



**RESOURCE
MANAGEMENT AGENCY
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One

PETE VANDER POEL
District Two

AMY SHUKLIAN
District Three

EDDIE VALERO
District Four

DENNIS TOWNSEND
District Five

AGENDA DATE: October 8, 2019

| | | |
|---|---|---|
| Public Hearing Required | Yes <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| Scheduled Public Hearing w/Clerk | Yes <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| Published Notice Required | Yes <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| Advertised Published Notice | Yes <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| Meet & Confer Required | Yes <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| Electronic file(s) has been sent | Yes <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| Budget Transfer (Aud 308) attached | Yes <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| Personnel Resolution attached | Yes <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s) | Yes <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| CONTACT PERSON: Celeste Perez PHONE: 559-624-7010 | | |

SUBJECT: Approve an Agreement with California Conservation Holdings, LLC.

REQUEST(S):

That the Board of Supervisors:

1. Approve an Agreement in the amount of \$5,000 with California Conservation Holdings, LLC. for the purchase of Water Conservation Credits, required by the Central Valley Regional Water Quality Control Board, for the Avenue 392 Over Sand Creek Bridge Project (Cutler/Orosi), in perpetuity; and
2. Authorize the Chairman of the Board of Supervisors to sign the Agreement on behalf of the County of Tulare.

SUMMARY:

The California Department of Transportation (Caltrans) proposes to fund the County of Tulare's efforts to replace an existing two-lane bridge located on Avenue 392, crossing Sand Creek. The purpose of the project is to provide continuous access at Avenue 392 where it crosses Sand Creek, replace an obsolete facility to reduce maintenance and repair costs, and provide a permanent durable structure designed to accommodate a 50-year design storm within Sand Creek.

Tulare County has applied for a Section 401 Certification from the Central Valley Regional Water Quality Control Board for the Avenue 392 Over Sand Creek Bridge Project. The current bridge is antiquated and needs replacement and a Section 401 Certification must be secured prior to construction. Due to the Central Valley Regional Water Quality Control Board's policy of "Zero Net Loss" for permanent impacts to a water body, 0.03 acres of water conservation credits must be purchased.

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The water conservation credits offered by California Conservation Holding, LLC., meeting the requirements, have been approved by Debra Mahnke, Water Resource Control Engineer at the Central Valley Regional Water Quality Control Board.

To qualify for a Section 401 Certification, water conservation credits for the Avenue 392 Over Sand Creek Bridge Project, must meet the following:

- (1) The Bank must be within 75 miles of the Project,
- (2) The Bank must be a form of water conservation, and
- (3) The Bank must be approved by the United States Fish and Wildlife Service

Two previously used conservation credit vendors were contacted:

1. Sequoia Riverlands Trust
2. California Conservation Holdings, LLC.

While Sequoia Riverlands Trust met conditions 1 and 2 from above, they did not have a conservation Bank within 75 miles of the Project. California Conservation Holdings, LLC. met all three conditions and was therefore selected.

County Counsel has reviewed the Sale of Conservation Credit Agreement and has approved to its form on July 11, 2019.

FISCAL IMPACT/FINANCING:

No Net County Cost.

It is anticipated the Highway Bridge Program will fund this Agreement (including all phases of the project) at a 100% reimbursement ratio with the use of "toll credits" (no local match required).

Payment will be made using County Road Funds, but will be fully reimbursed by Federal Highway Bridge Program funds.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The proposed purchase of the water conservation credits will allow the Public Works department to proceed with the Avenue 392 Over Sand Creek Bridge Project to replace degraded County infrastructure while preserving its water resources.

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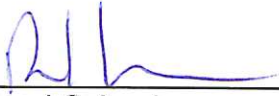
ADMINISTRATIVE SIGN-OFF:



Aaron R. Bock, MCRP, JD, LEED AP
Assistant Director



Michael Washam
Associate Director



Reed Schenke
Director

cc: County Administrative Office

Attachment(s): Attachment "A" – Agreement for Sale of Conservation Credits, Great Valley Conservation Bank, RWQCB File No. WDID No. 5C54CR00101

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF APPROVE AN AGREEMENT) Resolution No. _____
WITH CALIFORNIA CONSERVATION HOLDINGS,) Agreement No. _____
LLC.)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD OCTOBER 8, 2019,
BY THE FOLLOWING VOTE:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

ATTEST: JASON T. BRITT
 COUNTY ADMINISTRATIVE OFFICER/
 CLERK, BOARD OF SUPERVISORS

BY: _____
 Deputy Clerk

* * * * *

1. Approved an Agreement in the amount of \$5,000 with California Conservation Holdings, LLC. for the purchase of Water Conservation Credits, required by the Central Valley Regional Water Quality Control Board, for the Avenue 392 Over Sand Creek Bridge Project (Cutler/Orosi), in perpetuity; and
2. Authorized the Chairman of the Board of Supervisors to sign the Agreement on behalf of the County of Tulare.

