



Board Report

File #: A 21-357, **Version:** 1

- a. Approve the Second Extension to the Memorandum of Agreement Regarding Habitat Management on Portions of The Parker Flats Reserve at the former Fort Ord, California (Second Extension) with UCP East Garrison, LLC to continue California Tiger Salamander habitat management on County-owned property on the former Fort Ord for a term retroactive to July 1, 2021 through June 30, 2024 or until a County Habitat Resource Management Plan is approved, whichever is earlier;
- b. Authorize the Chair of the Board of Supervisors to execute the Second Extension retroactively for a time period beginning on July 1, 2021;
- c. Approve Amendment No. 2 to Agreement No. A-12978 with Denise Duffy & Associates, Inc. to continue to provide consulting services for interim mitigation monitoring for California Tiger Salamander habitat on County-owned lands on the former Fort Ord, to increase the not-to-exceed amount by \$112,522 for a total amount not to exceed \$218,172 and extend for a term retroactive to July 1, 2021 through June 30, 2024 or until a County Habitat Resource Management Plan is approved, whichever is earlier; and
- d. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute retroactively for a time period beginning on July 1, 2021 the Amendment No. 2 to Agreement No. A-12978 and future amendments to the Agreement to extend the term beyond the original term where the amendments do not significantly alter the scope of work or increase the amount by more than ten percent (10%) of the approved Agreement amount, subject to review and approval of the Office of the County Counsel and the Auditor-Controller's Office.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve the Second Extension to the Memorandum of Agreement Regarding Habitat Management of Portions on The Parker Flats Reserve at the former Fort Ord, California (Second Extension) with UCP East Garrison, LLC to continue California Tiger Salamander habitat management on County-owned property on the former Fort Ord for a term retroactive to July 1, 2021 through June 30, 2024 or until a County Habitat Resource Management Plan is approved, whichever is earlier;
- b. Authorize the Chair of the Board of Supervisors to execute the Second Extension retroactively for a time period beginning on July 1, 2021;
- c. Approve Amendment No. 2 to Agreement No. A-12978 with Denise Duffy & Associates, Inc. to continue to provide consulting services for interim mitigation monitoring for California Tiger Salamander habitat on County-owned lands on the former Fort Ord, to increase the not-to-exceed amount by \$112,522 for a total amount not to exceed \$218,172 and extend for a term retroactive to July 1, 2021 through June 30, 2024 or until a County Habitat Resource Management Plan is approved, whichever is earlier; and
- d. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute retroactively for a time period beginning on the July 1, 2021 the Amendment No. 2 to Agreement No. A-12978 and future amendments to the Agreement to extend the term beyond the original term where the amendments do not significantly alter the scope of work or increase the amount by more than ten percent (10%) of the approved Agreement amount, subject to review and approval of the Office of the County Counsel and the Auditor-Controller's Office.

SUMMARY/DISCUSSION:

Housing and Community Development (HCD) is requesting the Board of Supervisors (Board) to approve a

retroactive Second Extension to the Memorandum of Agreement (MOA) Regarding Habitat Management on Portions of The Parker Flats Reserve with UCP East Garrison, LLC (Second Extension) and approve a retroactive Amendment No. 2 to Agreement No. A-12978 with Denise Duffy & Associates, Inc (Attachments A and B). The proposed actions 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, 2024 or until a County Habitat Resource Management Plan is approved, whichever is earlier. The Second Extension to the MOA and Amendment No. 2 to the Agreement No. A-12978 were not processed accordingly prior to the expiration of these items on June 30, 2021. Staff requests the Board to approve these items to be extended and amended with a retroactive date beginning July 1, 2021.

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 D). 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. The County contracted with Denise Duffy & Associates (DD&A), following a competitive selection process under Request for Proposals #10519, in order to perform biological services for habitat management. The County entered into an Agreement No. A-12978 with DD&A on November 10, 2015 (Attachment E).

On June 30, 2020, FORA dissolved by operation of law and did not adopt 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 in order for the County to utilize these funds and continue habitat management for 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.

Since the base wide Habitat Conservation Plan was not adopted by FORA, the County is moving forward on developing a site-specific County Habitat Resource Management Plan (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 and Amendment No.1 to Agreement No. A-12978, staff mentioned 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 Professional Services Agreement with Denise Duffy & Associates to complete the Habitat RMP on April 20, 2021; however, as the County proceeds with developing the Habitat RMP, habitat management for CTS on the 134-acre parcel still needs to occur, as required by the conditions of the Section 2081 Incidental Take Permit for Phase II of the East Garrison Project. Therefore, staff is recommending for 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 is approved, whichever is earlier.

The MOA has been updated to reflect this information and the appropriate parties have reviewed and agreed to the terms of the extension. Furthermore, cost estimates for continued habitat management for CTS was

provided by DD&A, and the Agreement has been updated to reflect the scope of work and costs for the next 3 years. The cost for such services would be an additional \$112,522, for a total amount not to exceed \$218,172 for the entire Agreement. The Interim Habitat Management Fund endowed by the Developer has been expended and holds zero funds. Discussion below, under the Finance section, details the recommendation for utilizing the County's Habitat Management Funds to cover these costs.

In order to provide sufficient time for the County to develop and approve a Habitat RMP, HCD recommends the Board to approve a Second Extension to the MOA and Amendment No. 2 to Agreement No. A-12978 until June 30, 2024, or until a County Habitat RMP is approved, whichever is earlier.

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel and the Auditor-Controller's Office have approved the proposed Second Extension and Amendment No. 2 to Agreement A-12978 as to form 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. Additionally, the Developer made payments to the FORA Community Facilities District (CFD) Special Tax through June 30, 2020 when FORA dissolved, and continues to pay the habitat management fee directly to the County since FORA's dissolution. Following FORA's dissolution, the County received \$13.58 million that FORA had collected through its CFD and set aside for habitat management. Due to the significant amount of funds that the Developer has already contributed toward habitat management as identified above, staff recommends that the Developer shall have no obligation in providing additional funds to replenish the Interim Habitat Management Fund and instead utilize the existing County Habitat Management Funds to pay for CTS habitat management on Parker Flats under the extended MOA.

Funding for the staff time associated with these projects in FY 2021-22 is included in and will be reimbursed to the General Fund from the FY 2021-22 Proposed 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 2021-22 Proposed 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
- ☒ Administration
- ☐ Health & Human Services
- ☒ Infrastructure
- ☐ Public Safety

Prepared by: Jacquelyn M. Nickerson, Management Analyst II, (831) 755-5240

Reviewed by: Shandy Carroll, Management Analyst III

Approved by: Melanie Beretti, HCD Housing and Special Programs Services Manager

Approved by: Erik Lundquist, AICP, HCD Director

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

Attachment A - Second Extension to Memorandum of Agreement Regarding Habitat Management on Portions of The Parker Flats Reserve at the former Fort Ord, California

Attachment B - Amendment No. 2 to Agreement No. A-12978 with Denise Duffy & Associates, Inc.

Attachment C - First Extension to Memorandum of Agreement and Amendment No. 1 to Agreement No. A-12978

Attachment D - Original Memorandum of Agreement

Attachment E - Original Professional Services Agreement No. A-12978