



**M E M O R A N D U M**  
**COMMUNITY DEVELOPMENT RESOURCE AGENCY**  
**ENGINEERING AND SURVEYING DIVISION**  
County of Placer

**TO:** Board of Supervisors

**DATE:** July 6, 2021

**FROM:** Steve Pedretti, Agency Director

**BY:** Rebecca Taber, Deputy Director

**SUBJECT:** Change Order – Consultant Construction Inspection Services / Budget Amendment / Placer Vineyards Specific Plan Property 1A, Phase 1 – TRC Companies

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**ACTIONS REQUESTED**

1. Approve a change order to a contract with TRC Companies, dba Vali Cooper & Associates Inc., of Sacramento, CA for Construction Inspection Services for the Placer Vineyards project in the amount of \$60,000, increasing the maximum amount to \$459,886.
2. Authorize the Purchasing Manager to sign all required documents.

**BACKGROUND**

On April 7, 2020, the Board of Supervisors (Board) approved the award of a contract to TRC Companies of Sacramento, CA to perform Construction Inspection Services on behalf of the Community Development Resource Agency (CDRA) Engineering and Surveying Division (ESD) for the construction of infrastructure to support the Lennar Homes of California, Inc., LLC (Lennar) Placer Vineyards Property 1A, Phase 1 Project in the amount of \$331,344. The Board authorized the Purchasing Manager to execute the original agreement, as well as change orders up to 10 percent (\$33,134).

On February 9, 2021, the Purchasing Manager approved an increase to the contract in the amount of \$33,134 for a revised maximum amount of \$364,478. On March 9, 2021, the Board approved a change order to the contract in the amount of \$35,408 for a new revised amount not to exceed \$399,886 and to extend the contract through September 30, 2021. Contractor operations on the project have consumed more inspection resources than budgeted for various reasons including but not limited to lime treatment of soils and subgrade instability issues prior to paving, and the contractor extending the original construction schedule. Therefore, the Board's approval is required to proceed with an additional change order to the contract in the amount of \$60,000 for a new revised amount not to exceed \$459,886.

ESD has also analyzed TRC Companies and confirms that this company meets the independent contractor criteria (Attachment A) required in the Labor Code.

**ENVIRONMENTAL IMPACT**

This action is categorically exempt from environmental review pursuant to CEQA Guidelines Section 15309 – Inspections since it is for the performance of inspection services. An Environmental Impact Report (EIR) for the overall Placer Vineyards Specific Plan project was certified by the Board on July 16, 2007, and subsequently, the Board adopted resolutions approving Addendums to the Placer Vineyards Specific Plan Certified Final EIR on January 6, 2015, November 8, 2016, and February 26, 2019.

**FISCAL IMPACT**

Approval of the Budget Amendment in the CDRA FY 2021-22 Final Budget is necessary to increase appropriations by \$60,000, with offsetting revenue from the developer. The Budget Amendment will be included in the consolidated Quarter 1 amendment in September 2021. CDRA has sufficient funding in the ESD budget to cover any expenses prior to the September 2021 amendment. The developer, Lennar, has agreed to assume all costs for this work. Consultant construction inspection services are charged to

the project developer at full cost recovery in accordance with the previously approved Construction Inspection Services Agreement dated May 15, 2020 and have no fiscal impact on the County.

**ATTACHMENT**

Attachment A: Independent Contractor Verification

### **Independent Contractor Verification**

Independent contractors provide necessary resources to fulfill higher-level demands for construction inspection services beyond permanent staff's capabilities and outside the County's normal course of business. Projects of extraordinary magnitude (project infrastructure exceeds \$10 million), Specific Plan projects with a Development Agreement containing provisions allowing the Developer to request to enter a consultant services agreement with the County in order to meet required timeframes, projects with continually varied construction hours beyond regular working hours, or that contain specialized infrastructure and require a skillset beyond that required for standard construction inspection may require consultant inspection services.

Staff has determined that the independent contractor, TRC Companies dba Vali Cooper & Associates Inc., (hereafter "Consultant"), performs services outside the County's usual course of business, and that it also fits within the business-to-business exception for independent contractors (Labor Code, Section 2776(a)) as follows:

1. *The business service provider (Consultant) is free from the control and direction of the contracting business entity (County) in connection with the performance of the work, both under the contract for the performance of the work and in fact.*

The Engineering and Surveying Division in no way controls or directs the performance of the Consultant. The consultant lead field inspector reports to a supervisor within the consulting company and not to County staff. The consultant lead field inspector runs pre-construction meetings, attends field meetings, and works directly with the contractor on construction schedule and inspection needs.

2. *The business service provider (Consultant) is providing services directly to the contracting business (County) rather than to customers of the contracting business.*

The Engineering and Surveying Division will rely on the Consultant to fully document daily construction activity, materials submittals, testing results, and document project quantities per plan set as part of the required land use financing documentation collection for Community Facilities District public infrastructure acquisition.

3. *The contract with the business service provider (Consultant) is in writing and specifies the payment amount, including any applicable rate of pay for services to be performed, as well as the due date of payment for such services.*

The Engineering and Surveying Division in coordination with County Procurement Services has specific written contracts with the Consultant outlining payments and rates of pay for services performed, as well due dates.

4. *If the work is performed in a jurisdiction that requires the business service provider (Consultant) to have a business license or business tax registration, the business service provider has the required business license or business tax registration.*

The Consultant has the necessary business tax registration and any necessary business licenses.

- 5. The business service provider maintains a business location, which may include the business service provider's residence, that is separate from the business or work location of the contracting business.*

The Consultant maintains an independent business location separate from any County or Engineering and Surveying Division location.

- 6. The business service provider (Consultant) is customarily engaged in an independently established business of the same nature as that involved in the work performed.*

The Consultant's business is to provide construction inspection services to government agencies, Cities, and Counties and regularly performs public infrastructure related construction inspection services under contract with Caltrans and multiple local municipalities.

- 7. The business service provider (Consultant) can, and does, contract with other businesses to provide the same or similar services and maintain a clientele without restrictions from the hiring entity.*

The Consultant conducts business of the same nature with surrounding, as well as other, Cities and Counties in the State of California.

- 8. The business service provider (Consultant) advertises and holds itself out to the public as available to provide the same or similar services.*

An online search demonstrates the Consultant offers its services to the public for construction management and construction inspection ranging from staff augmentation to full construction management of major, multi-year infrastructure projects. They inspect, observe, and test the workmanship and materials on municipal projects for compliance with the approved contract documents, including the improvement plans.

- 9. Consistent with the nature of the work, the business service provider (Consultant) provides its own tools, vehicles, and equipment to perform the services, not including any proprietary materials that may be necessary to perform the services under the contract.*

The Consultant provides its own equipment, vehicles, machinery, tools, personal protective equipment, materials, manpower, and all other necessary resources to complete the requested services.

- 10. The business service provider (Consultant) can negotiate its own rates.*

The Consultant offered its own rates during a "request for proposals" County process coordinated through County Procurement Services.

- 11. Consistent with the nature of the work, the business service provider (Consultant) can set its own hours and location of work.*

The Consultant sets the hours, days, and location of the work to be performed.

*12. The business service provider (Consultant) is not performing the type of work for which a license from the Contractors' State License Board is required, pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.*

Construction inspection services do not require a license from the Contractor's State License Board.

