



# County of Yolo

PLANNING AND PUBLIC WORKS DEPARTMENT

John Bencomo  
DIRECTOR

292 West Beamer Street  
Woodland, CA 95695-2598  
(530) 666-8775 FAX (530) 666-8728  
www.yolocounty.org

## PLANNING COMMISSION STAFF REPORT

September 10, 2009

**FILE #2009-019:** Modification of an existing Use Permit for a private airport used for a crop dusting operation to allow for a runway safety extension. (**Attachment A**).

**APPLICANT:** Ralph Holsclaw  
Growers Air Service  
41167 County Road 27  
Woodland, CA 95776

**OWNER:** Daniel Dowling  
PO Box 75000  
Davis, CA 95776

**LOCATION:** 41167 County Road 27, two miles north of the City of Davis. (APN: 042-080-02 and 041-060-28) (**Attachment B**)

**SUPERVISOR: 4 (Sup.Provenza)**

**ZONING:** Agricultural Preserve (A-P),  
Agricultural General (A-1)

**SOILS:** Capay Silty clay (Class II)  
Rincon silty clay loam (Class II)  
Pescadero silty clay (Class III)

**GENERAL PLAN:** Agriculture

**FLOOD ZONE:** C (area outside the 100 and 500 year flood plain), A (area within the 100 year flood plain)

**FIRE HAZARD:** None

**ENVIRONMENTAL DETERMINATION:** Categorical Exemption

**REPORT PREPARED BY:**

  
Craig Baracco, Associate Planner

**REVIEWED BY:**

  
David Morrison, Assistant Director

### RECOMMENDED ACTIONS:

That the Planning Commission recommend the Board of Supervisors:

1. **HOLD** a public hearing and receive comments;
2. **ADOPT** the Categorical Exemption as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines (**Attachment C**);
3. **ADOPT** the Findings (**Attachment D**);
4. **ADOPT** an ordinance approving the Development Agreement (**Attachment E**); and
5. **APPROVE** a Use Permit subject to the Conditions of Approval (**Attachment F**).

AGENDA ITEM 6.4

## **REASONS FOR RECOMMENDED ACTIONS**

The project will allow needed valuable safety improvements to an existing airfield landing strip. The existing aerial spraying operation based at the airport provides a valuable service to the agricultural operations of Yolo County. The proposed safety overrun landing strip will help improve and increase that service. The Development Agreement included in the action will implement a legal settlement between the applicant, the property owner and the county.

## **PROJECT DESCRIPTION**

The project is a Use Permit amendment application to build a 500-foot safety overrun to an existing airport landing strip currently used by an aerial spraying operation (**Attachment A**). The existing facility is located on a 60-acre parcel (APN: 042-080-02) located two miles north of the City of Davis (**Attachment B**). The proposed new construction will occur on a parcel located directly south of the existing landing strip (APN: 041-060-28).

The original Use Permit (ZF 581) for the construction and operation of the private airfield for aerial spraying operations was approved April 16, 1968. The existing facility consists of a paved airstrip, 47 feet wide and 2,400 feet long, and four existing buildings, including an office, shop and hanger. Grower's Air Service is the main aerial spraying operation currently located in Yolo, and provides the majority of such services to agricultural operations located in Yolo County.

The proposed addition is a 500-foot safety overrun extension to the existing airfield landing strip. This extension will consist of a compacted aggregate base 400 feet in length and 47 feet wide, and a circular paved turnaround area approximately 100 feet in diameter. This expansion is intended as a safety measure by providing a safe zone, should an aircraft overshoot the regular runway upon takeoff or landing. There will be no increased use of the facility, as no additional buildings or hangars are being proposed. No additional air traffic will result due to this project.

The proposed extension will occur on the neighboring property to the south (APN: 041-060-28). The applicant has secured an easement for the construction of an airstrip from the southern property owner.

**Surrounding Land Uses and Setting:** The project site is at the corner of County Roads 101 and 27, two miles north of the City of Davis. Surrounding properties are zoned for agricultural uses, with most lands currently in alfalfa production.

## **ANALYSIS**

A number of issues have been raised in the review of this project:

**Development Agreement:** Approval of this project includes the adoption of a Development Agreement (DA), which in turn requires final approval from the Board of Supervisors. The DA implements a legal settlement between the Applicant, the Land Owner and the County. In addition to approval of the Use Permit Amendment, the DA commits the parties to a Lot Line Adjustment application. Currently the southern property owned by Mr. Dowling is in Williamson Act Contract, with the contract due to expire in 2013. Once the contract has expired, the DA commits all parties to a lot line adjustment to facilitate a transfer of the land that contains the expanded runway to the property that currently contains the airfield. The Lot Line Adjustment will be reviewed as any regular application of its type; nothing in the DA obligates the County to approve the Lot Line Adjustment. Rather, the DA simply guarantees that existing County subdivision regulations will apply to that application, thus

providing a measure of assurance to the Land Owner and the Applicant that the Lot Line Adjustment could be granted in the future irrespective of any changes in local subdivision regulations.

**General Plan:** LU-18 of the County Agricultural element states that Yolo County shall consider the placement of certain agricultural related land uses in agricultural areas, by means of Conditional Use Permits, which uses may be incompatible with urban sites by reason of hazard or nuisance to concentrations of people. Aerial spraying operations play an important role in agricultural operations throughout the county and the safety requirements of an airfield generally makes them incompatible with urban sites.

**Zoning:** In both the A-1 and A-P zones, "airfields and airstrips" are allowed with a Major Use Permit. This application is an expansion of an existing airfield, and is allowed with the approval of a Use Permit.

**City of Davis:** This project lies within the boundaries of the Davis Pass-Through Agreement. On June 16, 2009, the City of Davis Redevelopment Agency considered the project and determined that the proposed project did not constitute "urban development" in accordance with the present Pass-Through Agreement. The agency raised no objections to the proposal. The Davis City Council also reviewed the project and had no comment on the project.

**Biology:** The total area affected by the proposed construction is very limited, being less than three quarters of an acre. Thus, no mitigation for the loss of potential Swainson's Hawk habitat will be required.

**Flooding:** The property contains areas within Flood Zone C, which is not subject to flood events, as well as areas within Flood Zone A, which is subject to 100-year flood events. However, the area of the A flood zone occurs along Willow Slough, which bounds the property to the east. Neither the existing facility nor the proposed expansion is within the areas subject to 100-year flood events.

**CEQA:** Section 15301 (f) of the CEQA Guidelines exempts the construction and addition of safety or health protection devices in conjunction with existing structures or facilities from further environmental review. A Categorical Exemption is the appropriate level of environmental review.

After reviewing the potential issues raised during the review process and incorporating this analysis into the Conditions of Approval, staff concludes that this safety project will make a valuable contribution to the agricultural community, that its potential impacts have been addressed, and staff recommends approval.


