Wildlife Agencies and submitting its own response and, if applicable, by participating in the meeting referenced above. For purposes of this provision, a dispute pertains to a specific project if USFWS and/or CDFW objects to an action or inaction by a Permittee with

regard to a specific project, such as the Permittee's determination of appropriate mitigation requirements for the project, or a Permittee objects to an action or inaction by the USFWS or CDFW with regard to a specific project.

The Conservancy or any other Permittee will use the same procedure to raise and resolve objections to any action or inaction of a Wildlife Agency, and the Wildlife Agency will respond in the same manner to notices delivered by any Permittee. If a dispute arises among the Permittees regarding the action or inaction of a Permittee, the Permittees shall use the same procedure to raise and to resolve objections to the Permittee's action or inaction, but shall not be required to provide notice to the Wildlife Agencies, and the Wildlife Agencies shall not be required to meet and confer with the Permittees.

6.2.2 Elevation of Dispute

If the Parties do not resolve a dispute after completing the dispute resolution procedure in Section 6.2.1, above, any one of the Parties may elevate the dispute to a meeting of the chief executives of the involved Parties. For purposes of this provision, "chief executive" means the Conservancy Executive Director, the city manager of a city, the county administrator of the County, the CDFW Regional Manager, and the USFWS Field Supervisor. Each Party will be represented by its chief executive in person or by telephone at the meeting, and the meeting will occur within 45 days of a request by any Party following completion of the dispute resolution procedure.

Chapter 7 TAKE AUTHORIZATIONS

As described in this Section, commencing upon issuance of the Permits, the Permittees and certain authorized third parties are granted Take authorization under the Permits. The Take authorization is for Covered Activities including all activities identified as such in Chapter 3 of the Yolo HCP/NCCP. The Permits do not authorize Take resulting from other projects or activities that are not identified as Covered Activities in Chapter 3.

7.1 Permit Coverage; Training

The Permittees' Take authorization covers all of their respective elected officials, officers, directors, employees, agents, subsidiaries, contractors, and other acting on their behalf in performing any Covered Activity. Each Permittee will be responsible for supervising compliance with the relevant terms and conditions of the Permits by those acting on its behalf, and any contracts between a Permittee and any such person or entity regarding the implementation of a Covered Activity will require compliance with the Permits.

Within one year of issuance of the Permits, the Conservancy will develop an implementation handbook and other materials that it believes will assist the other Permittees in complying with the Permits, the Yolo HCP/NCCP, and this Agreement. Among other things, the implementation handbook will describe the permit application process and provide illustrative examples. Additionally, to help ensure continued compliance with the Permits, the Conservancy will periodically train staff of each Permittee of the requirements of the Permits and any related matters. In this context, "periodically" means at least once every five years or sooner if at least

50% of the relevant staff positions within a Permittee agency (as determined by each Permittee) have new personnel.

7.2 Compliance Procedures and Actions for Permittees

Each Permittee will ensure that the implementation of its public projects that constitute Covered Activities will comply with the Permits. As further described in Chapter 4 (Section 4.2) and depicted in Figures 4-1 of the Yolo HCP/NCCP, each Permittee will follow a defined process for project compliance with the Permits. Conservancy staff will provide technical assistance as necessary to ensure accurate completion of all required application documentation and similar materials.

Each Permittee will also document its compliance with the Permits, and provide a copy of that documentation to the Conservancy for tracking, reporting, and related purposes. To the extent a Permittee pays any fees pursuant to the funding strategy described in Chapter 8 of the Yolo HCP/NCCP, such fees shall be paid in the same amount and time as fees paid by private project participants. Other alternative compliance actions, such as land dedications in lieu of fee payment, shall be handled in the manner described in Chapter 7 (including but not limited to Section 7.5.9) of the Yolo HCP/NCCP.

7.3 Extension of Take Authorization to Third Party Participants

As set forth in the Yolo HCP/NCCP, various third party participants may receive Take coverage in appropriate instances. Such participants include private project participants, Special Participating Entities, and neighboring landowners. The Permittees may extend Authorized Take coverage to “Third Party Participants” and will be responsible for determining whether applicants from potential Private Project Participants comply with all such terms and conditions and will make findings supporting such a determination before extending Authorized Take coverage.

7.3.1 Private Project Participants

The County and the Cities will each require proponents of private projects that are subject to their land use or other regulatory authority and fall within the categories of projects and activities described in Chapter 3 of the Yolo HCP/NCCP to comply with all applicable terms and conditions of the Permits, and will extend Authorized Take coverage to such projects as provided in Chapter 4 (Section 4.2.1.1 and 4.2.1.2) and depicted in Figure 4-2 of the Yolo HCP/NCCP. The Permittee with jurisdiction over a private project, the lead agency Permittee under CEQA) shall be responsible for determining whether applications and other materials and actions are sufficient to comply with all applicable terms and conditions of the Permits.

7.3.1.1 Implementing Ordinances

The HCP/NCCP review process will be integrated into the established project planning, environmental review, and entitlement processes of the County and the Cities. Before the Effective Date, the Cities and the County will each consider the adoption of an implementing ordinance substantively similar to the model ordinance attached to this Agreement as **Exhibit B** that sets forth the application process for potential private project participants. The implementing

ordinance will, among other things: provide for the imposition of plan fees, as provided in Section 8.2 of this Agreement and further described in Chapter 8 (Section 8.4.1) of the Yolo HCP/NCCP; establish the jurisdiction's procedure for extending Authorized Take coverage to private project participants, as provided in Section 7.3.1 of this Agreement; and provide for the conveyance of land in lieu of fees, in accordance with Section 9.3.2 of this Agreement and Chapter 7 (Section 7.5.9) of the Yolo HCP/NCCP. The Cities and the County may extend Authorized Take coverage to Third Party Participants only after adopting an implementing ordinance in accordance with this Section. In addition, the Permittees recognize that the Wildlife Agencies' findings regarding the adequacy of funding for Yolo HCP/NCCP implementation will be based, in part, on the expectation that the Cities and the County will adopt implementing ordinances that require the payment of Yolo HCP/NCCP fees and that failure by a City or the County to adopt an implementing ordinance will prevent the Permits from taking effect.

The model ordinance in **Exhibit B** is intended to exemplify the necessary substantive terms of an implementing ordinance; it is not intended to dictate the precise terms of each such ordinance. The County and each City may each adapt the model ordinance to reflect its independent findings, to maximize administrative efficiency, or for other reasons, provided the substance of the operative terms in the model ordinance is reflected in each implementing ordinance.

7.3.2 Special Participating Entities

The Conservancy may extend Take authorization to Special Participating Entities pursuant to a contractual agreement that defines any and all planning, implementation, management, enforcement and funding responsibilities necessary for the entity to comply with the Permits, the Yolo HCP/NCCP and this Agreement. Chapter 4 (Section 4.2.1.3) describes the application, review, and approval process for Special Participating Entities to be covered under the Permits and the Yolo HCP/NCCP. The Conservancy shall be responsible for determining if applications or requests from Special Participating Entities comply with all applicable authorities. Initially, the Conservancy must determine the eligibility of a proposed Special Participating Entity to receive coverage (i.e., whether it qualifies as such an entity) pursuant to factors described in Chapter 7 (Section 7.2.5). For Special Participating Entities deemed eligible, the Conservancy will enter into a contract with the entity with the provisions described in Chapter 4 (Section 4.2.1.3), receive an application package, notify the affected jurisdiction(s), and take other steps culminating in the issuance of a Certificate of Inclusion. The Conservancy shall enforce the terms of the Permit, the Yolo HCP/NCCP and this Agreement with regard to any such Special Participating Entity and shall withdraw the Certificate of Inclusion and terminate any Take authorization extended to the Special Participating Entity if the Special Participating Entity fails to comply with such terms.

7.3.3 Neighboring Landowners

The Conservancy may extend Authorized Take coverage to landowners who are engaged in normal agricultural and rangeland activities (described in Appendix M, Yolo Agricultural Practices) for lands located within a defined distance of land acquired for or enrolled in the Yolo HCP/NCCP reserve system, as further described in Chapter 3 (Section 3.5.6), Chapter 5 (Section 5.4.4), and Chapter 7 (Section 7.7.7.1) of the Yolo HCP/NCCP. Take Authorization is available to qualified landowners only for four Covered Species: California tiger salamander, valley

elderberry longhorn beetle, giant garter snake, and western pond turtle. The process for extending Authorized Take coverage to such landowners is entirely voluntary, and landowners may elect to participate in their sole discretion. Interested landowners must prepare an HCP/NCCP enrollment application package consisting of baseline surveys, an identification of ongoing and expected future agricultural and rangeland activities on the property, and the payment of a fee to cover enrollment costs. The Conservancy may approve applications that meet all the requirements of the Yolo HCP/NCCP, including but not limited to a landowner commitment to implement avoidance and minimization provisions regarding Take of the applicable Covered Species (see Chapter 4, Section 4.3 of the Yolo HCP/NCCP).

If approved, the Conservancy will extend Authorized Take of one (or more) of the four Covered Species through issuance of a Certificate of Inclusion. Take extended through issuance of a Certificate of Inclusion will only include the take of populations or occupied habitat above baseline conditions. The Conservancy may add conditions to a certificate of inclusion for the sake of ensuring that these and other related goals and objectives are met. Certificates of inclusion are personal to a landowner and do not transfer in the event of a change of ownership.

7.3.4 Liability for Actions of Third Party Participants

The Wildlife Agencies shall enforce this Agreement by ensuring that the Permittees comply with all terms and conditions of the Permits, the Yolo HCP/NCCP and this Agreement. The Permittees shall be responsible for complying with all applicable terms and conditions of this Agreement and shall enforce this agreement by ensuring that all Third Party Participants comply with all applicable terms and conditions of the Permit, the Yolo HCP/NCCP and this Agreement.

7.4 Ongoing Role of Wildlife Agencies

As of the Effective Date, the Permittees may implement Covered Activities and extend Authorized Take coverage to Third Party Participants in accordance with the Permits without the prior approval of the Wildlife Agencies, except as provided in Section 7.3, above. As further described in Chapter 7 of the Yolo HCP/NCCP, the Wildlife Agencies will monitor implementation of the Yolo HCP/NCCP to ensure overall compliance with the Permits. To ensure the Wildlife Agencies are adequately informed about the Permittees' use and extension of Authorized Take coverage, the Permittees will provide copies of any application and supporting information required in Chapter 4 of the Yolo HCP/NCCP for any Covered Activity upon the request of any Wildlife Agency.

As further described in Chapters 6 and 7 of the Yolo HCP/NCCP, the Wildlife Agencies' approval is required for certain components of the conservation strategy and specific administrative tasks or procedures. For example, the Wildlife Agencies will be third party beneficiaries on conservation easements recorded on reserve system lands, as further described in Chapter 7 of the Yolo HCP/NCCP. The Wildlife Agencies will also participate in implementation of the Yolo HCP/NCCP adaptive management program, as further described in Chapter 6 of the Yolo HCP/NCCP.

7.5 The Migratory Bird Treaty Act

The Federal Permit will constitute a Special Purpose Permit under 50 C.F.R. § 21.27 for the Take of migratory birds protected by the MBTA that are Covered Species and that are also listed under the ESA as threatened or endangered. The Federal Permit will specify the amount and/or number of any listed Covered bird, subject to all of the terms and conditions of those authorities. The Special Purpose Permit will be valid for three years and will be renewed by USFWS pursuant to the MBTA provided the Permittees are in compliance with the Federal Permit. Each renewal of the Special Purpose Permit shall be for a period of three years, or more if the permit duration is extended by law, provided that the Federal Permit remains in effect for such period.

If and when any other Covered Species that is a migratory bird becomes a Listed Species under the ESA, the Federal Permit will also constitute a Special Purpose Permit for that species as of the date the Federal Permit becomes effective as to such species, as provided in Section 17.1, below.

7.6 Take Authorizations for Fully Protected Species

CDFW acknowledges and agrees that the Yolo HCP/NCCP includes measures that are intended to conserve and manage white-tailed kite, a Covered Species and a Fully Protected Species, as a result of the implementation of Covered Activities. However, if implementation of Covered Activities causes the take of white-tailed kite, CDFW acknowledges and agrees that the take is authorized under the State Permit, pursuant to Fish & Game Code § 2835.

7.7 Take Authorizations for Plant Species Under the ESA

The take of Covered Species that are federally listed plants is not prohibited under the ESA except on federal land or in violation of state law. The palmate-bracted bird's beak is included on the list of Covered Species and the Federal Permit in recognition of the benefits provided for that species under the Yolo HCP/NCCP and in the event palmate-bracted bird's beak becomes subject to the same take prohibitions in the ESA as listed wildlife species.

8.0 CONDITIONS ON COVERED ACTIVITIES; FEES

Chapter 6 of the Yolo HCP/NCCP presents the Conservation Strategy. The Conservation Strategy identifies the intended biological outcomes of Yolo HCP/NCCP implementation and describes the means by which these outcomes will be achieved. The Conservation Strategy includes specific and measurable biological goals and objectives and includes a comprehensive set of conservation measures designed to conserve Covered Species and the natural communities upon which they depend.

As discussed in this Section, the Conservation Strategy works in coordination with Conditions on Covered Activities described in Chapter 4 (Section 4.3), defined below, that appropriately avoid and minimize the impacts of the Covered Activities on the biological resources addressed in the Yolo HCP/NCCP. The Conservation Strategy also provides for the establishment of monitoring and adaptive management programs to ensure that the Yolo HCP/NCCP conservation measures can evolve as new data and information become available. Additionally, the payment of certain fees for implementation of the Yolo HCP/NCCP, as described in Chapter 8 thereof, is also a key

component of the Yolo HCP/NCCP's overall approach to achieving its objectives. Finally, the Yolo HCP/NCCP outlines the requirements of the Permittees and Third Party Participants for implementation of the Conservation Strategy.

In this Section and in Section 9, below, this Agreement addresses key aspects of implementation of the Conservation Strategy. This Section focuses on describing various strategies intended to avoid, minimize, and mitigate impacts to Covered Species and natural communities resulting from Covered Activities. Such strategies include, among other things, the avoidance and minimization measures described in Chapter 4 of the Yolo HCP/NCCP, the Conservation Strategy set forth in Chapter 6 of the Yolo HCP/NCCP, as well as application and survey requirements described in various Yolo HCP/NCCP chapters. The avoidance and minimization measures described in Chapter 4 of the Yolo HCP/NCCP are referred to herein and in the Yolo HCP/NCCP as "Conditions on Covered Activities" or "Conditions." Most of these Conditions apply to specific types of Covered Activities; no individual Covered Activity is anticipated to need to comply with all Conditions. The Permittees will ensure that all applicable Conditions are incorporated in Covered Activities, as provided in this Section.

8.1 Avoidance and Minimization of Impacts

As noted above, Chapter 4 of the Yolo HCP/NCCP includes Conditions to avoid, minimize, and mitigate the Take of Covered Species resulting from Covered Activities. These Conditions are designed to form a countywide program that will be implemented systematically to: prevent Take of individuals of certain Covered Species; avoid impacts to Covered Species to the maximum extent practicable; minimize adverse effects on Covered Species and natural communities to the maximum extent practicable; and avoid and minimize direct and indirect impacts on wetlands and streams. Each Permittee will incorporate all applicable Conditions within all Covered Activities that it implements. In addition, the County and the Cities will require all applicable Conditions as conditions of approval for all other projects that they approve, and the Conservancy will ensure that the Conditions are incorporated in all Special Participating Entity Covered Activities. Local implementing ordinances, addressed briefly in Section 7.3.1.1, above, will be adopted by the County and each City to assist in achieving these requirements.

8.1.1 Avoidance and Minimization of Impacts to Species Protected Under Laws Other Than the ESA or CESA

All Covered Species that are birds are protected under the Migratory Bird Treaty Act. As provided in Section 7.6, above, the Federal Permit will be a Special Purpose Permit under the Migratory Bird Treaty Act for the least Bell's vireo and western yellow-billed cuckoo, which are each a Listed Species under the ESA. However, unless and until the western burrowing owl, Swainson's hawk, white-tailed kite, bank swallow or the tricolored blackbird become Listed Species under the ESA and the Federal Permit becomes a Special Purpose Permit for those species. The Migratory Bird Treaty Act prohibits killing or possessing birds or their young, nests, feathers, or eggs; therefore, the Special Purpose Permit only addresses harm and harassment in the form of habitat loss.

The Permits authorize Take of Covered Species only. Covered Activities affecting other species that are not Covered Species must comply with applicable state and federal laws that protect such species.

8.1.2 Exemptions from Conditions to Avoid and Minimize Impacts

Certain Covered Activities will not disturb the ground or will have little measurable impact on Covered Species or natural communities. These Covered Activities will receive the same Authorized Take coverage as other Covered Activities. However, as further described in Chapter 4 (Section 4.5) of the Yolo HCP/NCCP, some or all conditions on Covered Activities described Chapter 4, including the process for project compliance described therein, will not apply to these Covered Activities.

8.2 Yolo HCP/NCCP Fees

As provided in this Section and further described in Chapter 8 of the Yolo HCP/NCCP, the Conservancy will use revenues generated from certain fees placed on Covered Activities to fund the implementation of the conservation strategy described in Chapter 6 of the Yolo HCP/NCCP and various other implementation activities set forth in Chapter 7 thereof. Such actions include, but are not limited to creation of the reserve system, management of reserve system lands, monitoring of and reporting on Yolo HCP/NCCP implementation, adaptive management, responses to Changed Circumstances, and related planning and administrative costs. These actions, together with the avoidance and minimization measures provided for in Section 8.1, above, will fulfill all requirements under the ESA and the NCCPA to conserve, manage, avoid, minimize and mitigate the impacts of Covered Activities on Covered Species and provide for the conservation of the Covered Species in the Plan Area.

The Yolo HCP/NCCP includes several types of fees which are referred to collectively in this Agreement as the “Yolo HCP/NCCP Fees.” The Yolo HCP/NCCP Fees, exemptions from the fees, fee credits, and the method of calculating the fees is further described in Chapter 8 of the Yolo HCP/NCCP. The Conservancy will administer the Yolo HCP/NCCP Fees in accordance with the text of Chapter 8 and this Agreement.

8.2.1 Fee Exemptions

Certain Covered Activities will have little or negligible adverse effects on Covered Species or natural communities, have primarily or entirely beneficial effects, or will be difficult and expensive to track and report. As further described in Chapter 8 (Section 8.4.1.1) of the Yolo HCP/NCCP, the requirement to pay Yolo HCP/NCCP fees does not apply to these Covered Activities. These Covered Activities will receive the same Authorized Take coverage as other Covered Activities, and Take from these Covered Activities will be tracked and reported in the same way as Authorized Take from other Covered Activities. Covered Activities that are exempt from Yolo HCP/NCCP Fees are identified in Chapter 8, Section 8.4.1.1, and these exemptions overlap with exemptions from Conditions on Covered Activities referenced in Section 8.1.2, above.

8.2.2 Fee Collection and Payment

The Permittees will ensure that all applicable Yolo HCP/NCCP Fees are paid, and all applicable fee credits are applied, for all Covered Activities, as further described in Chapter 8 of the Yolo HCP/NCCP. The County and the Cities will make payment of all applicable Yolo HCP/NCCP Fees a condition of final approval for private project participant Covered Activities; the Conservancy will require payment of all applicable Fees for Special Participating Entity Covered Activities; and the Permittees will pay all applicable Fees for Covered Activities that they implement. The Conservancy may require Special Participating Entities to pay additional amounts as described in Chapter 8 (Section 8.4.1.9), including an amount in addition to applicable Fees to reimburse the Conservancy for costs associated with extending take coverage to Special Participating Entities and to help fund conservation actions intended to contribute to the conservation of Covered Species.

The Cities and the County will collect fee payments from private project participants and provide the fee revenues to the Conservancy at least quarterly. The Conservancy will comply with all provisions of the Mitigation Fee Act (Gov. Code §66000, et seq.) to the extent those provisions are applicable the deposit, accounting, expenditure and reporting of such fee revenues.

8.2.3 Fee Adjustments

As further described in Chapter 8 (Section 8.4.1.6) of the Yolo HCP/NCCP, the Conservancy will use two mechanisms for adjusting Yolo HCP/NCCP Fees: automatic adjustments that occur annually; and periodic adjustments that occur following an assessment process every five years. The annual adjustments will proceed in accordance with the indices and procedures generally depicted in Table 8-10 of the Yolo HCP/NCCP and related text in Chapter 8 (Section 8.4.1.6.1). The Conservancy's governing board will determine the date of the annual adjustments within six months of the Effective Date.

