

Agreement No. \_\_\_\_\_

**Agreement Between the County of Yolo and Ducks Unlimited Regarding  
Funding for the Yolo Bypass Wildlife Area Habitat Restoration  
And Drainage Improvement Project**

This Agreement (the “Agreement”) is dated for reference purposes only as of May 10, 2022 and is entered into by and between the County of Yolo, a political subdivision of the State of California (the “County”), and Ducks Unlimited, Inc. (“Ducks Unlimited”) a not-for-profit corporation organized in the District of Columbia. The County and Ducks Unlimited are referenced in this Agreement as the “Parties” and individually as a “Party.”

**RECITALS**

A. The Yolo Bypass Wildlife Area Habitat & Drainage Improvement Project (“Project”), led by Ducks Unlimited and supported by a diverse coalition of partners, is designed to enhance the California Department of Fish and Wildlife’s (“Department”) ability to manage wetland resources and agricultural operations within the Yolo Bypass Wildlife Area (“Wildlife Area”); and

B. The Project is the top priority in the County’s *Yolo Bypass Drainage and Water Infrastructure Improvement Study*, a study completed in 2014 and recently updated; and

C. The Project will allow the Department to expand the acreage of managed wetlands within the Wildlife Area, increase the productivity of existing wetlands, reduce on-site flooding from the South Davis Drain, and increase public access to the Wildlife Area; and

D. Ducks Unlimited constructed a portion of the Project (Components 1, 3 and 5) in 2020. The County would like to support work by Ducks Unlimited to now complete the remaining two components (Components 2 and 4), described in more detail in **Exhibit A** ;

E. The County secured a commitment from the California Department of Water Resources (“DWR”) to provide \$2.5 million in Project funding for Components 2 and 4 through an agreement signed between the County and DWR in January 2022, and the County intends to provide the entire DWR funding commitment to Ducks Unlimited promptly after receiving such funds in exchange for the commitments provided through this Agreement; and

F. The Parties recognize that the total cost of the Project is likely to exceed \$5 million. Therefore, in addition to the \$2.5 million provided for in this Agreement, Ducks Unlimited has secured a \$1 million grant from the California Department of Fish and Wildlife (“CDFW”). Ducks Unlimited has applied for, but has not yet secured, additional funding for the project as of the date of this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing Recitals and in consideration of other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

## AGREEMENT

### I. **Definitions.**

- A. “Costs” means “hard” and “soft” costs related to the design and construction of Components 2 and 4 of the Project, including, without limitation, costs incurred by Ducks Unlimited or its consultants, contractors, and subcontractors for surveying, engineering, architecture, bonds, permit and inspection fees, insurance premiums, legal and accounting services, contractor’s general conditions, labor, equipment and materials, and a management fee equal to five percent of all costs associated with the construction and installation of Components 2 and 4.
- B. “Effective Date” means the date this Agreement is signed on behalf of the last of the Parties to do so.
- C. “Budget” means the document attached as **Exhibit B**, which is an estimate of the projected Costs of Components 2 and 4 of the Project.
- D. “Project Schedule” means the document attached as **Exhibit C**.

II. **Schedule.** Time is of the essence of this Agreement. Subject to its receipt of full funding for all Costs necessary to complete construction of Components 2 and 4, Ducks Unlimited agrees to pursue completion of the Project expeditiously and to achieve the Project Schedule. Ducks Unlimited shall inform the County within five business days of any event or information indicating the Project Schedule cannot be achieved and submit a revised Project Schedule to County. Consistent with its limited funding role, County approval of changes to the Project Schedule is not required unless the Project construction start date is delayed by more than 60 days. If County approval is required, is may not be unreasonably withheld.

III. **Term; Termination.** The term of this Agreement shall commence on the Effective Date. This Agreement shall terminate and any funds provided to Ducks Unlimited shall be returned to the County if construction of Components 2 and 4 does not commence within 60 days of the start date indicated in the Project Schedule, as may be amended pursuant to Section II, above, or if Ducks Unlimited elects in its sole discretion to not proceed with the construction of Components 2 and 4.

