

MONTEREY PENINSULA REGIONAL PARK DISTRICT
BOARD OF DIRECTORS MEETING

DATE: August 3, 2022
TO: Board of Directors
FROM: Jackie Nelson, Environmental Education Supervisor
REVIEWED BY: Rafael Payan, General Manager
SUBJECT: Approval to Revise Contract Amendment with Burleson Consulting Inc., A Terracon Company for Implementation of the Marina Dunes Preserve Restoration Action

SUMMARY:

The staff respectfully recommends the Board approve the Burleson Consulting Inc., A Terracon Company (Burleson) contract amendment with scope of work and budget revisions for the implementation of the Marina Dunes Preserve (MDP) Restoration Action Plan in fiscal year 2022-2023 (**ATTACHMENT 1**).

FISCAL IMPACT:

Up to \$45,000

FUNDING SOURCE:

Account #6549 Professional Services (\$45,000)

FUNDING BALANCE:

Account # 6549 \$165,000 available (at time of report)

DISCUSSION:

On June 1, 2022, the Board of Directors approved a contract amendment with Burleson to enter into a third year of services towards large scale restoration work and landscape mitigation for specific species including Smiths blue butterfly, Monterey spineflower, and sand gilia utilizing PG&E mitigation funding. After receiving Board direction, and before executing the Burleson contact amendment, newly hired Planning and Conservation Manager discovered the existence of an "Irrevocable Offer to Title in Fee," between California (State) Coastal Conservancy (Conservancy) and Big Sur Land Trust (BSLT) on the largest MDP parcel which contained terms, conditions, and restrictions that run with the transfer of the real property.

The restrictions, deemed covenants and restrictions running with the land state:

"USE OF THE REAL PROPERTY FOR MITIGATION. Without limitation, the offeror [BSLT and hence MPRPD] shall not use or allow the use of any portion of the real property for mitigation (in other words, to compensate for adverse changes to the environment elsewhere) without the written permission of the Executive Officer. All funds generated in connection with any authorized or allowable mitigation on the real property shall be remitted promptly to the Conservancy until the Conservancy has been fully paid for all of its past, present, and future costs with respect to the real property. including. Without limitation, staff, planning, development, restoration, operation and maintenance, and

monitoring costs, and acquisition costs at fair market value as of the time mitigation is to begin.

These deed restriction findings directly impact the use of the PG&E mitigation monies and the restoration efforts at MDP. Staff is committed to continue the restoration work on MDP while negotiations with the Conservancy, PG&E and MPRPD proceed. If a resolution is not reached the \$624,346 shall be returned to PG&E.

Working with Burleson, staff develop the FY 2022-2023 workplan to include two options. **(ATTACHMENT 2)**.

Option A: entails implementation of the PG&E mitigation plan, project coordination, and interpretive signage tasks. Option A has a budget of \$200,000.

Option B: entails implementation of project coordination of the RAP priority tasks. Option B has a total budget of \$45,000 which include Smith's blue butterfly surveys completed in July 2022, not reflected in the Burleson report. The scope of work in Option B closely aligns with the tasks outlined in the original RAP, prior to receiving the PG&E money.

Staff respectfully requests the Board approve staff to execute a Burleson contract amendment based on Option B in the amount of \$45,000. Staff will request an additional contract amendment when the negotiations with the Conservancy and PG&E are positively resolved.

RECOMMENDED ACTION:

Staff recommends that the Board direct staff to execute the revised contract amendment with Burleson Consulting Inc., A Terracon Company, substantially in the form presented based on Option B in the amount of \$45,000.

ATTACHMENT:

1. [Burleson Contract Amendment](#)
2. [Burleson RAP and PG&E Project Scope of Work](#)