In addition, the Conservancy will conduct a periodic assessment every five years to review the costs and underlying assumptions used in developing the original funding strategy (or any updates to those assumptions, if appropriate). Each assessment shall also include an evaluation of the remaining costs to implement the Yolo HCP/NCCP. Other factors set forth in Chapter 8 (Section 8.4.1.6.2) may also be considered by the Conservancy in conducting the periodic assessment. Within a reasonable time after completing the periodic assessment, the Conservancy will adopt any fee adjustments necessary based on the assessment to ensure full funding of the mitigation share of remaining Yolo HCP/NCCP implementation costs, as well as the endowment contribution and Yolo HCP/NCCP Preparation fees. The five-year timeframe shall be calculated starting with the first full calendar year after the Effective Date. Automatic annual increases will resume and build on the results of the periodic assessment and any related fee adjustments.

8.2.4 Fee Credits

As further described in Chapters 7 (Section 7.5.9) and 8 (Section 8.4.1.8) of the Yolo HCP/NCCP, the Conservancy may approve fee credits for the conveyance of lands that are added to the reserve system. The fee credits may be used for some of the Yolo HCP/NCCP Fees that apply to one or more Covered Activities. Fee credits do not have any value except as credits

for Yolo HCP/NCCP Fees incurred during the Permit Term. Fee credits remaining after the Permit Term will have no value, and no payment or “refund” will be made.

The procedures for requesting a fee credit and for all Conservancy actions relating to such requests are set forth in the above-referenced Chapters of the Yolo HCP/NCCP. The Conservancy will follow those procedures in deciding fee credit requests. Among other things, it will prepare a written determination stating whether any proposed fee credit meets the requirements of the Yolo HCP/NCCP and this Agreement, and whether, or to what extent, the credit is approved by the Conservancy. The written determination will include the amount of any approved credit. The amount of an approved fee credit may be deducted from the Yolo HCP/NCCP Fees that apply to any Covered Activity implemented by the Permittee, private project proponent, or Special Participating Entity that received the approved credit. In some instances, the Conservancy may not approve a proposed fee credit (as set forth in Chapter 8, Section 8.4.1.8). Additionally, the Conservancy may disapprove a requested fee credit on a case-by-case basis in its sole discretion.

8.2.5 Fee Payment Timing

All applicable Yolo HCP/NCCP Fees, subject to any fee credits, will be collected before implementation of the Covered Activity for which the fees are required. The County and the Cities will require private project participants to pay all applicable fees before or concurrent with the issuance of a grading permit for each private project proponents’ Covered Activity. If a grading permit is not required for the Covered Activity, payment of the fees will be required before the first building or other construction permit is issued. The Conservancy will require Special Participating Entities to pay all applicable fees before initiating ground-breaking activities for their Covered Activities, and the Permittees will pay all applicable fees before implementing any Covered Activity.

9.0 CREATION OF RESERVE SYSTEM

The creation and management of a Yolo HCP/NCCP reserve system is one of three primary elements of the Conservation Strategy. The Conservancy will establish the reserve system as provided in Chapter 6 (Section 6.4.1) of the Yolo HCP/NCCP and this Agreement. The reserve system will include select protected areas existing at time of Yolo HCP/NCCP approval (called “pre-permit reserve lands” and defined below) as well as the permanent protection of additional lands to be acquired in accordance with the Yolo HCP/NCCP. Reserve system lands will be actively managed and enhanced for the benefit of Covered Species and, in some instances, the Conservancy will also implement natural community restoration and creation actions.

The Yolo HCP/NCCP includes certain deadlines for the completion of the reserve system assembly and other actions described in Chapter 6 of the Yolo HCP/NCCP as part of Conservation Measure 1. The Conservancy will assemble the reserve system in accordance with the schedule set forth in Table 7-2, which is based on the “stay-ahead” provision described in Chapter 7 (Section 7.5.3.3) of the Yolo HCP/NCCP. Restoration and creation actions included in Conservation Measure 2 (Chapter 6, Section 6.4.2) of the Yolo HCP/NCCP will occur prior to natural community losses and consistent with the stay-ahead provision, as well as the biological objectives included in Table 6-8 of the Yolo HCP/NCCP. Management and enhancement actions described in Conservation Measure 3 will occur through the Permit Term.

9.1 Criteria for Reserve System Lands

As described in Chapter 6 (Section 6.4.1) of the Yolo HCP/NCCP, the Conservancy will follow certain reserve design assembly principles—including specific siting, design, and prioritization criteria—in establishing the reserve system. Additionally, the Conservancy will meet the land acquisition and pre-acquisition assessment requirements set forth in Sections 6.4.1.5 and 6.4.1.6 of Chapter 6.

9.2 Permanent Protection of Reserve System Lands

The Conservancy may use various mechanisms to achieve the conservation acreages required by the Yolo HCP/NCCP (see Table 6-2(a)). Such mechanisms include: acquiring land in fee title and conserving it with a permanent conservation easement; acquiring a permanent conservation easement; the preservation of fee title or permanent conservation easement interests by a conservation organization; and the purchase of mitigation credits from private mitigation or conservation banks. The Conservancy will use each of these mechanisms in compliance with certain requirements set forth in the Yolo HCP/NCCP, including but not limited to Chapters 6 (Section 6.4.1.3) and 7 (Section 7.5.5).

Additionally, the Conservancy will also enroll baseline public and easement lands—as described in Section 6.4.1.7 of Chapter 6 and Section 7.5.11 of Chapter 7 of the Yolo HCP/NCCP—in the reserve system as “pre-permit reserve lands” if certain requirements are met (i.e., the Wildlife Agencies have each approved incorporation of these lands into the Reserve system).

9.2.1 Conservation Easements

The Conservancy expects to rely extensively on the purchase of conservation easements to assemble the reserve system. Conservation easements are the preferred habitat protection method for actively cultivated lands, as certain ongoing agricultural uses support achievement of the Yolo HCP/NCCP biological goals and objectives. Procedures and requirements for conservation easements are described in several sections of the Yolo HCP/NCCP, including but not limited to: Section 7.5.5 (Conservation Easements) and Section 7.5.10 (Use of Mitigation Banks). While the Conservancy will itself acquire conservation easements in the course of assembling the reserve system, the Yolo HCP/NCCP also specifically authorizes conservation easements acquired by other qualified easement holders, as defined in California Civil Code section 815 *et seq.*, to assemble the reserve system.

Section 7.5.5 of Chapter 7 of the Yolo HCP/NCCP describes the minimum requirements of a conservation easement under the Yolo HCP/NCCP for inclusion in the reserve system.

For purposes of lands added to the Reserve System, the Conservancy will use a conservation easement template agreed to by the Parties (Appendix K of the Yolo HCP/NCCP). Reasonable variations from the template may be needed to address site-specific constraints. Both Wildlife Agencies, along with the Conservancy, must review and approve any modifications to the template easement prior to its execution.

9.3 Stay-Ahead or Rough Proportionality Requirement

Under Fish & Game Code § 2820(b)(3)(B), the conservation strategy of an NCCP must be implemented at or faster than the rate of loss of natural communities or habitat for Covered Species. To assist in applying this requirement to implementation of the Yolo HCP/NCCP, the Plan includes schedules and procedures referenced in Chapter 7 (Section 7.5.3).

9.3.1 Failure to Stay Ahead or to Maintain Rough Proportionality

If rough proportionality is not being maintained pursuant to Chapter 7 (including Section 7.5.3.1) of the Yolo HCP/NCCP, the Conservancy and the Wildlife Agencies will meet and confer to determine a plan of action that will remedy the situation and achieve compliance. The plan of action may include any of the solutions identified in Section 7.5.3.3 of Chapter 7 of the Yolo HCP/NCCP, or it may include other strategies developed by the Parties.

If the Conservancy is unable to achieve compliance after the exercise of all available authority and use of all available resources, the Wildlife Agencies will reevaluate the Permits, relevant components of the Yolo HCP/NCCP, and this Agreement. The Wildlife Agencies may advise the Conservancy on a potential modification or amendment that would address the compliance situation or, if no such strategy appears viable, the Wildlife Agencies may suspend or revoke their Permits, in whole or in part. All Parties acknowledge that failure to fulfill the requirements of the Yolo HCP/NCCP and the Permits would constitute a violation of the Permits and the Wildlife Agencies will take appropriate responsive actions to address any such violation in accordance with the ESA and NCCPA, which could include suspension or revocation of the Permits, in whole or in part. The partial suspension or revocation may include removal of one or more Covered Species or reduction in the scope of the Take Authorizations.

9.3.2 Conveyance of Land in Lieu of Yolo HCP/NCCP Fees to Maintain Rough Proportionality

As set forth in Chapter 8 (Section 8.4.4.2), if the Conservancy determines it is at risk of failing to meet the stay-ahead provision for land acquisitions as described in Chapter 7 of the Yolo HCP/NCCP, after consultation with the Wildlife Agencies it may notify the other Permittees that it is necessary to temporarily require project proponents to provide land instead of paying all or a portion of the Yolo HCP/NCCP fee.

9.4 Additional Criteria for Lands Conveyed in Lieu of Fee Payment

As set forth in other Sections of this Agreement, under certain circumstances lands may be conveyed to the reserve system in lieu of payment of some (or rarely, all) applicable Yolo HCP/NCCP fees. Chapter 7 (Section 7.5.9.1) describes the process for including these conveyances in the reserve system and counting them toward the reserve system requirements of the Yolo HCP/NCCP. Additionally, Section 7.5.9.1 of Chapter 7 sets forth three criteria that any such conveyance must satisfy in order to be eligible for credit:

The land must satisfy the criteria for reserve lands in Chapter 6 of the Yolo HCP/NCCP, as demonstrated by a field assessment conducted by the project proponent and verified in the field by the Conservancy;

The land must be within a priority acquisition area, or the unique and high values of the land must justify its inclusion in such an area; and

The Conservancy and the Wildlife Agencies must approve the transaction consistent with applicable requirements in the Yolo HCP/NCCP, including but not limited to Chapter 7, Section 7.5 (Land Acquisition, Step 12).

9.5 Lands Conveyed by Entities other than Permittees

Lands acquired through partnerships with non-Permittees can be counted toward reserve system requirements if such lands meet the criteria for reserve lands described in Chapter 6 of the Yolo HCP/NCCP, and the additional criteria described in Chapter 7.5 of the Yolo HCP/NCCP.

9.6 Lands in Private Mitigation Banks

Lands in private mitigation banks within the Plan Area can be counted toward the reserve system requirements of the Yolo HCP/NCCP as described in Chapter 7 (Section 7.5.10) of the Plan. Banks approved following the Effective Date must be consistent with the conservation, monitoring, adaptive management, and other relevant provisions of the Yolo HCP/NCCP. A Permittee or Third Party Participant may purchase credits at a private mitigation bank to fulfill the requirements of the Yolo HCP/NCCP only if the bank occurs within the Plan Area and meets all relevant standards pertaining to the reserve system, habitat enhancement, adaptive management, and monitoring described in Chapters 6 and 7 of the Plan.

9.7 Gifts of Land

The Conservancy may accept lands in fee title, or conservation easements on lands, as a gift or charitable donation. Such lands may be added to the reserve system only if they meet the criteria for reserve lands in Chapter 6 and the nature of the real property interest is consistent with the requirements of Chapter 7. The Conservancy may sell or exchange lands it receives as a gift or donation that do not meet the requirements of Chapters 6 or 7 of the Plan.

10.0 MANAGEMENT OF RESERVE SYSTEM LANDS

10.1 Reserve Management Plans

As provided in Conservation Measure 3 (Chapter 6, Section 6.4.3), all reserve system lands will be managed in perpetuity in accordance with one or more management plans. The Conservancy will update management plans from time to time according to the process as set forth in Chapter 6 (Section 6.4.3.3).

10.1.1 Role of the Wildlife Agencies in Preparation of Reserve Unit Management Plans

As indicated in Section 10.1, above, the Wildlife Agencies must approve all reserve unit management plans.

The Conservancy will incorporate comments submitted by the Wildlife Agency in the revised draft Reserve Unit Management Plan to the extent that the Conservancy determines the comments can be incorporated. In the event that the Conservancy determines that some or all of the Wildlife Agency comments cannot be incorporated, it will notify the Wildlife Agency of its determination and the basis for such. The Conservancy will then work with the Wildlife Agency to determine if other measures can be developed that adequately address the Wildlife Agency's concerns. All changes to Reserve Unit Management Plans require Wildlife Agency review and approval.

The same Wildlife Agency review procedure will apply to all revisions to reserve unit management plans. These Wildlife Agency review procedures will also apply to site-specific management plan revisions in situations where the requested revision is not consistent with the applicable reserve unit management plan or an applicable reserve unit management plan has yet to be established.

11.0 MONITORING, ADAPTIVE MANAGEMENT AND CHANGED CIRCUMSTANCES

The Conservancy will implement the Yolo HCP/NCCP monitoring and adaptive management program as provided in this Section and further described in Chapter 6 (Section 6.5) of the Plan. The overarching purpose of the Yolo HCP/NCCP monitoring and adaptive management program is to inform and—in some instances—refine Plan implementation to ensure compliance with Plan requirements and continually improve outcomes for covered species and natural communities. The scope of the monitoring and adaptive management program is limited by the assurances provided by the Wildlife Agencies, under applicable law (see Section 12, below). These assurances include the commitment that if Unforeseen Circumstances arise, the Permittees will not be required to provide additional land, water, or financial obligation beyond the obligations of the Yolo HCP/NCCP.

11.1 Monitoring

The Conservancy will conduct three main types of monitoring, as further described in Chapter 6 (Section 6.5.3) of the Plan:

Compliance Monitoring—Compliance monitoring will track the status of Yolo HCP/NCCP implementation and verify that the Conservancy is meeting the requirements of the Plan and terms and conditions of the Permits.

Effectiveness Monitoring—Effectiveness monitoring assesses the biological success of the Plan—specifically, it evaluates the implementation and success of the conservation strategy described in Chapter 6 thereof.

Targeted Studies—Targeted studies will identify the best methodologies for monitoring, provide information about the efficacy of reserve system management techniques, and resolve critical uncertainties in order to improve reserve system management.

The Conservancy will provide the results of all monitoring annually in the annual report described in Section 14.1, below. As noted in Section 5.4, above, the Conservancy may delegate monitoring responsibilities and other tasks to other Parties or qualified third parties, including but not limited to public agencies, private conservation organizations, university scientists, and consultants.

11.2 Adaptive Management

The Conservancy will implement the adaptive management program described in Chapter 6 (Section 6.5) of the Yolo HCP/NCCP. Generally, the purpose of adaptive management is to adapt the design and management of the reserve system to maximize the likelihood of the successful implementation of the conservation strategy. The Conservancy will have ultimate responsibility for implementing the adaptive management program and will ultimately decide what adaptations will be made in the management of reserve system lands. However, as briefly set forth below, the Conservancy will consider the advice of the Wildlife Agencies, science advisors, other land management agencies, and the public, as provided in this Section and as further described in Section 6.5 of Chapter 6 of the Plan.

11.2.1 Role of Wildlife Agencies

The Wildlife Agencies will provide biological expertise and policy-level recommendations to the Conservancy regarding potential changes to the design and management of the reserve system based on the results of monitoring and the advice of science and technical advisors (see Section 11.2.2, below). The Conservancy will confer with the Wildlife Agencies before initiating adaptations to the design or management of the reserve system. The Conservancy and Wildlife Agencies will attempt in good faith to reach agreement regarding any such adaptations or alternative adaptations that the Wildlife Agencies may propose. If they cannot reach agreement, any of them may initiate the dispute resolution procedure provided in Agreement Section 6.2.

11.2.2 Role of Science and Technical Advisors

The Conservancy will consult with science and technical advisors regarding the scientific aspects of Plan implementation through a Science and Technical Advisory Committee. This consultation effort is detailed in Chapter 7 (Section 7.2.4.2) of the Yolo HCP/NCCP. The Conservancy will select advisors with input from the Wildlife Agencies. As may be appropriate, the Conservancy will incorporate recommendations provided by these advisors into Yolo HCP/NCCP implementation, if agreed to by the Wildlife Agencies.

11.2.3 No Increase in Take

Neither Section 11.2 nor any other Section of this Agreement authorizes changes in the design or management of the reserve system, or any other aspect of the Plan, that would increase the amount and nature of the Take of Covered Species, or increase the impacts of the Take of Covered Species, beyond that analyzed in the Yolo HCP/NCCP, any amendments thereto, or included on the Permits. Any such change must be reviewed as a Permit amendment under Section 15.4 of this Agreement.

11.3 Changed Circumstances

In the event a Changed Circumstance identified in Chapter 7 of the Yolo HCP/NCCP occurs, the Conservancy will implement the remedial measures or actions prescribed in Chapter 7 (Section 7.7.1) for that Changed Circumstance. Eight Changed Circumstances are listed in Section 7.7.1.2 and are as follows: new species listings; climate change; wildfire; non-native invasive species or disease; flooding; drought; earthquakes; and loss of Swainson's hawk habitat and populations declining below the threshold. Neither the Conservancy nor any other Permittee or Third Party Participant will be required to take any additional action to respond to a Changed Circumstance (i.e., any action not otherwise required by the Permits), except as described in Chapter 7 (Section 7.7.1) of the Yolo HCP/NCCP.

Changed Circumstances are provided for in the Yolo HCP/NCCP and therefore are not Unforeseen Circumstances. The Yolo HCP/NCCP describes the Permittees' responses to Changed Circumstances, as well as the funding to assure that the responses are implemented. Therefore, Changed Circumstances and the remedial actions in response to Changed Circumstances do not require an Amendment of the Yolo HCP/NCCP or the Permits. The Parties agree that Chapter 7 (Section 7.7.1) of the Yolo HCP/NCCP identifies all Changed Circumstances and describes appropriate and adequate responses for them. Other changes not identified as Changed Circumstances will be treated as Unforeseen Circumstances, as provided in Chapter 7 (Section 7.7.1) and Section 12.4, below.

11.3.1 Initiating Responses to Changed Circumstances

The Conservancy will immediately notify the Wildlife Agencies after learning that any of the Changed Circumstances listed in Chapter 7 (Section 7.7.1.2 and thereafter) of the Yolo HCP/NCCP has occurred. The Conservancy will respond to Changed Circumstances as described in Chapter 7 of the Yolo HCP/NCCP, including by taking the actions identified in connection with each of the specific changed circumstances described therein.

If a Wildlife Agency determines that a Changed Circumstance has occurred and that the Conservancy has not responded as described in Chapter 7 of the Yolo HCP/NCCP, the Wildlife Agency will notify the Conservancy, specifically identifying the Changed Circumstance and will direct the Conservancy to make the appropriate changes. Within 30 days after receiving such notice, the Conservancy will make the appropriate changes and report to the Wildlife Agency on its actions. Such changes are provided for in the Yolo HCP/NCCP, and hence do not constitute Unforeseen Circumstances or require an amendment of the Permits or Yolo HCP/NCCP.

After it has initiated remedial measures to a Changed Circumstance as described in Chapter 7, the Conservancy will promptly inform the Wildlife Agencies of its actions. The Conservancy will continue implementation of any such remedial measures to completion and will describe in its Annual Report for that year the Changed Circumstance and the remedial measures implemented. Subsequent Annual Reports will track the response of the reserve system and the Covered Species to evaluate whether remedial measures implemented as a result of Changed Circumstances have been effective.

12.0 REGULATORY ASSURANCES AND PROTECTIONS

The ESA regulations and provisions of the NCCPA provide for regulatory and economic assurances to parties covered by approved HCPs or NCCPs concerning their financial obligations under a plan. Specifically, these assurances are intended to provide a degree of certainty regarding the overall costs associated with mitigation and other Conservation Measures, and add durability and reliability to agreements reached between permit holders and Wildlife Agencies. That is, if Unforeseen Circumstances occur that adversely affect species covered by an HCP or an NCCP, the Wildlife Agencies will not require of the permit holder any additional land, water, or financial compensation nor impose additional restrictions on the use of land, water, or other natural resources without their consent.

