

**AMENDMENT NO. 2
TO AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
DENISE DUFFY & ASSOCIATES, INC.**

THIS AMENDMENT NO. 2 to Agreement No. A-12978 between the County of Monterey, a political subdivision of the State of California (hereinafter, “County”) and Denise Duffy & Associates, Inc. (hereinafter, “CONTRACTOR”) is hereby entered into between the County and the CONTRACTOR (collectively, the “Parties”) and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into Agreement No. A-12978 with County on November 10, 2015 (hereinafter, “Agreement”) to provide consulting services for Interim Mitigation Monitoring for California Tiger Salamander Habitat on County-owned property on the former Fort Ord (hereinafter, “services”) through and including August 1, 2020 for an amount not to exceed \$103,950.00; and

WHEREAS, on January 27, 2015, the Board of Supervisors approved a Memorandum of Agreement (MOA) among the County, Fort Ord Reuse Authority (FORA), and UCP East Garrison, LLC (UCP), to fund and implement interim habitat management for California Tiger Salamander (CTS) on approximately 134 acres of County-owned property on the former Fort Ord. The term of the MOA was until an Installation-Wide Multispecies Habitat Conservation Plan (HCP) was adopted by FORA, and the wildlife agencies issued incidental take permits based on the HCP or for five (5) years from the effective date of February 2, 2015; and

WHEREAS, CONTRACTOR entered into Agreement No. A-12978 with County on November 10, 2015 (hereinafter, “Agreement”) to maintain suitable upland habitat for CTS on the 134-acre County-owned property on the former Fort Ord (hereinafter, “services”) through and including August 1, 2020, for an amount not to exceed \$103,950.00; and

WHEREAS, the Parties amended the Agreement to extend the term for eleven (11) months to June 30, 2021, updated the Fee Schedule, delineated the series for Year 6, and increased the amount by \$1,700.00 for a total not to exceed amount of \$105,650.00 to allow the CONTRACTOR to provide services identified in the Agreement as amended in Amendment 1.

WHEREAS, CONTRACTOR has provided services to date as required by County; and

WHEREAS, FORA dissolved by operation of law on June 30, 2020, and FORA did not adopt the base wide HCP. However, approximately \$20,934.00 remained in the Interim Habitat Management Fund endowed by UCP for the purpose of managing the CTS habitat on the 134-acre area; and

WHEREAS, County authorized on July 28, 2020, utilization of fund balance plus accrued interest provided by UCP for continued CTS habitat management on County-owned property on the former Fort Ord; and

WHEREAS, County desires CONTRACTOR to continue the habitat management services on the 134-acre area while County continues to develop a comprehensive habitat management program for County-owned property on the former Fort Ord; and

WHEREAS, County desires to extend the Agreement to June 30, 2024 or until the County Habitat Resource Management Plan is approved, whichever is earlier; and

WHEREAS, the CONTRACTOR desires to update its Fee Schedule effective July 1, 2021; and

WHEREAS, CONTRACTOR has updated its Scope of Work to remove completed Tasks 2.1 and 2.2, consolidate and reorganize tasks; and

WHEREAS, the Parties wish to increase the not to exceed amount by \$112,522.00 for a total amount not to exceed amount of \$218,172.00 to allow CONTRACTOR to continue to provide services identified in the Agreement and Amendment No. 1 as amended by this Amendment No. 2.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend Paragraph 1.1 of Section 1.0, "Performance of the Agreement," to delete "This AGREEMENT with Attachment B – Fee Schedule" and to add "This AGREEMENT with Attachment B-2 – Revised Fee Schedule, effective July 1, 2021."
2. Amend Exhibit A, Scope of Work, with Exhibit A-1.
3. Amend the first sentence of Paragraph 3.1 of Section 3.0, "Term of Agreement," to read as follows:

The term of the AGREEMENT shall commence with the signing of this AGREEMENT through and including June 30, 2024, or until the County Habitat Resource Management Plan is approved, whichever is earlier.

4. Amend Paragraph 4.1 of Section 4.0, "Compensation and Payments," to read as follows:

It is mutually understood and agreed by both parties that CONTRACTOR shall be compensated under this AGREEMENT in accordance with the pricing sheet attached hereto as Attachment B-2 – Revised Fee Schedule, effective July 1, 2020.

5. Amend Paragraph 5.1 of Section 5.0, "Invoices," to read as follows:

Invoices for all services rendered under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 5.2 of the Agreement. All invoices shall reference the Agreement number (A-12978), services/project name (Interim Mitigation Monitoring for the

California Tiger Salamander Habitat), and an original hardcopy shall be sent to the following address or via email to 194-HCD-Finance@co.monterey.ca.us:

County of Monterey
Housing and Community Development Department – Finance Division
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the HCD Finance Division at (831) 755-5025 or via email to: 194-HCD-Finance@co.monterey.ca.us.

6. Amend County information under Section 16.0, “Notices,” to read as follows:

TO COUNTY:

Jacquelyn Nickerson, Management Analyst II
County of Monterey
Housing and Community Development Department
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527
Phone: (831) 755-5025
Email: 194-HCD-Contracts@co.monterey.ca.us

7. All other terms and conditions of the Agreement, including all Exhibits thereto except as superseded by Attachment B-2 attached hereto and incorporated herein by reference, remain unchanged and in full force.

