Council Meeting of
August 21, 2007

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

Members of the Council:

SUBJECT: Public Works Department – Third Amendment to Contract Services Agreement C2004-173 with West Coast Arborist. Expenditure: $140,000.

RECOMMENDATION

The Public Works Director recommends that City Council authorize the one-year renewal option to Agreement C2004-173 with West Coast Arborist (WCA) for an additional amount of $140,000, increasing the total amount of said Agreement to $612,000. WCA is to furnish all labor, materials, and equipment required for tree and/or stump removal, tree planting and tree trimming on an as needed basis at various locations throughout the City of Torrance.

Funding

Funding is available from the Streetscape Operating Budget.

BACKGROUND/ANALYSIS

The Streetscape Division of the Public Works Department utilizes a tree services contractor for removing large City trees and/or stumps and for planting new replacement trees on an as needed basis.

On September 14, 2004 City Council approved a three-year Agreement with West Coast Arborist to furnish tree/stump removal, tree planting or trimming on an as needed basis in various locations throughout the city. In their bid, West Coast Arborist noted that they would agree to a fourth year renewal of the Agreement if requested by the City, with pricing, terms and conditions unchanged. West Coast Arborist has agreed to the City's request for a one year renewal option.

Respectfully submitted,

ROBERT J. BESTE
Public Works Director

FOR
By John Drakodaidis
Sr. Administrative Analyst

CONCUR:

Robert J. Beste
Public Works Director

LeRoy J. Jackson
City Manager

Attachments:
A: Third Amendment to Contract C2004-173
B: Letter from WCA agreeing to renewal option
C. Second Amendment to Contract C2004-173
D. First Amendment to Contract C2004-173
E. C2004-173

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THIRD AMENDMENT TO AGREEMENT

This Third Amendment to Agreement is made and entered into as of August 21, 2007, by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and West Coast Arborist, Inc. a California Corporation ("CONTRACTOR").

RECITALS:

A. CITY and CONTRACTOR entered into an Agreement on September 14, 2004 whereby CONTRACTOR agreed to furnish all labor, materials and equipment required for tree and/or stump removal, tree planting and tree trimming on an "as needed basis" at various locations throughout the city of Torrance for a period of three (3) years.

B. CITY and CONTRACTOR entered into an Amendment to Agreement on November 16, 2004, for additional similar tree maintenance and increased the Agreement amount by an additional $300,000 ($100,000 per year) for a new not-to-exceed amount of $440,000.

C. CITY and CONTRACTOR entered into a Second Amendment to the Agreement on June 13, 2006 to include further additional work in the Agreement so that CONTRACTOR will perform similar services for the Residential Street Rehabilitation, I-5, in accordance with the Scope of Services attached as Exhibit A-1. The additional work cost an additional $32,000 for a new not-to-exceed amount of $472,000.

D. The CITY and CONTRACTOR now wish to exercise the renewal option for a fourth year. The CITY wishes to increase the not to exceed amount an additional $140,000 for the fourth year of the Agreement for a new not-to-exceed amount of $612,000.

AGREEMENT:

1. Paragraph 2. TERM is amended to read in its entirety as follows:

   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 September 13, 2008.

2. Paragraph 3A entitled CONTRACTOR's Fee is amended to read in its entirety as follows:

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 contemplated by this Agreement, exceed the sum of $612,000 ("Agreement Sum"), unless otherwise first approved in writing by CITY."

3. In all other respects, the Agreement dated September 14, 2004 and the amendments dated November 16, 2004 and June 13, 2006 between CITY and CONTRACTOR are ratified and reaffirmed and are in full force and effect.

CITY OF TORRANCE
a Municipal Corporation

_____
Frank Scotto, Mayor

WEST COAST ARBORIST, INC.
a California Corporation

By: _____
Patrick Mahoney
President

ATTEST:

_____
Sue Herbers, City Clerk

APPROVED AS TO FORM:

John L. FELLOWS III
City Attorney

By:_____

Tree Care Professionals Serving Communities Who Care About Trees

www.WCAINC.com

June 15, 2007

City of Torrance
ATTN: Judy Emerson, Streetscape Supervisor
3031 Torrance Blvd.
Torrance, CA 90503

RE: RENEWAL OF TREE MAINTENANCE AGREEMENT FOR CONTRACT 2007-2008

Dear Ms. Emerson,

We sincerely appreciate the work you and your staff has provided during this past year to help make this venture a success for the residents of Torrance. Since 2001, we have worked with the City to develop a "team effort" approach in the care of the City's urban forest.