Attachment “A”

Agreement for Sale of Conservation Credits
Great Valley Conservation Bank
RWQCB File No. WDID No. 5C54CR00101

**AGREEMENT FOR SALE OF CONSERVATION CREDITS
GREAT VALLEY CONSERVATION BANK
RWQCB File No. WDID No. 5C54CR00101**

This Agreement is entered into this _____ day of _____, 2019, by and between CALIFORNIA CONSERVATION HOLDINGS, LLC, a California limited liability company (“**Bank Owner**”) and COUNTY OF TULARE, a political subdivision of the State of California (“**Project Applicant**”), jointly referred to as the “Parties,” as follows:

RECITALS

A. The Bank Owner has developed the Great Valley Conservation Bank (“**Bank**”) located in Merced County, California; and

B. The Bank was approved by the United States Fish and Wildlife Service (“**Service**”) on January 18, 2007, and is currently in good standing with this agency; and

C. The Bank Owner has received approval from the Service to offer vernal pool preservation credits, California tiger salamander upland credits, and San Joaquin kit fox upland credits for sale as specified in the Great Valley Conservation Bank Agreement (“**Bank Agreement**”); and

D. Project Applicant is seeking to implement the project described on Exhibit “A” attached hereto (“**Project**”), which would unavoidably and adversely impact waters of the U.S. habitat thereon, and seeks to compensate for the loss of habitat by purchasing vernal pool preservation credits from Bank Owner; and

E. Project Applicant has been authorized by the Central Valley Regional Water Quality Control Board (“**RWQCB**”) to purchase 0.03 acre of vernal pool preservation credits from Bank to satisfy the waters of the U.S. mitigation obligations associated with its Section 401 Water Quality Certification; and

F. Project Applicant desires to purchase from Bank Owner and Bank Owner desires to sell to Project Applicant 0.03 acre of vernal pool preservation credits at Bank.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Purchase and Sale; Payment of Purchase Price. Bank Owner hereby agrees to sell to Project Applicant and Project Applicant hereby agrees to purchase from Bank Owner 0.03 acre of vernal pool preservation credits (“**Conservation Credits**”) for the purchase price of \$5,000.00 (“**Purchase Price**”), in accordance with the terms hereof. The Purchase Price for the Conservation Credits shall be paid by wire transfer of funds or by check payable to “California Conservation Holdings, LLC.” Upon receipt of the Purchase Price, Bank Owner will deliver to Project Applicant an executed Bill of Sale in the form attached hereto as Exhibit “B.”

2. No Interest in Real Property. The sale and transfer herein is not intended as a sale or transfer to Project Applicant of a security, license, lease, easement, or possessory or non-possessory interest in real property, nor the granting of any interest of the foregoing.

3. Limitation on Obligations. Project Applicant shall have no obligation whatsoever by reason of the purchase of the Conservation Credits, to support, pay for, monitor, report on, sustain, continue in perpetuity, or otherwise be obligated or liable for the success or continued expense or maintenance in perpetuity of the Conservation Credits sold, or the Bank. Pursuant to the Bank Agreement and any amendments thereto, Bank Owner shall monitor and make reports to the appropriate agency or agencies on the status of any Conservation Credits sold to Project Applicant. Bank Owner shall be fully and completely responsible for satisfying any and all conditions placed on the Bank or the Conservation Credits by all state or federal jurisdictional agencies.

4. No Transfer or Assignment. The Conservation Credits sold and transferred to Project Applicant shall be non-transferable and non-assignable, and shall not be used as compensatory mitigation for any other Project or purpose, except as set forth herein.

5. Delivery of Purchase Price. Project Applicant must deliver the Purchase Price to Bank Owner within 30 days of the date of this Agreement. After the 30 day period this Agreement will be considered null and void and Bank Owner shall have no further obligations hereunder.

6. Agency Notification. Upon purchase of the Conservation Credits specified above, Bank Owner shall complete the payment receipt form attached hereto as Exhibit "C," and shall submit the completed payment receipt to the Service.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

BANK OWNER:

CALIFORNIA CONSERVATION HOLDINGS, LLC, a California limited liability company

By: [Signature] Date: September 4, 2019
Name: Joe Sanderson
Its: Managing Director

PROJECT APPLICANT:

COUNTY OF TULARE, a political subdivision of the State of California

By: _____ Date: _____
Name:
Its:

APPROVE AS TO FORM:
COUNTY COUNSEL
BY [Signature]
DEPUTY

20121192

Exhibit "A"

DESCRIPTION OF PROJECT TO BE MITIGATED

Avenue 392 Over Sand Creek Bridge Project

Located at the Southwest corner of address 11164 Avenue 392, Cutler, CA 93615
Tulare County, Section 26, Township 16 South, Range 24 East
Latitude 36.501601 N Longitude 119.324933 W

The purpose of the project is to:

- Provide continuous access at Avenue 392 where it crosses Sand Creek;
- Replace an obsolete facility, and reduce the maintenance and repair costs; and
- Provide a permanent, durable structure designed to accommodate a 50-year design storm within Sand Creek.

