

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY**

DEPT: Public Works

BOARD AGENDA: 5.C.2
AGENDA DATE: April 16, 2024

SUBJECT:

Approval of an Agreement and Payment to RES-RLH West Coast, LLC for
Environmental Mitigation Measures on the North County Corridor Phase 1 Project


BOARD ACTION AS FOLLOWS:

RESOLUTION NO. 2024-0158

On motion of Supervisor Withdraw Seconded by Supervisor B. Condit
and approved by the following vote,
Ayes: Supervisors: B. Condit, Chiesa, Withrow, C. Condit, and Chairman Grewal
Noes: Supervisors: None
Excused or Absent: Supervisors: None
Abstaining: Supervisor: None

- 1) X Approved as recommended
2) _____ Denied
3) _____ Approved as amended
4) _____ Other:

MOTION:



ATTEST: ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Public Works

BOARD AGENDA:5.C.2
AGENDA DATE: April 16, 2024

CONSENT: ☒

CEO CONCURRENCE: YES

4/5 Vote Required: No

SUBJECT:

Approval of an Agreement and Payment to RES-RLH West Coast, LLC for Environmental Mitigation Measures on the North County Corridor Phase 1 Project

STAFF RECOMMENDATION:

1. Approve an agreement with RES-RLH West Coast, LLC in the amount of \$1,569,750, for environmental mitigation on the North County Corridor Phase 1 Project.
2. Authorize the Chairman of the Board of Supervisors to sign the agreement with RES-RLH West Coast, LLC for environmental mitigation on the North County Corridor Phase 1 Project.
3. Authorize payment of \$1,569,750 to RES-RLH West Coast LLC for environmental mitigation measures for the North County Corridor Phase 1 Project.

DISCUSSION:

The North County Corridor (NCC) Phase 1 Project (Project) proposes to be a high-capacity expressway that will bypass around the Cities of Modesto, Riverbank, and Oakdale connecting the eastern portion of the County to State Route 99. The 18-mile NCC Project will build a west-east expressway that will improve regional network circulation, relieve existing traffic congestion, reduce traffic delay, accommodate future traffic, benefit commerce, and enhance safety by eliminating an at-grade railroad crossing.

The NCC Project received a grant from the U.S. Department of Transportation for the initial segment of the NCC Project in the amount of \$20 million under the - Better Utilizing Investments to Leverage Development (BUILD) program. The BUILD grant segment is a 3-mile portion beginning at the SR-219 (Claribel Road) and Oakdale Road intersection. The NCC Project also received a grant from the State Trade Corridor Enhancement Program (TCEP) in the amount of \$20 million.

The NCC Project will follow a parallel alignment of Claribel Road, constructing grade separations over Roselle Avenue, Terminal Avenue, and the Burlington Northern Santa Fe (BNSF) Railroad tracks, extending eastward to the intersection of Claribel Road and Claus Road. The proposed NCC Project will provide a 4-lane access-controlled facility with a median. The expressway will be accessed at key locations served by new frontage roads.

The NCC Project is subject to State and Federal environmental review requirements; therefore, Project documentation was prepared in compliance with both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). The draft environmental document was circulated for public review and comments from August 9, 2017, to October 16, 2017. After considering all the comments received, the Project development team identified the preferred alternative. The actions taken by both State and Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Report/Final Environmental Impact Statement (FEIR/EIS) for the Project, approved on March 13, 2020. On May 22, 2020, CEQA and NEPA requirements for the Project were satisfied with the issuance of a Notice of Determination and Record of Decision. Documents are available for review through the Caltrans and Stanislaus County websites, www.dot.ca.gov, <https://northcountycorridorphase1.com>, and incorporated herein by reference.

As a result of the environmental studies prepared for this Project, it was determined that the proposed construction of the Project would cause impacts to the environment throughout and adjacent to the project site. Unavoidable impacts to the California Tiger Salamander upland habitat were identified by the technical studies. To mitigate the impacts identified in the FEIR/EIS, County staff is recommending the purchase of mitigation credits at a conservation bank. Therefore, it is necessary to execute the agreement with RES-RLH West Coast, LLC, in the amount of \$1,569,750, for mitigation credits with an approved Mitigation Bank recognized by California Department of Fish and Wildlife. The agreement and payment provide for conservation and maintenance of 62.79 acres of California Tiger Salamander upland habitat in a protected area, which fulfills the upland habitat acreage mitigation requirements specified in the Biological Opinion for Phase 1 of the North County Corridor.