#### **COMMENTS FROM OTHER AGENCIES:**

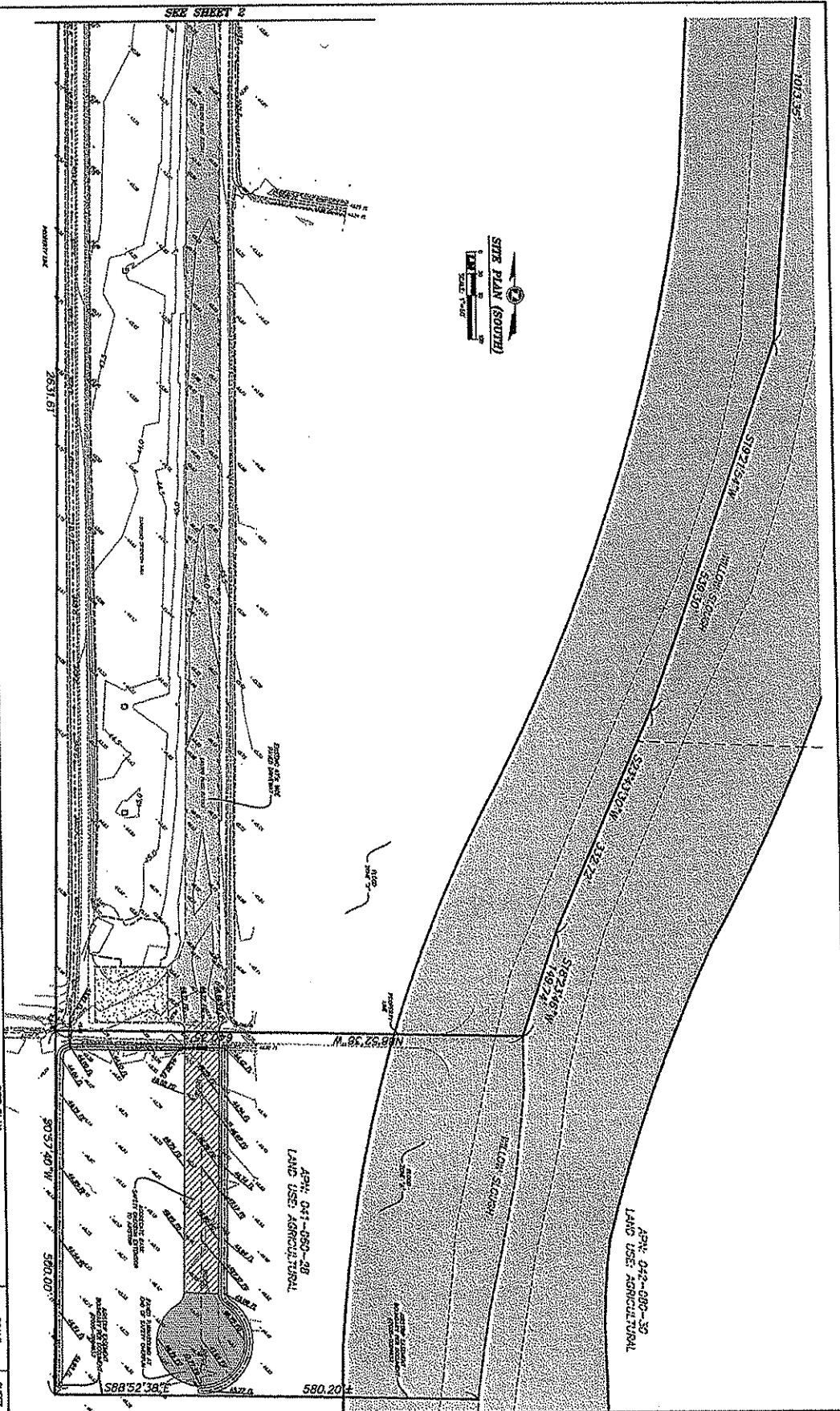
A "Request for Comments" was circulated for the proposed project from July 28, 2009 to August 10, 2009. The Yolo County Development Review Committee reviewed this project on July 22, 2009. The City of Davis reviewed the project on June 16, 2009. Received comments were included in the Conditions of Approval and this staff report where appropriate.

#### **ATTACHMENTS:**

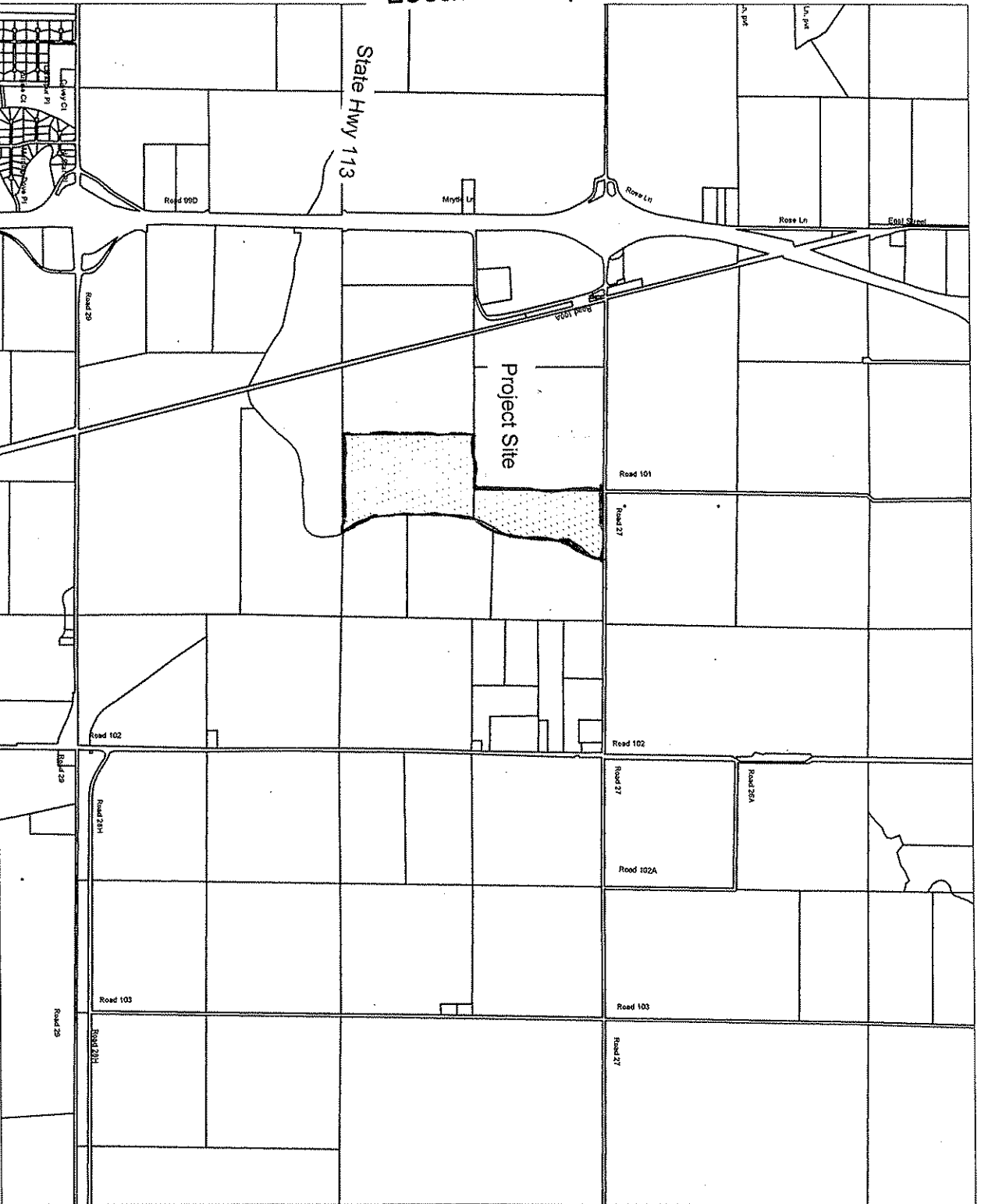
- Attachment A** - Site Plan
- Attachment B** - Location Map
- Attachment C** - Categorical Exemption
- Attachment D** - Findings
- Attachment E** - Development Agreement
- Attachment F** - Conditions of Approval