Following the timely commencement of construction, this Agreement shall terminate upon the later of:

1. The completion of Components 2 and 4 to the reasonable satisfaction of Ducks Unlimited and the Department; or
2. Exhaustion of funding needed to complete the Project.

If the County does not receive the DWR funding within 180 days of the Effective Date, this Agreement shall terminate automatically and be of no further force or effect. Further, if DWR imposes any obligations upon the use of the funding that are not directly

contemplated in this Agreement, the Parties shall cooperate in good faith to amend this Agreement to include such obligations before the County provides any funding to Ducks Unlimited. If no such amendment is successfully concluded within 30 days after the commencement of negotiations, or within such additional time as the Parties may mutually agree, this Agreement shall automatically terminate and be of no further force or effect.

#### IV. **Ducks Unlimited's Obligations.**

Subject to prior receipt of sufficient funding for Project construction:

##### A. Construction.

1. Ducks Unlimited will construct or cause to be constructed Components 2 and 4, including engineering, design and permitting necessary to support construction of Components 2 and 4.
2. In consultation and coordination with the Department to the extent necessary, Ducks Unlimited will complete a competitive bidding or other solicitation process required for public projects under California law for the construction of Components 2 and 4. Additionally, Ducks Unlimited represents that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). Ducks Unlimited agrees that it, its contractors and subcontractors that perform work described in this Agreement will comply with the Prevailing Wage Laws and other applicable provisions of the California Labor Code, including but not limited to employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1).
3. Ducks Unlimited will contract and make all other arrangements necessary for the timely construction of Components 2 and 4 pursuant to **Exhibit C**. Thereafter, Ducks Unlimited shall manage the construction process in a timely manner according to the schedule provided herein or otherwise approved by the Parties.

4. Ducks Unlimited shall regularly communicate the progress of construction to the County and allow respond within a reasonable timeframe to any questions raised. At a minimum, this shall include quarterly progress reports submitted to the County within 30 days of the end of each quarter following the commencement of construction, as well as a final report within 60 days after the completion of construction.
- B. Ducks Unlimited, at its sole cost and expense, shall obtain and maintain throughout the entire term of this Agreement the insurance set forth in **Exhibit D** attached hereto.

Ducks Unlimited shall not commence construction or other field work associated with Components 2 and 4 until it has submitted all the insurance required and such insurance has been approved by the County. All insurance shall be sent to the County's Procurement Division at [procurement@yolocounty.org](mailto:procurement@yolocounty.org) for review and approval.

- C. Ducks Unlimited agrees that all funds provided by County pursuant to this Agreement will be held by Ducks Unlimited and applied solely toward Costs for Components 2 and 4. Any other use of such funds is prohibited, and if the Project cannot be built as contemplated by this Agreement, Ducks Unlimited shall return all remaining, unused funding provided pursuant to this Agreement to County.
- D. Ducks Unlimited shall keep, and provide to County or its agents upon request, accurate financial records (including invoices) necessary to enable County to review Ducks Unlimited expenditure of funds provided pursuant to this Agreement. These records shall demonstrate the funding has been used for Project Costs relating to Components 2 and 4. Ducks Unlimited shall maintain all such records for at least three years after the full completion of the work performed with funding provided pursuant to this Agreement.
- E. Per California Government Code §8546.7, expenditures pursuant to this Agreement are subject to the examination and audit of the California State Auditor. Ducks Unlimited will provide notice of the completion of any required third party (e.g., state or federal) audits and provide access to such audits upon request.
- V. **County Obligations.** County agrees to provide the \$2.5 million in DWR funding to Ducks Unlimited as a single lump sum payment within 30 calendar days of the Effective Date or County's receipt of such funding from DWR, whichever occurs later. In the event that Ducks Unlimited is unable to procure other funding to cover the remaining costs of the Project, the County may elect to increase its contribution in its sole discretion.
- VI. **Indemnity.** Ducks Unlimited hereby agrees to defend, indemnify and hold harmless the County and its respective officers, agents and employees from any and all claims, losses or liabilities arising or alleged to arise in connection with Components 2 and 4 of the