The assurances provided under the ESA and the NCCPA do not prohibit or restrain USFWS, CDFW, the Permittees or any other public agency from taking additional actions to protect or conserve species covered by an NCCP or HCP. The State and federal agencies may use a variety of tools at their disposal and take actions to ensure that the needs of species affected by unforeseen events are adequately addressed.

12.1 ESA Regulatory Assurances: The “No Surprises” Rule

The “No Surprises” regulation at 50 C.F.R. §§ 17.22(b)(5) and 17.32(b)(5), apply only to incidental take permits issued in accordance with paragraph (b)(2) of this section where the conservation plan is being properly implemented, and apply only with respect to species adequately covered by the conservation plan. These assurances cannot be provided to Federal agencies. Pursuant to the “No Surprises” regulation, USFWS shall not require the Permittees to provide additional land, water or other natural resources, or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level provided for under the Yolo HCP/NCCP.

12.2 NCCPA Regulatory Assurances

Provided that the Yolo HCP/NCCP is being implemented consistent with the substantive terms of this Agreement, the Plan, and the State Permit, CDFW shall not require the Permittees to provide additional land, water or financial compensation or additional restrictions on the use of land, water, or other natural resources during the term of the State Permit without the consent of Permittees. Adaptive management modifications and Plan responses to Changed Circumstances are provided for under the Yolo HCP/NCCP, as set out in Chapters 6 and 7 thereof. Accordingly, the resources identified to support such modifications and planned responses, together with the other resources commitments of the Permittees reflected in the Yolo HCP/NCCP, constitute the extent of the obligations of the Permittees pursuant to the assurances provided for in the NCCPA.

Section 2823 of the Fish & Game Code provides, however, that CDFW shall suspend or revoke any permit, in whole or in part, issued for the take of a species subject to Section 2835 if the continued take of the species would result in jeopardizing the continued existence of the species. Responses to a jeopardy determination are addressed in Section 16 of this Agreement.

12.3 Assurances for Third Party Participants

Pursuant to the “No Surprises” regulations described in Agreement Section 12.1, in the event of a finding of Unforeseen Circumstances, USFWS cannot require the commitment of additional land, water or financial compensation without the consent of the affected Permittee or Third Party Participant, provided that the Permittees have complied with their obligations under the Federal Permit. Likewise, as provided in Agreement Section 12.2, CDFW will not require any Permittee or Third Party Participant to provide, without its consent, additional land, water or financial compensation, or additional restrictions on the use of land, water, or other natural resources, for the purpose of conserving Covered Species with respect to Covered Activities, even in the event of Unforeseen Circumstances, provided the Permittees are properly implementing the State Permit, the Yolo HCP/NCCP, and this Agreement. If there are Unforeseen Circumstances, additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources will not be required of a Third Party Participant without its consent for the term of this Agreement, unless CDFW determines that the Yolo HCP/NCCP is not being implemented consistent with the substantive terms of the State Permit, the Plan, and this Agreement.

Nothing in this Agreement will preclude the Permittees from imposing on Third Party Participants any mitigation, compensation, or other requirements in excess of those required by the Permits for impacts other than impacts of Covered Activities on Covered Species. Such other impacts may include, but are not limited to, impacts on parks, recreational facilities, and agriculture.

12.4 Unforeseen Circumstances

12.4.1 USFWS Determination of Unforeseen Circumstances

If USFWS believes an Unforeseen Circumstance exists, it shall provide written notice of its finding of Unforeseen Circumstances to the Conservancy. The USFWS shall clearly document the basis for the finding regarding the existence of Unforeseen Circumstances pursuant to the requirements of 50 C.F.R. §§ 17.22(b)(5)(iii)(C) and 17.32(b)(5)(iii)(C). Within thirty (30) days of receiving such notice, the Executive Director (and/or any other Permittee) and the USFWS shall meet and confer to consider the facts cited in the notice and potential changes to the Conservation Strategy.

If such a finding is made and additional measures are needed, the Permittees will work with the Wildlife Agencies to appropriately and voluntarily redirect resources to address the Unforeseen Circumstances, consistent with the intent of the Yolo HCP/NCCP.

12.4.2 CDFW Determination of Unforeseen Circumstances

If CDFW believes an unforeseen circumstance exists, it shall provide written notice of its proposed finding of unforeseen circumstances to the Conservancy. CDFW shall clearly document the basis for the proposed finding regarding the existence of Unforeseen Circumstances. Within thirty (30) days of receiving such notice, the Executive Director (and/or any other Permittee) and CDFW shall meet and confer to consider the facts cited in the notice and potential changes to the Conservation Strategy.

Thereafter, CDFW may make an Unforeseen Circumstances finding, if appropriate, based on the best scientific evidence available. If such a finding is made and additional measures are needed, the Permittees will work with the Wildlife Agencies to appropriately and voluntarily redirect resources to address the Unforeseen Circumstances, consistent with the intent of the Yolo HCP/NCCP.

12.4.3 Interim Obligations Upon a Wildlife Agency Proposed Finding of Unforeseen Circumstances

If a Wildlife Agency finds that an Unforeseen Circumstance has occurred with regard to a Covered Species and that additional measures are required for the Covered Species as a result, during the period necessary to determine the nature, scope and location of any additional measures, the Permittees will avoid causing an appreciable reduction in the likelihood of the survival and recovery of the affected species. The Permittees will not be responsible for implementing any additional measures unless the Permittees consent to do so.

12.4.4 Land Use and Regulatory Authority of the County and Cities

The Parties acknowledge that the adoption and amendment of general plans, specific plans, community plans, zoning ordinances and other land use and regulatory ordinances, and the granting of land use entitlements or other regulatory permits by the County or Cities are matters within the sole discretion of the County or Cities and will not require amendments to the Permits, or the approval of other Parties to this Agreement. However, no such action by the County or Cities will alter or diminish their obligations under the Permits, the HCP/NCCP, or this Agreement.

13.0 FUNDING

The Permittees warrant that they will expend such funds as may be necessary to fulfill their obligations under the Yolo HCP/NCCP. The Permittees will promptly notify the Wildlife Agencies of any material change in the Permittees' financial ability to fulfill their obligations. The Permittees do not intend to use, nor are they required to use, funds from their respective general funds to implement the Yolo HCP/NCCP. Instead, they intend to fund all actions required by the Permits, the Yolo HCP/NCCP and this Agreement through a comprehensive funding strategy further described in Chapter 8 of the Plan and summarized in Table 8.6 thereof.

13.1 Plan Funding Strategy

The Permittees intend to obtain sufficient funds through a comprehensive strategy further described in Chapter 8 of the Plan that includes: (1) HCP/NCCP fees, including public and private sector development effect fees and related charges that will adjust over time as provided in Chapter 8 (Section 8.4.1.6) of the Plan; (2) local funding from Permittees, other local government agencies, and private foundations described in Chapter 8 (Section 8.4.2) of the Plan; (3) interest income from the Yolo HCP/NCCP endowment and revenues not yet spent described in Chapter 8 (Section 8.4.2.5) of the Plan; and (4) state and federal funding, including but not limited to grant programs and other sources described in Chapter 8 (Section 8.4.3) of the Plan. All funds acquired for Plan implementation and related costs must be expended in a manner consistent with applicable laws and regulations. Generally, the HCP/NCCP fees constitute the primary source of funding for the mitigation component of the Plan, and the other funding categories set forth above will contribute to the conservation component of the Plan (or, in the case of interest income on the Yolo HCP/NCCP endowment, to post-permit costs as set forth in Section 13.3, below).

The Permittees will adhere to all timing and other requirements described in Chapter 8 of the Plan in the course of administering the funding strategy set forth therein. The Permittees may use or establish other funding sources during the course of implementing the Yolo HCP/NCCP, including but not limited to utility surcharges, special taxes or assessments, or bonds, to the extent allowed by law.

As further provided in Section 18.9, below, this Agreement does not require the obligation, appropriation, or expenditure of any money without express authorization by, as applicable, the governing boards of any Permittee.

13.2 State and Federal Funding

As further described in Chapter 8 (Section 8.4.3) of the Plan, funding may be provided by one or more state and federal programs. Neither state nor federal funds can be guaranteed and the state or federal government may contribute less than the estimates in the Yolo HCP/NCCP. These funds could only be utilized to assist in meeting the conservation components of the Yolo HCP/NCCP and these funds are not required to satisfy the issuance criteria for the ESA and NCCPA. The Yolo HCP/NCCP has estimated that state or federal funds could be sufficient to acquire 11,464 acres of land to the reserve system (based on an average cost of \$6,821/acre to acquire contribution easements). This acreage represents 34 percent of the total reserve system of 33,362 acres and, in monetary terms, constitutes 21 percent of total Plan costs because funding is restricted to acquisition alone. If the state or federal government contribute only a portion of the total cost of acquiring a conservation easement, the Conservancy will measure the contribution of the state or federal government to that transaction as a percentage share of the overall amount of land acquired in proportion to the overall cost of the acquisition.

State and federal funding sources for land acquisition could come from a variety of sources, including those listed in Table 8-11 of the Plan. If state and federal funds are unable to contribute the estimated amounts, the Permittees and Wildlife Agencies will follow the approach set forth in Section 13.4, below. If necessary or appropriate, the Parties will reevaluate the Yolo HCP/NCCP and work together to develop or identify an alternative funding mechanism.

13.3 Funding for Management and Monitoring in Perpetuity

As described in Chapter 8 (Section 8.4.4.5) of the Plan, after expiration of the Permits, the Permittees are obligated to continue to protect, manage, and maintain the reserve system. Funding provided by interest on the Yolo HCP/NCCP endowment is expected to fully fund all post-permit costs. The Permittees' obligations with regard to Yolo HCP/NCCP requirements other than reserve management requirements will terminate upon expiration of the Permits.

13.4 Effect of Funding Shortfalls

If overall HCP/NCCP fee revenues fall short of expectations, such as if fewer Covered Activities are implemented than projected by the Plan and less HCP/NCCP fees are collected, the resulting shortfall in Plan funding could prevent or constrain the Permittees' ability to fully implement the Yolo HCP/NCCP. As set forth in Chapter 8 (Section 8.4.4.3) of the Plan, if fee revenues do not keep pace with reserve system operation and management needs, the Permittees will consider various options in consultation with the Wildlife Agencies. Any shortfall in non-fee revenues, such as local, state or federal agency contributions, will be treated similarly, with the Conservancy first making reasonable adjustments to expenditures to reduce costs while continuing to meet Plan obligations. If such adjustments are inadequate, the Conservancy will consult with the Wildlife Agencies to determine the best course of action.

In any circumstance where consultation occurs, the ultimate course of action will vary depending upon a full consideration of relevant factors. Such factors may include, but are not limited to, the rate of acquisition of reserve system lands or whether the amount and rate of Take is less than anticipated in the Plan. If it appears that the level of Authorized Take by the Permits will not be used during their term, substantially reducing HCP/NCCP fee revenues, the Parties anticipate that the Permittees will apply for an amendment to extend the Permits in accordance with Section 17.3, below, to allow the full use of Authorized Take and full implementation of the Yolo HCP/NCCP. Alternatively, the Permittees may apply for a Permit modification or amendment in accordance with Section 15 of this Agreement to reduce the amount of Authorized Take and related obligations in the Permits. Any such application will be treated as a request for a major amendment and processed in accordance with Chapter 7 of the Plan.

14.0 REPORTING AND INFORMATION MANAGEMENT

The Conservancy, on behalf of all Permittees, will report on and manage information regarding Plan implementation as provided in this Section and as further described in the Yolo HCP/NCCP, including but not limited to Chapters 6-7 thereof. The main elements of the Conservancy's reporting and information management obligations are set forth in this Section.

14.1 Annual Report; Related Documents

The Conservancy will prepare an annual report on Plan implementation and related matters, as summarized in Chapter 7 (Sections 7.9.1 and 7.9.3) of the Plan. The Conservancy will also prepare an annual work plan and budget and, every ten years, a comprehensive review document. The annual report will summarize actions taken to implement the Yolo HCP/NCCP during the previous calendar year. All annual reports, work plans and budgets, and ten-year review documents will have a standardized format developed by the Conservancy and will be submitted

to the Wildlife Agencies, made available to interested members of the public, and maintained on the Conservancy website. The required contents and timeframes for submittal of the annual report, annual work plan and budget and ten-year review documents are set forth in Chapter 7 (Sections 7.9.1 through 7.9.4) of the Plan.

14.2 Compliance Tracking

As provided in Chapter 7 of the Plan (Section 7.9.2), the Conservancy will track all aspects of compliance with the Permits, the Yolo HCP/NCCP, and this Agreement. It will maintain related information and data of various types, all as set forth in Section 7.9.2 of Chapter 7, to track progress toward successful implementation of the conservation strategy. This information and data will be linked to supporting information that documents Plan compliance and, where feasible, will be stored and archived electronically.

The database developed for Plan compliance tracking must be compatible with the HabiTrak system developed by CDFW. The Conservancy's database will be developed to assemble, store, and analyze all monitoring data in the database, including but not limited to data from the monitoring and adaptive management program described in Chapter 6 of the Plan. The Conservancy will make the database available to CDFW and the other Parties. All recipients of sensitive species information will keep such information confidential to the extent permitted by the Freedom of Information Act, the California Public Records Act, or other applicable laws. The Conservancy may determine, in its sole discretion, whether to provide any information in the database to third parties, including but not limited to Third Party Participants.

15.0 MODIFICATIONS AND AMENDMENTS

The Parties may from time to time modify or amend the Yolo HCP/NCCP, this Agreement, or the Permits, in accordance with this Section and the requirements of the ESA, CESA, NCCPA, NEPA, and CEQA. Three types of modifications are recognized in Chapter 7 (Section 7.8) of the Plan. In order of significance, the three types of modifications and related procedural and substantive requirements are as follows:

15.1 Administrative Changes

The Parties understand that ordinary administration and implementation of the Yolo HCP/NCCP will require minor variations in the way certain conservation actions are implemented. Such administrative changes, as described in Chapter 7 (Section 7.8.1) of the Plan, will not require modification or amendment of the Permits, the Plan, or this Agreement. Administrative changes to the Plan that may be approved pursuant to this Section include, but are not limited to, the examples described in Chapter 7 (Section 7.8.1) of the Plan.

15.2 Minor Modifications

The Conservancy, USFWS, or CDFW may propose minor modifications, defined in Chapter 7 (Section 7.8.2) of the Plan, by providing written notice to all of the other Parties. Such notice will include the information required by Section 7.8.2.1 of Chapter 7, including a statement of the reason for the proposed modification and an analysis of its environmental effects, if any, including any effects on Covered Species. The Conservancy, USFWS, and CDFW may submit

comments and indicate approval/disapproval of the proposed minor modification within 60 days of receiving notice from the Party proposing the modification. Proposed modifications will become effective upon written approval of the Conservancy, USFWS, and CDFW. All decisions to approve or deny a proposed minor modification shall be supported by a written explanation.

The Wildlife Agencies may not propose or approve as a Minor Modification any revision to the Permits, the Yolo HCP/NCCP or this Agreement if either of the Wildlife Agencies determines that such amendment would result in adverse effects on the environment that are new or significantly different from those analyzed in connection with the original Yolo HCP/NCCP, or additional Take not analyzed in connection with the original Yolo HCP/NCCP.

If any Party does not concur with a proposed minor modification for any reason, it will not be incorporated into the Yolo HCP/NCCP. Additionally, if the Wildlife Agencies do not concur that a proposed modification meets the requirements for a minor modification set forth in the Plan, the proposal may be submitted as a request for an amendment pursuant to Section 15.4, below. The dispute resolution process set forth in Section 6, above, is available to resolve disagreements regarding proposed minor modifications.

15.3 Amendment of this Agreement

This Agreement may be amended only by a written agreement executed by the authorized representatives of all Parties.

15.4 Amendment of the Yolo HCP/NCCP and the Permits

Any proposed changes to the Yolo HCP/NCCP that do not qualify for treatment as administrative actions or minor modifications, as set forth above, will require an amendment to the Plan. Revisions of the Plan that would require an amendment of one or more of the Permits include, but are not limited to, the examples described in Chapter 7 (Section 7.8.3) of the Plan. A Plan amendment will also require corresponding amendments to the Permits. The Permittees may submit a formal application, consistent with the requirements of Chapter 7 (Section 7.8.3), for an amendment to the Plan and the Permits. The Permittees will provide written notice to all of the other Parties of any proposed Permit amendment. The Wildlife Agencies shall process any such application in accordance with all applicable laws and regulations, including but not limited to the ESA, CESA, NEPA, NCCPA and CEQA.

Each Wildlife Agency will review and approve or disapprove the proposed Plan and Permit amendment with detailed written findings, commensurate with the level of environmental review appropriate to the magnitude of the proposed amendment.

16.0 REMEDIES AND ENFORCEMENT

Except as set forth below, each Party shall have all remedies otherwise available to enforce the terms of the Permits, the Yolo HCP/NCCP, and this Agreement and to seek remedies for any breach hereof. Notwithstanding the foregoing, however, none of the Parties shall be liable in damages to the other Parties or to any other person or entity, including Third Party Participants, for any breach of this Agreement, any performance or failure to perform a mandatory or discretionary obligation imposed by this Agreement, or any other cause of action arising from

this Agreement. In the event of any dispute that may entitle a Party to seek remedies or enforcement action pursuant to this Section, the dispute resolution procedures of Section 6, above, are available to resolve any disagreements.

16.1 Injunctive and Temporary Relief

The Parties acknowledge that the Covered Species are unique and that their loss as species would result in irreparable damage to the environment, and that therefore injunctive and temporary relief may be appropriate to ensure compliance with the terms of this Agreement. Nothing in this Agreement is intended to limit the authority of the federal and state governments to seek civil or criminal penalties or otherwise fulfill their enforcement responsibilities under the ESA, CESA, or other applicable laws.

16.2 Federal Permit

16.2.1 Permit Suspension or Revocation

USFWS may suspend or revoke the Federal Permit for cause in accordance with the laws and regulations in force at the time of such suspension. The regulations governing permit suspension and revocation are currently codified at 50 C.F.R. §§13.27 (suspension) and 13.28, 17.22(b)(8) and 17.32(b)(8). Suspension or revocation may apply to the entire Permit, or only to specified Covered Species, Covered Lands, or Covered Activities.

16.2.2 Reinstatement of Suspended Permit

In the event USFWS suspends the Federal Permit, in whole or in part, as soon as possible after such suspension, the USFWS will meet and confer with the Permittees concerning how the suspension can be lifted. After conferring with the Permittees, the USFWS shall identify reasonable, specific actions, if any, necessary to effectively redress the suspension. In making this determination the USFWS shall consider the requirements of the ESA, regulations issued thereunder, the conservation needs of the Covered Species, the terms of the Federal Permit and this Agreement, and any comments or recommendations received from the Permittees (during the meeting and confer process or otherwise). As soon as possible, but not later than 30 days after the conference, the USFWS shall send the Permittees written notice of any available, reasonable actions necessary to effectively redress the suspension. Upon performance of such actions, the USFWS shall immediately reinstate the Federal Permit. It is the intent of the Parties that in the event of any total or partial suspension of the Federal Permit, all Parties shall act expeditiously and cooperatively to reinstate the Federal Permit.

16.3 State Permit

The following terms and conditions address the requirements of Fish & Game Code § 2820(b)(3), relating to suspension or revocation of the State Permit in whole or part, in the event of a violation or other occurrence within the scope of subsection (b)(3).

16.3.1 Permit Suspension

In the event of any material violation of the State Permit or material breach of this Agreement by the Permittees, CDFW may suspend the State Permit in whole or in part; provided, however, that it will not suspend the State Permit until it has: (1) pursued dispute resolution in accordance with Section 6 of this Agreement; (2) requested that the Permittees take appropriate remedial actions; and (3) providing the Permittees with written notice of the facts or conduct which may warrant the suspension, and an adequate and reasonable opportunity for the Permittees to demonstrate why suspension is not warranted. These actions may be taken concurrently or sequentially, as appropriate, in the sole discretion of the CDFW.