DESIGNED BY	DATE	APPROVED BY	DATE
BY			
DESCRIPTION	BY	DATE	
<b>LM AUGENOUR AND MERLE</b> CIVIL ENGINEERS 1000 S. GARDEN ST. SUITE 100 ANAHEIM, CALIFORNIA 92815 BY: TERRY E. THOMPSON DATE: 11-22-2007			
			
<b>GROWERS AIR SERVICE</b> SITE PLAN			
SCALE	1" = 60'	SHEET	3
CALIFORNIA	DATE	BY	



# Attachment B Location Map



The information and depictions herein have been produced using data available by Yolo County. The information and depictions herein are for informational purposes and Yolo County specifically disclaims accuracy in this reproduction and specifically admonishes and advises that any and all depiction, measurements and distances depicted herein and as to which specific or precise accuracy is required should be determined by procurement of certified maps, surveys, plats, flood insurance studies, and/or other official means.

**Yolo County  
Planning and  
Public Works**



Printed 9/2/2009

COUNTY RECORDER

Filing Requested by:

**Yolo County Planning and Public Works**

Name

**292 West Beamer Street**

Address

**Woodland, CA 95695**

City, State, Zip

Attention: Craig Baracco



**Notice of Exemption**

**To:** Yolo County Clerk  
625 Court Street  
Woodland, CA 95695

**Project Title:** ZF# 2009-019

Ralph Holsclaw  
Growers Air Service  
41167 County Road 27  
Woodland, CA 95776

**Project Location:** 41167 County Road 27, two miles north of the City of Davis. (APN: 042-080-02 and 041-060-28)

**Project Description:** Modification of an existing Use Permit for a private airport used for a crop dusting operation to allow for a runway safety extension. (

**Exempt Status:** Safety Features

**Reason why project is exempt:**

Under Section 15301 (f) of the CEQA Guidelines exempts the construction and addition of safety or health protection devices in conjunction with existing structures or facilities

**Lead Agency Contact Person:** Craig Baracco, Associate Planner  
**Telephone Number:** (530) 666-8833

Signature (Public Agency): \_\_\_\_\_ Date:

**ATTACHMENT C**

**ATTACHMENT D**  
**FINDINGS**  
**GROWERS AIR SERVICE**  
**USE PERMIT**  
**(ZF #2009-019)**

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File #2009-019, the Yolo County Board of Supervisors finds the following:

*(A summary of evidence to support each FINDING is shown in Italics.)*

**California Environmental Quality Act (CEQA) and Guidelines**

1. That the recommended Categorical Exemption was prepared in accordance with the California Environmental Quality Act (CEQA) and is the appropriate environmental document and level of review for this project.

*15301 (f) of the CEQA guidelines exempts the addition of safety or health protection devices in conjunction with existing structures or facilities from additional environmental review.*

**General Plan**

2. That the proposal and requested land use are in conformity with the General Plan.

*The General Plan Land Use designation for the property is Agricultural. The project is consistent with the following General Plan Land Use policy:*

*LU-18 Agricultural Area Uses: Yolo County shall consider the placement of certain agricultural related land uses in agricultural areas, by means of Conditional Use Permits, which uses may be incompatible with urban sites by reason of hazard or nuisance to concentrations of people. Findings for approval shall include, but are not limited to:*

- The use is directly related to agricultural land use (cultivation of agricultural plants or the raising of animals); and

*Aerial spraying operation provides a valuable service to the agricultural operations of Yolo County.*

- Will not diminish nor prevent agricultural use on site or on adjoining agricultural lands; and  
*The processing facility will not diminish, nor prevent agricultural use on this site, or on adjoining agricultural land and would serve to encourage agricultural operations near the site and throughout the region.*

- The use has some hazard or nuisance aspect which precludes it from being placed in an urban area; and

*Airfields generally require large amounts of open space to operate safely and pose a significant hazard when placed within built-up urban areas.*

- The use can be developed in the area without significant reduction of cultivation, growth, and harvesting of the indigenous agricultural products.

*Surrounding agricultural fields will be unaffected by the project and will be served by the aerial spraying operation*



## **Zoning Code**

In accordance with Section 8-2.404.5 of the Yolo County Code, the Board of Supervisors finds the following:

3. The requested land use is listed as a conditional use in the zoning regulations and is allowed under the following authorization:

*In the A-1 and A-P zone, "airfields and airstrips" are allowed with a Major Conditional Use Permit. This application is considered an expansion of an existing airfield use and is allowed with the approval of a Use Permit.*

## **Use Permit**

In accordance with Section 8-2.2804 of the Yolo County Code, the Board of Supervisors finds the following:

4. The requested use is essential or desirable to the public comfort and convenience.

*The proposed project will help provide aerial spraying operations that serve a vital role in the agricultural economy.*

5. The requested land uses will not impair the integrity or character of a neighborhood or be detrimental to public health, safety or general welfare.

*The requested use is an expansion of an existing runway. There will be no changes to the integrity or character of the surrounding area.*

*Based upon conditions set forth by Yolo County Planning and Public Works Department, the proposed uses will not be detrimental to public health, safety or general welfare. Continued compliance will be required with all agencies.*

6. The requested use will be in conformity with the General Plan.

*See above under (2).*

7. Adequate utilities, access roads, drainage, sanitation, and/or other necessary facilities will be provided.

*An existing septic system and an existing on-site well serve the existing facility. Stormwater runoff will be addressed through on-site drainage improvements. All necessary facilities are currently provided. The increased runway will not result in an increased demand for services.*

# Attachment E Development Agreement

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL  
TO:

Yolo County Planning & Public Works Dept.  
Attn: David Morrison, Assistant Director  
292 West Beamer Street  
Woodland, CA 95695

*Exempt from Recording Fees  
(Gov. Code § 27383)*

*Space Above This Line Reserved For Recorder's Use*

## DEVELOPMENT AGREEMENT BY AND BETWEEN THE COUNTY OF YOLO, RALPH HOLSCLAW, AND DANIEL K. DOWLING

THIS DEVELOPMENT AGREEMENT ("**Agreement**") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between the County of Yolo, a political subdivision of the State of California ("**County**"), and Ralph Holsclaw ("**Landowner**" or "**Holsclaw**"), and Daniel K. Dowling ("**Dowling**") pursuant to Government Code §§ 65864-65869.5 (the "**Development Agreement Statute**"). Landowner, Dowling and the County are each individually a "**Party**" (and are referred to herein collectively as the "**Parties**").

### RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California enacted the Development Agreement Statute, which authorizes the County to enter into an agreement with any person having a legal or equitable interest in real property regarding the development of such property and establishing certain development rights therein.

B. Pursuant to the Development Agreement Statute, the County has adopted certain procedures and requirements for the consideration of development agreements. These procedures and requirements are set forth in Title 8, Chapter 10 of the Yolo County Code. This Agreement has been processed, considered and executed in accordance with those County procedures and requirements.