11. This Amendment No. 2 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

12. The recitals to this Amendment No. 2 are incorporated into the Agreement and this Amendment No. 2.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

CONTRACTOR*

By: DocuSigned by:
Debra Wilson, Contracts/Purchasing Supervisor
7B741937A... Contracts/Purchasing Officer

Denise Duffy & Associates, Inc.
Contractor's Business Name

Date: 7/19/2021

By: DocuSigned by:
Denise Duffy
Signature of Contractor President or Vice President

**Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel**

Its: Denise Duffy, President
(Print Name and Title)

By: DocuSigned by:
Kristi Markey
C21D52A9D63041C... Kristi Markey
Assistant County Counsel

Date: 6/11/2021

Date: 6/11/2021

By: DocuSigned by:
Denise Duffy
Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer

Its: Denise Duffy, Secretary
(Print Name and Title)

Approved as to Fiscal Provisions

Date: 6/11/2021

By: DocuSigned by:
Josy Nolasco
F60C442ED05B437... Auditor/Controller

Date: 6/11/2021

**Approved as to Indemnity and Insurance Provisions
Office of the County Counsel**

By: _____

Name: _____

Title: _____

Date: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

**To Agreement by and Between
County of Monterey, hereinafter referred to as “County”
AND
Denise Duffy & Associates, Inc., hereinafter referred to as “CONTRACTOR”**

Scope of services and payment provisions are outlined below, subject modification by mutual agreement of the parties as allowed by paragraph 15.02 of the Agreement.

A. SCOPE OF SERVICES

A.1 CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

TASK 1. MAMMAL BURROW AND CTS NIGHTTIME SURVEYS

Per DD&A’s discussions with CDFW regarding survey methodology for the small mammal burrow surveys and CTS nighttime surveys, the following methods are identified to keep costs low while meeting CDFW permit requirements:

- Small mammal burrow surveys: DD&A assessed the distribution of small mammal burrows using a systematic sampling approach. Data collection included documenting small mammal burrows that occur within the sample plot (quadrat) at each sampling point along transects. Transects will continue to follow the existing locations identified in the Baseline Biological Report. DD&A will use a three by three-meter quadrat in the oak woodland as well as maritime chaparral, and a five by five-meter quadrat was used in the grassland habitat. The location of each sampling point has been mapped using a Trimble Geo 7 Series Global Positioning System (GPS) unit previously. Data collection will include documenting small mammal burrows that occur within the sample plot (quadrat) at each sampling point along the transects.
- CTS Nighttime Survey: Because the Property does not contain any aquatic habitat for CTS, nighttime surveys in the rain would require walking the entire 134 acres with a flashlight looking for CTS dispersing through the site from the adjacent breeding sites to the south. This would potentially harm CTS, and CTS would be difficult to find in the understory. Therefore, DD&A proposes two nighttime surveys in the rain for a period of six (6) hours along Gigling Road, the southern boundary of the Property. Surveyors would more easily detect CTS crossing the road from the breeding sites, and because there is no unauthorized vehicle traffic along Gigling Road, there is no safety issue.

TASK 2. BIENNIAL FIELD VISITS FOR MONITORING OF CTS HABITAT

DD&A will perform Biennial monitoring of CTS habitat on the Property for three years. As the Property does not support CTS breeding habitat, surveys for breeding CTS individuals are not required. A qualified DD&A biologist will conduct a habitat

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EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

assessment twice a year in the active season for CTS to evaluate changes to both habitat and wildlife for the explicit purpose of noting any changes to the conservation value of the Property for CTS. As part of each monitoring event, DD&A will assess the following:

- Conditions and locations of existing barriers and signage and identify locations for future installation to restrict access by off-road vehicles and pedestrians.
- Conditions and locations of existing fuel-breaks and access roads.
- Areas within the site exhibiting potential erosion control issues (along trails and fuel-breaks).
- Areas with populations of invasive non-native plant species, focusing on jubata/pampas grass, iceplant, and French broom potentially in need of removal (along trails and fuel- breaks).
- Volunteer trails that should be signed and monitored for trespass and erosion issues.
- Vegetation/Habitat
 - plant species diversity (compile a species list of dominant species)
 - soil erosion noting the extent and location
 - non-native invasive plant species noting extent and location
 - natural disturbances such as fire or significant soil shifts
- Wildlife
 - wildlife species diversity (species noted during monitoring events)
 - nighttime surveys of upland habitat for CTS during the rainy season
 - distribution status (if any) of listed species
 - approximate distribution of small mammal burrows

TASK 3. LAND MANAGEMENT/FUEL BREAK ASSESSMENT MEMO

DD&A will annually assess the need for erosion control along firebreaks, trails, and other bare- earth areas on the Property, repair or replacement of barriers and signs, and document areas in need of invasive non-native plant removal. This assessment will be conducted based on the recommendations of the Baseline Biological Report, subsequent Annual Reports, monitoring results, field visits, and discussions with the County and CDFW. DD&A will prepare a draft memorandum of the assessment and submit to the County for review and comment. After receiving one round of comments from the County, DD&A will prepare a final memorandum and submit to CDFW, County, and Union Community Partners.