Project, including but not limited to its duty to design and construct the Project and its sole and exclusive responsibility to comply with all applicable laws relating to Project construction (including state prevailing wage laws), The County shall not have any liability for claims relating to Components 2 and 4 of the Project or other matters within the responsibility of Ducks Unlimited. In the event of any claim or litigation within the scope of this provision, Ducks Unlimited shall retain Counsel reasonably acceptable to the County Counsel to defend the County. This provision shall survive the termination of this Agreement.

- VII. **Relationship of Parties.** Ducks Unlimited and its contractors, subcontractors, and other vendors shall perform all services under this Agreement as independent contractors, and not as employees, officers or agents of the County
- VIII. **Notices.** Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during the receiving Party's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to County:

Chad Rinde  
Interim County Administrator  
625 Court Street, Room 202  
Woodland, CA 95695  
Telephone: 530.666.8150

If to Ducks Unlimited:

Aaron Will  
Regional Biologist  
3074 Gold Canal Drive  
Rancho Cordova, CA 95670  
Telephone: 916.494.3293

With courtesy copy to:

Philip J. Pogledich  
County Counsel  
625 Court Street, Room 201  
Woodland, CA 95695  
Telephone: 530.666.8172

With courtesy copy to:

Steven King, Esq.  
Deputy General Counsel  
1 Waterfowl Way  
Memphis, TN 38120  
Telephone: 901.758.3721

- IX. **Cooperation.** The Parties agree to cooperate as needed to ensure the timely completion of Components 2 and 4 of the Project.
- X. **Choice of Law.** This Agreement will be governed and construed in accordance with the laws of the State of California.
- XI. **Dispute Resolution.** If any dispute arises as to this Agreement, the Parties agree the dispute shall first be submitted to non-binding mediation in Yolo County. Any Party may

serve a demand for mediation on another Party or Parties, which such demand shall be in writing. The Party which sends, and the Parties named in, the notice constitute the Dispute Parties, and each shall bear an equal share of mediator fees and any related costs. If any Dispute Party fails to participate in the mediation on the terms set forth in this section, it forfeits any right it may have to seek attorney's fees should it prevail in litigation of the dispute. Nothing contained herein shall prevent any party from (i) seeking and obtaining equitable relief, including, but not limited to, prohibitory or mandatory injunctions or specific performance, nor (ii) filing legal action hereunder.

- XII. **Remedies; Attorney Fees.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all of such other rights, powers or remedies. If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, the party prevailing in such action, whether or not reduced to judgment, shall be entitled to its reasonable court costs, including any accountants' and attorneys' fees expended in the action. Venue for any litigation shall be in Yolo County, California and the Parties hereby consent to jurisdiction in Yolo County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.
- XIII. **Assignment; No Third-Party Beneficiaries.** No Party may assign its interest in this Agreement or the rights under it to any third party, voluntarily or otherwise, without the prior written consent of the other two Parties. The Parties do not intend to benefit any third party by this Agreement and only the Parties may enforce it.
- XIV. **Licensure; Permits and Approvals.** Ducks Unlimited certifies that it will hold all applicable licenses and/or certifications required for performance of its obligations under this Agreement. Ducks Unlimited will obtain all permits and regulatory approvals necessary for Components 2 and 4 of the Project.
- XV. **Waiver.** The waiver by any of the Parties of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by the Parties unless in writing signed by one authorized to bind the Party to be charged with the waiver.
- XVI. **Severability.** If any term or provision of this Agreement (including **Exhibits A through D**) or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held

invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

XVII. **Amendments; Counterparts.** This Agreement may be amended only by a writing executed on behalf of the Parties to be bound. This Agreement may be executed in counterparts, including electronic counterparts, each of which when taken together shall constitute a single agreement.