The California Department of Transportation (Caltrans) proposes to fund the County of Tulare's efforts to replace an existing two-lane bridge located on Avenue 392, crossing Sand Creek. The existing bridge is a 77 foot long and 22 foot wide, 4-span, board formed concrete bridge that was built in 1939. Due to the narrowness of the roadway, the bridge is considered to be functionally obsolete (National Bridges, 46C0345). The existing bridge will be replaced with a new concrete structure and rock slope protection along Sand Creek.

The new structure will be 104 feet in length, 10.1 feet in total depth, 35 feet in total width including two 16 foot travel ways, and will span the approximate width of the channel to accommodate a 50-year design storm. The bridge will conform to the existing roadway approach width and a maximum of 400-feet of new roadway approach will be constructed to tie into the existing roadway approaches on both sides of the bridge. The bridge profile may be raised to provide adequate freeboard over the design hydraulic flows.

The existing bridge will be replaced with a concrete slab bridge and will impact the maintained channel of Sand Creek. Sand Creek is an intermittent stream and is a Water of the U.S. and State. The proposed project will permanently impact less than 0.03 acres (88 linear feet) of Sand Creek. There will also be 0.09 acres (343 linear feet) additional temporary impacts. It may be necessary for night work to occur during the course of the project, and we would like to request that night work be allowed for this permit.

Temporary construction easements are needed throughout the project area and construction staging would take place within County right-of-way and adjacent privately owned parcels. Permanently slope easements are required to conform the finished grades of the maintenance roads along each side of the creek to the bridge profile grade.

The Project will also involve relocation of at least one electric utility pole; possibly two. The utility pole nearest the bridge (southeast of bridge) is located on County right-of-way and will be relocated to a yet to be determined location. It has not yet been determined if the second pole, also southeast of

the project site, requires relocation. Regardless of future relocation(s), which is assumed to occur in a general southeasterly direction, relocation of the utility pole(s) is accounted for and can be accommodated.

Proposed staging areas include an area on the northwest, northeast and southeast of the bridge along the existing roadway. Staging areas will be used during construction to store equipment and materials and to provide parking areas for construction workers. Based on the preliminary field reconnaissance, existing vegetation may be removed to accommodate staging areas and demolition and construction of the bridge structure. These temporary staging areas will be reclaimed to conditions equivalent to existing conditions after project construction has been completed.

The Project is subject to both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) processes. The County is the lead agency under CEQA and Caltrans is the lead agency under NEPA.

Exhibit "B"

BILL OF SALE

Contract # GVCB-19-___

RWQCB File # WDID No. 5C54CR00101

In consideration of \$5,000.00, receipt of which is hereby acknowledged, CALIFORNIA CONSERVATION HOLDINGS, LLC, a California limited liability company ("**Bank Owner**") does hereby bargain, sell and transfer to COUNTY OF TULARE, a political subdivision of the State of California ("**Project Applicant**") 0.03 acre of vernal pool preservation credits in the Great Valley Conservation Bank in Merced County, California, developed, and approved by the U.S. Fish and Wildlife Service.

Bank Owner represents and warrants that it has good title to the credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Bank Owner covenants and agrees with the Project Applicant to warrant and defend the sale of the credits hereinbefore described against all and every person and persons whomsoever lawfully claiming or to claim the same.

DATED: _____

CALIFORNIA CONSERVATION HOLDINGS, LLC, a California limited liability company

By: _____

Name:

Its:

Exhibit "C"

**GREAT VALLEY CONSERVATION BANK
VERNAL POOL PRESERVATION CREDITS: PAYMENT RECEIPT**

PARTICIPANT INFORMATION

Name: COUNTY OF TULARE
Address: 5961 South Mooney Blvd.
Visalia, CA 93277
Telephone: (559) 624-7050
Contact: Aaron R Bock, Assistant RMA Director - Economic Development & Planning

PROJECT INFORMATION

Project Description: Avenue 392 Bridge Over Sand Creek Project
RWQCB File Number: WDID No. 5C54CR00101
Species/Habitat Affected: Riparian / Streambed
Credits to be Purchased: 0.03 vernal pool preservation credits
Payment Amount: \$5,000.00
Project Location: Latitude 36.501601 N Longitude 119.324933 W
County: Tulare

PAYMENT INFORMATION

Payee: CALIFORNIA CONSERVATION HOLDINGS, LLC
Payer: COUNTY OF TULARE
Amount: Five Thousand and No/100ths Dollars (\$5,000.00)
Method of payment: Cash _____ Check No. _____ Money Order No. _____

Received by: _____ Date: _____
(Signature)

Name: _____ Title: _____

z: marketing/sales agreements/saleGVCB_TULARE
Revised: 6/24/2019