

Council Meeting of  
January 25, 2011

Honorable Mayor and Members  
of the City Council  
City Hall  
Torrance, California

**Members of the Council:**

**SUBJECT: Community Development – Appropriate funds, approve plans and specifications and award agreements for construction and inspection of Median Island Improvements for Beautification of Western Avenue from 190<sup>th</sup> Street to Carson Street.**

**Expenditure: \$818,314.67**

**RECOMMENDATION**

Recommendation of the Community Development Director that City Council:

1. Appropriate \$413,746.49 of Prop C funds to the Western Avenue Median Landscaping project, (CIP A-19);
2. Approve the plans and specifications for the construction of Median Island Improvements for the Beautification of Western Avenue from 190<sup>th</sup> Street to Carson Street (B2010-23);
3. Award a Public Works Agreement to KASA Construction, Inc. in the amount of \$617,766.35 and authorize a 5% contingency in the amount of \$30,888.32;
4. Award a Contract Service Agreement to Bureau Veritas North America, Inc. in the amount of \$54,660 to perform construction inspection services; and
5. Authorize the Mayor to execute and the City Clerk to attest to said agreements.

Funding

Funding is available in the Western Avenue Median Landscaping Project, CIP A-19 and the appropriation of \$413,746.49 of Prop C funds.

**BACKGROUND**

Western Avenue (State Route 213) is located on the eastern boundary of the City. This major arterial is a key entry point into the City. The San Diego (405) freeway is located just north of the project area.

The project area for the Western Avenue Median landscape project is on Western Avenue between 190th Street and Carson Street. Currently, there is no landscaping in the medians. The proposed project will remove asphalt and concrete in existing medians and replaced it with new landscaping including irrigation, hardscape, fencing and signage.

## **ANALYSIS**

On November 11, 2010, the City advertised a Notice to Bidders for the construction of Median Island Improvements for the Beautification of Western Avenue from 190<sup>th</sup> Street to Carson Street.

On December 2, 2010, the City received 6 bid proposals. Listed below is the summary of the bid proposals:

<b><u>NAME</u></b>	<b><u>AMOUNT</u></b>
KASA Construction, Inc. Ontario, California	\$617,766.35
E.C. Construction Co. South El Monte, California	\$706,224.76
Yakar San Dimas, California	\$841,122.60
Bravo Concrete Construction Services, Inc Riverside, California	\$870,449.65
G Coast Construction, Inc. Encino, California	\$903,695.00
Sully-Miller Contracting Company Brea, California	\$906,429.50

KASA Construction, Inc is the lowest responsible bidder. KASA Construction, Inc has completed construction projects of similar nature and scale for other cities in Southern California. Staff has checked references and the responses were favorable. The total bid cost of \$617,766.35 is below the engineer's estimate for the project.

The Western Avenue landscaping requires full time construction inspection services for quality control and traffic control. Bureau Veritas North America, Inc. has successfully performed construction inspection services for the City of Torrance (Artesia Boulevard Rehabilitation and Hawthorne Boulevard Landscaping). The proposed Contract

Agreement (Attachment B) will provide the required construction inspection services for this project.

Initially, the Western Avenue Median landscaping project, CIP A-19, had been approved with a project area from 190<sup>th</sup> Street to Del Amo Boulevard. The original budget for the project was \$475,000. Through a previous council item, Council approved the design of the Western Avenue landscape project to extend southward to Carson Street (making the project area more than double the original square footage). Funding for the additional design work was available in the current project.

The previous council item noted that funding for the construction component of the extended project was not available and that staff would return to Council for additional funding. Due to the economy, construction bids have come in lower than the engineer's estimated cost. The new total project cost is \$888,746.49. An additional \$413,746.49 of Prop C funds is requested for the construction, construction inspection, construction material/services and project management. Below is a breakdown of the revised project budget:

PROJECT BUDGET

New Project Budget	\$888,746.49
Previously Approved Budget	\$475,000.00
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Requested Appropriation	\$413,746.49

EXPENDITURES

• Construction (KASA Construction)	\$617,766.35
o Construction contingency (5%)	\$30,888.32
• Construction inspection (Bureau Veritas North America)	\$54,660.00
• Construction material and services (i.e. water meters/service connection & signage) (*Estimated Cost)	\$85,000.00
• Project Management (*Estimated Cost)	\$30,000.00
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Requested expenditure	\$818,314.67
• Design/Bid process (previously approved)	\$70,431.82
	-----
Total project budget	\$888,746.49

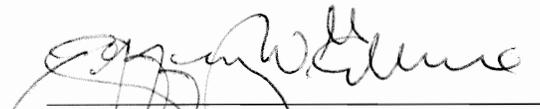
It is anticipated that construction will commence in March 2011 and be completed by July 2011.

Respectfully submitted,

JEFFERY W. GIBSON  
Community Development Director

By   
Ted Semaan, Manager  
Redevelopment and  
General Plan Divisions

CONCUR:

  
Jeffery W. Gibson  
Community Development Director

  
LeRoy J. Jackson  
City Manager

Attachments:

- A. Public Works Agreement – KASA Construction, Inc.
- B. Contract Services Agreement – Bureau Veritas North America, Inc.

## PUBLIC WORKS AGREEMENT

This PUBLIC WORKS AGREEMENT ("Agreement") is made and entered into as of January 25, 2011 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and KASA Construction, Inc., a California Corporation ("CONTRACTOR").

### RECITALS:

- A. The CITY wishes to retain the services of an experienced and qualified CONTRACTOR to construct the **MEDIAN ISLAND IMPROVEMENTS FOR THE BEAUTIFICATION OF WESTERN AVENUE FROM 190TH STREET TO CARSON STREET**;
- B. In order to obtain the desired services, The CITY has circulated a Notice Inviting Bids for the construction of the **MEDIAN ISLAND IMPROVEMENTS FOR THE BEAUTIFICATION OF WESTERN AVENUE FROM 190TH STREET TO CARSON STREET, NOTICE INVITING BIDS NO. B2010-23** (the "NIB"); and
- C. CONTRACTOR has submitted a Bid (the "Bid") in response to the NIB. CONTRACTOR represents that it is qualified to perform those services requested in the Plans and Specifications. Based upon its review of all Bids submitted in response to the NIB, The CITY is willing to award the contract to CONTRACTOR.