XVIII. **Entire Agreement; Counterparts.** All documents referenced as exhibits to this Agreement are hereby incorporated by this reference. In the event of any material discrepancy between the provisions of this Agreement and any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire agreement among Parties with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the Parties.

**TO EFFECTUATE THIS AGREEMENT,** the Parties have caused their duly authorized representatives to execute this Agreement as of the last date indicated below:

**Ducks Unlimited, Inc.**

**County**

By: \_\_\_\_\_  
Karen Waldrop, Ph.D  
Chief Conservation Officer  
Ducks Unlimited, Inc.

By: \_\_\_\_\_  
Angel Barajas, Chair  
Yolo County Board of Supervisors

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: Julie Dachtler, Senior Deputy  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy (Seal)

Approved as to Form:

Approved as to Form:

By: \_\_\_\_\_  
[insert name], [insert title]

By: *Philip J. Pogledich*  
Philip J Pogledich, County Counsel

**Exhibit A**

**Project Scope—Components 2 and 4**



Yolo Bypass Wildlife Area  
Habitat and Drainage Improvement Project, Phase II

*Prepared by:*

**Ducks Unlimited, Inc.  
3074 Gold Canal Dr.  
Rancho Cordova, CA 95670**

**Primary Contact: Aaron Will  
916.851.5347 (phone)  
awill@ducks.org**



## **TASK 1 PROJECT MANAGEMENT**

DU will implement the Project collaboratively with the project partners and landowner CDFW. DU will subcontract a portion of the work to Contractor Compliance and Monitoring, Inc. (CCMI) to support the construction contractor compliance requirements. Task 1 will be primarily carried out by Ducks Unlimited Project Manager Aaron Will. Task 1 includes project management and administration, progress reports, invoicing, access agreements, developing and negotiating subcontractor agreements, project meetings and coordination.

DU will administer contracts with sub-consultants and construction contractors, including review, processing, and payment of invoices; and will ensure all procurement laws, flow down conditions, and other requirements are incorporated into sub-contracts.

Subcontractor CCMI will assist DU and the construction contractor (TBD) with labor compliance laws including prevailing wage and reporting requirements. The CCMI will support the construction contractor (Task 3) compliance requirements, as this is an administrative effort, CCMI will complete this work under Task 1.

## **TASK 2 BIDDING AND CONSTRUCTION MANAGEMENT**

The construction subcontract is planned to be awarded one (1) to two (2) months prior to the construction season start date. DU will solicit contract bid estimates from qualified contractors. Contractors will receive design plans, general and technical specifications, a bid form, unit price table, permit and contract conditions and other documents pertaining to the requirements of the Contract. Bids with approved bonds and insurance will be ranked by DU engineer(s), the bidders will be notified by mail and a phone call of the bidding results. Before work can begin with the financially benefitting subcontractor(s), subcontractor(s) must sign the subcontractor agreement including grant conditions.

DU will coordinate with CDFW to organize, execute, and document worker environmental awareness programs prior to the start of construction. These training sessions will be repeated as necessary. DU will carry out construction management to verify and enforce the project is constructed as designed and specified per the engineering plans, specification and environmental compliance and permit requirements. DU may perform additional topographic survey and staking as needed to carry out this task.

This task will be performed by Ducks Unlimited engineering staff, primarily DU engineer, Alex Tuveson, and supported by Senior Regional Engineer Brett Williams.

