

PLACER COUNTY
REDEVELOPMENT AGENCY

MEMORANDUM

TO: Honorable Members of the Redevelopment Agency Board
FROM: Thomas M. Miller, Director
James LoBue, Deputy Director
DATE: May 3, 2011
SUBJECT: Amend the Professional Services Contract with Blackburn Consulting, Inc. for Housing Construction Management and Prevailing Wage Monitoring Services to Increase the Contract Amount from \$75,000 to \$150,000.

ACTION REQUESTED

Authorize the Purchasing Manager or designee to execute an amendment to Blanket Purchase Order Number BPO-17919 between the Redevelopment Agency and Blackburn Consulting, Inc., for housing construction management and prevailing wage monitoring services to increase the total amount from \$75,000 to \$150,000.

BACKGROUND

The Redevelopment Agency (Agency) has provided approximately eight million dollars of Agency funding and more than five million dollars of outside grant and loan funding to assist the Kings Beach Scattered Sites Housing Project. The project is currently in construction and the Agency is in need of consulting assistance to monitor, control, and document the proper use of project funds. On May 5, 2010, the Agency solicited proposals from the firms on the County's Qualified List #9867 for Construction Inspection, Material Testing, and Construction Management services. Two firms responded and provided proposals. A review panel rated and ranked the proposals and Blackburn Consulting was selected to provide these services. The proposal from Blackburn Consulting estimated the total cost for their services during the full course of development for all five sites would be approximately \$150,000. The original contract amount of \$75,000 was the amount of funds available at the time of the initiation of the contract, recognizing that additional funds would need to be committed to allow the services to continue through the development of all five sites of the Kings Beach Scattered Sites Housing Project.

The financial structure for the development of these sites is very complicated, with multiple funding sources and varying requirements for the different sources. It takes a high level of coordination to ensure that all the requirements of each of the lenders are met and to comply with the terms of the separate agreements. Blackburn Consulting has been working on the construction management and prevailing wage monitoring over the past year during the construction of the project. Sites currently under construction are 8818 Brook Avenue and 255/265 Fox Street in Kings Beach. These two sites are anticipated to be completed in August 2011. Beginning in May 2011, as soon as authorization from the Tahoe Regional Planning Agency is granted, construction will begin on the remaining three sites, 345/348/375 Deer Street, 8500 Trout Avenue, and 200 Chipmunk Street. The addition of these three sites will increase the complexity of the construction management and

prevailing wage monitoring for this project. The federal funding received for Deer Street adds an additional layer of requirements and reporting.

FISCAL IMPACT

The Amendment provides for an additional \$75,000 to be added to this Contract increasing the not to exceed amount to \$150,000. The contract will continue to be effective until December 31, 2012. Adequate funds are available in the North Lake Tahoe Redevelopment Project Area budget. There will be no impact on the County General Fund.

ENVIRONMENTAL STATUS

Pursuant to California Environmental Quality Act Guidelines section 15180, the proposed action to approve the construction management and prevailing wage monitoring services consultant contract is an activity taken in furtherance of the North Lake Tahoe Redevelopment Project Area Plan adopted by your Board and the Environmental Impact Report certified for the same.

Attachments: Resolution
Consultant Contract

cc: Karin Schwab, Agency Counsel

**Before the Placer County
Redevelopment Agency Board of Directors
County of Placer, State of California**

In the matter of:

Amending the Professional Services Contract with Blackburn Consulting, Inc. which provides housing construction management and prevailing wage monitoring services to increase the contract amount from \$75,000 to \$150,000

Resol. No:.....

Ord. No:.....

