



## City Council Staff Report

Date: July 3, 2013 CONSENT CALENDAR

Subject: AWARD OF CONTRACT FOR TAHQUITZ CANYON WAY SECTION 14  
MEDIANS, CITY PROJECT NO. 08-20

From: David H. Ready, City Manager

Initiated by: Public Works and Engineering Department

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### SUMMARY

The Agua Caliente Tribe of Cahuilla Indians has allocated \$2,000,000 to the City, from its federal Tribal Transportation Program (TTP), to replace the existing median landscaping within Tahquitz Canyon Way in Section 14 from Indian Canyon Drive to Sunrise Way.

The project includes landscape, irrigation, lighting and paving improvements to the existing medians along Tahquitz Canyon Way, from Indian Canyon Drive to Sunrise Way. Award of this contract will allow staff to proceed with the construction of the "Tahquitz Canyon Way Section 14 Medians" project, City Project No. 08-20.

### RECOMMENDATION:

- 1) Approve Agreement No. \_\_\_\_\_, in the amount of \$1,688,150.00 with Marina Landscape, Inc., for the construction of the Tahquitz Canyon Way Section 14 Medians project, City Project No. 08-20;
- 2) Authorize the City Manager to execute all necessary documents.

### STAFF ANALYSIS:

At the May 15, 2013 meeting, City Council approved the Plans, Specifications, and Estimates (PS&E) and Authorized Staff to Bid the Tahquitz Canyon Way Section 14 Medians, City Project No. 08-20.

The project design was prepared by RGA Landscape Architects, Inc.

On May 25, 2013 and June 1, 2013, the project was advertised for bids, and on June 25, 2013, the Procurement and Contracting Division received construction bids from the following contractors:

1. Marina Landscape, Inc., Anaheim, CA	\$1,688,150.00
2. Golden Valley Construction, Indio, CA	\$1,791,356.50
3. Diversified Landscape Management, Inc., Corona, CA	\$1,838,700.55
4. Earth Sculptures, Inc., Indio, CA	\$1,873,145.00
5. Land Forms Construction, Laguna Nigel, CA	\$1,892,367.10
6. Kasa Construction, Inc., Ontario, CA	\$2,207,140.00

The lowest, responsive bidder is Marina Landscape, Inc., from Anaheim, California, whose principal officer is Robert B. Cowan, President.

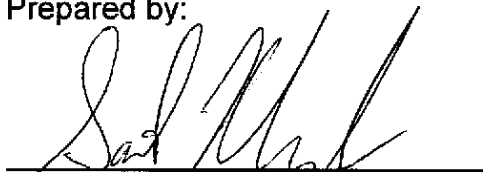
The Engineer's estimate was \$1.9 Million.

FISCAL IMPACT:

Funding for this project is from the Tribal Transportation Program in account number 261-4491-50303.

SUBMITTED:

Prepared by:



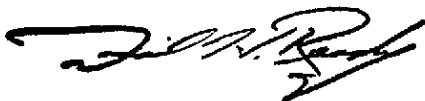
Savat Khamphou  
Assistant Director of Public Works

Recommended by:



David J. Barakian  
Director of Public Works/City Engineer

Approved by:



David H. Ready, City Manager

Attachment: Agreement

## AGREEMENT

**THIS AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_\_, by and between the City of Palm Springs, a charter city, organized and existing in the County of Riverside, under and by virtue of the laws of the State of California, hereinafter designated as the City, and **Marina Landscape, Inc.**, hereinafter designated as the Contractor.

The City and the Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

### ARTICLE 1 -- THE WORK

The Contractor shall complete the Work as specified or indicated under the Bid Schedule(s) of the City's Contract Documents entitled:

#### **TAHQUITZ CANYON WAY, SECTION 14 MEDIANS CITY PROJECT NO. CP 08-20**

The Work is generally described as follows:

**Landscape, irrigation, lighting and paving improvements to the existing medians in Tahquitz Canyon Way, from Indian Avenue to Sunrise Way, in the City of Palm Springs, CA.**

### ARTICLE 2 -- COMMENCEMENT AND COMPLETION

The Work to be performed under this Contract shall commence on the date specified in the Notice to Proceed by the City, and the Work shall be fully completed within the time specified in the Notice to Proceed.

