



Board Report

File #: A 15-360, **Version:** 1

Approve a Professional Services Agreement with Denise Duffy & Associates in an amount not to exceed \$103,950 to maintain suitable upland habitat for the California Tiger Salamander (*Ambystoma californiense*) on 134 acres of County-owned property on the former Fort Ord on an interim basis beginning on the date of approval of this Agreement and continuing until the Fort Ord Reuse Authority adopts the Installation-Wide Multispecies Habitat Conservation Plan and the California Department of Fish & Wildlife issues its base-wide Incidental Take Permit, but not extending past August 20, 2020 unless extended by the Board of Supervisors.

RECOMMENDATION:

It is recommended that the Board of Supervisors approve a Professional Services Agreement with Denise Duffy & Associates in an amount not to exceed \$103,950 to maintain suitable upland habitat for the California Tiger Salamander (*Ambystoma californiense*) (CTS) on 134 acres of County-owned property on the former Fort Ord on an interim basis beginning on the date of approval of this Agreement and continuing until the Fort Ord Reuse Authority (FORA) adopts the *Installation-Wide Multispecies Habitat Conservation Plan* (HCP) and the California Department of Fish & Wildlife (CDFW) issues its base-wide Incidental Take Permit (ITP), but not extending past August 20, 2020 unless extended by the Board of Supervisors.

SUMMARY:

On January 27, 2015 the Board of Supervisors adopted Resolution No. 15-005 approving a Memorandum of Agreement (MOA) between the County, FORA, and UCP East Garrison LLC (UCP) to fund and implement interim habitat management for CTS on this property for an interim period prior to adoption and implementation of the HCP by FORA, expected not to exceed five years. The recommended action will implement the County's responsibilities under the MOA.

DISCUSSION:

As a condition of renewal of its Section 2081 Incidental Take Permit for Phase II of the East Garrison housing development, CDFW required the developer to implement "interim" habitat restoration, conservation, and enhancement mitigations for the CTS prior to and until the FORA adopts the HCP and CDFW issues the base-wide 2081 Incidental Take Permit (ITP) for the Fort Ord HCP.

The property selected by CDFW for this activity is a County-owned parcel on the former Fort Ord designated for future habitat reserve under the proposed HCP (Attachment 1). The property consists of the northerly 134 acres of Parcel E19a.4, which is a 379-acre parcel also known as the "Parker Flats Reserve" habitat management area. This property is subject to development restrictions as "Habitat Reserve" under the *Installation Wide Multispecies Habitat Management Plan for the Former Fort Ord, California* (HMP) dated 1997, as that HMP has been amended by the *Memorandum of Understanding Concerning the Proposed East Garrison/Parker Flats Land Use Modification* (Agreement #A-09555), known as the "Land Swap Agreement," approved by the County Board of Supervisors on September 23, 2003. The County accepted ownership of the property as part of the "County North" property transfer approved by the Board of Supervisors on September 9, 2014.

On January 27, 2015 the Board of Supervisors adopted Resolution no. 15-005 approving and authorizing the

chair to sign a Memorandum of Agreement (MOA) between the County, FORA, and UCP East Garrison LLC (UCP) to fund and implement interim habitat management for CTS on this property for an interim period prior to adoption and implementation of the HCP by FORA and CDFW's issuance of the base-wide ITP (a period expected not to exceed five years); and approving and authorizing the Chair to sign the grant of a Conservation Easement deed to the State of California over said property. With approval of the MOA, CDFW issued the ITP for Phase 2 of the East Garrison development on April 10, 2015. As of the date of this report, however, CDFW has not yet recorded the Conservation Easement.

The terms of the MOA require the County to retain a consulting firm and manage the implementation of the required mitigation program, and for UCP to fund the cost. The cost for this program was estimated by UCP's biological consultant to be \$104,155 (*East Garrison CTS Interim Mitigation Monitoring Plan*, Live Oak Associates, Inc., updated September 2, 2014). On January 30, 2015 UCP deposited the requisite amount of \$104,155 into an escrow account, and on July 29, 2015 the funds were released to the County and deposited in Fund 019, Sub-fund 2611.

On April 9, 2015 County Contracts/Purchasing circulated a Request for Proposals from consulting firms to perform the required services. On May 29, 2015 proposals were received from four firms, and after review by representatives from RMA and FORA, the firm of Denise Duffy & Associates (DD&A) of Monterey, CA was selected. DD&A's cost proposal for the required scope of services totaled \$103,950.

The terms of the MOA require the interim mitigation program to continue until the Fort Ord HCP is adopted and USFWS and CDFW issue the Fort Ord HCP ITP, but in no event to exceed five years from the date of recordation of the Conservation Easement on the interim property. However, since the easement has not yet been recorded by CDFW, and there is no way to determine when the recording will be done, the termination date of the proposed Agreement was arbitrarily set at August 20, 2020.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed the recommended Agreement as to form. Representatives of RMA-Planning, FORA, and CDFW participated in development of the scope of services and selection of the recommended consulting firm.

FINANCING:

The recommended action will have no impact on the General Fund. UCP has deposited with the County \$104,155 to fund the County's implementation of the interim habitat restoration, conservation, and enhancement activities on this parcel until CDFW issues the 2081 Incidental Take Permit for the Fort Ord HCP. These funds have been placed into Fund 182 EG Reimbursement for project administration and land use development and wage monitoring, and monitored separately. These funds will be used to pay the consulting firm to implement the habitat management activities. When CDFW issues the HCP Incidental Take Permit and FORA assumes responsibility for these activities, any unused funds held by the County will be returned to UCP, with the expectation that the management of conservation lands will be managed by a JPA with a funding source (endowment fund) established through FORA.

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Reviewed by: Melanie Beretti, Special Programs Manager, Resource Management Agency

Approved by: Carl P. Holm, AICP, Director, Resource Management Agency

Attachments:

1. Vicinity Map
2. Professional Services Agreement