### AGREEMENT:

#### 1. SERVICES TO BE PERFORMED BY CONTRACTOR

CONTRACTOR will provide the services and install those materials listed in the Plans and Specifications, which are on file in the Public Works Department. The NIB and the Plans and Specifications are made a part of this Agreement. A copy of the Bid is attached as Exhibit A.

#### 2. TERM

Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect for two years from the Effective Date.

#### 3. COMPENSATION

##### A. CONTRACTOR's Fee.

For services rendered pursuant to this Agreement, CONTRACTOR will be paid in accordance with CONTRACTOR's Bid; provided, however, that in no event will the total amount of money paid the CONTRACTOR, for services initially contemplated by this Agreement, exceed the sum of \$617,766.35 ("Agreement Sum"), unless otherwise first approved in writing by the CITY.

- B. Schedule of Payment.  
 Provided that the CONTRACTOR is not in default under the terms of this Agreement, upon presentation of an invoice, CONTRACTOR will be paid monthly, within 30 days after the date of the monthly invoice.

#### 4. **TERMINATION OF AGREEMENT**

- A. Termination by CITY for Convenience.
1. CITY may, at any time, terminate the Agreement for CITY's convenience and without cause.
  2. Upon receipt of written notice from CITY of such termination for CITY's convenience, CONTRACTOR will:
    - a) cease operations as directed by CITY in the notice;
    - b) take actions necessary, or that CITY may direct, for the protection and preservation of the work; and
    - c) except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.
  3. In case of such termination for CITY's convenience, CONTRACTOR will be entitled to receive payment for work executed; and costs incurred by reason of such termination, along with reasonable overhead and profit on the work not executed.
- B. Termination for Cause.
1. If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the defaulting party will have such additional time as is reasonably necessary to remedy the default.
  2. In the event this Agreement is terminated for cause by the default of the CONTRACTOR, the CITY may, at the expense of the CONTRACTOR and its surety, complete this Agreement or cause it to be completed. Any check or bond delivered to the CITY in connection with this Agreement, and the money payable thereon, will be forfeited to and remain the property of the CITY. All moneys due the CONTRACTOR under the terms of this Agreement will be retained by the CITY, but the retention will not release the CONTRACTOR and its surety from liability for the default. Under these circumstances, however, the CONTRACTOR and its surety will be credited with the amount of money

retained, toward any amount by which the cost of completion exceeds the Agreement Sum and any amount authorized for extra services.

3. Termination for cause will not affect or terminate any of the rights of the CITY as against the CONTRACTOR or its surety then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

#### C. Termination for Breach of Law.

In the event the CONTRACTOR or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public consultant or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 19 of this Agreement; or for any other cause the CITY determines to be so serious and compelling as to affect CONTRACTOR's responsibility as a public consultant or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper. The CITY will not take action until CONTRACTOR has been given notice and an opportunity to present evidence in mitigation.

#### 5. **FORCE MAJEURE**

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

#### 6. **RETENTION OF FUNDS**

CONTRACTOR authorizes the CITY to deduct from any amount payable to CONTRACTOR (whether or not arising out of this Agreement) any amounts the payment of which may be in dispute or that are necessary to compensate the CITY for any losses, costs, liabilities, or damages suffered by the CITY, and all amounts for which the CITY may be liable to third parties, by reason of CONTRACTOR's negligent acts or omissions or willful misconduct in performing or failing to perform CONTRACTOR's obligations under this Agreement. In the

event that any claim is made by a third party, the amount or validity of which is disputed by CONTRACTOR, or any indebtedness exists that appears to be the basis for a claim of lien, the CITY may withhold from any payment due, without liability for interest because of the withholding, an amount sufficient to cover the claim. The failure of the CITY to exercise the right to deduct or to withhold will not, however, affect the obligations of CONTRACTOR to insure, indemnify, and protect the CITY as elsewhere provided in this Agreement.

**7. THE CITY'S REPRESENTATIVE**

The Public Works Director is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by the CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The City Manager has the right to designate another City Representative at any time, by providing notice to CONTRACTOR.

**8. CONTRACTOR REPRESENTATIVE(S)**

The following principal(s) of CONTRACTOR are designated as being the principal(s) and representative(s) of CONTRACTOR authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

Diana Kasbar  
Sam Kasbar

**9. INDEPENDENT CONTRACTOR**

The CONTRACTOR is, and at all times will remain as to the CITY, a wholly independent contractor. Neither the CITY nor any of its agents will have control over the conduct of the CONTRACTOR or any of the CONTRACTOR's employees, except as otherwise set forth in this Agreement. The CONTRACTOR may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the CITY.

**10. BUSINESS LICENSE**

The CONTRACTOR must obtain a City business license prior to the start of work under this Agreement, unless CONTRACTOR is qualified for an exemption.

**11. OTHER LICENSES AND PERMITS**

CONTRACTOR warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

**12. FAMILIARITY WITH WORK**

By executing this Agreement, CONTRACTOR warrants that CONTRACTOR (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, CONTRACTOR warrants that CONTRACTOR has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services set forth in this Agreement. Should CONTRACTOR discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, CONTRACTOR must immediately inform the CITY of that fact and may not proceed except at CONTRACTOR's risk until written instructions are received from the CITY.

**13. CARE OF WORK**

CONTRACTOR must adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by the CITY, except those losses or damages as may be caused by the CITY's own negligence.