Deliverables: i) Copies of awarded construction subcontract(s) ii) Construction site photos

## **TASK 3 CONSTRUCTION AND MONITORING**

After environmental worker awareness training is complete, the selected construction contractor as determined through Task 2 will construct aspects of the Project. Funding under this scope will

go towards portions of Component 2 and Component 4 as described below. The total project cost is anticipated to cost in excess of \$5.5 million. Therefore, additional funding sources are required to complete the project in its entirety. Funding per this agreement will be expended on Components 2 and 4. However, should additional funds be required, the project may be paused one or more years. Additionally, if funding is limited, the scope of the project may be modified to fit the available budget as needed.

The construction contractor will utilize standard construction equipment, anticipated to include: excavator, loader, bulldozer, dump truck, haul truck(s), crane and pile driver.

### **Component 2: Green's Lake Modifications**

Green's Lake functions as an irrigation reservoir. The lake includes a channel that extends south to the South Davis Drain, one of the major drainage channels for the City of Davis. Component 2 will create operational flexibility by separating water drainage and supply infrastructure near the lake's drainage channel. Currently, Green's Lake overflows when the South Davis Drain releases water, which impacts the road system and overflows the drainage system. The Project will replace two large open culverts with water control structures to allow managers to maintain water levels in Green's Lake when the South Davis Drain releases water into the YBWA following a storm event, or in the spring when managers are draining wetlands and farmers are flooding up rice fields. Improved control of the water system during flood up and drainage will help farmers and wetlands managers to start field preparation sooner after a floodplain event. This will result in greater opportunity for increased seed plant production and provide greater waterfowl food energetics. In addition, excavated lake material will be placed on the adjacent access road to improve road access for both farming activities, wetland maintenance and recreation.

### **Component 4: New Cross Canal Pump Station**

This project component will install a new water pump and sump north of the Cross Canal in the eastern portion of the YBWA to allow more efficient water flow. Inundation from Fremont Weir overtopping and other sources in this part of the YBWA is difficult to manage due to a lack of adequate infrastructure. The new pump station will allow drawdown of rice fields and wetlands if there is minor flooding in March through June. This project component also includes roadway improvements to the west and north of the proposed new pump. This will improve access to the eastern portion of the YBWA and will aid in separating Toe Drain flood waters from managed wetlands and rice fields. This project component will become increasingly important for wetland management as climate change increases flood frequency in the Yolo Bypass.

Specifically, Component 4 includes installing a new water pump directly west of Parking Lot H and directly north of the Cross Canal. A new sump would be excavated at this location to accommodate the new pump and a 12-inch pipe would extend south from the pump, under the existing dirt road, and to the Cross Canal. The sump is proposed to be excavated to a depth of 6 feet msl with a 40-foot by 40-foot bottom surface and a total depth of approximately 12 feet.

Two existing 36-inch concrete pipes that connect the Cross Canal to the drainage channel extending directly north would be replaced with 36-inch HDPE pipes. Water control structures would be installed on the northern end of these two pipes and flap gates would be installed on the southern end within the Cross Canal. Two 36-inch HDPE pipe culverts would be installed in the northern channel that would extend west into the new sump. Water control structures would be installed on the eastern end of these pipes.

### **Monitoring**

DU biologists, engineers and hired contractor and subcontractor(s) will monitor certain aspects of the project, including but not limited to turbidity, temperature, and other site conditions pursuant to environmental permit and requirements as well as other project related requirements.

**Exhibit B**

**Budget**

Task No.	Task Description	Contract Budget
Task 1	Project Management	\$ 11,500.00
	Contractor Compliance*	\$ 2,400.00
Task 2	Construction Management	\$ 40,117.53
	Engineer of Record*	\$ 20,160.00
Task 3	Construction*	\$ 2,232,099.85
	Mobilization	
	Site Preparation	
	Earthwork (Excavation and Placement)	
	Earthwork (Crushed Ag Base Surfacing)	
	Supply and Install Water Control Structures	
	Pump Station	
	Rip Rap	
	SWPPP Implementation and Maintenance	
	Power Poles	
	Pre-construction and Construction Biological Monitoring *	\$ 74,675.00
	Administration Fee (5%)	\$ 119,047.62
	<b>Contract Total</b>	<b>\$ 2,500,000.00</b>

\* To be completed by Subcontractor

Note: This budget does not comprise of the total project cost, additional funding is required to complete this Project.