The Project is currently scheduled for advertisement of bids for construction in August of 2024, with construction activities commencing in spring 2025 and continuing until the summer of 2027.

POLICY ISSUE:

Pursuant to the County's Purchasing and Salvage Policy, agreements and contracts with a value exceeding \$200,000 require Board of Supervisors' approval. Furthermore, this agreement is for the purchase of mitigation credits which are considered an easement. The Board may not delegate the purchasing of easements to the Purchasing Agent, therefore, approval is sought pursuant to Government Code 23004 and 23005.

FISCAL IMPACT:

On September 21, 2023, the Board of Supervisors approved the additional use of Public Facility Fees (PFF) Regional Transportation Impact Fees for the North County Corridor Phase 1 Project in the amount of \$16,653,500. Budgetary appropriations for this mitigation agreement have been included in the Adopted Fiscal Year 2024 Road and Bridge project budget.

BOARD OF SUPERVISORS' PRIORITY:

The recommended actions are consistent with the Board's priority of *Delivering Efficient Public Services and Enhancing Community Infrastructure* by implementation of this critical transportation facility within Stanislaus County.

STAFFING IMPACT:

Existing Public Works staff is overseeing this project.

CONTACT PERSON:

David A. Leamon, Public Works Director

Telephone: (209) 525-4130

ATTACHMENT(S):

1. Agreement
2. Levine Act Disclosure Form

RES-RLH WEST COAST, LLC

2125 19TH Street
Sacramento, CA 95818

**AGREEMENT FOR SALE OF 62.79 GROUP UPLAND PRESERVATION CREDITS
GREAT VALLEY CONSERVATION BANK
SERVICE File No. 81420-2011-F-0066-1
Amendment Reference No. 2022-0003282-S7-001**

This Agreement is entered into this 16th of April, 2024, by and between RES-RLH WEST COAST, LLC ("**Bank Owner**") and the STANISLAUS COUNTY PUBLIC WORKS ("**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 California tiger salamander habitat thereon, and seeks to compensate for the loss of habitat by purchasing Group: Upland preservation credits from Bank Owner; and
- E. Project Applicant has been authorized by the Service to purchase 62.79 acres of Group: Upland preservation conservation credits as compensatory mitigation for the loss of California tiger salamander upland habitat to satisfy the measures required under the USFWS BO File No. 81420-2011-F-0066-1 for the North County Corridor Phase 1-Claribel Road Extension Project; and
- F. Project Applicant desires to purchase from Bank Owner and Bank Owner desires to sell to Project Applicant 62.79 acres of Group: upland preservation conservation credits.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **Purchase and Sale; Payment of Purchase Price.** Bank Owner hereby sells to Project Applicant, and Project Applicant hereby purchases from Bank Owner 62.79 acres of Group: upland preservation conservation credits (Conservation Credits) for the purchase price of \$1,569,750.00 ("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 "RES-RLH West Coast, 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." The Purchase Price is a one-time payment that shall be paid by Project Proponent to Bank Owner for the Conservation Credits, and no additional amounts are required to be paid by Project Proponent for its purchase and ownership of such Conservation Credits.
2. **No Interest in Real Property.** The sale and transfer herein are 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.
7. The Agreement shall be effective as of the date of the last signature.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year of the last signature.

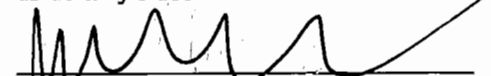
BANK OWNER:

RES-RLH West Coast LLC


By: 
(Signature)
Name: Tim DeGraff
Title: Authorized Signatory
Date: 1/25/2024 | 2:16 PM CST

PROJECT APPLICANT(PURCHASER):

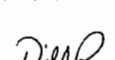
Stanislaus County Public Works

By: 
(Signature)
Name: Mani Grewal
Title: Chairman, Stanislaus County Board of Supervisors
Date: 4/16/2024

ATTEST:


By: 
(Signature)
Name: Elizabeth A. King
Title: Clerk of the Board of Supervisors
County of Stanislaus, CA
Date: 4/16/2024