C. Landowner owns the property described in Exhibit A hereto (the "**Holsclaw Parcel**"), which is improved with an airstrip. The Holsclaw Parcel is being used by Growers Air Service, Inc., a California corporation ("**Growers Air Service**"), to operate an agricultural air service serving the surrounding agricultural community. Landowner and Growers Air Service desire to enhance this agricultural air service by adding a safety overrun to the south end of the airstrip on adjacent property owned by Dowling, consisting of approximately 5 acres and shown

on **Exhibit B** hereto (the “**South Parcel**”). The South Parcel is subject to an easement for an expanded airstrip that is appurtenant to the Holsclaw Parcel that was recorded as document number 4652 on February 2, 2006 in the Official Records of Yolo County (the “**Airstrip Easement**”). Dowling has agreed to transfer the entire South Parcel to Holsclaw pursuant to a lot line adjustment. The Holsclaw Parcel and the South Parcel shall be referred to collectively herein as the “**Property.**”

D. The South Parcel is part of a larger parcel owned by Dowling, which is one of six parcels that comprise the Merritt Ranch, described in **Exhibit C** hereto (the “**Merritt Ranch**”). The Merritt Ranch is subject to that certain Williamson Act Contract between Dowling’s predecessor-in-interest, Wells Fargo Bank, Trustee of the Estate of Louise Merritt, and the County, recorded on February 16, 1970 in Book 936, Page 486 of the Official Records of Yolo County (the “**Williamson Act Contract**”). Dowling has filed a notice of nonrenewal with the County for Merritt Ranch, and Dowling and the County warrant that the Williamson Act Contract will expire March 1, 2013.

E. To resolve certain disputes, the Parties entered into that certain Settlement Agreement, dated as of December 2005 (the “**Settlement Agreement**”). In the Settlement Agreement, Holsclaw agreed to file, and the County agreed to process, an application for a Use Permit for the Growers Air Service, that would permit a safety overrun to be added to the airstrip in the South Parcel as contemplated in the Airstrip Easement. As a Use Permit for Growers Air Service was issued by the County on April 16, 1968 as Zone File No. 581, the Parties agree that the safety overrun may be approved as a Modification of the existing Use Permit pursuant to Section 8-2.3206 of the County Code (the “**Use Permit Modification**”).

F. To enhance the safety of the agricultural air service operations on the Property, which support and benefit overall agricultural operations in the County, and in satisfaction of the Parties’ commitment under the Settlement Agreement, the Yolo County Board of Supervisors (the “**Board**”) approved the Use Permit Modification on \_\_\_\_\_, 2009.

G. Pursuant to the Settlement Agreement, Dowling has offered Holsclaw an Option to purchase a portion of Merritt Ranch located west of the Holsclaw Parcel, as shown on **Exhibit B** hereto (the “**West Parcel**”). In order to convey the West Parcel to Holsclaw, the Parties agreed in the Settlement Agreement that, if Holsclaw exercised the Option to acquire the West Parcel, the West Parcel would be added to the Holsclaw Parcel by lot line adjustment. The Parties agree that this Agreement is necessary to fully implement the Settlement Agreement and hereby intend that the terms of this Agreement shall control in the event of a conflict between the terms of the Settlement Agreement and the terms of this Agreement related to the timing of the Option, the completion of the lot line adjustment, and the transfer of the West Parcel.

H. On February 2, 2006, Dowling granted to the City of Woodland and the Yolo Land Trust, a conservation easement for Merritt Ranch pursuant to Civil Code §§ 815-817, which was recorded as document number 4650 in the Official Records of Yolo County (the “**Conservation Easement**”). The Conservation Easement encumbers all of Merritt Ranch except for the South Parcel. Said encumbrance is not affected by a transfer of the West Parcel to Holsclaw.

I. As provided in the Settlement Agreement and this Agreement, parcel lines within the Property must be adjusted to add the South Parcel to the Holsclaw Parcel. The Parties anticipate that, if Holsclaw exercises the Option to acquire the West Parcel, said adjustment for the South Parcel will be accomplished simultaneously with the adjustment of the boundary lines between the Holsclaw Parcel and the West Parcel as a single entitlement (the “**Proposed Lot Line Adjustment**”). However, this Agreement provides for the lot line adjustment to occur with or without the inclusion of the West Parcel.

J. As stated in the Settlement Agreement, the Parties understand that the Proposed Lot Line Adjustment cannot be finalized until the expiration of the Williamson Act Contract. The County has not yet approved the Proposed Lot Line Adjustment and hereby reserves its discretion to approve said entitlement consistent with the terms of this Agreement.

K. The County has determined that the Project, as defined below, is a development for which this Agreement is appropriate, and it desires to enter into this Agreement. This Agreement will, among other things, eliminate uncertainty in long-term planning in connection with the Project, provide for the orderly development of the Project, provide certain benefits to the County, and otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted.

L. In exchange for the benefits to the County that will result from this Agreement, Landowner will receive by this Agreement assurance that it may proceed with the Project in accordance with “**Applicable Laws,**” as defined below, and it therefore desires to enter into this Agreement.

M. The County has determined that the Project is the operation of an existing facility and the addition of a safety overrun, and is therefore exempt from CEQA pursuant to Section 15301(f) of the CEQA Guidelines.

NOW, THEREFORE, in consideration of the promises, covenants, and provisions set forth herein, the receipt and adequacy of which consideration is hereby acknowledged, the parties agree as follows:

## A G R E E M E N T

### ARTICLE 1. EFFECTIVE DATE AND TERM

Section 1.01. Effective Date. This Agreement shall become effective upon the thirtieth (30<sup>th</sup>) day following the adoption by the Board of the ordinance approving this Agreement, or on the date upon which the Agreement is fully executed by the parties hereto, whichever is later (the “**Effective Date**”).

Section 1.02. Term. The term of this Agreement (the “**Term**”) shall commence upon the Effective Date and shall continue until the sooner of (a) a period of five (5) years has elapsed, or (b) the date on which the safety overrun described in the Project Approvals has been completed (i.e., fully built and ready for operation) and the Proposed Lot Line Adjustment has been approved. If the County denies the Proposed Lot Line Adjustment, this Agreement shall

terminate on the date that denial becomes final (i.e., upon the exhaustion of all administrative and judicial appeals).

## ARTICLE 2. DEFINITIONS

Section 2.01. Definitions. The following terms when used in this Agreement shall have the following meanings:

- A. "Airstrip Easement" shall have the meaning set forth in Recital C, above.
- B. "Applicable Laws" means the General Plan, the Yolo County Code and all other ordinances, resolutions, rules, minute orders, regulations, and official policies of the County in effect on the Effective Date applicable to the development, use, and occupancy of the Property, including those governing the issuance of permits and approvals for the Project and the planning and zoning policies for the Project, as provided in the Project Approvals, and those establishing and imposing mitigation and impact fees, but excluding uniform codes such as the Uniform Building Code.
- C. "Board" shall have that meaning set forth in Recital F, above.
- D. "CEQA" means the California Environmental Quality Act, Public Resources Code §§ 21000-21177 and the CEQA Guidelines, Title 14 of the California Code of Regulations §§ 15000-15387 and Appendices A-L.
- E. "Changes in the Law" shall have the meaning set forth in Section 3.07, below.
- F. "Conservation Easement" shall have the meaning set forth in Recital H, above.
- G. "County" shall have the meaning set forth in the Preamble to this Agreement.
- H. "Development Standard" shall have the meaning set forth in Section 3.05, below.
- I. "Director" shall mean the Director of the Department of Planning and Public Works of the County or his or her designee.
- J. "Effective Date" shall have that meaning set forth in Section 1.01, above.
- K. "General Plan" shall mean the County's General Plan in force as of the Effective Date.
- L. "Growers Air Service" shall have the meaning set forth in Recital C.
- M. "Holsclaw Parcel" shall have the meaning set forth in Recital C.
- N. "Landowner" shall have the meaning set forth in the Preamble to this Agreement.
- O. "Merritt Ranch" shall have the meaning set forth in Recital D, above.