The initial term of the Contract between WCA and the City was for three years until September 14, 2007 with the option to extend the Contract for one (1) additional year.

The purpose of this letter is to express our interest in extending the term of the Agreement under the same conditions, **and with no increase in price, for Contract Year 2007-2008.**

We understand that municipalities remain challenged by substantial reductions in revenue and increased operating costs. By not increasing the price, we can help to ease the current financial strain, promote contractor stability and guarantee residents with quality tree care & customer service.

We look forward to continuing the strong relationship built between us, and to maintaining quality urban tree care service. Should you have any questions or require additional information, please contact me at (800) 521-3714.

Sincerely,

Victor M. Gonzalez
Vice-President, Director of Marketing

West Coast Arborists, Inc.
2200 E. Via Burton Street · Anaheim, CA 92806 · 714.991.1900 · 800.521.3714 · Fax 714.956.3745

ATTACHMENT C

SECOND AMENDMENT TO AGREEMENT

This Second Amendment to Agreement C2004-173 is made and entered into as of June 13, 2006, by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and West Coast Arborist, Inc. a California Corporation ("CONTRACTOR").

RECITALS:

A. CITY and CONTRACTOR entered into an Agreement on September 14, 2004, whereby CONTRACTOR agreed to furnish all labor, materials and equipment required for tree and/or stump removal, tree planting and tree trimming on an "as needed basis" at various locations throughout the city of Torrance for a period of three (3) years.

B. CITY and CONTRACTOR entered into an Amendment to the Agreement on November 16, 2004, for additional similar tree maintenance and increased the Agreement amount by an additional $300,000 ($100,000 per year) for a new not-to-exceed amount of $440,000.

C. CITY wishes to include further additional work in the Agreement so that CONTRACTOR will perform similar services for the Residential Street Rehabilitation, I-5, in accordance with the Scope of Services attached as Exhibit A-1. The additional work will cost an additional $32,000.

D. CITY wishes to increase the Agreement sum from $440,000, to $472,000, an increase of $32,000, to complete the additional work.

C2004-173

AGREEMENT:

1. Paragraph 1, entitled "SERVICES TO BE PERFORMED BY CONTRACTOR," is amended to read in its entirety as follows:

   "1. **SERVICES TO BE PERFORMED BY CONTRACTOR**
   CONTRACTOR will provide the services listed in the Scope of Services attached as Exhibit A to the original Agreement and the services listed in the Scope of Services attached as Exhibit A-1 to this Second Amendment. CONTRACTOR warrants that all work and services will be performed in a competent, professional and satisfactory manner."

2. Paragraph 3A entitled "CONTRACTOR's Fee," is amended to read in its entirety as follows:

   "A. CONTRACTOR's Fee.

COPY

For services rendered pursuant to this Agreement, CONTRACTOR will be paid in accordance with the Compensation Schedule attached as Exhibit B to the original agreement dated September 14, 2004 and Exhibit B-1 attached to this Amendment, provided, however, that in no event will the total amount of money paid the CONTRACTOR, for services contemplated by this Agreement, exceed the sum of $472,000 ("Agreement Sum"), unless otherwise first approved in writing by CITY."

2. In all other respects, the Agreement entered into as of September 14, 2004, between CITY and CONTRACTOR and the First Amendment entered into as of November 16, 2004, are ratified and reaffirmed and are in full force and effect.

CITY OF TORRANCE
a Municipal Corporation

Dan Walker, Mayor

WEST COAST ARBORIST, INC.
a California Corporation

By: Patrick Mahoney
President

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

John L. FELLOWS III
City Attorney

By Heather K. Whitham
Deputy City Attorney

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ATTACHMENT D

AMENDMENT TO AGREEMENT

This Amendment to Agreement C2004-173 is made and entered into as of November 16, 2004, by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and West Coast Arborist, Inc. a California Corporation ("CONTRACTOR").