APPROVED AS TO CONTENT:

By: 
(Signature)
Name: David A. Leamon
Title: Director, Department of Public Works
County of Stanislaus, CA
Date: 3/5/2024

APPROVED AS TO FORM:

Thomas E. Boze, County Counsel

By: 
(Signature)
Name: Donya Nunes
Title: Deputy County Counsel
County of Stanislaus, CA
Date: _____



APPROVED

SERVICE:

This Agreement for the purchase of 62.79 acres of Group: upland preservation conservation credits fulfills the compensatory mitigation required to off-set direct and indirect impacts to CA tiger salamander upland habitat associated with Phase 1 of the North County Corridor Project under Biological Opinion File No. 81420-2011-F-0066-1 dated December 11, 2019 and Reinitiation No. 2022-0003282-S7-001 dated November 1, 2023.

Phase 1 Compensatory Mitigation Effects: Upland Habitats for CA Tiger Salamander (acres)

Habitat/Type of Effect	Affected Habitat	Compensation Ratio	Phase I Compensation Amount
Upland: Direct-Permanent	13.31	3:1	39.93
Upland: Direct-Temporary	12.16	1:1	12.16
Upland: Indirect	21.40	0.5:1	10.70
Upland Total Compensation	46.87		62.79

UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE

**PATRICIA
COLE**

Digitally signed by
PATRICIA COLE
Date: 2023.11.30
14:41:31 -08'00'

(Signature)

By: Patricia Cole
Title: Supervisor, San Joaquin
Valley Division
Date:



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Suite W-2605
Sacramento, California 95825-1846
SFWO_mail@fws.gov



In Reply Refer to:
2022-0003282-S7-001

November 30, 2023
Sent Electronically

Peggy Lee
RES-RLH West Coast, LLC
2125 19th Street, Suite 200
Sacramento, California 95818
plee@res.us

Subject: Agreement for Sale of Conservation Credits at the Great Valley Conservation Bank for Phase 1 of the North County Corridor--New State Route 108 Project in Stanislaus County, California (EA 10-0S801)

Dear Peggy Lee:

Stanislaus County (County), in coordination with the California Department of Transportation, proposes to mitigate the effects of Phase 1 of the North County Corridor--New State Route 108 Project (project) on the federally threatened Central California distinct population segment of the California tiger salamander (tiger salamander) (*Ambystoma californiense*) by purchasing 62.79 tiger salamander upland credits from the Great Valley Conservation Bank, located in Merced County, California. The U.S. Fish and Wildlife Service (Service) has signed the enclosed Agreement for Sale of Group Upland Preservation Credits (Agreement) and concurs that once the Agreement has been fully executed, the purchase of these credits will partially fulfill the County's proposed compensatory mitigation for Phase 1 of the project, as specified in the Service's amended biological opinion (Service file number 2022-0003282-S7-001), dated November 1, 2023.

If you have questions regarding this correspondence, please contact Jen Schofield (jen_schofield@fws.gov) or me (patricia_cole@fws.gov), either by email or at (916) 414-6544.

Sincerely,

**PATRICIA
COLE**

Patricia Cole
Supervisor, San Joaquin Valley Division

Digitally signed by
PATRICIA COLE
Date: 2023.11.30 14:37:19
-08'00'

Enclosure



Exhibit "A"

DESCRIPTION OF PROJECT TO BE MITIGATED

**NORTH COUNTY CORRIDOR PHASE I PROJECT
Stanislaus County, California**

Phase I of the NCC will involve realigning and extending three miles of roadway via a six-lane access-control facility with a 40-70-foot wide median and a 5-10-foot wide shoulders in each direction. Phase I work will include building eight structures and several off-alignment roadways as part of the discontinuous local roadway system to provide reconfigured access to existing properties, as well as relocating part of the existing Claribel Road onto two separate minor street alignments between the Terminal Avenue and Claus Road.