16.3.2 Reinstatement of Suspended State Permit

In the event CDFW suspends the State Permit, in whole or in part, as soon as possible but no later than ten (10) days after such suspension, CDFW shall confer with the Permittees concerning how the suspension can be lifted. After conferring with the Permittees, the CDFW shall identify reasonable, specific actions, if any, necessary to effectively redress the suspension. In making this determination, CDFW shall consider the requirements of the NCCPA, the conservation needs of the Covered Species, the terms of the State Permit and this Agreement, and any comments or recommendations received from the Permittees (during the meeting and confer process or otherwise). As soon as possible, but not later than 30 days after the conference, CDFW shall send the Permittees written notice of any available, reasonable actions necessary to effectively redress the suspension. Upon satisfactory performance of such actions as determined by the CDFW, the CDFW shall immediately reinstate the State Permit. It is the intent of the Parties that in the event of any total or partial suspension of the State Permit, all Parties shall act expeditiously and cooperatively to reinstate the State Permit.

16.3.3 Permit Revocation or Termination

Except as set forth in Section 16.3.4, below, CDFW agrees that it will revoke or terminate the State Permit, in whole or in part, only: (1) for a violation of the State Permit or breach of this Agreement by the Permittees where the Permittees fail to cure the violation or breach after receiving actual notice of it from CDFW and a reasonable opportunity to cure it, or CDFW determines in writing that such violation or breach cannot be effectively redressed by other remedies or enforcement action; or (2) where revocation of the State Permit, in whole or in part, is necessary to avoid the likelihood of jeopardy to a Listed Species.

CDFW agrees that it will not revoke or terminate the State Permit, in whole or in part, for a material violation of the State Permit or a material breach of this Agreement without first requesting the Permittees take appropriate remedial action, and providing the Permittees with notice in writing of the facts or conduct which warrant the partial or total revocation or termination and a reasonable opportunity, but not less than sixty (60) days, to demonstrate or achieve compliance with the NCCPA, the State Permit, and this Agreement. CDFW agrees that it will not revoke or terminate the State Permit, in whole or in part, to avoid the likelihood of jeopardy to a Listed Species, without first (1) notifying the Permittees of those measures, if any, that the Permittees may undertake to prevent jeopardy to the Listed Species and maintain the State Permit, and (2) providing a reasonable opportunity to implement such measures.

16.3.4 Rough Proportionality

As provided in Section 9.4.2, above, in the event that CDFW has determined that the Permittees have failed to meet the rough proportionality standard provided in Section 9.4.2 of this Agreement, and if the Permittees have failed to cure the default or entered into an agreement to do so within forty-five (45) days of the written notice of such determination, CDFW shall suspend the State Permits in whole or in part in accordance with California Fish and Game Code section 2820.

16.4 Obligations in the Event of Suspension or Revocation

In the event of revocation or termination of a Permit, or of suspension of a Permit pursuant to Sections 16.2 or 16.3, above, consistent with the requirements of 50 Code of Federal Regulations sections 17.32(b)(7) and 17.22(b)(7), the Permittees remain liable for all incidental take of Covered Species that occurred prior to revocation and shall fully implement all measures required under the Yolo HCP/NCCP to minimize and mitigate for such take until the applicable Wildlife Agency determines that all Take of Covered Species that occurred under the Permit has been mitigated to the maximum extent practicable in accordance with the Yolo HCP/NCCP. Regardless of whether the Permit is terminated, suspended, or revoked, the Permittees acknowledge that lands added to the reserve system must be protected, managed and monitored in perpetuity.

16.5 Inspections by Wildlife Agencies

The Wildlife Agencies may conduct inspections and monitoring of the site of any Covered Activity, and may inspect any data or records required by the Permits, in accordance with applicable law and regulations. The Wildlife Agencies will also have reasonable access, as set forth in the Conservation Easement Templates included as Appendix K to the Plan, to conduct inspections of the reserve system.

17.0 TERM OF AGREEMENT

17.1 Effective Date

This Agreement shall be effective the date of the first business day after all of the following have occurred: this Agreement has been fully executed by all Parties; issuance of both Permits; and all applicable implementing ordinances have been adopted by each of the Cities and County as provided in Section 7.4 of the Yolo HCP/NCCP.

17.2 Initial Term

This Agreement, the Yolo HCP/NCCP, and the Permits will remain in effect for a period of 50 years, unless extended, from issuance of the original Permits, except as provided below in Section 17.4, or unless all Permits are permanently terminated pursuant to Section 16 above.

17.3 Extension of the Permits

Upon agreement of the Parties and compliance with all applicable laws, the Permits may be extended beyond the initial term in accordance with regulations of the Wildlife Agencies in force on the date of such extension. If Permittees desire to extend the Permits, they will so notify the Wildlife Agencies at least 180 days before the term is scheduled to expire. Extension of the Permits constitutes extension of the Yolo HCP/NCCP and this Agreement for the same amount of time, subject to any modifications that the Wildlife Agencies may require at the time of extension.

17.4 Withdrawal of the State and Federal Permit

Upon ninety (90) days written notice to the Wildlife Agencies, the Conservancy, and all other Permittees, any Permittee, except for the Conservancy, may unilaterally withdraw from the Permits by surrendering the Permits to the USFWS and CDFW in accordance with the regulations in force on the date of such surrender. As a condition of withdrawal, the Permittee will remain obligated to ensure implementation of all existing and outstanding minimization and mitigation and conservation measures required under the Permits for any Take that the Permittee itself caused and any Take by private project participants for which the Permittee extended Authorized Take coverage prior to withdrawal. If a Permittee withdraws before causing or extending any Authorized Take coverage under the Permits, the Permittee will have no obligation to ensure implementation of any minimization or mitigation measures. Surrender of the Permits constitutes a surrender of the Permittee's Authorized Take coverage under the Permits.

Withdrawal by a Permittee shall not diminish or otherwise affect the obligations of the remaining Permittees under the Permits, the Yolo HCP/NCCP, or this Agreement. The Permittees acknowledge that if one or more Permittees withdraws from the Permits and, as a result of the withdrawal, it is no longer feasible or practicable to implement the Permits and the Yolo HCP/NCCP successfully, it may be necessary to modify the Plan or to amend the Permit, or both, in response to the withdrawal.

Within forty-five (45) days after receiving written notice of withdrawal from a Permittee, the Wildlife Agencies, the Conservancy and all Permittees will meet to discuss and evaluate whether the Yolo HCP/NCCP can be successfully implemented without the participation of the withdrawing Permittee. Relevant factors in this evaluation include but are not limited to whether, without the participation of the withdrawing Permittee, Yolo HCP/NCCP implementation will continue to be adequately funded, whether the Permittees can continue to comply with the stay-ahead requirement, whether all required conservation actions can be implemented, and whether the overall Conservation Strategy can be implemented consistent with the Yolo HCP/NCCP. Based on this meeting or meetings, and based on any other relevant information provided by the Conservancy or the remaining Permittees, the Wildlife Agencies will determine whether it is necessary to modify the Yolo HCP/NCCP or amend the Permits, or both, in response to the withdrawal.

Upon ninety (90) days written notice to USFWS and CDFW, the Permittees collectively may withdraw from the Permits by surrendering the Permits. As a condition of such withdrawal, the Permittees will be obligated to ensure implementation of all existing and outstanding

minimization, mitigation, and conservation and management measures required under the Permits for any Take that occurred prior to such withdrawal, to the maximum extent practicable pursuant to 50 C.F.R. 17.22(b)(7) and 17.32(b)(7) for the Federal Permit, and pursuant to Fish and Game Code sections 2820, 2821 and 2834 for the State Permit, until:

- (1) The applicable Wildlife Agencies determine that all Take of Covered Species that occurred under the Permits has been addressed in accordance with the Yolo HCP/NCCP, which determination the Wildlife Agencies will make as soon as reasonably possible. The conservation measures required for Take that occurred prior to withdrawal are the same as the conservation measures required to comply with the rough proportionality requirement, in accordance with Agreement Section 9.3 and Chapter 7 (Section 7.5.3) of the Plan, with regard to Take that occurred prior to withdrawal; and
- (2) The Wildlife Agencies, the Conservancy and all Permittees meet to identify and evaluate activities that could voluntarily be undertaken or continued in support of the Conservation Strategy notwithstanding the collective withdrawal.

If the Permittees collectively notify USFWS in writing that they plan to withdraw from the Permits or to discontinue the Covered Activities, they will surrender: (1) the Federal Permit issued by that agency pursuant to the requirements of 50 C.F.R. 13.26; and (2) the State Permit pursuant to Fish and Game Code section 2835 including but not limited to the assurances or authorization for any Take that has not occurred at the time of withdrawal. Additionally, the Permittees will provide a status report detailing the nature and amount of any incidental take of the Covered Species, the minimization and mitigation measures provided for take up through the date of early surrender, and the status of compliance with all other terms of the Permits and Yolo HCP/NCCP. Within 90 days after receiving the surrendered Permits and a status report meeting the requirements of this paragraph, USFWS will use reasonable efforts to give written notice to the Permittees identifying all required outstanding mitigation and minimization measures.

Regardless of withdrawal and surrender of the Permits, the Permittees acknowledge that lands in the reserve system must be protected, managed and monitored in perpetuity.

18.0 MISCELLANEOUS PROVISIONS

18.1 Calendar Days

Throughout this Agreement and the Yolo HCP/NCCP, the use of the term “day” or “days” means calendar days, unless otherwise specified

18.2 Response Times

Except as otherwise set forth herein or as statutorily required by CEQA, NEPA, CESA, ESA, NCCPA or any other laws or regulations, the Wildlife Agencies and the Permittees will use reasonable efforts to respond to written requests from a Party in a timely manner and generally within a forty-five (45) day time period, unless another time period is required by the Permits, the Yolo HCP/NCCP or this Agreement. The Parties acknowledge that the Cities and the County are subject to the Permit Streamlining Act and that nothing in this Agreement will be construed to require them to violate that Act. In addition, the Wildlife Agencies will provide timely review

of proposals for Covered Activities to be implemented directly by the Permittees, where such review is required by the Permits.

18.3 Notices

The Conservancy will maintain a list of individuals responsible for ensuring Plan compliance for each of the Parties, along with addresses at which those individuals may be notified (“Notice List”). The Notice List as of the Effective Date is provided below. Each Party will report any changes of names or addresses to the Conservancy and the other Parties in writing.

Any notice permitted or required by the Permits, the Yolo HCP/NCCP, or this Agreement will be in writing, and delivered personally, by overnight mail, or by United States mail, postage prepaid. Notices may be delivered by facsimile or electronic mail, provided they are also delivered by one of the means listed above. Delivery will be to the name and address of the individual responsible for each of the Parties, as stated on the most current Notice List.

Notices will be transmitted so that they are received within deadlines specified in this Agreement, where any such deadlines are specified. Notices delivered personally will be deemed received on the date they are delivered. Notices delivered via overnight delivery will be deemed received on the next business day after deposit with the overnight mail delivery service. Notices delivered via noncertified mail will be deemed received seven (7) days after deposit in the United States mail. Notices delivered by e-mail or other electronic means will be deemed received on the date they are received.

The following Notice List contains the names and notification addresses for the individuals currently responsible for overseeing and coordinating Plan compliance:

<p>County: County Administrator – Patrick Blacklock; 625 Court Street, Room 202 Woodland, CA 95695; Patrick.blacklock@yolocounty.org; 530-666-8150</p>	<p>Davis: Davis City Manager – Michael Webb; 23 Russell Blvd., Suite 1 Davis, CA 95616; cmoweb@cityofdavis.org; 530-757-5602</p>
<p>Woodland: Woodland City Manager – Paul Navazio; 300 First Street Woodland, CA 95695; 530-661-5813</p>	<p>Winters: Winters City Manager – John Donlevy, Jr.; 318 First Street Winters, CA 95694; john.donlevy@cityofwinters.org; 530-795-4910 x110</p>
<p>West Sacramento: West Sacramento City Manager – Martin Tuttle; 1110 West Capitol Avenue West Sacramento, CA 95691; 916-617-4500</p>	<p>Conservancy: Executive Director – Petrea Marchand; 611 North Street, Woodland CA 95695; 530-723-5504</p>

18.4 Entire Agreement

This Agreement, together with the Yolo HCP/NCCP and the Permits, constitutes the entire agreement among the Parties. This Agreement supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by any other Party or anyone acting on behalf of any other Party that is not embodied herein.

18.5 Defense

The USFWS and the Permittees acknowledge that the Permittees have a significant and independent interest in maintaining the validity and effectiveness of the Permit, the Yolo HCP/NCCP, and this Agreement, and supporting documentation, including documentation under NEPA and ESA, and that the Permittees' interests may not be adequately protected or represented in the event of a judicial challenge to the Permit unless some or all of the Permittees are able to participate in such litigation. Subject to Agreement Section 18.9 (Availability of Funds), the USFWS will, upon the request of the Permittees, and subject to the responsibilities of the U.S. Department of Justice in the conduct of litigation, use reasonably available resources to provide appropriate support to the Permittees in defending, consistent with the terms of the federal Permit, lawsuits against the Permittees arising out of the USFWS's approval of the federal Permit.

Upon request, CDFW will, to the extent authorized by California law, cooperate with the Permittees in defending, consistent with the terms of the Yolo HCP/NCCP, lawsuits arising out of the Permittees' adoption of this Agreement and the Plan.

18.6 Attorneys' Fees

If any action at law or equity, including any action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, each Party to the litigation will bear its own attorneys' fees and costs, provided that attorneys' fees and costs recoverable against the United States will be governed by applicable federal law.

18.7 Availability of Funds

Implementation of this Agreement and the Yolo HCP/NCCP by USFWS is subject to the requirements of the Anti-Deficiency Act and the availability of appropriated funds. Nothing in this Agreement will be construed by the Parties to require the obligation, appropriation, or expenditure of any money from the United States Treasury. The Parties acknowledge and agree that USFWS will not be required under this Agreement to expend any federal agency's appropriated funds unless and until an authorized official of that agency affirmatively acts to commit to such expenditures as evidenced in writing.

Implementation of this Agreement and the Yolo HCP/NCCP by CDFW is subject to the availability of appropriated funds. Nothing in this Agreement will be construed by the Parties to require the obligation, appropriation, or expenditure of any money from the Treasury of the State

of California. The Parties acknowledge and agree that CDFW will not be required under this Agreement to expend any state appropriated funds unless and until an authorized official of that agency affirmatively acts to commit such expenditure as evidenced in writing.

Implementation of this Agreement and the Yolo HCP/NCCP by the Permittees is subject to the availability of their respective appropriated funds, including but not limited to any special purpose revenues dedicated to implement the Plan. Nothing in this Agreement will be construed to require the obligation, appropriation, or expenditure of any money without express authorization by the County Board of Supervisors, appropriate City Councils and/or governing board of the Conservancy. Notwithstanding these requirements and limitations, to maintain the rights and assurances afforded by the Permits, the Yolo HCP/NCCP, and this Agreement the Permittees are required to fund their respective obligations under the Permits as provided in Section 13, above. The Parties acknowledge that if the Permittees fail to provide adequate funding for their respective obligations under the Permits, the Permits may be suspended or revoked in accordance with the Permits and applicable laws and regulations and summarized in Section 16, above.

18.8 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the United States and the State of California, as applicable.

18.9 Duplicate Originals

This Agreement may be executed in any number of duplicate originals. A complete original of this Agreement will be maintained in the official records of each of the Parties hereto.

18.10 Relationship to the ESA, CESA, NCCPA and Other Authorities

The terms of this Agreement are consistent with and will be governed by and construed in accordance with the ESA, CESA, NCCPA and other applicable state and federal laws. In particular, nothing in this Agreement is intended to limit the authority of USFWS and CDFW to seek penalties or otherwise fulfill their responsibilities under the ESA, CESA and NCCPA. Moreover, nothing in this Agreement is intended to limit or diminish the legal obligations and responsibilities of USFWS as an agency of the federal government or CDFW as an agency of the State of California.

18.11 No Third Party Beneficiaries

Without limiting the applicability of rights granted to the public pursuant to the ESA, CESA, NCCPA or other applicable law, this Agreement will not create any right or interest in the public, or any member thereof, as a third party beneficiary thereof, nor will it authorize anyone not a Party to this Agreement to maintain a suit for personal injuries or property damages under the provisions of this Agreement. The duties, obligations, and responsibilities of the Parties to this Agreement with respect to third party beneficiaries will remain as imposed under existing state and federal law.

18.12 References to Regulations

Any reference in the Permits, the Yolo HCP/NCCP, or this Agreement to any law, regulation, or rule of the Wildlife Agencies will be deemed to be a reference to such law, regulation, or rule in existence at the time an action is taken.

18.13 Applicable Laws

All activities undertaken pursuant to the Permits must be in compliance with all applicable local, state and federal laws and regulations.

18.14 Severability

In the event one or more of the provisions contained in this Agreement is held to be invalid, illegal or unenforceable by any court of competent jurisdiction, such portion will be deemed severed from this Agreement and the remaining parts of this Agreement will remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this Agreement. The Permits are severable such that revocation of one of the Federal or State Permits does not automatically cause revocation of the other. For example, if CDFW revokes the State Permit, it does not automatically cause revocation of the Federal Permit.

18.15 Due Authorization

Each Party represents and warrants that (1) the execution and delivery of this Agreement has been duly authorized and approved by all requisite action, (2) no other authorization or approval, whether of governmental bodies or otherwise, will be necessary in order to enable it to enter into and comply with the terms of this Agreement, and (3) the person executing this Agreement on behalf of each Party has the authority to bind that Party.

18.16 Assignment

Except as otherwise provided herein, the Parties will not assign their rights or obligations under the Permits, the Yolo HCP/NCCP, of this Agreement to any other individual or entity.

18.17 Headings

Headings are used in this Agreement for convenience only and do not affect or define the Agreement's terms and conditions.

18.18 Legal Authority of CDFW

CDFW enters into this Agreement pursuant to the NCCPA.

18.19 No Limitation on the Police Power of the Cities or the County

Nothing in the Permits, the Yolo HCP/NCCP, or this Agreement limits the exercise of or in any way surrenders the police power of the Cities or the County.

18.20 Agreement with USFWS not an Enforceable Contract.

Notwithstanding any language to the contrary in this Agreement, this Agreement is not intended to create, and shall not be construed to create an enforceable contract between the USFWS and Permittee under law with regard to the Permit or otherwise and neither Party to this Agreement shall be liable in damages to the other Party or any other third party or person for any performance or failure to perform any obligation identified in this Agreement. The sole purposes of this Agreement as between the USFWS and Permittee are to clarify the provisions of the HCP and the processes the Parties intend to follow to ensure the successful implementation of the HCP in accordance with the Permit and applicable Federal law.

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Implementing Agreement to be in effect as of the date described in Section 17.1 above.

BY _____ Date _____
Assistant Regional Director
U.S. Fish and Wildlife Service, Region 8
Sacramento, California

BY _____ Date _____
Deputy Director
California Department of Fish and Wildlife
Ecosystem Conservation Division
Sacramento, California

BY _____ Date _____
_____, Chair
Yolo Habitat Conservancy Board of Directors

BY _____ Date _____
[Title]
County of Yolo

BY _____ Date _____
[Title]
City of Davis

BY _____ Date _____
[Title]
City of West Sacramento

BY _____ Date _____
[Title]
City of Winters

BY _____ Date _____
[Title]
City of Woodland

**Exhibit A
YOLO HCP/NCCP
CERTIFICATE OF INCLUSION TEMPLATE**

The United States Fish and Wildlife Service and the California Department of Fish and Wildlife have issued Permits pursuant to the federal Endangered Species Act and the California Natural Community Conservation Planning Act (collectively “Permits”) authorizing “Take” of certain species in accordance with the terms and conditions of the Permits, the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (“Yolo HCP/NCCP”) and the associated Implementing Agreement. Under the Permits, certain third parties are eligible to receive “Take” coverage for certain species provided all applicable terms and conditions of the Permits, the Yolo HCP/NCCP, and the Implementing Agreement are met.

The third parties eligible to receive such coverage include:

Special Participating Entities pursuant to Section 7.3.2 of the Implementing Agreement and Chapter 4 (Section 4.2.1.3) and Chapter 7 (Section 7.2.5) of the Yolo HCP/NCCP. Special Participating Entities are defined in the Implementing Agreement (Section 3.29) as “public entities or private individuals that may conduct projects or undertake other activities in the Plan Area that are Covered Activities in the Yolo HCP/NCCP and that may affect Covered Species and require Take authorization from USFWS or CDFW, but are not subject to the jurisdiction of one or more Permittees.”