**14. CONTRACTOR'S ACCOUNTING RECORDS; OTHER PROJECT RECORDS**

Records of the CONTRACTOR's time pertaining to the project, and records of accounts between the CITY and the CONTRACTOR, will be kept on a generally recognized accounting basis. CONTRACTOR will also maintain all other records, including without limitation specifications, drawings, progress reports and the like, relating to the project. All records will be available to the CITY during normal working hours. CONTRACTOR will maintain these records for three years after final payment.

**15. INDEMNIFICATION**

CONTRACTOR will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of CONTRACTOR, its officers, employees, agents, subcontractors or vendors. It is further agreed, CONTRACTOR's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member

thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONTRACTOR and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, CONTRACTOR will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. CONTRACTOR will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

**16. NON-LIABILITY OF THE CITY'S OFFICERS AND EMPLOYEES**

No officer or employee of the CITY will be personally liable to CONTRACTOR, in the event of any default or breach by the CITY or for any amount that may become due to CONTRACTOR.

**17. INSURANCE**

- A. CONTRACTOR must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:
1. Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:
    - a. Combined single limits of \$2,000,000 per occurrence.
  2. General Liability including coverage for premises, products and completed operations, independent contractors, personal injury and contractual obligations with combined single limits of coverage of at least \$3,000,000 per occurrence, with an annual aggregate of no less than \$5,000,000.
  3. Workers' Compensation with limits as required by the State of California and Employers Liability with limits of at least \$1,000,000.
- B. The insurance provided by CONTRACTOR will be primary and non-contributory.
- C. The CITY of Torrance, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insureds under the automobile and general liability policies.
- D. CONTRACTOR must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance before the commencement of work.

- E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to the CITY.
- F. CONTRACTOR must include all subcontractors as insureds under its policies or must furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors will be subject to all of the requirements of this Paragraph 17.

**18. SUFFICIENCY OF INSURERS**

Insurance required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of the CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the CITY, the CONTRACTOR agrees that the minimum limits of any insurance policies and/or the performance bond required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that CONTRACTOR will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of the CITY within 10 days of receipt of notice from the Risk Manager.

**19. CONFLICT OF INTEREST**

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

**20. NOTICE**

- A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:

1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.
2. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.
3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.
4. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.
5. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.
7. Addresses for purpose of giving notice are as follows:

CONTRACTOR: KASA Construction, Inc.  
 316 N. Corona Avenue  
 Ontario, CA 91764  
 Fax: (909) 457-8261

CITY: City Clerk  
 City of Torrance  
 3031 Torrance Boulevard  
 Torrance, CA 90509-2970  
 Fax: (310) 618-2931

with a copy to: Attn: Public Works Director  
 Public Works Department  
 City of Torrance  
 20500 Madrona Avenue  
 Torrance, CA 90503  
 Fax: (310)781-6902

- B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.

- C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

**21. PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING**

This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either the CITY or CONTRACTOR without the prior written consent of the other.

**22. INTEGRATION; AMENDMENT**

This Agreement represents the entire understanding of the CITY and CONTRACTOR as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

**23. INTERPRETATION**

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

**24. SEVERABILITY**

If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

**25. TIME OF ESSENCE**

Time is of the essence in the performance of this Agreement.

**26. GOVERNING LAW; JURISDICTION**

This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

**27. COMPLIANCE WITH STATUTES AND REGULATIONS**

CONTRACTOR will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

**28. WAIVER OF BREACH**

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other

party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

**29. ATTORNEY'S FEES**

Except as provided for in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

**30. EXHIBITS**

All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

**31. CONTRACTOR'S AUTHORITY TO EXECUTE**

The persons executing this Agreement on behalf of the CONTRACTOR warrant that (i) the CONTRACTOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONTRACTOR; (iii) by so executing this Agreement, the CONTRACTOR is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the CONTRACTOR is bound.

CITY OF TORRANCE,  
a Municipal Corporation

KASA Construction, Inc.  
a California Corporation

\_\_\_\_\_  
Frank Scotto, Mayor

By: \_\_\_\_\_  
Diana Kasbar, President

ATTEST:

\_\_\_\_\_  
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

By: \_\_\_\_\_

Attachment: Exhibit A: Bid

**EXHIBIT A**

**Bid**

**BIDDER'S PROPOSAL**

Company: KASA Construction, Inc.  
 Total Bid: \$617,766.35

**PROPOSAL, SPECIFICATIONS, BOND AND AFFIDAVIT  
 FOR THE CONSTRUCTION OF MEDIAN ISLAND IMPROVEMENTS FOR BEAUTIFICATION  
 OF WESTERN AVENUE FROM 190<sup>TH</sup> STREET TO CARSON STREET**

**B2010-23**

Honorable Mayor and Members of the Torrance City Council  
 Torrance, California

Members of the Council:

In accordance with the Notice Inviting Bids pertaining to the receiving of sealed proposals by the City Clerk of the City of Torrance for the above titled improvement, the undersigned hereby proposes to furnish all Work to be performed in accordance with the Plans, Specifications, Standard Drawings, and the Contract Documents, for the unit price or lump sum set forth in the following schedule:

Item No.	Approx. Qty	Unit	Description	Unit Price	Total Bid
1.	1	LS	TRAFFIC CONTROL PLAN AND ON-SITE TRAFFIC CONTROL	9,500	9,500
2.	1	LS	CALTRANS PERMIT & INSPECTION FEES	\$5,000.00	\$5,000.00
3.	1	LS	MISCELLANEOUS REMOVALS & ADJUSTMENTS TO GRADE	50,000	50,000
4.	36,320	SF	REMOVE MEDIAN ASPHALT PAVING AND BASE	.80	29,056
5.	11,400	SF	REMOVE MEDIAN CONCRETE PAVING AND BASE	1.50	17,100
6.	31,320	SF	COBBLE ROCK PAVING INCLUDING CONCRETE BASE	6.75	211,410
7.	2,690	LF	5' HIGH TUBULAR STEEL FENCE	28	75,320
8.	210	LF	4' HIGH TUBULAR STEEL FENCE	29	6,090