Features include:

- A single-point urban interchange and two discrete two-lane grade-separate undercrossings at Roselle Avenue
- Two discrete two-lane bridges over the MID Main Canal
- Two discrete two-lane grade-separated bridges over the BNSF rail line and Terminal Avenue
- A single two-lane bridge over the MID Main Canal for the existing Claribel Road alignment
- A single two-lane grade-separated bridge over the BNSF rail line and Terminal Avenue for the existing Claribel Road alignment
- Turn lanes to provide connections to crossroads
- Approximately 15,000 linear feet of new two-lane frontage roads to provide property access
- Construction of drainage ditches/basins along either side of the new alignment
- Two borrow sites for fill material and staging areas
- Construction is anticipated for May 2024 through May 2026, dependent on railroad right-of-way negotiations



Exhibit "B"

BILL OF SALE
Contract# GVCB-23-13

USFWS BO File No. 81420-2011-F-0066-1;
Reinitiation Reference No. 2022-0003282-S7-001

In consideration of \$1,569,750.00, receipt of which is hereby acknowledged, RES-RLH WEST COAST, LLC ("Bank Owner") does hereby bargain, sell and transfer to STANISLAUS COUNTY PUBLIC WORKS ("Project Applicant") 62.79 acres of Group: upland preservation conservation credits conservation credits for the North County Corridor—New SR 108 Project 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: _____

RES-RLH WEST COAST, LLC, a California limited liability company

By: _____

(Signature)

Name: Tim DeGraff

Its: Authorized Signatory



Exhibit "C"

PAYMENT RECEIPT
Great Valley Conservation Bank
62.79 Group: Upland Preservation Credits

PARTICIPANT INFORMATION

Name: Stanislaus County Public Works
Address: 1716 Morgan Road, Modesto, CA 95358
Telephone: 916-842-1069
Contact: Theron Roschen, PE

PROJECT INFORMATION

Project Name: North County Corridor Phase 1
Agency File Number(s): USFWS File No. 81420-2011-F-0066-1
Reinitiation Reference No. 2022-0003282-S7-001
Habitat Affected: CA tiger salamander upland grasslands
Credits Purchased: 62.79 Group: upland preservation conservation credits
Payment Amount: \$1,569,750.00
Project Location: Portions of new SR 108 between SR 219 & SR 120, Oakdale, CA
County: Stanislaus

PAYMENT INFORMATION

Payee: RES-RLH West Coast, LLC
Payer: Stanislaus County Public Works
Amount: \$1,569,750.00

Check/Wire Transfer #

Received:

(Signature)

Name: Tim DeGraff
Title: Authorized Signatory
Date:

****COMPLETE & RETURN THIS PAGE****

CALIFORNIA LEVINE ACT DISCLOSURE STATEMENT

In 2022, California SB1439 extended requirements under Government Code Section 84308, also known as the "Levine Act", to prohibit members of county boards of supervisors from participating in any action related to a contract if such member receives political contributions totaling more than \$250 within the previous twelve months, and for three months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclosure of such contribution by a party to be awarded a specific contract.

A list of Stanislaus County Board Members can be found online at: [Board of Supervisors - Stanislaus County \(stancounty.com\)](http://Board of Supervisors - Stanislaus County (stancounty.com)). Proposers are responsible for accessing this link to review the names prior to answering the following questions:

1. Have you, your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any Member of the Board of Supervisors for Stanislaus County, or their alternate, in the twelve (12) months preceding the date of the submission of your proposals or the anticipated date of any Board action related to this contract?

☐ YES ☒ NO

- If YES, please identify the person(s) or agent(s) making the contribution:

- If YES, please identify the Board Member(s) / Alternate(s) receiving the contribution:

2. Do you, or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to any Member of the Board of Supervisors for Stanislaus County, or their alternate, in the three (3) months following any Board action related to this contract?

☐ YES ☒ NO

- If YES, please identify the person(s) or agent(s) making the contribution:

- If YES, please identify the Board Member(s) / Alternate(s) receiving the contribution:

Answering YES to either of the above questions above does not preclude Stanislaus County from awarding a contract to your firm or any taking any subsequent action related to the contract. It does, however, preclude the identified Board Member(s) from participating in any actions related to such contract.

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

DocuSigned by:	
Signature: <u>Tim DeGraff</u>	Date Signed: <u>2/8/24 TD</u>
2E0807D6C01A431...	
Print Name: <u>Tim DeGraff</u>	
Title: <u>Vice President & Region General Manager, West</u>	
Company: <u>RES-RLH West Coast LLC</u>	