P. "Option" shall mean that certain option to purchase the West Parcel granted from Dowling to Holsclaw in Paragraph 6 of the Settlement Agreement.

Q. "Planning Commission" shall mean the County's Planning Commission.

R. "Project" shall mean the development and use of the Property in accordance with the Project Approvals. The Use Permit describes the uses, improvements and facilities to be constructed, operated and maintained within the Property, as modified by the Use Permit Modification.

S. "Project Approvals" shall mean the Negative Declaration, the Use Permit Modification and, when subsequently approved, the Proposed Lot Line Adjustment.

T. "Property" shall have the meaning set forth in Recital C, above, and Section 4.02.02.

U. "Proposed Lot Line Adjustment" shall have the meaning set forth in Recital I, above, as ultimately proposed by Holsclaw when an application is filed therefor.

V. "Settlement Agreement" shall have the meaning set forth in Recital E, above.

W. "South Parcel" shall have the meaning set forth in Recital C, above.

X. "Term" shall have that meaning set forth in Section 1.02, above.

Y. "Use Permit" shall mean the Use Permit for Growers Air Service approved by the Planning Commission on April 16, 1968 as Zone File No. 581.

Z. "Use Permit Modification" shall have the meaning set forth in Recital E, above.

AA. "West Parcel" shall have the meaning set forth in Recital G, above.

BB. "Williamson Act Contract" shall have the meaning set forth in Recital D, above.

CC. "Zoning Ordinance" shall mean the County's Zoning Ordinance in force as of the Effective Date.

### ARTICLE 3. DEVELOPMENT OF THE PROPERTY

Section 3.01. Vested Right to Proceed with the Project. Unless otherwise provided herein, Landowner shall have a vested right to develop and operate the Project in accordance with the terms and conditions of this Agreement, all Applicable Laws, and the Project Approvals, including the right to develop and use within the Property the improvements described in the Use Permit Modification.

Section 3.02. Density or Intensity of Use. The permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the other terms and conditions

of development applicable to the Property shall be those set forth in this Agreement, the Project Approvals and the Applicable Laws.

Section 3.03. Construction Codes. Pursuant to Yolo County Code § 8-10.205, and recognizing the importance of complying with current safety standards for long-term projects, the parties agree that the County may apply the then-current versions of the Uniform Building, Plumbing, Mechanical, Electrical, Fire, and Grading Codes to the Project throughout the term of this Agreement, provided that the provisions of such uniform codes shall: (i) apply to the Project only to the extent that the applicable code (and the applicable version of the code, as may be amended or revised from time to time) has been adopted by the County and is in force and effect on a County-wide basis; (ii) be interpreted and applied to reconstruction of existing buildings and construction of new buildings within the Project in a reasonable manner consistent with the express provisions and limits in the particular uniform code provisions adopted by the County; and (iii) be interpreted and applied to the Project in a manner consistent with the generally prevailing interpretation of such provisions under the State Building Standards Code.

Section 3.04. Consistency with Zoning Ordinance and General Plan. The County finds that the provisions of this Agreement and the development of the Property consistent with the Project Approvals are consistent with and conform to the Zoning Ordinance and the General Plan. The County also finds that this Agreement is consistent with and conforms to the Project Approvals. The basis for these findings are set forth in greater detail in the Findings adopted in connection with the Project Approvals.

Section 3.05. No Conflicting Enactments. Subject to certain exceptions expressly set forth in this Agreement, the County shall not impose upon or apply to the Project (whether by action of the Board or by initiative, referendum, or other means) any ordinance, resolution, rule, regulation, official policy, standard, specification, directive, condition or other measure (each individually, a “**Development Standard**”) that is in conflict with the Applicable Laws or that reduces the development rights provided by this Agreement. In particular, and without limitation thereof, the County shall not adopt any moratorium or other limitation (whether relating to the rate, timing, phasing or sequencing of development) affecting building permits or any other entitlements to use inconsistent with the Project Approvals, nor impose any later-adopted development mitigation or impact fees on the Project. Notwithstanding the foregoing, this Agreement does not bar or restrict the County from adjusting (upward or downward) the amount of existing mitigation and impact fees in accordance with California law, and such increased or decreased fee amounts apply to the Project unless otherwise stated in the Mitigated Negative Declaration and related Project environmental review and approval documents.

Also notwithstanding the foregoing, the following regulations and provisions shall apply to the development of the Property:

a. Application fees of every kind and nature imposed by the County to cover the actual costs to the County of processing development applications or for monitoring compliance with Project Approvals.

b. Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other

matter of procedure, provided such procedures are uniformly applied on a County-wide basis to all substantially similar types of development projects and properties.

c. Regulations governing construction standards and similar matters, as set forth in Section 3.03, above.

d. County laws which may be in conflict with the Project Approvals but which are reasonably necessary to protect the public from an immediate adverse risk to public health or safety, provided such County laws and regulations are uniformly applied on a County-wide basis to all substantially similar types of development projects and properties.

#### Section 3.06. Initiatives, Referenda and Moratoriums.

Section 3.06.01. If any Development Standard is enacted or imposed by initiative or referendum, or by the Board directly or indirectly in connection with any proposed initiative or referendum, which Development Standard would conflict with the Applicable Laws or reduce the development rights provided by this Agreement, such Development Standard shall not apply to the Project.

Section 3.06.02. Without limiting the generality of any of the foregoing, no moratorium or other limitation (whether relating to the rate, timing, phasing or sequencing of development) affecting building permits or any other entitlements to use that are or are to be approved, issued or granted within the County or portions of the County, shall apply to the Project.

Section 3.07. State and Federal Law. As provided in California Government Code § 65869.5, this Agreement shall not preclude the application to the Project of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations and are otherwise applicable to the Project irrespective of the existence of this Agreement (“**Changes in the Law**”). In the event that Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended, or performance thereof delayed, as may be necessary to comply with the Changes in the Law, and the parties shall take such action as may be required pursuant to Section 8.06 (Excusable Delay; Extension of Time for Performance) of this Agreement.

Section 3.08. Compliance With Government Code § 66006. As required by Government Code § 65865(e) for Agreements approved after January 1, 2004, the County will comply with the requirements of Government Code § 66006 pertaining to the payment of Existing Impact Fees for the development of the Project.

Section 3.09. Term of Maps. Pursuant to Government Code § 66452.6(a), the term of any parcel map or tentative subdivision map within the Project shall automatically be extended to coincide with the later of (i) the Term of this Agreement or (ii) the term of the approved map.

## ARTICLE 4. OBLIGATIONS OF LANDOWNER AND COUNTY



Section 4.01. Obligations of Landowner.