Item No.	Approx. Qty	Unit	Description	Unit Price	Total Bid
9.	1	EA	INSTALL CITY-FURNISHED ENTRY MONUMENT SIGN	3,000	3,000
10.	13	EA	INSTALL CITY-FURNISHED ADVANCE STREET SIGN	175	2,275
11.	1	LS	IRRIGATION SYSTEM	97,000	97,000
12.	1,080	LF	WELDED STEEL IRRIGATION SLEEVE (BORED/JACKED UNDER STREET)	33	35,640
13.	5,040	LF	PVC MOISTURE BARRIER BORDERING LANDSCAPE AREAS	1.75	8,820
14.	17,370	SF	IMPORT SOIL, SOIL AMENDMENT & FINISH GRADING (INCLUDING SOIL FERTILITY TESTING)	.35	6,079.50
15.	113	EA	TREE (24" BOX) INCLUDING STAKES & ROOT BARRIER	260	29,380
16.	2,463	EA	SHRUB (1 GALLON)	5.75	14,162.25
17.	738	EA	SHRUB (5 GALLON)	15	11,070
18.	17,370	SF	SHREDDED BARK MULCH	.28	4,863.60
19.	1	LS	PLANT ESTABLISHMENT AND MAINTENANCE (90 DAYS)	2,000	2,000

TOTAL BID PRICE: Six hundred seventeen thousand seven hundred sixty six dollars and thirty-five cents  
(Words)\*

TOTAL BID PRICE: \$617,766.35  
(Figures)\*

**\*BID MAY BE REJECTED IF TOTAL IS NOT SHOWN IN FIGURES AND WORDS.**

The undersigned furthermore agrees to enter into and execute a contract, with necessary bonds, at the unit prices set forth herein and in case of default in executing such contract, with necessary bonds, the check or bond accompanying this bid and the money payable thereon shall be forfeited thereby to and remain the property of the City of Torrance.

The above unit prices include all work appurtenant to the various items as outlined in the Specifications and all work or expense required for the satisfactory completion of said items. In case of discrepancies between unit prices and totals, unit prices shall govern.

The undersigned declares that it has carefully examined the Plans, Specifications, and Contract Documents, and has investigated the site of the work and is familiar with the conditions thereon.

KASA Construction, Inc.  
Contractor

Date: 12/2/10 By: Diana Gaslar

Contractor's State License Address: 316 N. Corona Ave. Ontario, CA 91764

No. 927544

Class A - B - L-10, L-27 Phone: 909-457-8260

**ACKNOWLEDGMENT OF ADDENDA RECEIVED**  
**B2010-23**

The Bidder shall acknowledge the receipt of addenda by placing an "X" by each addendum received.

Addendum No. 1 \_\_\_\_\_

Addendum No. 2 \_\_\_\_\_

Addendum No. 3 \_\_\_\_\_

Addendum No. 4 \_\_\_\_\_

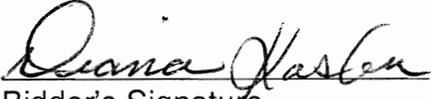
Addendum No. 5 \_\_\_\_\_

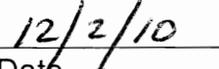
Addendum No. 6 \_\_\_\_\_

Addendum No. 7 \_\_\_\_\_

Addendum No. 8 \_\_\_\_\_

If an addendum or addenda have been issued by the City and not noted above as being received by the Bidder, the Bid Proposal may be rejected.

  
Bidder's Signature

  
Date



**CONTRACTOR'S AFFIDAVIT (CONTINUED)**

prevent any subcontractor or materialman from bidding to any contractor who does not use the facilities of or accept bids from or through such bid depository;

- 7. That the Contractor did not, directly or indirectly, submit the Contractor's bid price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any individual or group of Individuals, except to the City of Torrance, or to any person or persons who have a partnership or other financial interest with said Contractor in its business.

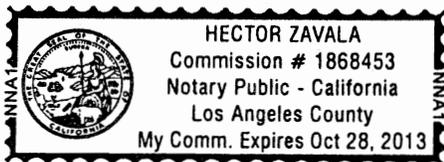
Dated this 2<sup>nd</sup> day of December, 2010.

Subscribed and Sworn to  
before me this 2<sup>nd</sup> day  
of December, 2010.

*Dennis Kasler*  
 (Contractor)  
*President*  
 (Title)

*[Signature]*

Notary Public in and for said  
County and State. *Hector Zavala, Notary Public*  
(Seal) *Los Angeles County, California*



**LIST OF SUBCONTRACTORS**  
**B2010-23**

The Bidder is required to fill in the following blanks in accordance with the provisions of the Subletting and Subcontracting Fair Practices Act (Chapter 2 of Division 5, Title 1 of the Government Code of the State of California). The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of Title 49 CFR (Code of Federal Regulations) part 26 in the award and administration of US DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate. Each subcontract signed by the bidder must include this assurance.

Failure of the bidder to fulfill the requirements of the Special Provisions for submittals required to be furnished after bid opening, including but not limited to escrowed bid documents, where applicable, may subject the bidder to a determination of the bidder's responsibility in the event it is the apparent low bidder on a future public works contracts.