Neighboring Landowners pursuant to Section 7.3.3 of the Implementing Agreement and Chapter 3 (Section 3.5.6), Chapter 5 (Section 5.4.4), and Chapter 7 (Section 7.7.7.1) of the Yolo HCP/NCCP. “Neighboring Landowner” means an owner of specific types of agricultural lands that are within a defined distance of suitable habitat for either Valley elderberry longhorn beetle, giant garter snake, western pond turtle, or California tiger salamander (set forth in Chapter 5, Section 5.4.4 of the Yolo HCP/NCCP) on lands included in the reserve system who has received a Certificate of Inclusion from the Yolo Habitat Conservancy pursuant to the Permits and the Yolo HCP/NCCP (see Section 7.3.3 of the Implementing Agreement) that extends Authorized Take coverage for one or more of these four Covered Species resulting from specified agricultural land uses.

This Certificate of Inclusion is issued to _____, a *[specify Special Participating Entity or Neighboring Landowner]*.

For Special Participating Entities, use the following text:

This Certificate of Inclusion covers the project known and referred to as _____ . That project consists of *[briefly describe the nature of the project]*, as more fully set forth in the Special Participating Entity Agreement executed by and between the Conservancy and the _____ in connection therewith.

Coverage under the Permits will become effective upon receipt of the fully-completed and executed Certificate of Inclusion and Special Participating Entity Agreement by the Yolo Habitat Conservancy. The terms of the Permits, the Yolo HCP/NCCP and Implementing Agreement apply to the activities covered by this Certificate of Inclusion. Similarly, compliance with all material terms and provisions of the Special Participating Entity Agreement entered into concurrently herewith is required to maintain the Take coverage provided through this Certificate. The Conservancy will withdraw this Certificate and terminate the Take authorization extended hereunder if you fail to comply with such terms.

For Neighboring Landowners, use the following text:

As the owner/operator of the property described by Assessor’s Parcel Number (or address) and gross acreage on Exhibit 1 attached hereto and incorporated herein by this reference, you are entitled to the protection of the Permits to Take those species identified in Chapter 3 (Section 3.5.6) of the Yolo HCP/NCCP and Section 7.3.3 of the Implementing Agreement in connection with normal agricultural and rangeland activities (described in Appendix M, Yolo Agricultural Practices) occurring within a defined distance of land acquired for or enrolled in the Yolo HCP/NCCP pursuant.

In the event that the property depicted on Exhibit 1 is used for other purposes, Take Authorization under the Permits will automatically cease. Such authorization is provided as described in the Permits, the Yolo HCP/NCCP, and the Implementing Agreement. By signing this Certificate of Inclusion you signify your election to receive Take Authorization under the Permits in accordance with the terms and conditions thereof, including but not limited to your compliance with all applicable avoidance and minimization measures regarding Take of applicable Covered Species (see Chapter 4, Section 4.3 of the Yolo HCP/NCCP).

This Certificate of Inclusion does not give state and federal agencies additional regulatory control over the signatory nor require the signatory to provide additional information not called for in the Certificate of Inclusion, but instead ensures compliance with 50 Code of Federal Regulations, section 13.25(e). Coverage under the Permits will become effective upon receipt of the fully-completed and executed Certificate of Inclusion by the Yolo Habitat Conservancy. ***In the event that the subject property is sold or leased, buyer or lessee must be informed of these provisions and execute a new Certificate of Inclusion.*** Please note that the Take coverage extended through this Certificate of Inclusion includes only the Take of populations or occupied habitat above baseline conditions (as determined by reference to the baseline studies submitted with your Yolo HCP/NCCP enrollment package application.

Special Participating Entity/Owner

Yolo Habitat Conservancy

Signature

Signature

Date

Date

EXHIBIT B
Model Ordinance
Ordinance No. ___ - ___

**An Ordinance of the [Council/Board] Providing for Implementation of the Yolo
HCP/NCCP, Including Related Procedures and Fees**

The [Council/Board] hereby ordains as follows:

1. Purpose, Findings, and Authority.

A. The Yolo Habitat Conservation Plan/Natural Communities Conservation Plan (“Yolo HCP/NCCP”) has been developed to provide for the conservation of 12 sensitive species and the natural communities and agricultural land on which they depend, and to provide a streamlined permitting process to address the effects a range of future anticipated activities on those species. The Yolo HCP/NCCP was developed by the County of Yolo and the cities of Davis, Woodland, Winters, and West Sacramento (with the University of California, Davis, in an *ex officio* capacity) through the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency, known and referred to informally as the Yolo Habitat Conservancy (“Conservancy”).

B. The purpose of this Ordinance is to provide for implementation of the Yolo HCP/NCCP in a manner that achieves, among other things, the following objectives:

- To protect, enhance, and restore natural communities and cultivated lands, including rare and endangered species habitat, and provide for the conservation of covered species within Yolo County;
- To replace the current system of separately permitting and mitigating individual projects with a conservation and mitigation program, set forth in the Yolo HCP/NCCP, that comprehensively coordinates the implementation of permit requirements through the development of a countywide conservation strategy, including identification of priority acquisition areas in riparian zones or other locations with important species habitat;
- To provide for additional habitat conservation that is otherwise unlikely to take place in Yolo County. Effects on natural resources and associated mitigation requirements for at-risk species are addressed more efficiently and effectively than the current piecemeal mitigation process. This approach benefits both listed species and project proponents; and
- To ensure that the Conservancy, in its capacity as the implementing entity for the Yolo HCP/NCCP, receives the local development mitigation fees necessary to assist with plan implementation and all of the related objectives set forth above.

C. In preparing the Yolo HCP/NCCP, the Conservancy worked in association with the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife, as well as an advisory committee composed of local stakeholders from the agricultural, environmental, and development communities. This [Council/Board] adopted the Yolo HCP/NCCP on _____, 2018, and approved a revised and restated joint powers agreement for the Conservancy on _____, 2018 to address implementation of the Yolo HCP/NCCP.

D. On _____, 2018, the [Council/Board] considered the Final Environmental Impact Statement/Environmental Impact Report (“Final EIS/EIR”) prepared for the Yolo HCP/NCCP pursuant to the National Environmental Policy Act and the California Environmental Quality Act, adopted a Notice of Determination, and took certain related actions involving the Yolo HCP/NCCP. The [City/County] General Plan contemplates the adoption and implementation of the Yolo HCP/NCCP and includes specific goals and policies integral to its success, including:

- [Add any General Plan goals, policies, or other language demonstrating that Yolo HCP/NCCP implementation is consistent with the General Plan]

E. The California Constitution authorizes the [City/County] to adopt ordinances that protect the health, safety, and welfare of its citizens. Further, California Government Code § 66000 *et seq.* authorizes the Conservancy to impose fees and other exactions to provide necessary funding for conservation and other activities required to mitigate the adverse effect of development projects and other covered activities (as defined below) within Yolo County, including within the incorporated cities. In accordance with the Implementing Agreement, as set forth below, the Conservancy may authorize the [City/County] to collect such fees from project applicants on behalf of the Conservancy and remit them to the Conservancy.

2. Addition of Chapter { } to Title { } of the [City/County] Code.

Chapter __ is hereby added to Title __ of the [City/County] Code to read as follows:

TITLE/CHAPTER ____
YOLO HCP/NCCP

Sections:

- _____ Purpose
- _____ Incorporation by Reference
- _____ Definitions
- _____ Application to Covered Activities
- _____ Mitigation Fees
- _____ Authorized Take Coverage
- _____ Service Fees
- _____ Guidelines
- _____ Interpretation
- _____ Operative Date

Section _____ Purpose.

The Yolo Habitat Conservation Plan/Natural Communities Conservation Plan (“Yolo HCP/NCCP”) has been developed to provide for the conservation of 12 sensitive species and the natural communities and agricultural land on which they depend, and to provide a streamlined permitting process to address the effects a range of future anticipated activities on those species. The Yolo HCP/NCCP was developed by the County of Yolo and the cities of Davis, Woodland, Winters, and West Sacramento (with the University of California, Davis, in an *ex officio* capacity) through the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency, known and referred to informally as the Yolo Habitat Conservancy (“Conservancy”)

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

Section _____ Incorporation by Reference.

The Yolo HCP/NCCP is incorporated by reference as though fully set forth herein. Complete copies of the Yolo HCP/NCCP and related documents are available at the offices of the Conservancy (as of the adoption of this ordinance, *[insert]*), and online at www.yolohabitatconservancy.org. *[Insert any additional references that may be appropriate, such as availability at City/County offices and websites.]*

Section _____ Definitions.

The definitions set forth in this Section shall govern the application and interpretation of this *[Title/Chapter]*. Words and phrases not defined in this Section shall be interpreted so as to give this *[Title/Chapter]* its most reasonable application.

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

B. “Conservancy” refers to the Yolo Habitat Conservancy, a joint powers agency consisting of the County of Yolo and the cities of Davis, Woodland, Winters, and West

Sacramento (with the University of California, Davis, in an *ex officio* capacity). The formal, legal name of the joint powers agency is the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency.

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

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

E. “Implementing Agreement” means that agreement made and entered into by and between the U.S. Fish and Wildlife Service, the California Department of Fish and Wildlife, the Conservancy, the County of Yolo, and the cities of Davis, West Sacramento, Winters, and Woodland, that defines the parties’ respective roles and responsibilities and provides a common understanding of the actions that will be undertaken to implement the HCP/NCCP.

F. “Mitigation Fees” means any fees adopted by the Conservancy, and any amendments thereto, that apply (unless exempted) to Covered Activities within the Plan Area in accordance with Chapter 8 of the Yolo HCP/NCCP and documents cited or relied on therein.

G. “Plan Area” means the geographic area covered by the Yolo HCP/NCCP, as described in Chapter 1 (Introduction) and depicted in Figure 1-1 thereof. The Plan Area includes the County of Yolo in its entirety, consisting of approximately 653,549 acres and also includes 1,174 acres along the south bank of Putah Creek in Solano County designated as the “Extended Plan Area for Riparian Restoration” in Figure 1-1. This area is included in the Plan Area only for the purpose of providing additional sites for riparian restoration to support the Covered Species.

H. “Planning Permit(s)” means any discretionary permit that authorizes a ground-disturbing activity for a Covered Activity, including but not limited to *[list each agency’s common discretionary land use approvals here, such as a tentative map, parcel map, conditional use permit, development agreement]*, or any other discretionary permit, excluding actions of general application such as general plan amendments, zoning and rezoning, annexation, specific plans, and other area or regional land use actions.

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

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

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

L. "Yolo HCP/NCCP" shall mean the Yolo Habitat Conservation Plan/Natural Communities Conservation Plan.

Section _____ Application to Covered Activities.

As set forth in Section 8.1 of the Implementing Agreement, all Project Applicants for Covered Activities within the Plan Area shall comply with the conditions set forth in Chapter 4 of the Yolo HCP/NCCP to avoid, minimize, and mitigate the Take of Covered Species resulting from Covered Activities. Each Planning Permit application for a Covered Activity within the Plan Area shall include details on the manner and timing for project compliance with the Yolo HCP/NCCP in the form and manner required by the Director of *[Name of Administering Department]*. Applicable conditions of approval on Covered Activities from Chapter 4 of the Yolo HCP/NCCP as well as other measures required to implement the Yolo HCP/NCCP conservation strategy shall be included in each Planning Permit approval for a Covered Activity.

Section _____ Mitigation Fees.

A. As a condition of each approval for a Covered Activity, the Mitigation Fees shall be paid in full by the Project Applicant to the *[City/County]* no later than the date of issuance by the *[City/County]* of a Building Permit. The Mitigation Fees paid by Project Applicants shall be transferred (along with Mitigation Fee payments provided for public agency projects) to the Conservancy on a quarterly basis, or more frequently if requested by the Conservancy. Mitigation fees shall be paid to the *[City/County]* at the time of issuance of the first Building Permit if more than one Building Permit is required for the project.

B. If the Conservancy, pursuant to the terms of the Yolo HCP/NCCP, authorizes another manner of compensation in lieu of the Mitigation Fees (such as a conveyance of land in lieu of Mitigation Fees pursuant to the Implementing Agreement and the Yolo HCP/NCCP), the Project Applicant shall provide the *[City/County]* with written documentation from the Conservancy of compliance with such alternative manner of payment and the dollar equivalent amount of such alternative manner of compensation.

C. In the event the *[City/County]* determines a project requiring a Planning Permit is exempt from payment of the Mitigation Fees, whether because it is not a Covered Activity or for other appropriate reasons described in the Yolo HCP/NCCP, no Mitigation Fees shall be required for the project. Notwithstanding the applicability of an exemption, if appropriate based on facts and circumstances relevant to the project, the *[City/County]* shall advise the applicant of the

potential need for any federal, state, or other permits or approvals relating to rare species or associated habitats.

D. The [City/County] may collect the Mitigation Fees on behalf of the Conservancy if authorized to do so by the Conservancy. Any appeals relating fee determinations shall be heard by the [City/County] pursuant to the process established for hearing appeals of the Planning Permit associated with the fee determination.

E. On at least a quarterly basis through and including December of each calendar year, the [City/County] shall provide the Conservancy with information regarding applications and approvals for Take authorization under the Yolo HCP/NCCP, including Take associated with projects that are exempt from the fees and/or conditions of the Yolo HCP/NCCP. The quarterly reporting shall also include the same information regarding public agency projects and associated Take.

Section _____ Service Fees.

The [City/County] may collect duly adopted service fees from Project Applicants to compensate for the [City/County]'s costs associated with its administration and implementation of the Yolo HCP/NCCP and related permitting process. Any such fees shall be in addition to, and not a deduction from, the Mitigation Fees adopted by the Conservancy.

Section _____ Authorized Take Coverage.

Upon payment in full of the Mitigation Fees and approval of Planning Permits incorporating all applicable Yolo HCP/NCCP conditions of approval, the Project Applicant shall receive authorized Take coverage for the Covered Activity in accordance with the terms of the Take Permits, the Yolo HCP/NCCP, and the Implementing Agreement.

Section _____ Guidelines.

The [insert designee department head or other individual] may adopt guidelines to assist with the implementation and administration of all aspects of this [Title/Chapter].

Section _____ Interpretation.

In the event of a conflict between any term or requirement of this [Title/Chapter], the Take Permits, the Yolo HCP/NCCP, and the Implementing Agreement, the term or requirement of the Take Permits shall govern.

Section _____ Operative Date.

This [Title/Chapter] shall be operative upon the occurrence of all of the following: The Conservancy's adoption of the Mitigation Fees; the full execution of the Implementing Agreement; the adoption of the Yolo HCP/NCCP and implementing ordinances by each of the

Cities and the County; and the issuance of the Take Permits by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.

3. Severability.

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

4. Effective Date.

This Ordinance shall take effect and be in force thirty (30) days following its adoption and, prior to the expiration of fifteen (15) days after its adoption, it shall be published once in the [insert preferred newspaper], a newspaper of general circulation, printed and published in the County of Yolo, with the names of the Board/Council members voting for and against the Ordinance.

PASSED AND ADOPTED by the [Council/Board] of the [Jurisdiction], this __ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

[Include agency-specific signature blocks]

City of Winters Ordinance No. 2018-02

An Ordinance of the City Council of the City of Winters Adopting Chapter 18.12 of the Winters Municipal Code Providing for Implementation of the Yolo Habitat Conservation Plan/Natural Communities Conservation Plan, Including Related Procedures and Fees

The City Council of the City of Winters hereby ordains as follows:

1. Purpose, Findings, and Authority.

A. The Yolo Habitat Conservation Plan/Natural Communities Conservation Plan (“Yolo HCP/NCCP”) has been developed to provide for the conservation of 12 sensitive species and the natural communities and agricultural land on which they depend, and to provide a streamlined permitting process to address the effects a range of future anticipated activities on those species. The Yolo HCP/NCCP was developed by the County of Yolo and the cities of Davis, Woodland, Winters, and West Sacramento (with the University of California, Davis, in an *ex officio* capacity) through the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency, known and referred to herein as the Yolo Habitat Conservancy (“Conservancy”).

B. The purpose of this Ordinance is to provide for implementation of the Yolo HCP/NCCP in a manner that achieves, among other things, the following objectives:

- To protect, enhance, and restore natural communities and cultivated lands, including rare and endangered species habitat, and provide for the conservation of covered species within Yolo County;
- To replace the current system of separately permitting and mitigating individual projects with a conservation and mitigation program, set forth in the Yolo HCP/NCCP, that comprehensively coordinates the implementation of permit requirements through the development of a countywide conservation strategy, including identification of priority acquisition areas in riparian zones or other locations with important species habitat;
- To provide for additional habitat conservation that is otherwise unlikely to take place in Yolo County. Effects on natural resources and associated mitigation requirements for at-risk species are addressed more efficiently and effectively than the current piecemeal mitigation process. This approach benefits both listed species and project proponents; and
- To ensure that the Conservancy, in its capacity as the implementing entity for the Yolo HCP/NCCP, receives the local development mitigation fees necessary to assist with plan implementation and all of the related objectives set forth above.

C. In preparing the Yolo HCP/NCCP, the Conservancy worked in association with the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife, as well as

an advisory committee composed of local stakeholders from the agricultural, environmental, and development communities. This Council adopted the Yolo HCP/NCCP on May 15, 2018, and approved a revised and restated joint powers agreement for the Conservancy on May 15, 2018 to address implementation of the Yolo HCP/NCCP.

D. On May 15 2018, the Council considered the Final Environmental Impact Statement/Environmental Impact Report (“Final EIS/EIR”) prepared for the Yolo HCP/NCCP pursuant to the National Environmental Policy Act and the California Environmental Quality Act, adopted a Notice of Determination, and took certain related actions involving the Yolo HCP/NCCP. The City of Winters General Plan contemplates the adoption and implementation of the Yolo HCP/NCCP and includes specific goals and policies integral to its success, including:

- Goal VI.C: To protect sensitive native vegetation and wildlife communities and habitat.
- Policy VI.C.2 In regulating private development and constructing public improvements, the City shall ensure that there is no net loss of riparian or wetland habitat acreage and value and shall promote projects that avoid sensitive areas. Where habitat loss is unavoidable, the City shall require replacement on at least a 1:1 basis. Replacement entails creating habitat that is similar in extent and ecological value to that displaced by the project. The replacement habitat should consist of locally-occurring, native species and be located as close as possible to the project site. Implementation of this policy should be based on baseline data concerning existing native species.
- Policy VI.C.4 The City shall support and participate in local and regional attempts to restore and maintain viable habitat for endangered or threatened plant and animal species. To this end, the City shall work with surrounding jurisdictions and state and federal agencies in developing a regional *Habitat Management Plan*. Such plan shall provide baseline data for the Winters area on special-status plant and animal taxa, including Swainson hawk and the valley elderberry longhorn beetle, and provide guidelines and standards for mitigation of impacts on special status taxa.
- Policy VI.C.5 The City shall require mitigation of potential impacts on special-status plant and animal taxa based on a policy of no-net-loss of habitat value. Mitigation measures shall incorporate as the City deems appropriate, the guidelines and recommendations of the U.S. Fish and Wildlife Service and the California Department of Fish and Game. Implementation of this policy may include a requirement that project proponents enter into an agreement with the City satisfactory to the City Attorney to ensure that the proposed projects will be subject to a City fee ordinance to be adopted consistent with the regional *Habitat Management Plan*.

- Implementation Program VI.4 The City, in conjunction with other interested agencies, shall prepare a regional *Habitat Management Plan* to provide a comprehensive approach to habitat protection, mitigation, and enhancement in the Winters Area.

E. The California Constitution authorizes the City to adopt ordinances that protect the health, safety, and welfare of its citizens. Further, if duly authorized by the governing bodies of each of its member agencies, California Government Code § 66000 *et seq.* authorizes the Conservancy to impose fees and other exactions to provide necessary funding for conservation and other activities required to mitigate the adverse effect of development projects and other covered activities (as defined below) within Yolo County, including within the incorporated cities. In accordance with the Implementing Agreement, as set forth below, the Conservancy may authorize the City *[City/County]* to collect such fees from project applicants on behalf of the Conservancy and remit them to the Conservancy.