Section 4.01.01. Generally. The parties acknowledge and agree that the execution of this Agreement by the County is material consideration for both Landowner's acceptance of and agreement to comply with the terms and conditions of the Project Approvals and this Agreement. Holsclaw agrees that this Agreement fully satisfies the requirement in Paragraph 5 of the Settlement Agreement related to the pursuit of a Development Agreement between the Parties.

Section 4.01.02. Proposed Lot Line Adjustment (Landowner). In order to accomplish the intent of the Parties as described in the Recitals, Landowner and Dowling agree to file with the Director an application for the Proposed Lot Line Adjustment. Said application shall be filed on or before December 31, 2012. The purpose of the Proposed Lot Line Adjustment shall be to adjust the parcel lines of the Property in order to expand the Holsclaw Parcel to take in the South Parcel and, if Landowner elects to acquire it, the West Parcel. Landowner's election to exercise the Option shall be manifested in the inclusion of the West Parcel in the application for the Proposed Lot Line Adjustment. In the event that Landowner elects not to acquire the West Parcel, said application will exclude the West Parcel, but will occur, in all other respects, as provided in this Agreement. Landowner agrees to provide payment of the West Parcel upon recordation of the Proposed Lot Line Adjustment, and to accept title as set forth in the Settlement Agreement.

Section 4.02. Obligations of the County.

Section 4.02.01. Generally. In consideration of Landowner entering into this Agreement, the County agrees that it shall comply with all Project Approvals and this Agreement. The County agrees that this Agreement fully satisfies the requirement in Paragraph 5 of the Settlement Agreement related to the pursuit of a Development Agreement between the Parties.

Section 4.02.02. Proposed Lot Line Adjustment (County). As discussed in the Recitals and Section 4.01.02, Holsclaw and Dowling have agreed that Landowner shall file an application with the County for the Proposed Lot Line Adjustment as described in Section 4.01.02, above. County agrees to use its best efforts to process said application in a timely fashion pursuant to the Applicable Laws and state law, with the intent of acting on said application on or before April 1, 2013. Nothing in this Agreement shall be construed as a limitation upon the discretionary authority of the Director (or other deciding authority, if applicable) with respect to his or her decision to approve or disapprove said application, provided that the Director will not unreasonably condition or withhold his or her approval of the Proposed Lot Line Adjustment if the application complies with the Applicable Laws and state law. Upon approval, the Proposed Lot Line Adjustment shall be added to the Project Approvals and shall become vested by this Agreement. Thereafter, the Property that is the subject of this Agreement shall include all land added to the Property by the Proposed Lot Line Adjustment, and the balance of the Merritt Ranch shall automatically be deemed released from this Agreement.

Section 4.03. Obligations of Dowling.

Section 4.03.01. Generally. Dowling agrees that this Agreement fully satisfies the requirement in Paragraph 5 of the Settlement Agreement related to the pursuit of a Development Agreement between the Parties.

Section 4.03.02. Proposed Lot Line Adjustment (Dowling). Dowling agrees that the filing by Landowner of the Proposed Lot Line Adjustment application as set forth in Section 4.01.02 of this Agreement shall fully satisfy all conditions precedent to the exercise of the Option in Paragraph 6 of the Settlement Agreement (provided that Landowner's application includes the West Parcel). Dowling agrees to convey to Holsclaw title to the South Parcel and, if Holsclaw elects to acquire it, the West Parcel in the manner and at the time reasonably required by the Director to accommodate the processing, approval, implementation and recordation of the Proposed Lot Line Adjustment by the County. Dowling agrees to accept payment for the West Parcel upon recordation of the Proposed Lot Line Adjustment and to provide title as set forth in the Settlement Agreement.

Section 4.03.03. Conservation Easement Amendment and Partial Assignment. In the event that Holsclaw exercises the Option to acquire the West Parcel, Dowling agrees, if requested by the holder of the Conservation Easement, to execute an amendment and partial assignment of the Conservation Easement to Holsclaw. All costs related to preparation of the amendment and partial assignment shall be the responsibility of Dowling. Said amendment and partial assignment shall be executed prior to December 31, 2012, and shall be recorded concurrently with the Proposed Lot Line Adjustment. Said partial assignment may provide for the income or proceeds associated with the West Parcel that relate to the Conservation Easement (e.g., mitigation credits) to be retained by Dowling.

Section 4.03.04. Merritt Ranch Lot Line Adjustment. Only in the event that Holsclaw exercises the Option and upon the request of the Director, Dowling agrees to file, concurrently with Landowner's application for the Proposed Lot Line Adjustment, a separate application with the County to adjust the boundaries of the parcel lines within Merritt Ranch so that all parcels within Merritt Ranch, less the West Parcel, comply with the Applicable Laws (e.g., 80 acre minimum parcel size). All costs related to said application shall be the sole responsibility of Dowling or the Merritt Ranch.

ARTICLE 5. AMENDMENT

Section 5.01. Amendment of the Agreement. This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the parties hereto or their successors-in-interest, in accordance with the provisions of Government Code §§ 65867, 65867.5, and 65868. Any amendment to this Agreement which does not relate to the (i) Term; (ii) permitted uses of the Property; or (iii) conditions, terms, restrictions, or requirements for subsequent discretionary actions, shall not require notice or public hearing before the parties may execute an amendment hereto. Such amendment may be approved by a Board resolution.

Section 5.02. Amendment Exemptions. No amendment of a Project Approval shall require an amendment to this Agreement. Instead, any such amendment, including any conditions, mitigation measures, and other restrictions associated with the amendment, shall automatically be deemed to be incorporated into the Project and vested under this Agreement, provided that Landowner has provided its written consent thereto.

## ARTICLE 6. THIRD PARTY LITIGATION

Section 6.01. Third Party Litigation Concerning Review or Approval of Project. Landowner and its successors, heirs, and assigns agree to indemnify and defend the County in the event any legal action or proceeding is commenced by any person or entity that is not a Party to this Agreement against the County, its elected officials, officers, employees, agents, and independent contractors, arising out of or in any way connected with this Agreement or the County's approval or issuance of the Project Approvals, adoption of the Mitigated Negative Declaration or other actions taken to comply with CEQA, or any other action taken by the County in connection with the Project. In providing any defense under this Section, Landowner shall use counsel reasonably acceptable to the County Counsel. The provisions of this Section shall survive the termination or expiration of this Agreement.

Section 6.02. Third Party Litigation Concerning Construction or Operation of Project. Landowner and its successors, heirs, and assigns agree to indemnify and defend the County in the event any legal action or proceeding is commenced by any person or entity that is not a Party to this Agreement against the County, its elected officials, officers, employees, agents, and independent contractors, arising out of or in any way connected with Landowner's construction or operation of the Project, with the exception of claims for damages arising solely through the active negligence or willful misconduct of elected officials, officers, employees, agents, or independent contractors of the County. In providing any defense under this Section, Landowner shall use counsel reasonably acceptable to the County Counsel. The provisions of this Section shall survive the termination or expiration of this Agreement.

## ARTICLE 7. PERIODIC REVIEW

Section 7.01. Conducting the Periodic Review. Pursuant to Yolo County Code § 8-10.701 and Government Code § 65865.1, the Director shall review the extent of good faith compliance by Landowner with the terms of this Agreement on an annual basis, on or before the anniversary date of the recordation of this Agreement (the "**Periodic Review**"). A component of the Periodic Review is an annual monitoring report to be submitted to the Director by Landowner within thirty (30) days of each anniversary date or, alternatively, within thirty (30) days of receiving a written request for such report from the Director, whichever occurs first. The procedure for the Periodic Review shall be as set forth in Title 8, Chapter 10 of the Yolo County Code, as may be amended from time to time, provided that any such amendments shall apply only to the extent that they do not conflict with the express terms of this Agreement.

## ARTICLE 8. DEFAULT AND REMEDIES FOR DEFAULT

Section 8.01. Default. No party shall be in default under this Agreement unless it has failed to perform under the Agreement for a period of thirty (30) days after written notice from the other party of an event of default. The notice of an event of default shall specify in detail the nature of the alleged default and the manner in which the default may be satisfactorily cured. If the nature of the alleged default is such that it cannot reasonably be cured within such 30-day period, the commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed to satisfy such requirement. Evidence of default may also arise in the course of periodic review as set forth in Article 7 of this Agreement. The 30-day notice period shall not apply if the default is of such a nature that it cannot be cured, in which event the non-breaching party shall be entitled to proceed in accordance with the remaining provisions of this Article.

Section 8.02. Remedies and Termination. After the expiration of the thirty (30) day period (or longer, as applicable), the party alleging default may, at its option, institute legal proceedings under this Agreement or give notice of its intent to terminate the Agreement pursuant to California Government Code § 65868 and relevant provisions of the Yolo County Code or may pursue such other administrative remedies as may be appropriate. Following notice of intent to terminate, the matter shall be scheduled for a public hearing before the Board to review and consider the matter within thirty (30) days. Except to the extent that California law may contain different notice or hearing requirements, notice of the public hearing shall be provided in accordance with the provisions of Yolo County Code § 8-10.801, and the public hearing shall be conducted in accordance with the provisions of Yolo County Code § 8-10.802. Following consideration of the evidence presented in the review, if no resolution is reached, the party alleging the default may give written notice of the termination of this Agreement and pursue any and all remedies that may be available in law or equity, including but not limited to specific performance or the rescission of this Agreement.

Section 8.03. Specific Performance. The parties acknowledge that monetary damages and remedies at law are generally inadequate and that specific performance is an appropriate remedy for the enforcement of this Agreement and should be available to all parties.

Section 8.04. Cumulative Remedies. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation, including suits for damages, declaratory relief, specific performance, injunctive relief, and relief in the nature of mandamus. All of the remedies described above shall be cumulative and not exclusive of one another, and the exercise of any one or more of the remedies shall not constitute a waiver or election with respect to any other available remedy.

Section 8.05. Venue; Applicable Law; Attorneys Fees. Venue for all legal proceedings shall be the Superior Court for the State of California, County of Yolo. This Agreement shall be construed and enforced in accordance with the laws of the State of California. The prevailing party in such litigation, as determined by the Court, shall be awarded reasonable attorneys' fees in addition to statutory costs.

Section 8.06. Excusable Delay; Extension of Time for Performance. In addition to the specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, acts of terrorism, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the County, enactment of conflicting state or federal laws or regulations, new or supplementary environmental laws or regulations enacted by the state or federal government, or litigation. An extension of time for such cause, including an extension of the Term, may be granted in writing by the unaffected party for the period of the excusable delay or longer, or as may be mutually agreed upon.

## ARTICLE 9. MISCELLANEOUS PROVISIONS

Section 9.01. Incorporation of Recitals and Preamble. The Recitals contained in this Agreement, and the introductory preamble preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

Section 9.02. Covenants. All of the provisions of this Agreement shall be binding upon the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of the Property, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to applicable laws including, without limitation, California Civil Code § 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Property, as appropriate, runs with the Property, and is binding upon the owner of all or a portion of the Property and each successive owner during its ownership of such portion of the Property.

Section 9.03. Right to Assign; Non-Severable Obligations. Except as otherwise provided herein, Landowner shall have the right to sell, encumber, convey, assign, or otherwise transfer, in whole or part, its rights, interests and obligations to a third party during the term of this Agreement. No assignment shall be effective, however, until the County approves the assignment by action of its Board of Supervisors and the assignee enters into a written agreement with the County to perform all of the legal obligations of Landowner under this Agreement that are reasonably related to the rights and interests proposed for assignment. Approval shall not be unreasonably withheld, provided: (i) the assignee has the financial ability to meet the obligations proposed to be assigned and to undertake and complete the obligations of this Agreement affected by the assignment; and (ii) the proposed assignee has adequate experience with agricultural developments of comparable scope and complexity to the Project to be undertaken within the Property and has successfully completed such developments. The foregoing approval by the County shall not be required with respect to any assignment by Landowner to an entity in which Landowner, or the principals thereof, continues to retain both at least 51% of the voting rights in, and direct control of and participation in, such entity.

Section 9.04. Unapproved Transfers or Assignments Void. Any assignment or attempted assignment in violation of Section 9.03, above, shall be unenforceable and void and shall not release Landowner from any of its obligations hereunder.

Section 9.05. Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in fully force and effect unless amended, modified, or terminated by mutual consent of the parties. Notwithstanding the foregoing, if a court of competent jurisdiction over this Agreement determines that the vested rights provided by this Agreement are invalid, void or unenforceable, Landowner may (in its sole discretion) terminate this Agreement by providing written notice of such termination to the County.

Section 9.06. Other Necessary Acts. Each Party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out the Project Approvals and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges hereunder.

Section 9.07. Construction. Each reference in this Agreement to any of the Project Approvals shall be deemed to include any amendment of the Project Approvals, whether or not the particular reference refers to or contemplates such amendment. This Agreement has been reviewed and revised by legal counsel for Landowner, Dowling and the County, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

Section 9.08. Amendment. Except as provided under Title 8, Chapter 10 of the Yolo County Code and Government Code § 65865.1, no amendment to this Agreement shall have any force or effect unless it is set forth in writing, signed by duly authorized representatives of all of the Parties, and recorded in the Official Records of the County of Yolo. Any amendment shall be processed in the manner required by Government Code § 65858 and Title 8, Chapter 10 of the Yolo County Code. The cost to the County in processing a proposed amendment shall be paid by the Party requesting the Amendment, and shall include the payment of all normal application fees.

Section 9.09. Conflicts With Yolo County Code. The provisions of Title 8, Chapter 10 of the Yolo County Code, entitled "Development Agreements," are incorporated herein by this reference. However, in the event of a conflict between a specific provision of the Yolo County Code and a specific provision of this Agreement, this Agreement shall prevail.

Section 9.10. Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

Section 9.11. No Joint Venture or Partnership. The County, Landowner and Dowling hereby renounce the existence of any form of joint venture, partnership, or other legal entity between them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the Parties.

Section 9.12. Notices.