Name under Which Subcontractor is Licensed: \_\_\_\_\_  
 \_\_\_\_\_ Westbrook Fence \_\_\_\_\_  
 Subcontractor's Address: \_\_\_\_\_ San Bernardino CA \_\_\_\_\_  
 Specific Description of Sub-Contract: \_\_\_\_\_ Fencing \_\_\_\_\_  
 License Number: 615318 CA License Classification/Type: C13

Name under Which Subcontractor is Licensed: \_\_\_\_\_  
 \_\_\_\_\_ Carl Boring \_\_\_\_\_  
 Subcontractor's Address: \_\_\_\_\_ Anaheim CA \_\_\_\_\_  
 Specific Description of Sub-Contract: \_\_\_\_\_ Boring \_\_\_\_\_  
 License Number: 689006 CA License Classification/Type: A

Name under Which Subcontractor is Licensed: \_\_\_\_\_  
 \_\_\_\_\_ Pavement Recycling \_\_\_\_\_  
 Subcontractor's Address: \_\_\_\_\_ Mira loma CA \_\_\_\_\_  
 Specific Description of Sub-Contract: \_\_\_\_\_ Demo \_\_\_\_\_  
 License Number: 569352 CA License Classification/Type: A

Subcontractors listed must be properly licensed under the laws of the State of California for the type of work which they are to perform. Do not alternate subcontractors for the same work.

**REFERENCES**  
**B2010-23**

(Work similar in magnitude and degree of difficulty completed by Contractor within the past three [3] years.)

1. Name (Firm/Agency): City of Rosemead  
 Address: 8838 E. Valley Blvd. Rosemead, CA 91770  
 Contact Person: Rafael Fajardo Telephone No.: 626-596-2177  
 Title of Project: Walnut Grove Beautification & Traffic Congestion  
 Project Location: City of Rosemead on Walnut Grove  
 Date of Completion: 4/2010 Contract Amount: \$ 125,000
  
2. Name (Firm/Agency): Pomona Unified School District  
 Address: 800 S. Garey Ave. Pomona, CA 91766  
 Contact Person: Nathaniel Holt Telephone No.: 909-397-4800  
 Title of Project: Slope Repair at Diamond Point E.S.  
 Project Location: City of Diamond Bar  
 Date of Completion: 8/2010 Contract Amount: \$ 328,000
  
3. Name (Firm/Agency): Citrus Community College District  
 Address: 1000 W Foothill Blvd. Glendora, CA 91741  
 Contact Person: Bob Iverson Telephone No.: 626-914-8888  
 Title of Project: Campus Safety Landscape Project  
 Project Location: Citrus Community College in City of Glendora  
 Date of Completion: 8/2010 Contract Amount: \$ 89,000

Visit [www.KATSAConstruction.com](http://www.KATSAConstruction.com) to see pics

**REFERENCES**

If Contractor has not performed work for the City of Torrance within the last five (5) years, list all work done within said five years (attach additional sheets if necessary). Note if work was done as subcontractor [include only subcontract amount]:

Work Description & Contract Amount	Agency	Date Completed
Arthur Johnson Park Restroom Facility - \$198,250	City of Gardena	7/2010
Valencia Industrial Center Medians - \$298,916	City of Santa Clarita	11/2010
Citrus Park Parking Lot \$468,980	City of Corona	9/2010
Taft Ave Construction Project \$357,966 <sup>149</sup>	City of Villa Park	11/2010
Cherry Ave/Oshawa Drive Median Emphor. - \$45,856 <sup>25</sup>	City of Fontana	10/2010

Contractor's License No.: 927544 Class: A, B, C-10, C-27

Date first obtained: 1/15/2009 Expiration 1/31/2011

Has License ever been suspended or revoked? NO

If yes, describe when and why: N/A

Any current claims against License or Bond? NO

If yes, describe claims: N/A

Principals in Company (List all – attach additional sheets if necessary):

<u>NAME</u>	<u>TITLE</u>	<u>LICENSE NO.</u> (If Applicable)
<u>Diana Kasbar</u>	<u>President</u>	
<u>Sam Kasbar</u>	<u>V.P.</u>	<u>927544</u>

## DBE

## BIDDERS LIST

All bidders/proposers are required to provide the following information for all DBE and non-DBE contractors or consultants who provided a proposal, bid, quote, or were contacted by the proposed prime. This information is also required from the proposed prime contractor/consultant and must be submitted with their bid/proposal. The City of Torrance will use this information to maintain and update a "Bidders" List to assist in the overall annual DBE goal-setting process.

Firm Name: KASA Construction, Inc. Phone: 909-457-8260

Address: 316 N. Corona Ave. Duarte, CA 91764 Fax: 909-457-8261

Contact Person: Sam Kasbar No. of years in business: 2

Is the firm currently certified as a DBE under 49 CFR Part 26: YES:  NO:

Type of work/services/materials provided by firm? Prime - Landscape,  
Irrigation, Lohle, Demolition, Grading, Electrical. etc.

What was your firm's Gross Annual receipt for last year?

- Less than \$1 Million
- Less than \$5 Million
- Less than \$10 Million
- Less than \$15 Million
- More than \$15 Million

This form can be duplicated if necessary to report all bidders (DBEs and non-DBEs) information.

## DBE

## BIDDERS LIST

All bidders/proposers are required to provide the following information for all DBE and non-DBE contractors or consultants who provided a proposal, bid, quote, or were contacted by the proposed prime. This information is also required from the proposed prime contractor/consultant and must be submitted with their bid/proposal. The City of Torrance will use this information to maintain and update a "Bidders" List to assist in the overall annual DBE goal-setting process.

Firm Name: <u>Westbrook Fence Inc.</u>	Phone: <u>909-887-2638</u>
Address: <u>157 Glenfair Ln. San Bernardino, CA <sup>92407</sup></u>	Fax: <u>909-887-2648</u>
Contact Person: <u>Dale Westbrook</u>	No. of years in business: <u>14</u>
Is the firm currently certified as a DBE under 49 CFR Part 26: YES: <input type="checkbox"/> NO: <input checked="" type="checkbox"/>	
Type of work/services/materials provided by firm? <u>Fence</u>	
What was your firm's Gross Annual receipt for last year?	
<p style="text-align: center;"> <input type="checkbox"/> Less than \$1 Million  <input checked="" type="checkbox"/> Less than \$5 Million  <input type="checkbox"/> Less than \$10 Million  <input type="checkbox"/> Less than \$15 Million  <input type="checkbox"/> More than \$15 Million </p>	

This form can be duplicated if necessary to report all bidders (DBEs and non-DBEs) information.