First Reading:

The following Resolution was duly passed by the Redevelopment Agency Board of the County of Placer at a regular meeting held _____,

by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

**Attest:
Clerk of said Board**

Chair, Agency Board

WHEREAS, by Ordinance No. 4753-B adopted on July 16, 1996, the Board of Supervisors of the County of Placer adopted the Redevelopment Plan for the North Lake Tahoe Redevelopment Project Area (Redevelopment Plan) pursuant to Community Redevelopment Law, Section 33490 of Part I of Division 24 of the Health and Safety Code of the State of California (Law);

WHEREAS, the Redevelopment Agency of the County of Placer (Agency) is vested with responsibility pursuant to the Law to implement the Redevelopment Plan in the North Lake Tahoe Redevelopment Project Area;

WHEREAS, the Agency entered into a Disposition, Development and Loan Agreement (DDA) with Kings Beach Housing Associates, L.P. (Developer) for the construction of affordable rental housing at 325, 348, and 385 Deer Street, 265 Fox Street, 200 Chipmunk Street, 8818 Brook Avenue, and 8500 Trout Avenue, Kings Beach, CA (Kings Beach Housing);

WHEREAS, the DDA includes Agency loans to the Developer in the amount of \$7,918,300. The Agency is also contributing funds from its Housing and Community Development Infill Infrastructure Grant in the amount of \$3,314,400. The County has a HOME loan in the amount of \$2,000,000 to assist with the construction costs of the 345, 348 and 375 Deer Street site;

WHEREAS, the Agency hired Blackburn Consulting, Inc. to provide construction management and prevailing wage monitoring services for Kings Beach Housing to protect the financial and contractual obligations of the Agency and the County for the Agency loans and for the County's HOME loan;

WHEREAS, in furtherance of those service, the Agency requests to amend the contract to increase the total contract amount from \$75,000 to \$150,000; and

WHEREAS, pursuant to California Environmental Quality Act Guidelines section 15180, the proposed action to enter into an agreement for construction management and prevailing wage monitoring services is an activity taken in furtherance of the North Lake Tahoe Redevelopment Plan adopted by your Board on July 16, 1996 and the Environmental Impact Report certified for the same.

NOW, THEREFORE, BE IT RESOLVED that the Agency Board hereby resolves:

1. The Purchasing Manager or his designee is authorized to execute an amendment to the contract and Blanket Purchase Order Number BPO-17919 in an amount not to exceed \$150,000 with Blackburn Consulting, Inc. to continue to provide construction management and prevailing wage monitoring services to the Agency.
2. This resolution shall become effective immediately upon adoption.

Consultant: Blackburn Consulting
Project: Kings Beach Multi-family Housing
Administering Agency: Placer County Redevelopment Agency
Contract No.
Contract Description: Construction Management and Prevailing Wage Monitoring

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is made at Auburn, California, as of **July 1, 2010**, by and between the Placer County Redevelopment Agency, (“Agency”), and **Blackburn Consulting** (“Consultant”), who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide the services described in Exhibit A. Consultant shall provide said services at the time, place, and in the manner specified in Exhibit A and B.
2. **Payment.** Agency shall pay Consultant for services rendered pursuant to this Agreement at the time and in the amount set forth in Exhibit A and/or B, up to a maximum of **Seventy Five Thousand Dollars (\$75,000)**. The payment specified in Exhibit B shall be the only payment made to Consultant for services rendered pursuant to this Agreement. This amount is the initial authorization, and additional expenditures, if any, may be authorized by the Agency when requested in advance and approved in writing. Consultant shall submit all billings for said services to Agency in the manner specified in Exhibit B; or, if no manner be specified in Exhibit B, then according to the usual and customary procedures which Consultant uses for billing clients similar to Agency.
3. **Facilities, Equipment and Other Materials, and Obligations of Agency.** Consultant shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement.
4. **Exhibits.** All exhibits referred to herein are attached hereto and by this reference incorporated herein.
5. **Time for Performance.** Time is of the essence, and, subject to Consultant’s compliance to the provisions of Paragraph 8 of this Agreement. Failure of Consultant to perform any services within the time limits shall constitute material breach of this contract. Contract shall expire **June 30, 2012**.
6. **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of the Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant’s

services rendered pursuant to this Agreement. Agency shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement.