TASK 4. PROPERTY MAINTENANCE

As necessary, DD&A, through a landscaping sub-contractor will install erosion controls to prevent erosion of bare-earth areas that may result in erosion of these features and/or siltation of off-site CTS breeding ponds. Erosion control measures may include, but are not necessarily limited to, earthen berms, mulch, waddle with biodegradable netting, or biodegradable erosion blankets. DD&A will assess barriers and signs placed at all existing road and illegal trail entrances as described above, and will replace and/or repair signs as necessary. DD&A will implement removal and/or management measures of invasive non-native plant species as may be required in areas identified during the

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

baseline surveys. Such removal and/or management measures will be limited to the areas along firebreaks and any existing pedestrian trails within the Property. Such plants will be removed via hand pull or hand tools only. DD&A, through their landscape contractor, will implement all required repairs and maintenance, as appropriate and recommended in the Annual Report and agreed to by CDFW. Repairs and maintenance to fuel-breaks and access roads on the Property will be performed in summer months only and any plant removal will be completed via hand pull or hand tools only. No heavy equipment will be permitted. Fuel-break and access road maintenance is limited to summer months to avoid impacts to CTS. To the extent possible, use of hand tools to implement maintenance activities will avoid earth movement within the drip line of oak trees, and will avoid excavation in the root zone of oak trees. DD&A shall perform trash pick-up on the Property as necessary, but no less than twice per year.

During all land management activities, to the extent possible, DD&A will avoid earth movement within the drip line of oak trees, and will avoid excavation in the root zone of oak trees. This task assumes materials will be funded by the allocated budget and will not be provided by the County. The budget includes the materials and costs for installation.

This task does not include controlled burns as the cost is anticipated to be above the allocated budget, oak woodland is not required to be burned under the HMP or Draft HCP, and there does not seem to be a clear benefit for CTS upland habitat at the Property. There is the potential for local fire departments to participate in a controlled burned as a training exercise, but this activity would be outside this proposed scope and budget.

TASK 5. DATA ANALYSIS AND ANNUAL MONITORING REPORT

No later than December 1 of each year, DD&A will submit to the County an Annual Monitoring Report, along with any other additional documentation. DD&A will prepare a Draft Annual Monitoring Report and submit electronically to the County for review and comment. DD&A will revise the Annual Report in response to one round of comments from the County and submit to the County for circulation to the Permitting Agencies by December 31 of each year. After receiving comments, DD&A will prepare a final annual monitoring report and submit to CDFW, County, and Union Community Partners.

D&A will note any measurable change due to abnormal variation in small mammal populations (e.g., unexplained or unusual crash of the population) or changes in habitat composition and structure that may reduce the conservation value of the Property for the CTS, and will submit to the County any appropriate recommendations for modifying future management activities.

The Annual Monitoring Report will include the following:

- A list of management activities performed, with dates of tasks including management of firebreaks, invasive weed removal, prescribed burns, installation of erosion barriers, etc.
- Recommendations with regard to any habitat enhancement measures deemed to be

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

warranted. Any recommendations for weed abatement shall be consistent with the USFWS 4(d) rule as to avoid harm to CTS.

- Recommendations with regard to any problems that need near, short, and/or long-term attention.
- Any changes in the monitoring or management program that appear to be warranted based on monitoring results to date.

This task includes one meeting with County and CDFW, if necessary.

ATTACHMENT B-2
Revised Fee Schedule, Effective July 1, 2021

DD&A, Inc. Cost Estimate
for County of Monterey

Interim Mitigation for California Tiger Salamander Habitat on County-Owned Property on the Former Fort Ord Project

Task		Project Manager	Senior Environmental Scientist	Associate Environmental Scientist	Assistant Environmental Scientist	Graphics/GIS	Hours Per Task	Subtask	Cost Per Task
1	Mammal Burrow and CTS Nighttime Surveys	16	24	64	64	18	186		21,134.00
2	Biannual Field Visits for Monitoring of CTS Habitat	16	12	48	48	12	136		15,456.00
3	Land Management/Fuel Break Assessment Memo	16	12		24	12	64		7,680.00
4	Property Maintenance	32					32		4,704.00
5	Data Analysis and Annual Monitoring Report	24	24	72	24	24	168		19,848.00
	Total Hours	104	72	184	160	66	586		
	Hourly Rate	\$147.00	\$137.00	\$112.00	\$100.00	\$107.00			
	Total Labor	\$ 15,288	\$ 9,864	\$ 20,608	\$ 16,000	\$ 7,062			\$ 68,822
Subconsultants									\$ 36,000
	Landscape Contractor							\$ 36,000	
Expenses									\$ 2,000
	Field Equipment							\$ 1,200	
	Mileage (at current IRS mileage rate)							\$ 300	
	Miscellaneous (signage, materials, etc.)							\$ 500	
Subtotal									\$ 38,000
Administration Fee									\$ 5,700
Total Budget									\$ 112,522

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