2. Addition of Chapter 18.12 to Title 18 of the Winters Municipal Code.

Chapter 18.12 is hereby added to Title 18 of the Winters Municipal Code to read as follows:

CHAPTER 18.12
Yolo Habitat Conservation Plan/Natural Community Conservation Plan

Sections:

18.12.010	Purpose
18.12.020	Incorporation by Reference
18.12.030	Definitions
18.12.040	Application to Covered Activities
18.12.050	Mitigation Fees
18.12.060	Authorized Take Coverage
18.12.070	Service Fees
18.12.080	Guidelines
18.12.090	Interpretation
18.12.100	Operative Date

Section 18.12.010 Purpose.

The Yolo Habitat Conservation Plan/Natural Communities Conservation Plan (“Yolo HCP/NCCP”) has been developed to provide for the conservation of 12 sensitive species and the natural communities and agricultural land on which they depend, and to provide a streamlined permitting process to address the effects a range of future anticipated activities on those species. The Yolo HCP/NCCP was developed by the County of Yolo and the cities of Davis, Woodland, Winters, and West Sacramento (with the University of California, Davis, in an *ex officio* capacity) through the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency, known and referred to informally as the Yolo Habitat Conservancy (“Conservancy”)

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

Section 18.12.020 Incorporation by Reference.

The Yolo HCP/NCCP is incorporated by reference as though fully set forth herein. Complete copies of the Yolo HCP/NCCP and related documents are available at the offices of the Conservancy (as of the adoption of this ordinance, 611 North Street, Woodland, CA 95695), the offices of the City and online at www.yolohabitatconservancy.org.

Section 18.12.030 Definitions.

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

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

B. “Conservancy” refers to the Yolo Habitat Conservancy, a joint powers agency consisting of the County of Yolo and the cities of Davis, Woodland, Winters, and West

Sacramento (with the University of California, Davis, in an *ex officio* capacity). The formal, legal name of the joint powers agency is the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency.

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

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

E. “Implementing Agreement” means that agreement made and entered into by and between the U.S. Fish and Wildlife Service, the California Department of Fish and Wildlife, the Conservancy, the County of Yolo, and the cities of Davis, West Sacramento, Winters, and Woodland, that defines the parties’ respective roles and responsibilities and provides a common understanding of the actions that will be undertaken to implement the HCP/NCCP.

F. “Mitigation Fees” means any fees adopted by the Conservancy, and any amendments thereto, that apply (unless exempted) to Covered Activities within the Plan Area in accordance with Chapter 8 of the Yolo HCP/NCCP and documents cited or relied on therein.

G. “Plan Area” means the geographic area covered by the Yolo HCP/NCCP, as described in Chapter 1 (Introduction) and depicted in Figure 1-1 thereof. The Plan Area includes the County of Yolo in its entirety, consisting of approximately 653,549 acres and also includes 1,174 acres along the south bank of Putah Creek in Solano County designated as the “Extended Plan Area for Riparian Restoration” in Figure 1-1. This area is included in the Plan Area only for the purpose of providing additional sites for riparian restoration to support the Covered Species.

H. “Planning Permit(s)” means any discretionary permit that authorizes a ground-disturbing activity for a Covered Activity, including but not limited to approval of a tentative map, parcel map, conditional use permit, or development agreement, or any other discretionary permit, excluding actions of general application such as general plan amendments, zoning and rezoning, annexation, specific plans, and other area or regional land use actions.

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

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

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

L. "Yolo HCP/NCCP" shall mean the Yolo Habitat Conservation Plan/Natural Communities Conservation Plan.

Section 18.12.040 Application to Covered Activities.

As set forth in Section 8.1 of the Implementing Agreement, all Project Applicants for Covered Activities within the Plan Area shall comply with the conditions set forth in Chapter 4 of the Yolo HCP/NCCP to avoid, minimize, and mitigate the Take of Covered Species resulting from Covered Activities. Each Planning Permit application for a Covered Activity within the Plan Area shall include details on the manner and timing for project compliance with the Yolo HCP/NCCP in the form and manner required by the Director of Community Development. Applicable conditions of approval on Covered Activities from Chapter 4 of the Yolo HCP/NCCP as well as other measures required to implement the Yolo HCP/NCCP conservation strategy shall be included in each Planning Permit approval for a Covered Activity.

Section 18.12.050 Mitigation Fees.

A. As a condition of each approval for a Covered Activity, the Mitigation Fees shall be paid in full by the Project Applicant to the City no later than the date of issuance by the City of a Building Permit. The Mitigation Fees paid by Project Applicants shall be transferred (along with Mitigation Fee payments provided for public agency projects) to the Conservancy on a quarterly basis, or more frequently if requested by the Conservancy. Mitigation fees shall be paid to the City at the time of issuance of the first Building Permit if more than one Building Permit is required for the project.

B. If the Conservancy, pursuant to the terms of the Yolo HCP/NCCP, authorizes another manner of compensation in lieu of the Mitigation Fees (such as a conveyance of land in lieu of Mitigation Fees pursuant to the Implementing Agreement and the Yolo HCP/NCCP), the Project Applicant shall provide the City with written documentation from the Conservancy of compliance with such alternative manner of payment and the dollar equivalent amount of such alternative manner of compensation.

C. In the event the City determines a project requiring a Planning Permit is exempt from payment of the Mitigation Fees, whether because it is not a Covered Activity or because it is expressly exempt from Mitigation Fees pursuant to Chapter 8 (Section 8.4.1.1) of the Yolo HCP/NCCP, no Mitigation Fees shall be required for the project. Notwithstanding the applicability of an exemption, if appropriate based on facts and circumstances relevant to the project, the City shall advise the applicant of the potential need for any federal, state, or other permits or approvals relating to rare species or associated habitats.

D. Any appeals relating fee determinations shall be heard by the *[City/County]* pursuant to the process established for hearing appeals of the Planning Permit associated with the fee determination.

E. On at least a quarterly basis through and including December of each calendar year, the *City* shall provide the Conservancy with information regarding applications and approvals for Take authorization under the Yolo HCP/NCCP, including Take associated with projects that are exempt from the fees and/or conditions of the Yolo HCP/NCCP. The quarterly reporting shall also include the same information regarding public agency projects and associated Take.

Section 18.12.060 Service Fees.

The City may collect duly adopted service fees from Project Applicants to compensate for the City's costs associated with its administration and implementation of the Yolo HCP/NCCP and related permitting process. The amount and method of calculation of the service fees shall be set by resolution of the City Council. Any such fees shall be in addition to, and not a deduction from, the Mitigation Fees adopted by the Conservancy.

Section 18.12.070 Authorized Take Coverage.

Upon payment in full of the Mitigation Fees and approval of Planning Permits incorporating all applicable Yolo HCP/NCCP conditions of approval, the Project Applicant shall receive authorized Take coverage for the Covered Activity in accordance with the terms of the Take Permits, the Yolo HCP/NCCP, and the Implementing Agreement.

Section 18.12.080 Guidelines.

The Director of Community Development may adopt guidelines to assist with the implementation and administration of all aspects of this Chapter.

Section 18.12.090 Interpretation.

In the event of a conflict between any term or requirement of this Chapter, the Take Permits, the Yolo HCP/NCCP, and the Implementing Agreement, the term or requirement of the Take Permits shall govern.

Section 18.12.100 Operative Date.

This Chapter shall be operative upon the occurrence of all of the following: amendment of the Conservancy's joint powers agreement relating to plan implementation (including Mitigation Fees); the Conservancy's adoption of the Mitigation Fees; the full execution of the Implementing Agreement; the adoption of the Yolo HCP/NCCP and implementing ordinances by each of the Cities and the County; and the issuance of the Take Permits by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.

3. Severability.

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

4. Effective Date.

This Ordinance shall take effect and be in force thirty (30) days following its adoption and, prior to the expiration of fifteen (15) days after its adoption, the ordinance, or a summary thereof, shall be published once in the Winters Express, a newspaper of general circulation, printed and published in the County of Yolo, with the names of the Board/Council members voting for and against the Ordinance.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Winters, California, at a regular meeting of the City Council held on the ____ day of _____, 2018.

City of Winters

By: Wade Cowan, Mayor

ATTEST:

Nanci Mills, City Clerk

APPROVED AS TO FORM:

Ethan Walsh, City Attorney

**FIRST AMENDED AND RESTATED JOINT POWERS AGREEMENT
OF THE YOLO COUNTY HABITAT/NATURAL COMMUNITY
CONSERVATION PLAN JOINT POWERS AGENCY**

This First Amended and Restated Joint Powers Agreement (“Agreement”) is made by and between THE COUNTY OF YOLO, THE CITY OF DAVIS, THE CITY OF WEST SACRAMENTO, THE CITY OF WINTERS, and THE CITY OF WOODLAND (collectively, the “Member Agencies” or the “Parties”), and is entered into and effective as of June 1, 2018.

RECITALS

WHEREAS, each of the Parties is a public agency authorized and empowered to contract for the joint exercise of powers under California Government Code Sections 6500, *et seq.* (the “Joint Exercise of Powers Act”);

WHEREAS, the Parties previously entered into a Joint Powers Agreement on or about July 24, 2002 (the “Original Agreement”) for the purpose of creating the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency (known informally and referred to hereinafter as the “Yolo Habitat Conservancy” or “Conservancy”);

WHEREAS, as contemplated in the Original Agreement, the Conservancy has assisted in implementing the *Agreement Regarding Mitigation Impacts to Swainson’s Hawk Foraging Habitat in Yolo County* (the “Mitigation Agreement”) and the fulfillment of certain related mitigation needs, and it has also undertaken various actions necessary to complete the Yolo Habitat Conservation and Natural Community Conservation Plan (the “Yolo HCP/NCCP” or “Plan”);

WHEREAS, the purposes of the Yolo HCP/NCCP include the long-term protection of ecosystems and biodiversity within the geographic area covered by the Plan (the “Plan Area,” consisting primarily of Yolo County), and the provision of incidental take authorization pursuant to the Federal Endangered Species Act and the California Natural Community Conservation Planning Act for certain covered activities, including local land use and public agency infrastructure activities;

WHEREAS, the Yolo HCP/NCCP and that certain agreement entitled *Implementing Agreement for the Yolo Habitat Conservation Plan/Natural Community Conservation Plan* (the “Implementing Agreement”) identify certain duties and obligations that must be fulfilled, in whole or part, by an implementing entity (the “Implementing Entity”), and the Parties have a common interest in vesting the Conservancy with the authority and responsibility to act in such capacity with regard to Plan implementation; and

WHEREAS, consistent with the foregoing, the Parties now desire to amend and completely restate the Original Agreement as a means of affirming the Conservancy’s role as the local agency responsible for Yolo HCP/NCCP implementation and to ensure that it has adequate legal authority to carry out the duties of the Implementing Entity, including but not limited to the adoption of mitigation fees for development projects within the Plan Area;

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and agreements set forth herein, the Parties hereby agree as follows:

AGREEMENT

1. **Creation of Habitat JPA.** Pursuant to California law, as recited above, the Original Agreement created a joint powers agency separate from the Member Agencies named the Yolo County Natural Community Conservation Plan Joint Powers Agency, and now referred to as the Yolo Habitat Conservancy. The Conservancy was formed, and shall continue to exist and operate in accordance with, this Agreement and the Joint Exercise of Powers Act.

Within 30 days of the effective date of this Agreement or any amendment hereto, the Executive Director of the Conservancy shall cause a notice of this Agreement (or amendment) to be prepared and filed with the office of the Secretary of the State in the manner described in Government Code § 6503.5.

2. **Purpose.** Under the Original Agreement, the purpose of the Conservancy was to (a) implement the Mitigation Agreement; and (b) complete and thereafter implement the Yolo HCP/NCCP upon its approval by the United States Fish & Wildlife Service (“USFWS”) and the California Department of Fish and Wildlife (“CDFW”). In connection with Plan implementation, the Conservancy shall fulfill the duties and obligations of the Implementing Entity in accordance with the Yolo HCP/NCCP and the Implementing Agreement, including but not limited to the following activities:

2.1 To adopt, modify, manage and expend fees collected or (in the case of public entity projects) paid by the Parties for purposes of implementing the Yolo HCP/NCCP;

2.2 To oversee, monitor, and report on implementation of the Yolo HCP/NCCP;

2.3 To acquire conservation easements and other interests in land for the establishment and management of a reserve system in accordance with the Yolo HCP/NCCP, and to secure all funding needed for those purposes;

2.4 To provide public information and outreach regarding the Yolo HCP/NCCP and, if authorized by the Conservancy’s governing board, to perform the same activities for Yolo County Regional Conservation Investment Strategy/Local Conservation Plan (“RCIS/LCP”) if it is approved by CDFW following completion of an ongoing planning process;

2.5 To apply for, negotiate, and hold any necessary local, state or federal permits in connection with activities to implement the Yolo HCP/NCCP; and

2.6 To undertake all the actions described herein, including all actions necessary or convenient to the role of the Implementing Entity.

These purposes may be enlarged or expanded only if the governing body of each Member Agency agrees by majority vote.

3. **Powers.** Except for the power of eminent domain, the Conservancy shall have all of the powers granted to joint powers authorities in Articles 1, 2, and 4 of the Joint Exercise of Powers Act, and all of the additional rights and powers that are common to the Member Agencies, express or implied, that are necessary or convenient for the exercise of its organizational purposes (as set forth in Section 2, above). Without limiting the generality of the foregoing, the Conservancy is authorized, in its own name, to do any or all of the following:

3.1 To make and enter into contracts;

3.2 To employ personnel, agents, consultants, and attorneys, and contract with Member Agencies for the use of employees of the Member Agencies on mutually agreeable terms and conditions;

3.3 To acquire property and any interest in property, both real and personal, by purchase, gift, lease, option, grant, bequest, devise or otherwise, but not by eminent domain, and to hold and dispose of such property;

3.4 To implement the Yolo HCP/NCCP, including but not limited to performing all activities in the Implementing Agreement that are the responsibility of the Implementing Entity;

3.5 To adopt and modify fees, and to receive, collect, and disburse funds;

3.6 To incur and pay debts, liabilities, and obligations;

3.7 To sue and be sued in its own name, including without limitation, to file or intervene in lawsuits that pertain to the implementation of the Yolo HCP/NCCP;

3.8 To apply for, receive, and perform all activities necessary to duly carry out the terms of grants, contributions, and donations of property, funds, and services from governmental and private entities and to participate in State bond issues; and

3.9 To borrow or receive advances of funds from the Member Agencies or from such other sources as may be permitted by law.

Pursuant to Government Code § 6509, these powers shall be exercised subject to the restrictions upon the manner of exercising such powers as are imposed on the County of Yolo. The Conservancy shall continue to exercise the powers herein conferred upon it until the termination of this Agreement.

4. **Board of Directors.** This Agreement and the Conservancy shall be administered by a governing body that shall be known as the “Board of Directors of the Yolo Habitat Conservancy” (the “Board”).

4.1 The Board shall be composed of two members of the Yolo County Board of Supervisors and one member of each of the City Councils of the City of Davis, the City of West Sacramento, the City of Winters and the City of Woodland. Each Member Agency shall also appoint an alternate for each of its representatives on the Board, who shall also be an elected member of the Member Agency's governing board. Board representatives and their alternates shall serve at the pleasure of their appointing bodies. In the absence of the regular representative of a Member Agency, the alternate representative of such Agency shall, if present, participate in a meeting of the Board the same as if the alternate were the regular representative.

All appointments existing as of the effective date of this Agreement shall continue in effect until any change in appointments occurs pursuant to this Section, in the sole discretion of each Member Agency. Each appointee will serve for so long as he or she continues to hold an elected seat on the governing body of the appointing Member Agency, subject to the authority of a Member Agency to replace the appointee by appointing another member of its governing body to the Board at any time.

4.2 The University of California, Davis ("UC Davis") may appoint a person to serve as a nonvoting, ex officio member of the Board. Upon the formal request of UC Davis, and subject to concurrence of a majority of the governing body of each Member Agency, UC Davis may join the Board as a regular voting member.

4.3 The Board shall make all decisions relating to the governance and administration of the Conservancy, except with regard to matters within the scope of authority of the Executive Director or other authorized individuals. The Board may delegate its authority subject to limits in California law, including but not limited to the Joint Exercise of Powers Act, except with regard to the following matters, which shall be within the sole and exclusive authority of the Board:

4.3.1 The duty to adopt and modify mitigation fees;

4.3.2 The approval of the Conservancy's annual budget, and any subsequent amendment thereof;

4.3.3 The appointment, reappointment, or termination (or non-renewal, if a contract term applies) of the Executive Director and the hiring/procurement of other Conservancy personnel;

4.3.4 The acquisition, lease, sale, or other disposition of real property;

4.3.5 Authorizing the execution of grant agreements or agreements covering other funding; and

4.3.6 Authorizing the expenditure of Swainson's hawk mitigation fees collected prior to approval of the Yolo HCP/NCCP, which shall be used for the sole purpose of acquiring, monitoring, managing and enhancing habitat conservation land in Yolo County for the benefit of the Swainson's hawk (and if

incidental to the benefits afforded the Swainson's hawk, for other covered species).

4.4 Board representatives and their alternates' compensation, if any, and expenses for attendance at Board meetings shall be borne by the Member Agency appointing such Board representative or alternate. All other expenses, including expenses incurred on behalf of the Conservancy, shall be borne by the Conservancy.

5. Meetings of the Board of Directors.

5.1 Regular Meetings. The Board shall provide for the dates, hour, and place of its regular meetings by the annual adoption of a meeting calendar, and a copy of such calendar shall be furnished to each Member Agency. As may be necessary to accommodate schedule conflicts or for any other reason, the Board may modify the date of any future regular meeting by majority vote.

5.2 Ralph M. Brown Act. All meetings of the Board, including without limitation, regular, adjourned regular, and special meetings, shall be called, noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act (Gov. Code § 54950 *et seq.*).

5.3 Minutes. The Conservancy shall cause to be kept minutes of all meetings of the Board, shall cause the minutes of all meetings to be ratified by the Board, and shall cause a copy of the ratified minutes to be forwarded to each member of the Board and to each of the Member Agencies.

5.4 Voting and Quorum. Each director shall have one vote. Representation at meetings of at least a majority (four) of the voting members of the Board constitutes a quorum for the transaction of business, except that less than a quorum may adjourn from time to time. The affirmative vote of at least four members of the Board shall be required to take any action.

6. Officers.

6.1 Chair, Vice-Chair, and Secretary. The Board shall annually elect its own officers, which shall include a Chair and Vice-Chair. The Chair and Vice Chair shall have the duties assigned by the Board and those additional duties, if any, set forth in Bylaws adopted by the Board.

The Board shall also designate a Secretary of the Conservancy, which may be a Conservancy employee, consultant, or volunteer. The Secretary shall maintain minutes of Board meetings, as provided in Section 5.3, above, and shall serve as the keeper of records for the Conservancy. The Secretary may be referred to and act in the capacity of the Clerk of the Board.

6.2. Treasurer. The Treasurer of the County of Yolo shall serve as the Treasurer of the Conservancy until such time as the Board may appoint a replacement.

Subject to the applicable provisions of any indenture or duly adopted Board resolution providing for another qualified trustee or fiscal agent, the Treasurer is designated as the depository of the Agency to have custody of the money of the agency, from whatever source. All funds of the Conservancy shall be held in separate accounts in the name of the Conservancy and not commingled with funds of any Member Agency or any other person or entity. The Treasurer shall perform the duties specified in Government Code §§6505 and 6505.5.

6.3. Controller. The Controller of the Conservancy shall be the Controller of the County of Yolo until such time as the Board may appoint a replacement. The Controller shall perform the duties specified in Government Code §§ 6505.5 and 6505.6.

6.4 Cost Reimbursement. The Treasurer and Controller may charge the Conservancy a fee that does not exceed the actual and reasonable direct and indirect costs for performing services on the Conservancy's behalf.

6.5 Accounting. Full books and accounts shall be maintained for the Conservancy in accordance with practices established by, or consistent with, those utilized by the Controller of the State of California for like public entities. The books and records of the Conservancy shall be open to inspection by the Member Agencies at all reasonable times, and by bondholders and lenders as and to the extent provided by resolution or indenture.

6.6 Audits and Reports. The fiscal year of the Conservancy shall be from July 1 through the following June 30. A qualified firm, serving in the capacity of auditor, shall audit the records and the accounts of the Conservancy annually in accordance with the provisions of Government Code § 6505. Copies of such audit reports shall be filed with the State Controller and each Member Agency within six months of the end of the Fiscal Year under examination.

6.7 Official Bond. The public officer, officers or persons who have charge of, handle, or have access to any property of the Conservancy shall file an official bond in an amount to be fixed by the Board.