**Exhibit C**  
**Project Schedule**

Task	2022								2023												
	May	June	July	August	September	October	November	December	January	February	March	April	May	June	July	August	September	October	November	December	
Pre-Construction Biological Surveys																					
Contractor Bids and Procurement																					
Secure Additional Funding for Completion of project for 2023																					
Construction																					
Mobilization																					
Site Preparation																					
Earthwork (Excavation and Placement)																					
Earthwork (Crushed Ag Base Surfacing)																					
Supply and Install Water Control Structures (30" HDPE Pipe)																					
Sub-Project 2 - 36" HDPE Pipe																					
Sub-Project 2 - 36" Canal Gate																					
Sub-Project 2 - 4'X5' Water Control Structure																					
Sub-Project 4 - Excavation and Placement																					
Sub-Project 4 - Crushed Ag Base Surfacing																					
Sub-Project 4 - 18" HDPE Pipe																					
Sub-Project 4 - 36" HDPE Pipe																					
Sub-Project 4 - 4'X4' Water Control Structure																					
Sub-Project 4 - 4'X6' Water Control Structure																					
Sub-Project 4 - 4'X7' Water Control Structure																					
Sub-Project 4 - 4'X8' Water Control Structure																					
Sub-Project 4 - 30" Flap Gate																					
Sub-Project 4 - 36" Canal Gate																					
Sub-Project 4 - 36" Flap Gate																					
Sub-Project 4 - Pump Station Structure																					
Rip Rap																					
SWPPP Implementation and Maintenance																					
Power Poles																					
Project Completion																					

\*2023 Construction Activities are dependant on Securing Additional Funding.

# EXHIBIT D

## **Exhibit D**

### **Insurance Requirements**

During the term of this Contract, Ducks Unlimited shall at all times maintain, at its expense, the following coverages and requirements:

- A. Minimum Scope of Insurance – Coverage shall be at least as broad as the latest version of the following:
  - 1. Commercial General Liability: Insurance Services Office form CG 000. The policy shall not contain any exclusions contrary to the Contract, including but not limited to endorsements or provisions limiting coverage for 1) contractual liability such as ISO CG 24 26 or 21 29; or 2) cross liability or suits by one insured against another.
  - 2. Automobile Liability: Insurance Services Office form CA 00 01, code 1- Any Auto or including Hired and Non-Owned vehicles.
  - 3. Workers' Compensation and Employers' Liability: Workers' Compensation insurance as required by the State of California and Employers' Liability.
  - 4. Professional Liability (Errors and Omissions) (If applicable, see below)
- B. Minimum Limits (as applicable) - Insurance coverage shall be with limits not less than the following:
  - 1. Commercial General Liability – \$2,000,000/occurrence and \$4,000,000 annual aggregate or an aggregate of \$2,000,000 that applies separately to this project (ISO CG 25 03 or 25 04).
  - 2. Automobile Liability – \$1,000,000 per accident for bodily injury and property damage
  - 3. Professional Liability/Malpractice/Errors and Omissions –\$2,000,000 per occurrence and annual aggregate (If any engineer, architect, attorney, accountant, medical professional, psychologist, or other licensed professional performs work under a contract, or other professional contractors, such as computer and software designers Ducks Unlimited must provide this insurance. If not, then this requirement automatically does not apply.)
  - 4. Workers' Compensation – Statutory Limits/Employers' Liability - \$1,000,000/accident for bodily injury or disease (If no employees, this requirement automatically does not apply.)

It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Contract; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured, whichever is greater.

