



Yolo Habitat Conservancy

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

To: Gary Sandy, Chair
Members of the Board

From: Alexander Tengolics
Executive Director

Re: Authorize the Executive Director to take necessary actions to execute a Certificate of Inclusion and the Special Participating Entity Agreement with University of California, Davis to allow the use of Yolo HCP/NCCP permit coverage for the University of California, Davis Orchard Park Connectivity Valley Elderberry Planting Project

Date: March 21, 2022

REQUESTED ACTION:

Authorize the Executive Director to take necessary actions to execute a Certificate of Inclusion and the Special Participating Entity Agreement with University of California, Davis to allow the use of Yolo HCP/NCCP permit coverage for the University of California, Davis Orchard Park Connectivity Valley Elderberry Planting Project

BACKGROUND:

The Yolo HCP/NCCP incidental take permit coverage authorized by California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service apply to public and private sector projects under the discretion of the member agencies, known along with the Yolo Habitat Conservancy as Permittees. Section 4.2.1.3 of the Yolo HCP/NCCP allows the Conservancy to grant the use of Yolo HCP/NCCP permit coverage, at the Conservancy's discretion, for activities proposed by public entities and private individuals that are not subject to member agency discretion. Entities the Board of Directors approve for coverage under the Yolo HCP/NCCP are called Special Participating Entities (SPEs).

A proposed SPE project must meet the following criteria for Yolo HCP/NCCP permit coverage:

- Occur within the Yolo HCP/NCCP Plan Area,
- Consist of activities that are covered activities in the Yolo HCP/NCCP,

- Affect Yolo HCP/NCCP covered species and require take authorization from the U.S. Fish and Wildlife Service or the California Department of Fish and Wildlife, and
- Demonstrate it is not subject to the jurisdiction of any of the member agencies.

To grant permit coverage to an SPE, the Conservancy must determine the requested permit coverage is available and establish a legally enforceable contract (SPE Agreement) with the SPE. The SPE Agreement binds the SPE to the relevant terms of the Yolo HCP/NCCP permits, Implementing Agreement, and Yolo HCP/NCCP. In addition to executing the SPE Agreement, the SPE entity must submit a complete application package, pay both the standard Yolo HCP/NCCP land cover fees and supplemental SPE charges per the SPE fee policy approved by the Board in July 2019, and complete any other steps required by the contract. After these steps are complete, the Conservancy will issue a Certificate of Inclusion to the SPE.

PROJECT INFORMATION:

The Orchard Park Connectivity Project is a transportation connectivity improvement project to address safety and connectivity of bicycle and pedestrian infrastructure between the Orchard Park Redevelopment Project site and the central campus. On Orchard Park Drive, improvements include adding a Class III bikeway, lighting, and closing pedestrian network gaps with additional sidewalks. Orchard Park Drive will be re-paved and re-stripped upon completion of the project. Two large elderberry shrubs are present on the west side of Orchard Park Drive and the project implementation will include installation of new sidewalks along Orchard Park Drive. While sidewalk installation will avoid the shrubs, it has been determined that removal of the shrubs is necessary to allow pedestrian access to the sidewalk. During preliminary project conversations with UCD staff, it was noted that as part of the normal farming and educational programs at the University Student Farm, the students and educators, in coordination with local Tribal representatives, conduct an annual harvest of the berries on these two elderberry bushes. The Student Farm would prefer to prune the shrubs so the area over the sidewalk is clear for pedestrian traffic but be allowed to continue the practice of harvesting the berries rather than having the shrubs removed entirely.

Yolo Habitat Conservancy staff reviewed the Yolo HCP/NCCP application and the request to allow for the two elderberry bushes to remain in their current location and determined that the request was a variance from the transplant requirement of Avoidance and Minimization Measure 12, Minimize Take and Adverse Effects on Habitat of Valley Elderberry Longhorn Beetle. The Conservancy approved the variance request, as did the California Department of Fish and Wildlife (CDFW) and United States Department of Fish and Wildlife Services (USFWS). To compensate for the impact on the two mature elderberry bushes the University will plant 54 new elderberry seedlings and 108 native plantings at one of the YHC reserve system properties along Cache Creek (Attachment A). In addition to the anticipated land cover fee of approximately \$12,000, UCD will also need to deposit \$11,000 to cover the costs of reviewing the application for coverage and preparation of the Certificate of Inclusion for an anticipated fee total of approximately \$23,000. The additional deposit fee is based on the September 16, 2019 Special Participating Entity Fee Policy that requires projects with cumulative permanent land cover fees,



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

Staff recommend approval of the use of Yolo HCP/NCCP coverage for the University of California, Davis Orchard Park Connectivity Valley Elderberry Planting Project. The Conservancy recommends permitting the project for the following reasons:

- The impacts of the proposed project fall within those analyzed in the Yolo HCP/NCCP, the Endangered Species Act Section 7 Biological Opinion for the Yolo HCP/NCCP, and the Yolo HCP/NCCP's EIR/EIS in general type, location, magnitude, and effects;
- The proposed project supports the YHC Conservation strategy by planting 54 new elderberry seedlings and 108 native plantings at one of the YHC reserve system properties and does not preclude the Conservancy from achieving the goals and objectives of the Yolo HCP/NCCP.

ATTACHMENTS:

Attachment A. UC Davis Orchard Park Connectivity Project VELB Memo