7. Conservancy Staffing.

7.1 Executive Director. The Executive Director shall serve as the Conservancy's administrative officer and shall be responsible for the following:

7.1.1 Overseeing the Conservancy's day-to-day activities and managing all agency staff and consultants;

7.1.2 Ensuring that the Conservancy operates within the annual budget approved by the Board, and not approving any expenditures that are not authorized by, or would exceed, the annual budget;

7.1.3 Preparing reports and recommendations for consideration by the

Board and any committees established to support performance of the functions described in this Agreement;

7.1.4 Applying for and otherwise pursuing grants and other funding opportunities (subject to the Board's exclusive authority to approve the execution of grant or funding agreements);

7.1.5 Reviewing and approving Authorized Take coverage to Participating Special Entities and any other authorized Third Party Participants, as those terms are defined in the Implementing Agreement; and

7.1.6 Any other duties or activities delegated to the Executive Director or duly requested by the Board.

The Executive Director, whether serving as a Conservancy employee or as a consultant under contract, is designated a public officer or person who has charge of, handles, or has access to any property of the Conservancy, and the Executive Director shall file an official bond in the amount necessary as required by Government Code § 6505.1.

7.2 Other Staff/Administration. Based upon the recommendation of the Executive Director, the Board shall determine how and whether to hire or contract for additional staff and other services necessary to fulfill the Conservancy's purposes. All such decisions shall be consistent with the annual budget adopted by the Board, as may be amended from time to time. Factors to be considered in making these determinations include but are not limited to cost-effectiveness, efficiency, and qualifications/capability.

7.3 Personnel/Services/Equipment Supplied by Member Agencies. If the Board determines that having one or more of the Member Agencies supply personnel, services, or equipment to the Conservancy is in the Conservancy's best interests, then the Conservancy may contract with one or more Member Agencies for such purpose.

7.3.1 Compensation for such personnel, services or equipment may consist of cash payments, credits against the Member Agency's payments for the impacts of its own infrastructure and other development activities, or any other form of compensation agreed upon by the Conservancy and the contracting Member Agency.

7.3.2 To the extent that Member Agencies make personnel available to the Conservancy as contemplated under the provisions of this Section 7.3, the parties acknowledge and agree that at all times such personnel shall remain under the exclusive control of the Member Agency supplying such personnel. The Conservancy shall not have any right to control the manner or means in which such personnel perform services. Rather, the Member Agency supplying personnel shall have the sole and exclusive authority to do the following:

- (i) Make decisions regarding the hiring, retention, discipline or

termination of personnel. The Conservancy will have no discretion over these functions.

(ii) Determine the wages to be paid to personnel, including any pay increases. These amounts shall be determined in accordance with the Member Agency's published publicly available pay schedule, if any, and shall be subject to changes thereto approved by its governing body.

(iii) Set the benefits of its personnel, including health and welfare benefits, retirement benefits and leave accruals in accordance with the Member Agency's policies.

(iv) Evaluate the performance of its personnel through performance evaluations performed by a management level employee that reports directly to a representative of the Member Agency or its governing body.

(v) Perform all other functions related to the service, compensation or benefits of any of personnel assigned to perform services on behalf of the Conservancy.

7.4 Employee Retirement and Post-retirement benefits. Should the Board determine to provide a defined benefits retirement benefit to Conservancy employees (such as PERS) or other post-retirement benefits that would be within an Other Post-Retirement Benefits (OPEB) obligation to Conservancy employees, prior to providing such benefit(s) to any employee, the Board shall (1) obtain a third party independent actuarial report on the long term costs of the benefit or benefits, (2) adopt a funding plan for the payment of both current and long-term costs that provides for the payment of all such costs on a current, pay-as-you-go, basis and eliminates any known or reasonably anticipated unfunded liability associated with the benefit(s) and (3) notice all member agencies of the pending consideration of the benefit(s) together with the actuarial report and funding plan, for at least sixty (60) days and obtain the unanimous consent, by resolution, of all the voting members of the Board present and voting on the resolution.

8. **Mitigation Fee Collection and Disbursement.** Consistent with Section 2.1, above, the Member Agencies agree to transfer to the Conservancy all sums collected for private land use and development activities within their respective jurisdictions on at least a quarterly basis, or more frequently if reasonably requested by the Conservancy. Fees payable for projects undertaken by a Member Agency (e.g., public infrastructure projects) shall also be provided to the Conservancy with each quarterly payment of private development fees transferred under this provision.

Pursuant to the Mitigation Fee Act, the Conservancy shall hold revenues from these fees in a separate, interest-bearing account until disbursement or expenditure for the purpose for which they were collected. The Conservancy shall use fee revenues only for the purposes for which they were imposed, and for no other purpose. The Conservancy is strictly accountable for all revenue from the fees that is transmitted to the Conservancy. The Conservancy shall be

solely responsible for full compliance with applicable requirements of the Mitigation Fee Act as they pertain to revenue from fees that have been disbursed to the Conservancy, including but not limited to requirements related to expenditures, management, accounting and reporting.

9. **Contributions and Advances.** With the Board's approval, any Member Agency may contribute or advance public funds, personnel, equipment or property to the Conservancy for any of the purposes of this Agreement. Any such advance shall be made subject to repayment, and shall be repaid in the manner agreed upon by the Conservancy and the Member Agency making the advance. No Member Agency has any obligation to make advances or contributions to the Conservancy for any reason, although any Member Agency may choose to do so.

10. **Withdrawal; Dissolution.**

10.1 **Withdrawal.** Any Member Agency may withdraw from the Conservancy by giving the Board and the governing body of each other Member Agency at least sixty (60) days written notice of its withdrawal. Upon withdrawal of any Member Agency from the Conservancy, the withdrawing member shall not receive any distribution, partial or otherwise, of cash or other assets of the Conservancy. The withdrawal of any Member Agency shall not affect the validity or enforceability of this Agreement or the Yolo HCP/NCCP as they relate to the remaining Member Agencies and land within the jurisdiction of the remaining Member Agencies

10.2 **Dissolution.** This Agreement may be terminated and the Conservancy dissolved at any time by written consent of a majority of the Member Agencies evidenced by certified copies of resolutions of their governing boards. Any such dissolution shall be effective at the end of the fiscal year in which the action was taken.

10.2.1 **Non-Reserve System Funds and Assets.** Upon dissolution or termination, the assets of the Conservancy may be distributed in kind or assets may be sold and the proceeds thereof distributed to the Member Agencies at the time of dissolution or termination; provided, however, that any distribution of assets shall be subject to the prior discharge of enforceable liability incurred by the Conservancy. Subject to the foregoing, upon dissolution or termination of the Conservancy, each member shall receive its proportionate share of the assets of the Conservancy as the same appear on the books of the Conservancy. Each member's proportionate share shall be based upon such member's contributions to the Conservancy.

10.2.2 **Reserve System Funds and Assets.** Upon dissolution or termination, conservation easements and lands in fee title held by the Conservancy, as well as any remaining fee revenues and endowment funding dedicated to the monitoring, management, and/or enforcement of conservation easements and similar restrictions shall be either (a) allocated to the Member Agencies in a manner to be determined by unanimous consent by the governing bodies thereof, or (b) transferred to one or more other public agencies or non-profits in a manner to be determined by the unanimous consent of the Member

Agency governing bodies. All such distributions of funds and assets shall conform with applicable requirements of California law and any requirements in the Implementing Agreement or other authorities.

11. Liability and Indemnification.

11.1 The debts, liabilities and obligations of the Conservancy shall be the debts, liabilities and obligations of the Conservancy alone, and not of the Member Agencies.

11.2 The Conservancy shall hold harmless, defend and indemnify the Member Agencies and their officers, employees and agents, and members of the Conservancy Board, from and against any and all liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property arising out of the activities of the Conservancy or its Board, officers, employees or agents under this Agreement. These indemnification obligations shall continue beyond the termination of this Agreement as to any acts or omissions occurring before or under this Agreement.

12. Miscellaneous Provisions.

12.1 Amendments. This Agreement may be amended from time to time by an agreement in writing approved by the governing body of each Member Agency.

12.2 Notice. Any notice or instrument required to be given or delivered under this Agreement may be made by: (a) depositing the same in any United States Post Office, postage prepaid, and shall be deemed to have been received at the expiration of 72 hours after its deposit in the United States Post Office; (b) transmission by facsimile copy to the addressee; (c) transmission by electronic mail; or (d) personal delivery to the addresses or facsimile numbers of the principal administrative office of each Member Agency.

12.3 Counterparts. This Agreement may be executed by the Member Agencies in separate counterparts, each of which when so executed and delivered shall be an original. All such counterparts shall together constitute but one and the same instrument.

12.4 Choice of Law. This Agreement shall be governed by the laws of the State of California.

12.5 Severability. If one or more clauses, sentences, paragraphs or provisions of this Agreement is held to be unlawful, invalid or unenforceable, it is hereby agreed by the Member Agencies that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provisions shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

12.6 Headings. The paragraph headings used in this Agreement are intended for convenience only and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the Member Agencies to this Agreement.

12.7 Construction and Interpretation. This Agreement has been arrived at through negotiation and each Member Agency has had a full and fair opportunity to revise the terms of this Agreement. As a result, the normal rule of construction that any ambiguities are to be resolved against the drafting party does not apply.

IN WITNESS WHEREOF, the Member Agencies have executed this Agreement on the date first set forth above.

City of Davis

ATTEST:

By: _____
_____, Mayor

By: _____
Zoe Mirabile, City Clerk

APPROVED AS TO FORM:

By: _____
Harriet Steiner, City Attorney

City of West Sacramento

ATTEST:

By: _____
_____, Mayor

By: _____
Kryss Rankin, City Clerk

APPROVED AS TO FORM:

By: _____
Jeffrey Mitchell, City Attorney

City of Winters

ATTEST:

By: _____
_____, Mayor

By: _____
Nanci G. Mills, City Clerk

APPROVED AS TO FORM:

By: _____
Ethan Walsh, City Attorney

City of Woodland

ATTEST:

By: _____
_____, Mayor

By: _____
Ana Gonzalez, City Clerk

APPROVED AS TO FORM:

By: _____
Kara Ueda, City Attorney

County of Yolo

ATTEST:

By: _____
Oscar Villegas, Chair
Yolo County Board of Supervisors

By: _____
Julie Dachtler, Deputy Clerk

APPROVED AS TO FORM:

By: _____
Philip J. Pogledich, County Counsel



CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers
DATE: May 15, 2018
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Shelly A. Gunby, Director of Financial Management 
SUBJECT: February 2018 Investment Report

RECOMMENDATION:

Staff recommends that the City Council receive and file the City of Winters investment for the period July 1, 2017 through February 28, 2018.

BACKGROUND:

The City of Winters financial policy requires, at a minimum, quarterly investment earnings reports. The attached report shows the earnings for July 1 2017 through February 28, 2018. The City of Winters is invested in the Local Agency Investment Funds (LAIF), a savings account at our local First Northern Bank, and receives interest payments on the various CDBG and EDBG funded loans made to residents and businesses within the City of Winters, as well as from the Money Market Account set up for the North Bank Putah Creek Improvement Elderberry Beetle Mitigation.

The investment report for the month of February 2018 reflects interest from the Money Market Account and the CDBG and EDBG loans.

FISCAL IMPACT:

None

City of Winters
Investment Earnings Report
As of February 28, 2018

Fund	Description	February Investment Earnings	Year to Date Investment Earnings
101	GENERAL FUND		\$ 137
105	SENIOR FUND		2
106	MONITORING FEE		10
107	PARK MAINTENANCE FUND		13
108	MUNCHKINS SUMMER CAMP		13
113	2007 HOUSING TABS		4,251
115	CANINE PROGRAM FUND		114
116	POLICE CADET FUND		11
201	FIRE PREVENTION FUND		5
208	FIRST TIME HOMEBUYER		487
209	In Lieu Affordable Housing	4	737
212	FLOOD ASSESSMENT DISTRICT		22
221	GAS TAX FUND		212
233	Realignment Fund		401
251	TRAFFIC SAFETY		520
252	ASSET FORFEITURE		13
254	VEHICLE THEFT DETERRENT		288
287	AFTERSCHOOL DONATIONS		2
291	BEVERAGE RECYCLE GRANT		109
294	TRANSPORTATION/BUS		213
299	AFTER SHCOOL PROGRAM		607
321	EDBG 99-688	364	3,003
322	EDBG 96-405 CRADWICK	721	5,846
351	RLF HOUSING REHAB	398	3,182
355	RLF SMALL BUSINESS	90	768
356	RLF HOME PROGRAM		635
358	PROGRAM INCOME FUND	2	2,983
411	STREET IMPACT FEE		118
412	STORM IMPACT FEE		918
414	POLICE IMPACT FEE		1,581
415	FIRE IMPACT FEE		1,962
416	GENERAL FACILITY IMPACT FEE		3,445
417	WATER IMPACT FEE		1,172
418	SEWER IMPACT FEE	6	500
419	FLOOD OVERLAY		1,316
421	GENERAL FUND CAPITAL		2,698
422	LANDFILL CAPITAL		957
423	STREET CAPITAL	3	28
424	PARKS & REC CAPITAL	19	168
427	EQUIPMENT REPLACEMENT FUND		1,648
429	SERVICE RESERVE		1,356
482	FLOOD CONTROL STUDY		7
492	RAJA STORM DRAIN		223
494	CARF		410
496	STROM DRAIN NON-FLOOD		1
501	GENERAL DEBT SERVICE		324
612	WATER RESERVE		35
616	WATER CONSERVATION		53
617	WATER METER FUND		1,075
621	SEWER O & M		4,156
771	RORF	10	12,637
773	2007 TABS		24
831	SWIM TEAM		401
833	FESTIVAL DE LA COMUNIDAD		70
836	PCH HOA		87
838	WPD Youth Services		2
839	Youth Day Fund		6
846	QUILT FESTIVAL		3
Total Investment Earnings		<u>\$ 1,617</u>	<u>\$ 61,965</u>



CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers
DATE: May 15, 2018
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Shelly A. Gunby, Director of Financial Management 
SUBJECT: February 2018 Treasurer Report

RECOMMENDATION:

Staff recommends that the City Council receive and file the City of Winters Treasurer Report for February 2018.

BACKGROUND:

The City of Winters financial policy requires monthly reports regarding receipts, disbursement and fund balances be submitted to the City Council for review. Items of note in the attached report are as follows:

General Fund

General Fund revenues are 44% of budgeted; the following items affect the cash flows into the General Fund.

- The first installment of Property Tax was received in January 2018.
- The first installment of Property Tax in lieu of VLF was received in January 2018.
- Sale and use taxes are remitted to the City two (2) months after they are received by the State Board of Equalization, we have received approximately 49% of projected revenues.
- Utility User Tax is received approximately 1-3 months after the utilities are used; UUT receipts are 61% of the budgeted amount.
- Building permit fees received are 30% of the budgeted amount.
- General Fund expenditures are 68% of budget.
- Current Cash Balance for the General fund shows as overdrawn, however, we are still waiting for the additional remittance from Yolo County, which is due May, and until then we utilize the Service Reserve Fund and the Capital Equipment Fund to provide cash flow until the property tax amount is received. The total cash balance in these 2 reserve funds is

\$1,083,029. All Staff has been told to only purchase items absolutely necessary for operations at this time.

Other funds:

Fund 211 City Wide Assessment District: The first installment of the City Wide Assessment was received in January 2018 at the same time that we receive the property tax distribution from Yolo County.

Fund 611 Water: Water fund revenues are 69 % of budget and expenditures are 71% of budget.

Fund 621 Sewer: Sewer fund revenues are 62% of budget and expenditures are 71% of budget.

FISCAL IMPACT:

None

City of Winters
Cash and LAIF Balances
As of February 28, 2018

Fund	Description	Balance	Balance
		June 30, 2017	February 28, 2018
101	General Fund	\$ 15,918	\$ (623,288)
104	Fireworks Fund	(10,342)	(12,360)
105	Senior Fund	348	350
106	Monitoring Fee	1,712	1,725
107	Park Maintenance	2,281	2,299
108	Munchkin Summer Camp	16,145	2,920
110	Housing Successor Agency	(98,487)	(98,487)
113	Housing 2007 Tabs	824,073	828,068
115	Canine Program	17,253	22,877
116	Police Cadet	2,051	2,152
117	Community Garden Fund		160
201	Fire Prevention Grant	950	958
208	First Time Homebuyer	85,636	86,321
209	In Lieu Affordable Housing	248,633	249,015
211	City Wide Assessment	(52,112)	(179,502)
212	Flood Assessment District	3,882	3,913
221	Gas Tax	137,928	205,211
226	Road M & R(SB1)		8,361
231	State COPS 1913	29,058	121,190
233	Realignment	109,341	108,609
236	BSCC Grant	9,403	9,403
237	Homeland Security Grant	(1,793)	(1,793)
251	Traffic Safety	94,724	94,270
252	Asset Forfeiture	8,139	1,871
254	Vehicle Theft Deterrent	50,638	51,043
263	I-505 Overpass Grant		(58,250)
272	Boost Grant	13,244	7,790
278	Prop 84 Park Grant	(176,135)	(229,090)
287	After School Contributions	765	
291	Beverage Recycling Fund	27,028	30,504
294	Transportation(Including Bus S	479,221	(229,422)
299	After School Program	153,029	214,516
308	RSTP-Roundabout Grant		(151,659)
309	SHOPP Roundabout Grant		143,835
321	EDBG 99-688 Buckhorn	1,032	
324	YWAMD Grant	1,276	
325	WRA Grants		12,020
351	RLF Housing Rehab		398
356	RLF-HOME Program	111,645	111,479
358	Program Income Fund	653,897	661,420
411	Street Impact Fee	1,033,862	(86,733)
412	Storm Impact Fee	183,231	169,849
413	Parks and Recreation Impact Fe	(97,307)	271
414	Police Impact Fee	282,676	286,223
415	Fire Impact Fee	434,082	447,844
416	General Facilities Impact Fee	564,051	587,326
417	Water Impact Fee	540,567	541,013
418	Sewer Impact Fee	341,794	387,086
419	Flood Fee	232,407	231,947
421	General Fund Capital	474,212	478,002
422	Landfill Capital	176,027	161,658
423	Street Capital	112,073	105,300
424	Parks and Recreation Capital	706,978	597,637
427	Capital Equipment Fund	289,894	297,593
429	Service Reserve	785,259	787,164
481	General Plan 1992 Study	(396,636)	(383,477)
482	Flood Control Study	1,314	1,325
492	RAJA Storm Drain	77,350	77,663
494	Capital Asset Recovery Fee	127,310	133,603
496	Storm Drain Non-Flood	237	239
501	General Debt Service	56,954	57,409
611	Water O & M	(77,577)	(173,129)
612	Water Reserve	228,729	148,218
615	07 Water Bonds	38,046	100
616	Water Conservation	25,860	25,440
617	Water Meter	399,821	403,832
621	Sewer O & M	1,438,425	1,223,643
622	Sewer Capital	240,890	154,673
651	Central Services	1,206	3,879
652	Central Service w PD & FD	29,040	33,367
771	RORF	590,901	135,932
773	2007 TABS	12,781	
831	Swim Team	67,175	61,116
833	Festival de la Comunidad	20,690	26,349
836	PCH HOA	15,364	15,487
838	WPD Youth Services	352	354
839	Youth Day	791	979
841	PD Cancer Fund		600
Total Cash and LAIF Balance		\$ 11,719,756	\$ 8,338,609