7. **Licenses, Permits, Etc.** Consultant represents and warrants to Agency that it has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to Agency that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for Consultant to practice its profession at the time the services are performed.
8. **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of Consultant's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.
9. **Hold Harmless and Indemnification Agreement.** The Consultant hereby agrees to protect, defend, indemnify, and hold Agency free and harmless from any and all losses, claims, liens, demands and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by Agency arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the Agency) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of the contract or agreement to the extent that the above are caused by negligent acts, errors, omissions, or willful misconduct of the Consultant. Consultant's obligation shall include the duty to defend Agency as set forth in California Civil Code, Section 2778 and 2782.5. This provision is not intended to create any cause of action in favor of any third party against Consultant or the Agency.

As used above, the term Agency means Placer County Redevelopment Agency, its officers, agents, employees, and volunteers.

10. **Insurance.** Consultant shall file with Agency concurrently herewith a Certificate of Insurance, in companies acceptable to Agency, with a Best's Rating of no less than A-:VII showing.
11. **Worker's Compensation and Employers Liability Insurance.** Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to Consultant's employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the Placer County Redevelopment Agency."

Consultant shall require all subcontractors to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the Agency upon demand.

12. General Liability Insurance.

A. Comprehensive General Liability or Commercial General Liability insurance shall be provided covering all operations by or on behalf of Consultant, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

(1) Contractual liability insuring the obligations assumed by Consultant in this Agreement.

B. One of the following forms is required:

- (1) Comprehensive General Liability;
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

C. If Consultant carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

- ® One million dollars (\$1,000,000) each occurrence
- ® Two million dollars (\$2,000,000) aggregate

D. If Consultant carries a Commercial General Liability (Occurrence) policy:

(1) The limits of liability shall not be less than:

- ® One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
- ® One million dollars (\$1,000,000) for Products Completed Operations

® Two million dollars (\$2,000,000) General Aggregate

- (2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

E. Special Claims Made Policy Form Provisions:

Consultant shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of Agency, which consent, if given, shall be subject to the following conditions:

- (1) The limits of liability shall not be less than:

® One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)

® One million dollars (\$1,000,000) aggregate for Products Completed Operations

® Two million dollars (\$2,000,000) General Aggregate

- (2) The insurance coverage provided by Consultant shall contain language providing coverage up to six (6) months following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

13. Endorsements.

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

- A. “The Placer County Redevelopment Agency, its officers, agents, employees, and volunteers are to be covered as insureds for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement.”
- B. “The insurance provided by the Consultant, including any excess liability or umbrella form coverage, is primary coverage to the Placer County Redevelopment Agency with respect to any insurance or self-insurance programs maintained by the Placer County Redevelopment Agency and no insurance held or owned by the Agency shall be called upon to contribute to a loss.”
- C. “This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the Placer County Redevelopment Agency.”

14. Automobile Liability Insurance.

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

15. Professional Liability Insurance (Errors & Omissions).

Professional Liability Insurance for Errors and Omissions coverage shall be provided in the amount of not less than \$ 1,000,000.

If Consultant sub-contracts in support of Consultant's work provided for in the agreement, Professional Liability Insurance for Errors shall be provided by the subcontractor in an amount not less than one million dollars (\$1,000,000) in aggregate.

The insurance coverage provided by the Consultant shall contain language providing coverage up to six (6) months following completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims made policy.

16. Consultant Not Agent. Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

17. Assignment Prohibited. Consultant may assign its rights and obligations under this Agreement only upon the prior written approval of Agency, said approval to be in the sole discretion of Agency.

18. Personnel.

A. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by Consultant to perform services pursuant to this Agreement, including those members of the Project Team as explained below, Consultant shall remove any such person immediately upon receiving notice from Agency of the desire of Agency for removal of such person or persons.

B. Notwithstanding the foregoing, if specific persons are designated as the "Project Team" in Exhibit B, Consultant agrees to perform the work under this agreement with those individuals identified. Reassignment or substitution of individuals or subconsultants named in the Project Team by Consultant without the prior written consent of Agency shall be grounds for cancellation of the agreement by Agency, and payment shall be made pursuant to Paragraph 15 Termination only for that work performed by Project Team members.

19. Standard of Performance. Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent

practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. All products of whatsoever nature which Consultant delivers to Agency pursuant to this Agreement shall be prepared in a substantial first class and workmanlike manner and conform to the standards or quality normally observed by a person practicing in Consultant's profession.

20. Termination.

A. Agency shall have the right to terminate this Agreement at any time by giving notice in writing of such termination to Consultant. In the event Agency shall give notice of termination, Consultant shall immediately cease rendering service upon receipt of such written notice, pursuant to this Agreement. In the event Agency shall terminate this Agreement:

- 1) Consultant shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.
- 2) Agency shall have full ownership and control of all such writings delivered by Consultant pursuant to this Agreement.
- 3) Agency shall pay Consultant the reasonable value of services rendered by Consultant to the date of termination pursuant to this Agreement not to exceed the amount documented by Consultant and approved by Agency as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed the amount of the agreement specified in Exhibit A, and further provided, however, Agency shall not in any manner be liable for lost profits which might have been made by Consultant had Consultant completed the services required by this Agreement. In this regard, Consultant shall furnish to Agency such financial information as in the judgment of the Agency is necessary to determine the reasonable value of the services rendered by Consultant. The foregoing is cumulative and does not affect any right or remedy which Agency may have in law or equity.

B. Consultant may terminate its services under this Agreement upon thirty (30) working days' advance written notice to the Agency.

21. Non-Discrimination. Consultant shall not discriminate in its employment practices because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex in contravention of the California Fair Employment and Housing Act, Government Code section 12900 et seq.

22. **Records.** Consultant shall maintain, at all times, complete detailed records with regard to work performed under this agreement in a form acceptable to Agency, and Agency shall have the right to inspect such records at any reasonable time. Notwithstanding any other terms of this agreement, no payments shall be made to Consultant until Agency is satisfied that work of such value has been rendered pursuant to this agreement. However, Agency shall not unreasonably withhold payment and, if a dispute exists, the withheld payment shall be proportional only to the item in dispute.
23. **Ownership of Information.** All professional and technical information developed under this Agreement and all work sheets, reports, and related data shall become the property of Agency, and Consultant agrees to deliver reproducible copies of such documents to Agency on completion of the services hereunder. The Agency agrees to indemnify and hold Consultant harmless from any claim arising out of reuse of the information for other than this project.
24. **Waiver.** One or more waivers by one party of any major or minor breach or default of any provision, term, condition, or covenant of this Agreement shall not operate as a waiver of any subsequent breach or default by the other party.
25. **Conflict of Interest.** Consultant certifies that no official or employee of the Agency, nor any business entity in which an official of the Agency has an interest, has been employed or retained to solicit or aid in the procuring of this agreement. In addition, Consultant agrees that no such person will be employed in the performance of this agreement without immediately notifying the Agency.
26. **Entirety of Agreement.** This Agreement contains the entire agreement of Agency and Consultant with respect to the subject matter hereof, and no other agreement, statement, or promise made by any party, or to any employee, officer or agent of any party which is not contained in this Agreement shall be binding or valid.
27. **Notification.** Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the mail, postage prepaid, and addressed to the parties as follows:

AGENCY: Placer County Redevelopment Agency
Attn: Jim LoBue
3091 County Center Drive, Suite 260
Auburn, CA 95604-7096 (Project Inquiries)
P.O. Box 7096, Auburn CA 95604-7096 (Accounts Payable)
Phone: (530) 745-3150 Fax: (530) 745-3152

CONSULTANT: Blackburn Consulting
Attn: Thomas W. Blackburn CE, GE, President
11521 Blocker Drive, Suite 100
Auburn, CA 95603
Phone: (530) 887-1494 Fax: (530) 887-1495

Any notice so delivered personally shall be deemed to be received on the date of delivery, and any notice mailed shall be deemed to be received five (5) days after the date on which it was mailed.

- 28. Governing Law.** This Agreement is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect. Any legal proceedings on this agreement shall be brought under the jurisdiction of the Superior Court of the County of Placer, State of California, and Consultant hereby expressly waives those provisions in California Code of Civil Procedure §394 that may have allowed it to transfer venue to another jurisdiction.

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Executed as of the day first above stated:

PLACER COUNTY REDEVELOPMENT AGENCY

By: _____
Jim Boggan, Purchasing Manager

Date: _____

BLACKBURN CONSULTING

By: _____
Name: Thomas W. Blackburn CE, GE, President

Date: _____

By: _____
Name: Grace Blackburn, CFO, Secretary

Date: _____

Approved As to Form

Karin Schwab, Agency Counsel

*Agreement must be signed by two corporate officers if a corporation; one must be the secretary of the corporation, and the other may be either the President or Vice President, unless an authenticated corporate resolution is attached delegating authority to a single officer to bind the corporation.

EXHIBIT A

SCOPE OF SERVICES

- a) Examine project sites in Kings Beach and surrounding locale, become familiar with working conditions in and around the North Tahoe area.
- b) Review project description, entitlements, building plans, Disposition and Development Loan Agreement between Agency and developer.
- c) Review regulations and conditions of funding agencies, TRPA and Placer County.
- d) Review construction contract between developer and contractor and sub-contracts, assure federal labor standards, wage decisions, and all required contract language provisions are included in the agreements, and verify contractor/subcontractor Federal eligibility and standing.
- e) Determine prevailing wage requirements for each site, obtain applicable wage decisions, review weekly payrolls and statements of compliance, site inspection to determine all required job site postings are present, interview employees and record on Form HUD11, obtain proof of registration in federally recognized and state registered trainee or apprenticeship program. Four of the five sites will have State prevailing wage requirements and the site with HOME financing will have Federal Davis Bacon requirements.
- f) Review insurance and bonding requirements and confirm compliance.
- g) Review and assure developer and contractor's timelines, milestones and reporting requirements for all funding providers are included in a schedule to be provided to the Agency and notify Agency if achievements towards those requirements are not being met.
- h) Establish a construction management schedule, receive and approve construction inspections and reports, advise the Agency in writing regarding such reports.
- i) Review and approve in consultation with Agency staff, construction change orders and modifications to the project and/ or project construction schedule.
- j) Assist Agency staff in the draw process as needed (funding draws to the funding agencies will be administered by the Agency). The construction manager will be expected to review and recommend for approval to the Agency all draw requests.
- k) Monitor and track expenditures.
- l) Participate in project meetings as needed.

EXHIBIT B

PAYMENT FOR SERVICES RENDERED

Staff to be assigned (name and position title) and hourly rate schedule

Blackburn Consulting

Tom Blackburn, Senior Principal	\$230/hour
Dave Noel, CM Manager	\$185/hour
Grace Blackburn, Sr. PM	\$185/hour
Wendy Supinger, PW Administrator	\$160/hour
Tyler McCrea, Assistant	\$85/hour

Willdan Engineering

Al Warot, Director	\$185/hour
Marcus Bledsoe, Field Administrator	\$100/hour

Other Direct Costs – Travel Cost @ IRS Mileage Rate

EXHIBIT C

FACILITIES, EQUIPMENT, AND OTHER MATERIALS AND OBLIGATIONS OF COUNTY

Consultant will not use any Agency facilities, equipment or other materials without the consent of the Deputy Director of Redevelopment.

Consultant **Blackburn Consulting, Inc.**
Administering Agency: **Placer County Redevelopment Agency**
Contract Number: **BP017919**
Contract Description: **Construction Management and Prevailing Wage Monitoring**

CONTRACT AMENDMENT NO. 1

THIS AGREEMENT, originally made at Auburn, California, as of **July 1, 2010**, by and between the Placer County Redevelopment Agency (“Agency”), and **Blackburn Consulting, Inc.** (“Contractor”), is amended as follows:

Payment. Agency shall pay Consultant for services rendered pursuant to this Agreement at the time and in the amount set forth in Exhibit A and/or B, up to a maximum of **One Hundred and Fifty Thousand Dollars (\$150,000)**.

All other terms and conditions of this agreement shall remain in full force and affect.

PLACER COUNTY REDEVELOPMENT AGENCY

By: _____ Date: _____
Jim Boggan
Purchasing Manager

BLACKBURN CONSULTING, INC.

By: _____ Date: _____
Thomas W. Blackburn CE, GE
President

By: _____ Date: _____
Grace Blackburn, CFO
Corporate Secretary