**DBE  
BIDDERS LIST**

All bidders/proposers are required to provide the following information for all DBE and non-DBE contractors or consultants who provided a proposal, bid, quote, or were contacted by the proposed prime. This information is also required from the proposed prime contractor/consultant and must be submitted with their bid/proposal. The City of Torrance will use this information to maintain and update a "Bidders" List to assist in the overall annual DBE goal-setting process.

Firm Name: <u>California Boring</u>	Phone: <u>714-456-9650</u>
Address: <u>3030 Coronado St. Anaheim CA 92806</u>	
Contact Person: <u>Grey</u>	No. of years in business: <u>13</u>
Is the firm currently certified as a DBE under 49 CFR Part 26: YES: <input type="checkbox"/> NO: <input checked="" type="checkbox"/>	
Type of work/services/materials provided by firm? <u>Boring, Drilling</u>	
<u>Underground Utilities</u>	
<b>What was your firm's Gross Annual receipt for last year?</b>	
Less than \$1 Million Less than \$5 Million <input checked="" type="checkbox"/> Less than \$10 Million Less than \$15 Million More than \$15 Million	

This form can be duplicated if necessary to report all bidders (DBEs and non-DBEs) information.

**VIOLATIONS OF FEDERAL, STATE OR LOCAL LAWS**

1. Has your firm or its officers been assessed any penalties by an agency for noncompliance or violations of Federal, State or Local labor laws and/or business or licensing regulations within the past five (5) years relating to your construction projects?

Yes/No: NO Federal/State: N/A

If "yes," identify and describe, (including agency and status): N/A

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Have the penalties been paid? Yes/No: N/A

2. Does your firm or its officers have any ongoing investigations by any public agency regarding violations of the State Labor Code, California Business and Professions Code or State Licensing Laws?

Yes/No: NO Code/Laws: N/A Section/Article: N/A

If "yes," identify and describe, (including agency and status): N/A

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**DISQUALIFICATION OR DEBARMENT**

Has your firm, any officer of your firm, or any employee who has a proprietary interest in your firm ever been disqualified, removed, or otherwise prevented from bidding on, performing work on, or completing a federal, state or local project because of a violation of law or a safety regulation? Yes/No: NO. If yes, provide the following information (if more than once, use separate sheets):

Date: ~~12/2/10~~ <sup>N/A DK</sup> Entity: N/A

Location: N/A

Reason: N/A

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Provide Status and any Supplemental Statement: N/A

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has your firm been reinstated by this entity? Yes/No: N/A



## Certified Small Business Enterprise

**Vendor Account Number:** 24131

Sam Kasbar  
KASA Construction, Inc.  
316 N. Corona Ave.  
Ontario, CA, 91764

Thank you for submitting your Vendor Application seeking Small Business Enterprise recognition with a Coalition of Southern California Public Agencies. Per our evaluation of the information you provided in your application and the North American Industry Classification System codes you identified, your status as a Small Business Enterprise (SBE) has been approved. This certification is recognized by the following organizations:

<b>Metropolitan Water District of Southern California</b>	<b>City of San Diego</b>	<b>San Diego County Water Authority</b>
<b>Minority Business Development Agency</b>	<b>Los Angeles Unified School District</b>	<b>Port of Los Angeles</b>
<b>Los Angeles Community College District</b>		

Metropolitan is pleased to issue this SBE Certificate subject to the terms and conditions identified below:

**NAICS code(s) for which SBE status is recognized:**  
**238990,561730,238390,237990,332311,321992,238910**  
**SBE Certificate Effective Date: 09/24/10**  
**SBE Certificate Expiration Date: 09/20/13**

Work Performed by your firm that falls within the above-mentioned NAICS code(s) will be counted as SBE participation for work performed on contracts procured by the above agencies.

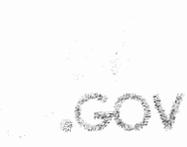
The agencies reserve the right to withdraw this certification if at any time it is determined that certification was knowingly obtained by false, misleading or incorrect information and reserve the right to audit all statements. If any firm attempts to falsify or misrepresent information to obtain certification, the firm may be disqualified from participation in any contracts for a period of up to five years.

**SBE Certification is valid for a period of three (3) years. To maintain SBE status, firms must update their existing SBE Vendor Application on or before the expiration date mentioned above. All information is subject to verification.**

If there are any changes in your status that may impact your certification, you are required to update your account information online. A copy of your information can be viewed by logging into the NETConnect system, choosing "Edit Profile", and selecting the link to the "Small Business Certification Status".

Sincerely,  
John J. Arena  
Metropolitan Water District of Southern California  
Business Outreach Program Manager

700 N. Alameda Street, Los Angeles, California 90012 Mailing Address: Box 54153, Los Angeles, CA 90054-0153 Telephone (213) 217-7444



Department of  
**General Services**

1500 Capitol Mall, Sacramento, CA 95833-0001

**Search Criteria**

**Business Name:** KASA Construction, Inc.

**The State of California Certifications**

[return to search](#)

(showing 1 - 1 of 1)

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KASA CONSTRUCTION, INC. - MB	# 1357480
Legal Business Name: KASA CONSTRUCTION, INC.	
Doing Business As: KASA CONSTRUCTION, INC.	
316 N. Corona Ave.	<a href="#">View Profile</a>
ONTARIO, CA 91764	Phone: (909) 457-8260
Email: hectorz@kasaconstruction.com	Fax: (909) 457-8261

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**Customer Support** - [support@bidsync.com](mailto:support@bidsync.com) or 1-800-990-9339

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## CONTRACT SERVICES AGREEMENT

This CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into as of January 25, 2011 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Bureau Veritas North America, Inc., a Delaware Corporation ("CONTRACTOR").

### RECITALS:

- A. CITY wishes to retain the services of an experienced and qualified CONTRACTOR to provide construction inspection services for the Median Island Improvements for the Beautification of Western Avenue from 190<sup>th</sup> Street to Carson Street;.
- B. CONTRACTOR represents that it is qualified to perform those services.

### AGREEMENT:

#### 1. SERVICES TO BE PERFORMED BY CONTRACTOR

CONTRACTOR will provide the services listed in the Scope of Services attached as Exhibit A. CONTRACTOR warrants that all work and services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner.

#### 2. TERM

Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through January 25, 2012.

#### 3. COMPENSATION

##### A. CONTRACTOR's Fee.

For services rendered pursuant to this Agreement, CONTRACTOR will be paid in accordance with the Compensation Schedule attached as Exhibit B, provided, however, that in no event will the total amount of money paid the CONTRACTOR, for services initially contemplated by this Agreement, exceed the sum of \$54,660.00 ("Agreement Sum"), unless otherwise first approved in writing by CITY.

##### B. Schedule of Payment.

Provided that the CONTRACTOR is not in default under the terms of this Agreement, upon presentation of an invoice, CONTRACTOR will be paid the fees described in Paragraph 3.A. above, according to the Compensation Schedule. Payment will be due within 30 days after the date of the invoice.

#### 4. TERMINATION OF AGREEMENT

##### A. Termination by CITY for Convenience.

1. CITY may, at any time, terminate the Agreement for CITY's convenience and without cause.
2. Upon receipt of written notice from CITY of such termination for CITY's convenience, CONTRACTOR will:
  - a. cease operations as directed by CITY in the notice;
  - b. take actions necessary, or that CITY may direct, for the protection and preservation of the work; and
  - c. except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.
3. In case of such termination for CITY's convenience, CONTRACTOR will be entitled to receive payment for work executed; and costs incurred by reason of such termination, along with reasonable overhead and profit on the work not executed.

##### B. Termination for Cause.

1. If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party written notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the defaulting party will have such additional time as is reasonably necessary to remedy the default.
2. In the event this Agreement is terminated for cause by the default of the CONTRACTOR, the CITY may, at the expense of the CONTRACTOR and its surety, complete this Agreement or cause it to be completed. Any check or bond delivered to the CITY in connection with this Agreement, and the money payable thereon, will be forfeited to and remain the property of the CITY. All moneys due the CONTRACTOR under the terms of this Agreement will be retained by the CITY, but the retention will not release the CONTRACTOR and its surety from liability for the default. Under these circumstances, however, the CONTRACTOR and its surety will be credited with the amount of money retained, toward any amount by which the cost of completion exceeds the Agreement Sum and any amount authorized for extra services.

3. Termination for cause will not affect or terminate any of the rights of the CITY as against the CONTRACTOR or its surety then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

C. Termination for Breach of Law.

In the event the CONTRACTOR or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public consultant or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 19 of this Agreement; or for any other cause the CITY determines to be so serious and compelling as to affect CONTRACTOR's responsibility as a public consultant or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper. The CITY will not take action until CONTRACTOR has been given notice and an opportunity to present evidence in mitigation.

5. **FORCE MAJEURE**

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental control, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

6. **RETENTION OF FUNDS**

CONTRACTOR authorizes CITY to deduct from any amount payable to CONTRACTOR (whether or not arising out of this Agreement) any amounts the payment of which may be in dispute or that are necessary to compensate CITY for any losses, costs, liabilities, or damages suffered by CITY, and all amounts for which CITY may be liable to third parties, by reason of CONTRACTOR's acts or omissions in performing or failing to perform CONTRACTOR's obligations under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by CONTRACTOR, or any indebtedness

exists that appears to be the basis for a claim of lien, CITY may withhold from any payment due, without liability for interest because of the withholding, an amount sufficient to cover the claim. The failure of CITY to exercise the right to deduct or to withhold will not, however, affect the obligations of CONTRACTOR to insure, indemnify, and protect CITY as elsewhere provided in this Agreement.

7. **CITY REPRESENTATIVE**

Public Works Director is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The City Manager has the right to designate another City Representative at any time, by providing notice to CONTRACTOR.

8. **CONTRACTOR REPRESENTATIVE(S)**

The following principal(s) of CONTRACTOR are designated as being the principal(s) and representative(s) of CONTRACTOR authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

Gary Heinbuch

9. **INDEPENDENT CONTRACTOR**

The CONTRACTOR is, and at all times will remain as to CITY, a wholly independent contractor. Neither CITY nor any of its agents will have control over the conduct of the CONTRACTOR or any of the CONTRACTOR's employees, except as otherwise set forth in this Agreement. The CONTRACTOR may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

10. **BUSINESS LICENSE**

The CONTRACTOR must obtain a City business license prior to the start of work under this Agreement, unless CONTRACTOR is qualified for an exemption.

11. **OTHER LICENSES AND PERMITS**

CONTRACTOR warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

12. **FAMILIARITY WITH WORK**

By executing this Agreement, CONTRACTOR warrants that CONTRACTOR (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, CONTRACTOR warrants that CONTRACTOR has or will investigate the site and is or will be fully acquainted with the conditions there

existing, prior to commencement of services set forth in this Agreement. Should CONTRACTOR discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, CONTRACTOR must immediately inform CITY of that fact and may not proceed except at CONTRACTOR's risk until written instructions are received from CITY.

**13. CARE OF WORK**

CONTRACTOR must adopt reasonable methods during the term of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by CITY, except those losses or damages as may be caused by CITY's own negligence.

**14. CONTRACTOR'S ACCOUNTING RECORDS; OTHER PROJECT RECORDS**

Records of the CONTRACTOR's time pertaining to the project, and records of accounts between CITY and the CONTRACTOR, will be kept on a generally recognized accounting basis. CONTRACTOR will also maintain all other records, including without limitation specifications, drawings, progress reports and the like, relating to the project. All records will be available to CITY during normal working hours. CONTRACTOR will maintain these records for three years after final payment.

**15. INDEMNIFICATION**

CONTRACTOR will indemnify, defend, and hold harmless CITY, the Redevelopment Agency of the City of Torrance, the City Council, each member thereof, present and future, members of boards and commissions, its officers, agents, employees and volunteers from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of CONTRACTOR, its officers, employees, agents, subcontractors or vendors. It is further agreed, CONTRACTOR's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONTRACTOR and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, CONTRACTOR will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. CONTRACTOR will not be entitled in the event of such a

determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

**16. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES**

No officer or employee of CITY will be personally liable to CONTRACTOR, in the event of any default or breach by the CITY or for any amount that may become due to CONTRACTOR.

**17. INSURANCE**

A. CONTRACTOR and its subcontractors must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:

1. Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:
  - a. Primary Bodily Injury with limits of at least \$500,000 per person, \$500,000 per occurrence; and
  - b. Primary Property Damage of at least \$250,000 per occurrence; or
  - c. Combined single limits of \$1,000,000 per occurrence.
2. General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least \$1,000,000 per occurrence.
3. Workers' Compensation with limits as required by the State of California and Employer's Liability with limits of at least \$1,000,000.

B. The insurance provided by CONTRACTOR will be primary and non-contributory.

C. CITY ("City of Torrance"), the Redevelopment Agency of the City of Torrance, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insured under the automobile and general liability policies.

D. CONTRACTOR must provide certificates of insurance and/or endorsements indicating appropriate coverage, to the City Clerk of the City of Torrance before the commencement of work.

E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to CITY.

**18. SUFFICIENCY OF INSURERS**

Insurance required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to CITY, the CONTRACTOR agrees that the minimum limits of any insurance policies or performance bonds required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that CONTRACTOR will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of CITY within 10 days of receipt of notice from the Risk Manager.

**19. CONFLICT OF INTEREST**

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

**20. NOTICE**

- A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:
1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.
  2. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.

3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.
4. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.
5. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.
6. Addresses for purpose of giving notice are as follows:

CONTRACTOR	Bureau Veritas North America, Inc. 2001 East First Street Santa Ana, CA 92705-4020
------------	--

Fax: (714) 667-1071

CITY:	City Clerk City of Torrance 3031 Torrance Boulevard Torrance, CA 90509-2970 Fax: (310) 618-2931
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- B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.
- C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

**21. PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING**

This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either CITY or CONTRACTOR without the prior written consent of the other.

**22. INTEGRATION; AMENDMENT**

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this

Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

**23. INTERPRETATION**

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

**24. SEVERABILITY**

If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

**25. TIME OF ESSENCE**

Time is of the essence in the performance of this Agreement.

**26. GOVERNING LAW; JURISDICTION**

This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

**27. COMPLIANCE WITH STATUTES AND REGULATIONS**

CONTRACTOR will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

**28. WAIVER OF BREACH**

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

**29. ATTORNEY'S FEES**

Except as provided for in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

**30. EXHIBITS**

All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

**31. CONTRACTOR'S AUTHORITY TO EXECUTE**

The persons executing this Agreement on behalf of the CONTRACTOR warrant that (i) the CONTRACTOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONTRACTOR; (iii) by so executing this Agreement, the CONTRACTOR is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the CONTRACTOR is bound.

CITY OF TORRANCE  
a Municipal Corporation

Bureau Veritas North America, Inc.  
a Delaware Corporation

\_\_\_\_\_  
Frank Scotto, Mayor

By: \_\_\_\_\_

ATTEST:

Steve Smith  
Vice President  
Public Works Services

\_\_\_\_\_  
Sue Herbers  
City Clerk

APPROVED AS TO FORM:  
JOHN L. FELLOWS III  
City Attorney

By: \_\_\_\_\_

Attachments:      Exhibit A      Scope of Services  
                         Exhibit B      Compensation Schedule

Revised:      10/29/2008

**EXHIBIT A**  
**SCOPE OF SERVICES**



## EXHIBIT A

### Scope of Services for Western Avenue Median Beautification Project Inspections

- Familiarization with and review of contract documents
- Monitoring compliance with Plans and Specifications
- Participation in pre-construction meetings and attendance in other meetings and conferences as required
- Preparation of Daily Inspection Reports including photos.
- Review and recommendations in the processing of payment requests.
- Assistance and recommendations in the processing of Change Orders.
- Coordination with Contractor, City staff, etc.
- Meet with contractor, as necessary, and review proposed work plan and how it conforms to schedule.
- Review contractor performance, as required, and discuss discrepancies as they occur.
- Develop "Punch List" items and follow through until completed.
- Review items requiring corrective action with contractor and City and monitor corrections made.
- Serve as general liaison between City and Contractor.



**EXHIBIT B**  
**COMPENSATION SCHEDULE**



### PROPOSED FEE

The proposed not-to exceed fee is for full time inspection services for a period of 75 working days, and for attendance at the pre-construction meeting and the project close-out. The Project Management hours represent one 1/2 hour per working day, for administrative purposes. Bureau Veritas staff will work only the necessary hours to provide full inspection services and will work concurrently with the contactors project schedule to maintain timeframes and costs efficiently. Our hours are approved by the City prior to commencement of work.

The fee also covers transportation to and from the project, all mileage, tools, and communication.

#### Not-To-Exceed

Staff	Hourly Rate	Hours	Amount
Project Manager	\$150	38	\$5,700
Inspector	\$80**	600	\$48,000
<b>Meetings</b>			
Pre-con meeting	\$80**	4	\$320
Project close out	\$80**	8	\$640
<b>TOTAL</b>		<b>650</b>	<b>\$54,660</b>

\*\* The hourly billing rate is (\$80). Any hours above 8 hours per day will be billed at 1-1/2 times billing rate (\$120).