The City and the Contractor recognize that time is of the essence of this Agreement, and that the City will suffer financial loss if the Work is not completed within the time specified in Article 2, herein, plus any extensions thereof allowed in accordance with applicable provisions of the Standard Specifications, as modified herein. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City and the Contractor agree that as liquidated damages or delay (but not as a penalty), the Contractor shall pay the City the sum of \$700 for each calendar day that expires after the time specified in Article 2, herein.

### ARTICLE 3 -- CONTRACT PRICE

TAHQUITZ CANYON WAY, SECTION 14 MEDIANS  
CITY PROJECT NO. CP08-20  
6/27/13

AGREEMENT FORM  
AGREEMENT AND BONDS - PAGE 1

The City shall pay the Contractor for the completion of the Work, in accordance with the Contract Documents, in current funds the Contract Price(s) named in the Contractor's Bid and Bid Schedule(s).

#### **ARTICLE 4 -- THE CONTRACT DOCUMENTS**

The Contract Documents consist of the Notice Inviting Bids, Instructions to Bidders, the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations, Federal Labor Standards Provisions, Federal Rates of Prevailing Wages, the accepted Bid and Bid Schedule(s), List of Subcontractors, Non-collusion Affidavit, Bidder's General Information, Bid Security or Bid Bond, this Agreement, Worker's Compensation Certificate, Performance Bond, Payment Bond, Standard Specifications, Special Provisions, the Drawings, Addenda numbers \_\_\_\_\_ to \_\_\_\_\_, inclusive, and all Change Orders and Work Change Directives which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto.

#### **ARTICLE 5 -- PAYMENT PROCEDURES**

The Contractor shall submit Applications for Payment in accordance with the Standard Specifications as amended by the Special Provisions. Applications for Payment will be processed by the Engineer or the City as provided in the Contract Documents.

#### **ARTICLE 6 -- NOTICES**

Whenever any provision of the Contract Documents requires the giving of a written Notice, it shall be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the Notice.

#### **ARTICLE 7 -- MISCELLANEOUS**

Terms used in this Agreement which are defined in the Caltrans Standard Specifications and the Special Provisions will have the meanings indicated in said Standard Specifications and Special Provisions. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

The City and the Contractor each binds itself, its partners, successors, assigns, and legal representatives, to the other party hereto, its partners, successors, assigns, and legal representatives, in respect of all covenants, agreements, and obligations contained in the Contract Documents.

**IN WITNESS WHEREOF**, the City and the Contractor have caused this Agreement to be executed the day and year first above written.

**ATTEST: CITY OF PALM SPRINGS,  
CALIFORNIA**

By \_\_\_\_\_  
City Clerk

**APPROVED BY THE CITY COUNCIL:**

Date \_\_\_\_\_

Agreement No. \_\_\_\_\_

**APPROVED AS TO FORM:**

By \_\_\_\_\_  
City Attorney

Date \_\_\_\_\_

**CONTENTS APPROVED:**

By \_\_\_\_\_  
City Engineer

Date \_\_\_\_\_

By \_\_\_\_\_  
City Manager

Date \_\_\_\_\_

Corporations require two notarized signatures: One signature must be from Chairman of Board, President, or any Vice President. The second signature must be from the Secretary, Assistant Secretary, Treasurer, Assistant Treasurer, or Chief Financial Officer.

CONTRACTOR: Name: \_\_\_\_\_

Check one:  Individual  Partnership  
 Corporation

Address: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Signature (notarized)

By: \_\_\_\_\_  
Signature (notarized)

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

(This Agreement must be signed in the above space by one of the following: Chairman of the Board, President or any Vice President)

This Agreement must be signed in the above space by one of the following: Secretary, Chief Financial Officer or any Assistant Treasurer)

State of \_\_\_\_\_  
County of \_\_\_\_\_ ss

State of \_\_\_\_\_  
County of \_\_\_\_\_ ss

On \_\_\_\_\_  
before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_

On \_\_\_\_\_  
before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

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WITNESS my hand and official seal.

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Notary Signature:

Notary Signature:

Notary Seal:

Notary Seal: