



STATE OF CALIFORNIA

CONTRACT REQUEST FORM (CRF)

CEC-94 (Revised 12/2019)

CALIFORNIA ENERGY COMMISSION

A) New Agreement # 700-21-001 (to be completed by CGL office)

B) Division	Agreement Manager:	MS-	Phone
STEP	Andrea Stroud		916-805-7431

C) Contractor's Legal Name	Federal ID #
United States Fish and Wildlife Service	-

D) Title of Project
Restoration of Desert Tortoise Habitat

E) Term and Amount

Start Date	End Date	Amount
9 / 8 / 2021	4 / 8 / 2024	\$ 139,017.00

F) Business Meeting Information

☐ Operational agreement (see CAM Manual for list) to be approved by Executive Director

☐ ARFVTP agreements \$75K and under delegated to Executive Director

Proposed Business Meeting Date 09 / 08 / 2021 ☒ Consent ☐ Discussion

Business Meeting Presenter Andrea Stroud Time Needed: 10 minutes

Please select one list serve.

Agenda Item Subject and Description:

United States Fish and Wildlife Service. Proposed resolution approving Agreement 700-21-001 with United States Fish and Wildlife Service for a \$139,017 contract to revegetate desert tortoise habitat and adopting staff's determination that this action is exempt from CEQA. (Rice Solar Energy Bio Mitigation Account) Contact: Andrea Stroud

G) California Environmental Quality Act (CEQA) Compliance

1. Is Agreement considered a "Project" under CEQA?

☒ Yes (skip to question 2) ☐ No (complete the following (PRC 21065 and 14 CCR 15378)):

Explain why Agreement is not considered a "Project":

Agreement will not cause direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment because .

2. If Agreement is considered a "Project" under CEQA:

a) ☐ Agreement **IS** exempt.

☐ Statutory Exemption. List PRC and/or CCR section number:

☒ Categorical Exemption. List CCR section number: 15307

☐ Common Sense Exemption. 14 CCR 15061 (b) (3) Explain reason why Agreement is exempt under the above section:

Cal. Code of Regs., tit. 14, section 15307 provides that actions taken by regulatory agencies as authorized by state law to assure the maintenance, restoration or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment are categorically exempt from the provisions of the California Environmental Quality Act. The mitigation project is part of the conditions of certification required by the Energy Commission



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for the approval of a license for the Rice Solar Energy Project, a 150 MW renewable energy facility in Riverside County. The Energy Commission is entering into this contract for the restoration work to satisfy the revegetation plan prepared for the conditions of certification of the license. This project is to restore desert tortoise habitat including surveying desert land, collecting native plant seeds, propagating and planting native plants and removing non-native plants by hand in the Colorado Desert Recovery Unit. For these reasons, this project is exempt under section 15307.

- b) ☐ Agreement **IS NOT** exempt. (consult with the legal office to determine next steps)

Check all that apply

- ☐ Initial Study
☐ Negative Declaration
☐ Mitigated Negative Declaration
☐ Environmental Impact Report
☐ Statement of Overriding Considerations

H) List all subcontractors (major and minor) and equipment vendors: (attach additional sheets as necessary)

Legal Company Name:	Budget
TBD	\$ 139,017.00
	\$ 0.00
	\$ 0.00

I) List all key partners: (attach additional sheets as necessary)

Legal Company Name:
N/A

J) Budget Information

Funding Source	Funding Year of Appropriation	Budget List Number	Amount
Special Deposit Fund	2021	Acct # 0942368-3360-1945-501	\$139,017.00
Funding Source			\$
Funding Source			\$
Funding Source			\$
Funding Source			\$

R&D Program Area: Select Program Area TOTAL: \$

Explanation for "Other" selection

Reimbursement Contract #:

Federal Agreement #:

K) Contractor's Contact Information

1. Contractor's
Administrator/Officer

Name: Jaime Hotz



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Address: Carlsbad Fish and Wildlife
Office, 2177 Salk Avenue, Suite
250
City, State, Zip: Carlsbad, CA
92008
Phone: 760-431-9440 x250
E-Mail: jaime_hotz@fws.gov

Name: Vincent James
Address: Palm Springs Fish and
Wildlife Office, 777 E. Tahquitz
Canyon Way
City, State, Zip: Palm Springs, CA
92262
Phone: 760-322-2070 x415
E-Mail: vincent_james@fws.gov

2. Contractor's Project Manager

L) Selection Process Used

- ☐ Solicitation Select Type Solicitation #: - - # of Bids: Low Bid ☐ No ☐ Yes
☐ Non Competitive Bid (Attach DGS-GSPD-09-007 <https://www.dgs.ca.gov/PD/Forms>)
☒ Exempt Interagency

M) Contractor Entity Type

- ☐ Private Company (including non-profits)
☐ CA State Agency (including UC and CSU)
☒ Government Entity (i.e. city, county, federal government, air/water/school district, joint power authorities, university from another state)

N) Is Contractor a certified Small Business (SB), Micro Business (MB) or DVBE?

If yes, check appropriate box(es): ☐ SB ☐ MB ☐ DVBE

O) Civil Service Considerations

- ☐ Not Applicable (Agreement is with a CA State Entity or a membership/co-sponsorship)
☐ Public Resources Code 25620, et seq., authorizes the Commission to contract for the subject work. (PIER)
☒ The Services Contracted:
☐ are not available within civil service
☐ cannot be performed satisfactorily by civil service employees
☒ are of such a highly specialized or technical nature that the expert knowledge, expertise, and ability are not available through the civil service system.
☒ The Services are of such an:
☐ urgent
☐ temporary, or
☒ occasional nature
that the delay to implement under civil service would frustrate their very purpose.

Justification:

P) Payment Method



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1. ☐ Reimbursement in arrears based on:
 - ☐ Itemized Monthly ☐ Itemized Quarterly ☐ Flat Rate ☐ One-time
2. ☒ Advanced Payment
3. ☒ Other, explain: Lump Sum Payment

Q) RetentionIs Agreement subject to retention? ☒ No ☐ YesIf Yes, Will retention be released prior to Agreement termination? ☐ No ☐ Yes**R) Justification of Rates**

N/A

S) Disabled Veteran Business Enterprise Program (DVBE)

1. ☒ Exempt (Interagency/Other Government Entity)
2. ☐ Meets DVBE Requirements DVBE Amount:\$ 0 DVBE %:
 - a. ☐ Contractor is Certified DVBE
 - b. ☐ Contractor is Subcontracting with a DVBE: Name of DVBE Company
3. ☐ Contractor selected through CMAS or MSA with no DVBE participation
4. ☐ Requesting DVBE Exemption (attach CEC 95)

T) Miscellaneous Agreement Information

1. Will there be Work Authorizations? ☒ No ☐ Yes
2. Is the Contractor providing confidential information? ☒ No ☐ Yes
3. Is the contractor going to purchase equipment? ☒ No ☐ Yes
4. Check frequency of progress reports
 - ☐ Monthly ☐ Quarterly ☒ Other...
5. Will a final report be required? ☐ No ☒ Yes
6. Is the Agreement, with amendments, longer than three years? If yes, why? ☒ No ☐ Yes

U) The following items should be attached to this CRF (as applicable)

- | | | |
|---|---|--|
| 1. Exhibit A, Scope of Work | <input type="checkbox"/> N/A | <input checked="" type="checkbox"/> Attached |
| 2. Exhibit B, Budget Detail | <input type="checkbox"/> N/A | <input type="checkbox"/> Attached |
| 3. DGS-GSPD-09-007, NCB Request | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Attached |
| 4. CEC 95, DVBE Exemption Request | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Attached |
| 5. CEQA Documentation | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Attached |
| 6. Resumes | <input checked="" type="checkbox"/> N/A | <input type="checkbox"/> Attached |
| 7. CEC 105, Questionnaire for Identifying Conflicts | | <input checked="" type="checkbox"/> Attached |

Agreement Manager_____
Date_____
Office Manager_____
Date_____
Deputy Director_____
Date

SCOPE OF WORK

Restoring Desert Tortoise Habitat in the Colorado Desert Recovery Unit within the Chuckwalla Critical Habitat Unit

Purpose:

The purpose of this Agreement is to enter into a contract with U.S. Fish and Wildlife Service to restore/revegetate desert tortoise habitat.

Goals and Objectives:

- To restore degraded desert tortoise habitat sites within the Colorado Desert Recovery Unit due to invasive plants that reduce available foraging sources to the tortoise.
- To implement the strategy, defined by this scope of work within the Chuckwalla Critical Habitat Unit to manage invasive plant species, and increase native plant cover, thereby improving the overall habitat conditions for the species.

Reason for Agreement:

In December 2010, the California Energy Commission (CEC) approved a license for the Rice Solar Energy Project (Project), a 150-megawatt (MW) solar thermal power plant on approximately 2,560 acres of private land in eastern Riverside County, California. Among the conditions of certification in the license is Condition of Certification BIO-10 Revegetation Plan and Compensation for Impacts to Native Vegetation Communities, which requires that areas cleared during construction be reseeded with a native seed mix and that the success of the revegetation be monitored for a minimum of two years or until the success criteria has been met.

Initial project work was authorized by the CEC in a Limited Notice to Proceed (LNTP) issued in August 2013 to cut a perimeter road path and install desert tortoise exclusion fencing and storm water Best Management Practices (BMPs). The Project Owner was unable to secure funding to support any further work and the exclusion fence and BMPs were removed from the project site in June 2014. Native vegetation removed during work under the LNTP was not revegetated as required by BIO-10. Subsequently, the Project Owner's land lease option agreement with the private property owner was terminated. The property owner requests that no restoration work be conducted on their property.

The Project Owner posted a Letter of Credit for \$139,017 as security for meeting the requirements of BIO-10, and the CEC exercised its option to collect these funds from the issuing bank, JPMorgan Chase. The funds are currently in a Special Deposit Fund established by the State Controller's Office (account number 0942368-3360-1945-501).

Since work could not occur at the site of disturbance, the CEC looked for other opportunities to restore/revegetate desert tortoise habitat. The CEC requirements to meet Condition of

Certification BIO-10 includes work that occurs in the Colorado Desert, to restore/revegetate desert tortoise habitat through seed collection, plant propagation, planting and monitoring.

Background:

The Mojave population of the desert tortoise, *Gopherus agassizii*, was listed as a threatened species under the U.S. Endangered Species Act in 1990 (USFWS 1990). In 1994, the U.S. Fish and Wildlife Service (USFWS) designated critical habitat covering 6.4 million acres of the desert tortoise range (California Mojave Recovery Implementation Team 2014). Approximately 4.8 million acres, or 75 percent, of the critical habitat occurs in the State of California. In addition to Federal protection, the desert tortoise is the California State reptile and is listed as a threatened species under the State's Endangered Species Act (U.S. Fish and Wildlife Service 2014).

Invasive plant species pose a serious threat to the survival of many species across the United States, especially the desert tortoise (Brooks and Pyke 2002). Invasive plant species, such as Sahara mustard (*Brassica tournefortii*), *Bromus*, and *Schismus* grasses, impact the quality and quantity of native plants that the desert tortoise relies on for food and cover sources. While several studies show that desert tortoises will, and do, consume both *Bromus* and *Schismus* grass species, *Bromus* grass seeds often become impacted in the mucosal lining of the mouth and tongue which causes physical damage when consumed by tortoises. While these invasive grass species are consumed by desert tortoises, research has also shown that individuals fed diets that included non-native grass resulted in negative consequences in overall growth, health, immune function and survival. These same studies have shown that the consumption of native forbs is hugely important for desert tortoises when it pertains to growth, energy levels, health and achieving high survival rates (Drake 2016).

Sahara mustard is problematic for the desert tortoise for a few reasons. This species forms dense stands, thereby outcompeting necessary native forbs needed by desert tortoises, as mentioned above (Abella 2016). Sahara mustard is also high in oxalates, which are harmful to the desert tortoise's health (Jacobson et al. 2009). Finally, Sahara mustard, along with the previously mentioned invasive grasses also impact the fire frequency within the Mojave Desert. Many of the non-native and invasive plants are fire-adapted and thrive in post-fire landscapes (Averill-Murray et. al. 2012). The increased frequency of fires in the Mojave Desert poses yet another threat to the survival of the desert tortoise and the native forage species upon which it heavily relies.

