



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 24-497

July 16, 2024

Introduced: 6/21/2024

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- a. Approve the Third Extension to the Memorandum of Agreement Regarding the Habitat Management on Portions of The Parker Flats Reserve at the Former Fort Ord, California (Third Extension) with UCP East Garrison, LLC for California Tiger Salamander habitat management on County-owned Property on the former Fort Ord to extend the term two (2) years to June 30, 2026; and
- b. Authorize the Chair of the Board of Supervisors to execute the Third Extension.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve the Third Extension to the Memorandum of Agreement Regarding the Habitat Management on Portions of The Parker Flats Reserve at the Former Fort Ord, California (Third Extension) with UCP East Garrison, LLC for California Tiger Salamander habitat management on County-owned Property on the former Fort Ord to extend the term two (2) years to June 30, 2026; and
- b. Authorize the Chair of the Board of Supervisors to execute the Third Extension.

SUMMARY/DISCUSSION:

The Housing and Community Development (HCD) Department is requesting the Board of Supervisors (Board) approve the Third Extension to the Memorandum of Agreement (MOA) Regarding Habitat Management on Portions of The Parker Flats Reserve with UCP East Garrison, LLC (Attachment A). The proposed action will enable continued habitat management for California Tiger Salamander (CTS) on a 134-acre County-owned parcel in the former Fort Ord until June 30, 2026 or until a County Habitat Resource Management Plan is approved, whichever is earlier.

On February 2, 2015, the County, UCP East Garrison, LLC (Developer), and the Fort Ord Reuse Authority (FORA) entered into a MOA Regarding Habitat Management on Portions of The Parker Flats Reserve at the former Fort Ord, California (Attachment B). The MOA implemented interim habitat management for CTS on a 134-acre County-owned parcel within the former Fort Ord, which was funded by the Developer. The term of the original MOA was for five years or until a Habitat Conservation Plan was adopted by FORA. On November 10, 2015, the County entered into Professional Services Agreement (PSA) No. A-12978 with Denise Duffy & Associates (DD&A), following a competitive selection process under Request for Proposals #10519, to perform biological services for habitat management (Attachment C).

On June 30, 2020, FORA dissolved by operation of law and without a Habitat Conservation Plan prior to its dissolution. There were remaining funds within the Interim Habitat Management Fund, endowed by the Developer, under the MOA. On July 28, 2020, the Board approved the First Extension to the MOA and Amendment No. 1 to the Agreement so that the County could utilize these funds and continue habitat management for the CTS Preservation and Habitat Restoration Area while the County planned for long-term habitat management. The First Extension and Amendment No. 1 expired on June 30, 2021 (Attachment D). On July 13, 2021, the Board approved the Second Extension to the MOA Regarding Habitat Management on Portions of The Parker Flats Reserve at the former Fort Ord, California (Second Extension) with a retroactive term of July 1, 2021 through June 30, 2024 or until a County Habitat Resource Management Plan (Habitat RMP) was approved, whichever was earlier. The Second Extension increased the Agreement amount by \$112,522 for a not to exceed amount of \$218,172 (Attachment E).

Since the base wide Habitat Conservation Plan was not adopted by FORA, the County has been moving forward to develop a site-specific Habitat RMP for lands held by the County in the former Fort Ord as required by the 1997 Installation-Wide Habitat Management Plan for the former Fort Ord as modified by the Memorandum of Understanding Concerning the Proposed East Garrison/Parker Flats Land Use Modification. The Habitat RMP is to cover site specific habitat management and preservation within the former Fort Ord, and the County intends to include long term management for CTS Preservation and Habitat Restoration Area on the 134-acre portion of Parker Flats within the Habitat RMP.

When the Board approved the First Extension to the MOA, staff advised of a program to cover habitat management generally on the former Fort Ord. The Habitat RMP is essentially the program that would identify implementation of the habitat management and preservation areas, with monitoring requirements to follow. The Board approved the PSA with DD&A to complete the Habitat RMP on April 20, 2021; however, as the County moved forward with developing the Habitat RMP, habitat management for CTS on the 134-acre parcel still needed to occur, as required by the conditions of the Section 2081 Incidental Take Permit for Phase II of the East Garrison Project. Therefore, staff recommended the MOA and Agreement to be extended and amended a second time for a term retroactive to July 1, 2021 through June 30, 2024 or until a County Habitat Resource Management Plan was approved, whichever was earlier.

The Interim Habitat Management Fund endowed by the Developer has been expended and holds zero funds. Discussion in the Finance section details the recommendation to continue utilizing the County's Habitat Management Funds sourced from the FORA Community Facilities District (CFD) Special Tax and post-FORA equivalent habitat management fee to cover these costs.

In order to provide sufficient time for the County to develop and approve a Habitat RMP, HCD recommends the Board approve a Third Extension to the MOA through June 30, 2026, or until a County Habitat RMP is approved, whichever is earlier.

OTHER AGENCY INVOLVEMENT:

The Offices of the County Counsel and Auditor-Controller have reviewed the PSA and MOA third extension as to form and legality, and fiscal provisions, respectively.

FINANCING:

In Fiscal Year (FY) 2015-16, the Developer endowed an Interim Habitat Management Fund in the amount of \$104,155, which covered habitat management costs for the original and First Extension of the MOA to implement and fund habitat management for CTS. In the second amendment to the MOA the agreement funding amount was increased by \$112,522 for a total not-to-exceed amount of \$218,172 to be funded by the Developer. The second amendment further established that the Developer has no further obligation to provide additional funding through the MOA to replenish the Interim Habitat Management Fund. The Developer made payments to the FORA Community Facilities District (CFD) Special Tax through June 30, 2020 when FORA dissolved. Following FORA’s dissolution, the County received \$13.58 million that FORA had collected through its CFD and set aside for habitat management. Per the first amendment to the East Garrison Development Agreement (Ordinance No.5333) the Developer now pays the fair share funding of habitat management through the FORA CFD Replacement Fee for Habitat Management.

Funding for the staff time associated with these projects in FY 2024-25 is included in and will be reimbursed to the General Fund from the FY 2024-25 Adopted Budget for Housing and Community Development Fund 029, Habitat Management Program Appropriation Unit HCD009. Funding for the Agreement is included in the Habitat Management Program FY 2024-25 Adopted Budget for Fund 029 Appropriation Unit HCD009.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommendation of this report supports the Board of Supervisors’ Administration and Infrastructure Strategic Initiatives by enabling staffing and a consultant to evaluate, manage, and maintain the protected CTS habitat on the parcel.

- Economic Development
- X Administration
- Health & Human Services
- X Infrastructure
- Public Safety

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Approved by: Melanie Beretti, AICP, Acting Chief of Planning
Approved by: Craig Spencer, AICP, Acting HCD Director **CS**

The following attachments are on file with the Clerk of the Board:

- Attachment A - Third Extension of MOA
- Attachment B - Original MOA
- Attachment C - PSA No. 12978
- Attachment D - First Extension of MOA
- Attachment E - Second Extension of MOA