C. Other Insurance Provisions

1. **Additional Insured Status** - The County, its officers, agents, employees and volunteers shall be named as additional insured on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Ducks Unlimited including, materials, parts, or equipment furnished in connection with such work or operations. Coverage can be provided in the form or an endorsement to Ducks Unlimited's insurance (at least as broad as CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33 and CG 20 37). [NOTE: Evidence of additional insured is needed as a separate endorsement or comparable policy language due to wording on the certificate negating any additional coverage listed writing in the description box.]
2. **Primary Coverage** - Ducks Unlimited's policy shall be "primary and non-contributory" and will not seek contribution from the County's insurance or self insurance and shall be at least as broad as CG 20 01 04 13.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be cancelled, except with notice to the County.
4. **Waiver of Subrogation** – Contractor hereby grants to the County a waiver of any right to subrogation which any insurer of said Contractors may acquire against the County by virtue of the payment or any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

The limits of Insurance required in this Contract may be satisfied by a combination of primary and umbrella or excess Insurance. Any umbrella or excess Insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of the County of Yolo (if agreed to in a written contract or agreement) before the County's own Insurance or self insurance shall be called upon to protect it as a named insured.

- D. Said policies shall remain in force through the life of this Contract and, with the exception of professional liability coverage, shall be payable on a "per occurrence" basis unless the County Risk Manager specifically consents in writing to a "claims made" basis. For all "claims made" coverage, in the event that Ducks Unlimited changes insurance carriers Contractor shall purchase "tail" coverage covering the term of this Contract and not less than three years thereafter. Proof of such "tail" coverage shall be required at any time that Ducks Unlimited changes to a new carrier prior to receipt of any payments due.
- E. Ducks Unlimited shall declare all aggregate limits on the coverage before commencing performance of this Contract, and the County's Risk Manager reserves the right to require higher aggregate limits to ensure that the coverage limits required for this Contract as set forth above are available throughout the performance of this Contract.
- F. Any deductibles or self-insured retentions must be declared to and are subject to the approval of the County Risk Manager. All self-insured retentions (SIR) must be

disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied either by the named Insured or Yolo County.

- G. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved by the County Risk Manager.
- H. The policies shall cover all activities of Contractor, its officers, employees, agents and volunteers arising out of or in connection with this Contract.
- I. For any claims relating to this Contract, Ducks Unlimited's insurance coverage shall be primary, including as respects the County, its officers, agents, employees and volunteers. Any insurance maintained by the County shall apply in excess of, and not contribute with, insurance provided by Contractor's liability insurance policy.
  - 1. Prior to commencing services pursuant to this Contract, Contractor shall **furnish the County with original policies or endorsements reflecting coverage** required by this Contract. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received by, and are subject to the approval of, the County Risk Manager before work commences. Upon County's request, Contractor shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.
  - 2. During the term of this Contract, Contractor shall furnish the County with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Contract. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. Upon County's request, Contractor shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications. Yolo County reserves the right to obtain a full certified copy of any Insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.
  - 3. Contractor agrees to include with all Subcontractors in their subcontract the same requirements and provisions of this Contract including the indemnity and Insurance requirements to the extent they apply to the scope of the Subcontractor's work. Subcontractors hired by Contractor agree to be bound to Contractor and the County of Yolo in the same manner and to the same extent as Contractor is bound to the County of Yolo under the Contract Documents. Subcontractor further agrees to include these same provisions with any Sub-subcontractor. A copy of the Owner Contract Document Indemnity and Insurance provisions will be furnished to the Subcontractor upon request. The General Contractor/and or Contractor shall require all Subcontractors to provide a valid certificate of insurance and the required endorsements included in the Contract prior to commencement of any work and General Contractor/and or Contractor will provide proof of compliance to

the County of Yolo. (Coverage can be provided in the form or an endorsement to Ducks Unlimited's insurance (at least as broad as CG 20 38 for operations and CG 20 40 for completed operations).

4. Contractor shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event Contractor fails to obtain or maintain completed operations coverage as required by this Contract, the County at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.