According to the Recovery Action Plan for the Mojave Desert Tortoise in California (U.S. Fish and Wildlife Service 2014), habitat restoration has been ranked a Priority 1 for the Colorado Desert Tortoise Conservation Area. Priority 1 actions are defined as "those that the workgroup deemed the highest priority for implementation." These actions have the highest expected effectiveness for contributing to tortoise recovery and/or need to be completed first to allow for other actions to be implemented. (U.S. Fish and Wildlife Service 2014)

The Colorado Desert Workgroup specifically prioritized the "development of an invasive plant species management plan for the desert tortoise habitat within the Colorado Desert recovery unit," especially focused on Sahara mustard and buffelgrass (*Pennisetum ciliare* and *Cenchrus*

ciliaris). Furthermore, the Colorado Desert Workgroup calls for “the development and implementation of a local, native plant seed collection/curation/nursery program to further restoration efforts in the Colorado Desert, with emphasis on those plants that are the favored forage for tortoises within the Colorado Desert Recovery Unit.” The development of a native plant program has been given a ranking priority of 2 for the Colorado Desert Conservation Area. Local, native plant propagation and seed collection will be developed using similar methods as that of the Bureau of Land Management’s (BLM) Native Plant Materials Development Program/Seeds of Success (U.S. Fish and Wildlife Service 2014). The Living Desert (TLD) has been an active participant in BLM’s Native Plant Materials Development Program for several years. TLD has successfully grown over 3,000 native plants from seed for revegetation projects coordinated by the BLM. As such, TLD is very experienced with their methods and plan to apply them toward this project (U.S. Fish and Wildlife Service 2014).

Administrative Tasks:

- Contractor will prepare and make publicly available a Notice of Funding Opportunity
- Contractor will enter into a contract (Cooperative Agreement) with the subcontractor to perform technical tasks
- Contractor or subcontractor will provide a final report showing the monitoring results of the restoration

Technical Tasks :

1. Identify five one-acre plots within the Chuckwalla Critical Habitat Unit (CCHU) of the Colorado Desert Recovery Unit (Figure 1) and Desert Tortoise Recovery Focal Areas (Exhibit A, Attachment 1) – specifically locate the five plots all within the Desert Tortoise Focus Area parcel called Chuckwalla West (Exhibit A, Attachment 1)
2. Mark off four 0.25-acre subplots within each one-acre plot to simplify monitoring
3. Survey each one-acre plot to define vegetation communities, native annual richness and abundance, vegetation cover and native plants for seed collections
4. Collect seed from native plant communities
5. Store and propagate collected seeds for restoration efforts
6. Remove all non-native plants from each one-acre plot via hand pulling
7. Revegetate all subplots with top five native plant preferred food for the desert tortoise, with plants that are propagated from the CCHU
8. Protect and water all propagated plants for the first four months
9. Monitor and collect data on all one-acre plots quarterly for a year after treatment, including native plant species richness and abundance, and survival rates of the transplanted individuals
10. Monitor spread of native plants within 10 meters of untreated area surrounding one-acre plots to determine spread of revegetated native plants from the plots to surrounding areas before start of treatment and then again semiannually afterwards

11. Analyze collected data
12. Write up results in a report to USFWS, BLM, and CEC
13. Present results and findings to the California Desert Tortoise Recovery Implementation Team

Deliverables

- Copy of Notice of Funding Opportunity
- Copy of any subcontracts
- Final report

STATE OF CALIFORNIA

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION UNITED STATES FISH AND WILDLIFE SERVICE

RESOLVED, that the State Energy Resources Conservation and Development Commission (CEC) adopts the staff CEQA findings contained in the Agreement or Amendment Request Form (as applicable); and

RESOLVED, that the CEC approves Agreement 700-21-001 with the United States Fish and Wildlife Service for a \$139,017 contract to revegetate desert tortoise habitat; and

FURTHER BE IT RESOLVED, that the Executive Director or his/her designee shall execute the same on behalf of the CEC.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted at a meeting of the CEC held on September 8, 2021.

AYE:

NAY:

ABSENT:

ABSTAIN:

Liza Lopez
Secretariat