City of Winters
 Summary of Revenues
 July 1, 2017 through February 28, 2018

% of Year Complete 67%

Fund	Fund Description	Budget	February 2018	Year to Date	Amount to be	% of Budget
		FY 17-18	Actual	Actual	Received	Received
101	General Fund	\$ 4,923,488	\$ 187,897	\$ 2,265,409	\$ 2,658,079	46%
104	Fireworks Fund	15,000		3,905	11,095	26%
105	Senior Fund	2		2		100%
106	Winters Swim Lessons	500		10	490	2%
108	Munchkin Summer Camp	16,302	1,427	8,347	7,955	51%
107	Park Maintenance	6		13	(7)	217%
113	2007 Housing TABS	500		4,251	(3,751)	850%
115	Canine Program			9,097	(9,097)	
116	Police Cadet Fund		173	465	(465)	
117	Community Garden Fund		80	160		
201	Fire Prevention Grant	2		5	(3)	250%
208	First Time Homebuyer In Lieu	135		487	(352)	361%
209	In Lieu Affordable Housing		4	737	(737)	
211	City Wide Assessment	314,202		102,290	211,912	33%
212	Flood Assessment District	10		22	(12)	220%
221	Gas Tax	186,862	8,248	101,514	85,348	54%
226	Road M & R (\$81)		7,138	8,361		
231	State COPS AB1913	100,000	11,041	147,873	(47,873)	148%
233	Realignment	8,020		401	7,619	5%
235	Avoid Grant	5,000			5,000	
251	Traffic Safety	6,260		8,045	(1,785)	129%
252	Asset Forfeiture	612		2,578	(1,966)	421%
254	Vehicle Theft Deterrent	28		288	(260)	999%
267	Grant Ave Improvement					
272	Boost Grant	17,320		5,126	12,194	30%
287	After School Contributions			2	(2)	
291	Beverage Recycling	5,036		5,109	(73)	101%
294	Transportation	341,054	91,443	98,209	242,845	29%
299	After School Program	130,154	35,723	157,525	(27,371)	121%
308	RSTP-Round About		409,368	492,559		
309	SHOPP-Round About		194,613	194,613		
321	EDBG 99-688 Buckhorn	15,953	364	3,003	12,950	19%
322	EDBG 96-405 Cradwick	15,247	721	5,846	9,401	38%
324	YQAMD Grant			5,000	(5,000)	
327	15-CDBG-10578			1,275	(1,275)	
351	RLF Housing Rehab		398	3,182	(3,182)	
355	RLF Small Business	8,757	90	768	7,989	9%
356	RLF HOME Program	180		635	(455)	353%
358	Program Income	40,936	3,679	36,736	4,200	90%
411	Street Impact Fee	188,914		8,346	180,568	4%
412	Storm Drain Impact Fee	3,180		3,393	(213)	107%
413	Parks & Recreation Impact Fee	106,550		100,983	5,567	95%
414	Public Safety Impact Fee	24,771		7,420	17,351	30%
415	Fire Impact Fee	76,930		17,435	59,495	23%
416	General Facilities Impact Fee	111,943		27,402	84,541	24%
417	Water Impact Fee	194,329		4,252	190,077	2%
418	Sewer Impact Fee	137,811	6	49,501	87,910	36%
419	Flood Fees	360		1,316	(956)	366%
421	General Fund Capital			2,698	(2,698)	
422	Landfill Capital	300		957	(657)	319%
423	Street Capital	100	3	28	72	28%
424	Parks & Recreation Capital		19	27,467	(27,467)	
427	Capital Equipment		117	7,230	(7,230)	
429	Service Reserve Fund			1,356	(1,356)	
481	General Plan 1992	61,403		12,826	48,577	21%
482	Flood Control Study			7	(7)	
492	RAJA Storm Drain	65		223	(158)	343%
494	CARF	5,264	145	6,127	(863)	116%
495	Monitoring Fee	61,403		12,826	48,577	21%
496	Storm Drain Non-Flood	1		1		100%
501	General Debt Service	94		324	(230)	345%
611	Water O & M	1,470,530	91,716	1,014,988	455,542	69%
612	Water Reserve	6,000	3,836	5,310	690	89%
616	Water Conservation	12,000		53	11,947	
617	Water Meter Fund	300		3,941	(3,641)	999%
619	Water Debt Service			100,000	(100,000)	
621	Sewer O & M	1,845,343	138,627	1,138,318	707,025	62%
629	Sewer Debt Service			120,000	(120,000)	
651	Centrak Service Overhead			16	(16)	
771	RORF	1,214,590	10	610,779	603,811	50%
773	2007 TABS			24	(24)	
801	Trust & Agency			1,764	(1,764)	
803	Elderberry Mitigation	1,200			1,200	
831	Swim Team	29,436		11,654	17,782	40%
833	Festival de la Comunidad	10,012		21,523	(11,511)	215%
836	PCH HOA			87	(87)	
838	WPD Youth Services			2	(2)	
839	Youth Day			188	(188)	
841	PD Cancer Fund		600	1,620		
846	Quilt Festival	610		3	607	
Total Revenues		\$ 11,715,005	\$ 1,187,485	\$ 6,996,636	\$ 5,415,682	54%

City of Winters
General Fund Revenues
Jly 1, 2017 through February 28, 2018

					67%
G/L Code	Account Description	Budget 2017-2018	February Actual	Year to Date Actual	% of Budget Received
101-41101	Property Tax	\$ 833,414		\$ 360,190	43%
101-41103	Property Tax in Lieu of VLF	582,525		295,387	51%
101-41401	Sales & Use Tax	620,464	51,300	306,966	49%
101-41402	Prop 172	49,637		20,035	40%
101-41403	Franchise Fee	266,000	7,170	163,713	62%
101-41404	Property Transfer Tax	18,000		16,230	90%
101-41405	Utility Tax	713,000	66,467	436,501	61%
101-41406	Municiple Services Tax	313,960	25,470	203,140	65%
101-41408	TOT Tax	636,266	2,789	5,004	1%
101-41407	Business Licenses	26,000	2,941	27,232	105%
101-46102	Building Permits	231,671	4,730	68,346	30%
101-46103	Encroachment Permit	10,000	545	3,775	38%
101-46104	Other Licenses & Permits	73,452	3,599	65,787	90%
101-41507	Motor Vehicle in Lieu	3,000			0%
101-41509	Homeowners Property Tax Relief	15,000		7,242	48%
101-48106	Post Reimbursement	3,500			0%
101-41511	Off-Highway Motor Vehicle				
101-42102	Copy Fees	100	380	1,217	1217%
101-42103	Plan Check Fees	105,401	4,966	85,806	81%
101-42104	Planning Application Fees	10,750	607	8,730	81%
101-42107	Project Monitoring Fees	3,500		11,001	314%
101-42108	Police Reports	500	75	669	134%
101-42109	Fingerprint Fees	3,500	106	1,927	55%
101-42111	Towing/DUI Reimbursement	300	85	1,370	457%
101-42112	Ticket Sign Off Fees	300	30	450	150%
101-42201	Recreation Fees	3,100		350	11%
101-42205	Basketball Revenues	6,700		9,470	141%
101-42211	Pool Ticket Sales	10,400		3,546	34%
101-42213	Pool Proceeds	1,000		780	78%
101-42212	Pool Concession Stand Revenues	7,000	700	6,666	95%
101-42215	Swim Passes	2,000		230	12%
101-42216	Swim Lessons	13,600		2,380	18%
101-42218	Swim Team Reimbursement	8,000			0%
101-42301	Park Rental	1,800	425	2,425	135%
101-42303	Community Center Rental	13,500	258	18,588	138%
101-42304	Community Center Insurance Collected	85	81	303	356%
101-42308	Ambulance Service Charge			52	
101-44101	Rents/Leases Revenues	66,000	7,040	60,934	92%
101-43151	Fire District Payments	255,623			0%
101-44102	Interest Earnings	1,000		137	14%
101-46106	Reinspect Fee	1,200	95	1,604	134%
101-49101	Contributions	99,098		42,812	43%
101-49102	Reimbursements/Refunds	110,000		14,906	14%
101-49104	Miscellaneous Revenues	35,000	1,030	2,499	7%
101-49999	Interfund Operating Transfer	16,600	7,008	7,008	42%
Total General Fund Revenues		\$ 5,171,946	\$ 187,897	\$ 2,265,408	44%

City of Winters
Summary of Expenditures
July 1, 2017 through February 28, 2018

Fund	Fund Description	Budget FY 17-18	February Actual	Year to Date Actual YTD	% of Year Complete	
					Unspent Budget Balance	% of Budget Spent
101	General Fund Expenditures by Department					67%
110	City Council	\$ 14,260	\$ 1,332	\$ 10,926	\$ 3,334	77%
120	City Clerk	8,959	149	3,507	5,452	39%
130	City Treasurer	381	8	49	332	13%
160	City Manager	41,338	-4,331	39,422	1,916	95%
161	Economic Development & Housing	67,342	1,496	47,940	19,402	71%
163	Rogers Building			278	-278	
170	Administrative Services	211,535	1,980	15,265	196,270	7%
180	Finance	4,156	-3,306	5,052	-896	122%
210	Police Department	2,589,689	163,176	1,820,121	769,568	70%
310	Fire Department	906,881	47,796	816,354	90,527	90%
410	Community Development	116,025	4,209	102,369	13,656	88%
420	Building Inspections	296,671	22,296	237,182	59,489	80%
610	Public Works-Administration	413,925	-1,200	83,328	330,597	20%
710	Recreation	10,286	320	4,767	5,519	46%
720	Community Center	107,221	6,250	81,255	25,966	76%
730	Swimming Pool	99,921	5,645	77,058	22,863	77%
	Total General Fund Expenditure	\$ 4,888,590	\$ 245,820	\$ 3,344,873	\$ 1,543,717	68%
104	Fireworks Fund	15,000		5,922	9,078	39%
106	Monitoring Fee	500			500	
105	Senior Fund	150			150	
108	Munchkin Summer Camp	23,457		21,420	2,037	91%
113	2007 Housing TABS			665	(665)	
115	Canine Program			3,512		
116	Police Cadet Program			367		
201	Fire Prevention Grant	200			200	
209	In Lieu Affordable Housing			178		
211	City Wide Assessment	309,288	15,498	240,837	68,451	78%
221	Gas Tax Fund	211,396	9,706	114,114	97,282	54%
231	State COPS 1913	99,276	7,884	60,557	38,719	61%
233	Realignment	8,000		1,289	6,711	16%
251	Traffic Safety	29,152		9,737	19,415	33%
252	Asset Forfeiture	3,000		8,909	(5,909)	297%
263	I-505 Overpass Grant			77,998		
272	Boost Grant	17,320		12,179	5,141	70%
278	Prop 84 Park Grant			24,838	(24,838)	
287	Afterschool Donations		1	768	(768)	
291	Beverage Recycling Grant	5,000		493	4,507	10%
294	Transportation	260,265	239	963,950	(703,685)	370%
299	After School Program	119,288	9,013	86,420	32,868	72%
308	RSTP Round About		-	644,218		
309	SHOPP Round About			50,778		
321	ED8G 99-688 Buckhorn	15,953	1,451	12,635	3,318	79%
322	EDBG 405-Cradwick	15,247	1,550	12,926	2,321	85%
324	YOAMD Grant			6,276	(6,276)	
351	RLF Housing Rehab			2,784	(2,784)	
355	RLF Small Business	87,557	676	5,411	82,146	6%
356	RLF HOME Program	180		1,058	(878)	588%
358	Program Income			30,412	(30,412)	
411	Street Impact Fee		174	944,318	(944,318)	
412	Storm Drain Impact Fee		26	16,841	(16,841)	
413	Park & Recreation Impact Fee		89	3,453	(3,453)	
414	Public Safety Impact Fee		27	4,513	(4,513)	
415	Fire Impact Fee		28	4,467	(4,467)	
416	General Facility Impact Fee		27	4,484	(4,484)	
417	Water Impact Fee		32	4,522	(4,522)	
418	Sewer Impact Fee		27	4,483	(4,483)	
419	Flood Fees			2,311		
422	Landfill Capital	9,500	18	15,732	(6,232)	166%
423	Street Capital			4,999	(4,999)	
424	Parks & Recreation Capital			137,439	(137,439)	
495	Monitoring Fee	61,403		12,826	48,577	21%
611	Water O & M	1,642,282	140,011	1,158,436	483,846	71%
612	Water Reserve			1,703	(1,703)	
615	07 Water Bonds			35,014	(35,014)	
616	Water Conservation Fund	2,700	62	493	2,207	18%
617	Water Meter Fund	6,000	23	365	5,635	6%
621	Sewer O & M	1,922,043	176,113	1,371,598	550,445	71%
622	Sewer Reserve			6,416	(6,416)	
651	Central Service Overhead	(2,000)	(280)	(772)	(1,228)	39%
652	Central Service Overhead with PD & Fire			2,432	(2,432)	
771	RORF	1,178,665	283,246	585,500	593,165	50%
773	2007 TABS			9,182	(9,182)	
801	Trust & Agency		6,459	6,459	(6,459)	
831	Swim Team	70,088		10,605	59,483	15%
833	Festival de la Comunidad	7,950		15,892	(7,942)	200%
839	Youth Day		255	255	-	
841	PD Cancer Fundraiser		575	1,595		
846	Quilt Festival	200	549	549	(349)	275%
	Total Expenditures	\$ 11,007,650	\$ 898,469	\$ 10,111,634	\$ 1,677,228	85%

City of Winters
Fund Balances Report
Estimated Fund Balances as of February 28, 2018

Fund	Fund Name	Audited			Transfers In/(Out)	Estimated	
		Fund Balance June 30, 2017	Current Year Revenues	Current Year Expenditures		Fund Balance February 28, 2018	Change From June 30, 2017
101	General Fund	\$ (129,345)	\$ 2,258,400	\$ 3,343,108	\$ 5,243	\$ (1,208,810)	\$ (1,079,465)
104	Fireworks Fund	(10,342)	3,905	5,922	-	(12,359)	(2,017)
105	Senior Fund	348	2	-	-	350	2
106	Monitoring Fee	1,716	10	-	-	1,726	10
107	City Park Maintenance	2,286	13	-	-	2,299	13
108	Munchkin Summer Camp	15,994	8,347	21,420	-	2,921	(13,073)
110	Housing Successor	36,177	-	-	-	36,177	-
112	Housing 04 TABS	150,000	-	-	-	150,000	-
113	2007 Housing TABS	824,482	4,251	665	-	828,068	3,586
115	Canine Program	-	9,097	3,512	-	5,585	5,585
116	Pd Cadet Program	-	465	367	-	98	98
117	Community Garden	-	160	-	-	160	160
201	Fire Prevention Grant	870	5	-	-	875	5
208	First Time Homebuyer	85,834	487	-	-	86,321	487
209	In Lieu Affordable Housing	248,456	737	178	-	249,015	559
211	City Wide Assessment	(45,011)	102,290	240,837	-	(183,558)	(138,547)
212	Flood Assessment District	3,891	22	-	-	3,913	22
221	Gas Tax	96,536	101,514	114,114	-	83,936	(12,600)
226	Road M & R (581)	-	8,361	-	-	8,361	8,361
231	State COPS 1913	33,874	147,873	60,557	-	121,190	87,316
233	Realignment Funds	109,497	401	1,289	-	108,609	(888)
251	Traffic Safety	95,963	8,045	9,737	-	94,271	(1,692)
252	Asset Forfeiture	8,202	2,578	8,909	-	1,871	(6,331)
254	Vehicle Theft Deterrent	50,755	288	-	-	51,043	288
263	1-505 Overpass Grant	-	-	77,998	-	(77,998)	(77,998)
272	Boost Grant	14,843	5,126	12,179	-	7,790	(7,053)
278	Prop 84 Park	(204,251)	-	24,838	-	(229,089)	(24,838)
287	After School Program Contr	766	2	-	(768)	-	(766)
291	Beverage Recycling Grant	25,888	5,109	493	-	30,504	4,616
294	Transportation	620,339	98,209	963,950	-	(245,402)	(885,741)
299	After School Program	152,684	156,757	86,420	768	223,789	71,105
307	HRP Grant	150,000	-	-	-	150,000	-
308	RSTP-Round About	-	492,559	644,218	-	(151,659)	(151,659)
309	SHOPP - Round About	-	194,613	50,778	-	143,835	143,835
313	STBG-96-1043 Housing and P	(29,070)	-	-	-	(29,070)	-
314	98-HOME-347 Grant	127,146	-	-	-	127,146	-
316	HOME-Choc Project	2,843,180	-	-	-	2,843,180	-
321	EDBG 99-688 Buckhorn	94,274	3,003	-	(12,635)	84,642	(9,632)
322	EDBG 96-405 Cradwick	221,276	5,846	-	(12,926)	214,196	(7,080)
324	YQAMD Grant	-	5,000	6,276	-	(1,276)	(1,276)
327	15-CDBG-10578	-	-	-	1,275	1,275	1,275
351	RLF Housing Rehabilitation	105,993	3,182	-	(2,784)	106,391	398
352	RLF Affordable Housing	308,788	-	-	-	308,788	-
355	RLF Small Business	39,930	768	-	(5,411)	35,287	(4,643)
356	RLF HOME Program	319,249	635	1,058	-	318,826	(423)
358	Program Income Fund	655,096	2,983	29,137	32,478	661,420	6,324
411	Street Impact Fee	944,239	8,346	944,318	-	8,267	(935,972)
412	Storm Drain Impact Fee	213,297	3,393	16,841	-	199,849	(13,448)
413	Parks & Recreation Impact	(92,462)	49,905	3,453	51,078	5,068	97,530
414	Public Safety Impact Fee	285,561	7,420	4,513	-	288,468	2,907
415	Fire Impact Fee	434,036	17,435	4,467	-	447,004	12,968
416	General Facilities Impact	564,826	27,402	4,484	-	587,744	22,918
417	Water Impact Fee	541,284	4,252	4,522	-	541,014	(270)
418	Sewer Impact Fee	341,668	49,901	4,483	-	387,066	45,418
419	Flood Control Fee	232,942	1,316	2,311	-	231,947	(995)
421	General Fund Capital	475,304	2,698	-	-	478,002	2,698
422	Landfill Capital	176,433	957	15,732	-	161,658	(14,775)
423	Street Capital	110,270	28	4,999	-	105,299	(4,971)
424	Parks and Recreation Capit	706,978	27,467	86,360	(51,078)	597,007	(109,971)
427	Equipment Replacement Fund	478,362	7,230	-	-	485,592	7,230
429	Service Reserve Fund	1,055,629	1,356	-	-	1,056,985	1,356
481	General Plan 1992	(395,871)	-	-	12,826	(383,045)	12,826
482	Flood Control Study	(123,683)	7	-	-	(123,676)	7
492	RAIA Storm Drain	67,851	223	-	-	68,074	223
494	CARF	127,476	6,127	-	-	133,603	6,127
495	Monitoring Fee	-	12,826	-	(12,826)	-	-
496	Storm Drain Non-Flood	238	1	-	-	239	1
501	General Debt Service	57,086	324	-	-	57,410	324
611	Water O & M	3,387,714	1,014,988	1,058,436	(100,000)	3,244,266	(143,448)
612	Water Reserve	148,524	5,310	1,703	-	152,131	3,607
615	2007 Water Bonds	146,185	-	35,014	-	111,171	(35,014)
616	Water Conservation	25,881	53	493	-	25,441	(440)
617	Water Meter Fund	400,256	3,941	365	-	403,832	3,576
619	Water Debt Service Fund	(3,074,226)	-	-	100,000	(2,974,226)	100,000
621	Sewer O & M	6,069,692	1,138,318	1,251,598	(120,000)	5,836,412	(233,280)
622	Sewer Reserve	161,090	-	6,416	-	154,674	(6,416)
629	Sewer Debt Service	(3,628,142)	-	-	120,000	(3,508,142)	120,000
651	Central Service Overhead	(394)	16	(772)	-	394	788
652	Equipment Lease	-	-	2,432	-	(2,432)	(2,432)
771	RORF	(14,142,531)	610,779	585,500	-	(14,117,252)	25,279
772	RDA Trust	608,993	-	-	-	608,993	-
773	2007 TABS	9,157	24	9,182	-	(1)	(9,158)
781	RDA Long Term Debt	1	-	-	-	1	-
801	Trust & Agency	-	-	-	(4,694)	(4,694)	(4,694)
803	Elderberry Mitigation Fund	253,020	-	-	-	253,020	-
831	Swim Team	64,706	11,654	10,605	-	65,755	1,049
833	Festival de La Comunidad	20,718	21,523	15,892	-	26,349	5,631
836	PCH HOA	15,399	87	-	-	15,486	87
838	WPD Youth Services	352	2	-	-	354	2
839	Youth Day Fund	791	188	255	-	724	(67)
841	PD Cancer Fundraiser	-	1,620	1,595	-	25	25
846	Quilt Festival	546	3	-	(549)	-	(546)
911	General Fixed Assets	25,114,671	-	-	-	25,114,671	-
Totals		\$ 28,810,181	\$ 6,668,163	\$ 9,783,158	\$ (3)	\$ 25,695,184	\$ (3,114,997)