Section 9.12.01. All notices required by this Agreement will be deemed to have been given when made in writing and delivered or mailed to the respective representatives of the County and Landowner at their respective addresses, as follows:

For Landowner:

Ralph Holsclaw  
c/o Growers Air Service  
41167 County Road 27  
Woodland, CA 95776

With a copy to:

George T. Kammerer, Esq.  
Hefner Stark & Marois, LLP  
2150 River Plaza Drive, Ste. 450  
Sacramento, CA 95833

For Dowling:

Daniel Dowling  
c/o Merritt Ranch  
P.O. Box 75000  
Davis, CA 95617

With a copy to:

Kent Calfee, Esq.  
Calfee & Konwinski  
611 North Street  
Woodland, CA 95695

For County:

Yolo County Administrative Officer  
625 Court Street, Room 202  
Woodland, CA 95695

With a copy to:

Yolo County Counsel  
625 Court Street, Room 201  
Woodland, CA 95695

Section 9.12.02. In lieu of written notice to the above addresses, any Party may provide notices through the use of facsimile machines provided confirmation of deliver is obtained at the time of transmission of the notices and provided the following facsimile telephone numbers are used:

To Landowner:	Growers Air Service	(530) 662-8902
	George T. Kammerer, Esq.	(916) 925-1127
To Dowling:	Daniel K. Dowling	(530) _____
	Kent Calfee, Esq.	(530) _____
To County:	County Administrative Officer	(530) 666-8147
	County Counsel	(530) 666-8279

Section 9.12.03. Any Party may change the address or facsimile number to which such communications are to be given by providing the other Parties with written notice of such change at least fifteen (15) calendar days before the effective date of such change.

Section 9.12.04. All notices will be effective upon receipt and will be deemed received through delivery if personally served or served using facsimile machines, or on the fifth day following deposit in the mail if sent by first class mail.

Section 9.13. No Third Party Beneficiaries. This Agreement is between the Parties only, and is not intended to, and will not be construed to, create any right on the part of a third party to bring an action to enforce any of its terms.

Section 9.14. Authorized Representatives. The persons executing this Agreement on behalf of the Parties hereto affirmatively represent that each has the requisite legal authority to enter into this Agreement on behalf of their respective Party and to bind their respective Party to the terms and conditions of this Agreement. The persons executing this Agreement on behalf of their respective Party understand that both Parties are relying on these representations in entering into this Agreement.

Section 9.15. Estoppel Certificate. Any Party may, at any time, and from time to time, deliver written notice to another Party requesting such Party to certify in writing that, to the knowledge of the certifying Party, (i) this Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature of such default. The Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof. County acknowledges that a certificate hereunder may be relied upon by transferees and mortgagees of Landowner.

Section 9.16. Mortgagee Protection. The Parties hereto agree that this Agreement shall not prevent or limit Landowner, in any manner, at Landowner's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. Any lender or other such entity (a "Mortgagee") that obtains a mortgage or deed of trust against the Property shall be entitled to the following rights and privileges:

a. Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

b. The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof may request to receive written notification from County of any default by Landowner in the performance of Landowner's obligations under this Agreement.

c. If County receives a request for notice of default from a Mortgagee, County shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Landowner. The Mortgagee shall have the right, but not



the obligation, to cure the default during the cure period allowed to Landowner under this Agreement.

d. Any Mortgagee who comes into possession of the Property, or any part thereof, by any means, whether pursuant to foreclosure of the mortgage deed of trust, or deed in lieu thereof or otherwise, shall take the Property, or part thereof, subject to the terms of this Agreement. Provided, however, notwithstanding anything to the contrary above, any Mortgagee or successful bidder who becomes an owner of the Property through foreclosure shall not be obligated to pay any fees or construct or complete the construction of any improvements, unless it desires to continue development and use of the Property consistent with this Agreement and the Project Approvals, in which case the owner by foreclosure shall assume the obligations of Landowner hereunder in a form acceptable to the County.

#### ARTICLE 10. ENTIRE AGREEMENT, COUNTERPARTS, AND EXHIBITS

This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, representations, or other agreements, whether written or oral, between the same parties with respect to the matters covered herein. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

<u>Exhibit A</u>	Property Description of the Holsclaw Parcel
<u>Exhibit B</u>	Map of the South Parcel and West Parcel
<u>Exhibit C</u>	Property Description of Merritt Ranch

#### ARTICLE 11. RECORDATION

Pursuant to Government Code § 65868.6, no later than ten (10) days after the County enters into this Agreement, the County Clerk shall record an executed copy of this Agreement in the Official Records of the County of Yolo.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the year and date first set forth above.

**[Signature blocks on following page]**

GROWERS AIR SERVICE, INC.,  
A California corporation

COUNTY OF YOLO

By \_\_\_\_\_  
Name: Ralph Holsclaw  
Title: President \_\_\_\_\_

By \_\_\_\_\_  
Mike McGowan, Chair  
Board of Supervisors

Approved as to Form:  
Hefner Stark & Marois LLP

Attest:  
Ana Morales, Clerk  
Board of Supervisors

By \_\_\_\_\_  
George T. Kammerer

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

MERRITT RANCH \_\_\_\_\_  
A California \_\_\_\_\_

Approved as to Form:  
Robyn Drivon, County Counsel

By \_\_\_\_\_  
Name: Daniel K. Dowling  
Title \_\_\_\_\_

By \_\_\_\_\_  
Philip J. Pogledich, Senior Deputy

Approved as to Form:  
Calfee & Konwinski

By \_\_\_\_\_  
Kent Calfee

# ATTACHMENT F

## CONDITIONS OF APPROVAL GROWER'S AIR SERVICE USE PERMIT (ZF #2009-019)

### Planning

1. The applicant shall be responsible for all costs associated with implementing the Conditions of Approval contained herein. The applicant shall comply with both the spirit and the intent of all applicable requirements of the Yolo County General Plan, the County Code, and these Conditions of Approval.
2. This Use Permit Amendment shall commence within one year from the date of the Board of Supervisor's approval of the Use Permit and associated Development Agreement or said permit shall be null and void. The Director of Planning and Public Works may grant an extension of time; however, such an extension shall not exceed a maximum of one year.
3. The applicant shall keep the site area free from flammable brush, grass, and weeds. All structures on the site shall be adequately maintained and free from graffiti.
4. Prior to issuance of any grading or building permits, all outstanding fees owed to the Planning and Public Works department shall be paid in full.

### Public Works

5. The applicant shall submit a grading and drainage plan for the site, for review and approval by the Yolo County Planning and Public Works Department, and submit and meet all the requirements of a Stormwater Pollution Prevention Plan including stormwater BMP's.

### Building

6. All grading plans shall be submitted to the Planning and Public Works Department for review and approval in accordance with Yolo County Building Standards, prior to the commencement of any construction.
7. The applicant shall pay the appropriate fees prior to the issuance of building permits, including, but not limited to, School and Fire District fees, County Facilities Fees and Environmental Health Fees.

### Environmental Health

8. The applicant shall continue to maintain a hazardous materials business plan and update that plan should any changes take place to their operations.

### County Counsel

9. In accordance with Yolo County Code Section 8-2.2415, the applicants, owners, their

successors or assignees shall agree to indemnify, defend, and hold harmless the county or its agents, officers and employees from any claim, action, or proceeding (including damage, attorney fees, and court cost awards) against the county or its agents, officers, or employees to attack, set aside, void, or annul an approval of the county, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations.

10. The county shall promptly notify the applicant of any claim, action or proceeding and that the county cooperate fully in the defense. If the county fails to promptly notify the applicant of any claim, action, or proceeding, or the county fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold the county harmless as to the action. The county may require that the applicant post a bond in an amount determined to be sufficient to satisfy the above indemnification and defense obligation.

Failure to comply with the **CONDITIONS OF APPROVAL** as approved by the Planning Commission and Board of Supervisors may result in the following:

- Non-issuance of future building permits;
- Legal action.