RECITALS:

A. CITY and CONTRACTOR entered into an Agreement on September 14, 2004, whereby CONTRACTOR agreed to furnish all labor, materials and equipment required for tree and/or stump removal, tree planting and tree trimming on an "as needed basis" at various locations throughout the city of Torrance for a period of three (3) years.

B. The CITY is satisfied with work performed by CONTRACTOR.

C. Due to an increase in funding available from bond proceeds for tree maintenance the CITY whishes to increase the not to exceed amount by an additional $300,000 ($100,000 per year).

C2004-173

AGREEMENT:

1. Paragraph 3A entitled CONTRACTOR's Fee is amended to read in its entirety as follows:

   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 to the original agreement dated September 14, 2004, provided, however, that in no event will the total amount of money paid the CONTRACTOR, for services contemplated by this Agreement, exceed the sum of $440,000 ("Agreement Sum"), unless otherwise first approved in writing by CITY."

COPY

2. In all other respects, the Agreements dated September 14, 2004, between CITY and CONTRACTOR are ratified and reaffirmed and are in full force and effect.

CITY OF TORRANCE
a Municipal Corporation

Dan Walker, Mayor

WEST COAST ARBORIST, INC.
a California Corporation

By: Patrick Mahoney
President

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

John L. FELLOWS III
City Attorney

By:

[WCA 1st amendment C2004-173_11-16-04.doc]

ATTACHMENT E

CONTRACT SERVICES AGREEMENT

This CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into as of September 14, 2004 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and West Coast Arborist, A California Corporation ("CONTRACTOR").

RECITALS:

A. CITY wishes to retain the services of an experienced and qualified CONTRACTOR to furnish all labor, materials, and equipment required for tree and/or stump removal, tree planting and tree trimming on an "as needed basis" in various locations throughout the City of Torrance for a period of three (3) years.

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 September 13, 2007.

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 $140,000 ("Agreement Sum"), unless otherwise first approved in writing by CITY.

C2004-173

COPY

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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. <u>FORCE MAJEURE</u>

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

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 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:

Patrick Mahoney
Oscar R. Corvera

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 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 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, 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	West Coast Arborist 2200 E. Via Burton St. Anaheim, Ca 92806 Fax: (714) 956-3745
CITY:	City Clerk City of Torrance 3031 Torrance Boulevard Torrance, CA 90509-2970 Fax: (310) 618-2931

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

Dan Walker, Mayor

ATTEST:

Sue Herbers
City Clerk

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

By:

West Coast Florist
A California Corporation

By:
Patrick Mahoney
President

Attachments: Exhibit A Scope of Services
Exhibit B Compensation Schedule

Revised: 1/30/01

EXHIBIT A

SCOPE OF SERVICES

The Contractor is to furnish All Labor, Materials, and Equipment required for Tree and/or Stump Removal, Tree Planting and Tree Trimming on an "as needed basis" in various locations throughout the City of Torrance for a period of three (3) years.

A.

1. Contractors must be experienced and capable of satisfactorily performing the specified work covered by this contract. The Contractor will be required to furnish proof of relative and previous experience on similar work.

2. All tree trimming and planting standard to comply with recommendations of ISA- International Society of Arborist

3. The City will provide the Contractor with lists of address locations of all trees and stumps to be removed trimmed or planted. NOTE THAT THE TREE/TREE STUMPS TO BE TRIMMED OR REMOVED WILL BE LOCATED AT NUMEROUS LOCATIONS THROUGHOUT THE CITY ALSO THERE IS A POSSIBIUTY THAT ONLY A FEW TREES/TREE STUMPS MAY BE TRIMMED OR REMOVED AT EACH LOCATION.

4. A certified arborist will be on or available to report to the job site at all times.

5. The tree and/or tree stump removal service shall consist of cutting down designated trees and grinding of remaining stumps and surface roots to a minimum of twenty-four (24) inches below curb grade. Finished grade of the parkway will be level to the top of the curb and sidewalk for the length of the parkway.

   In the case of roots growing under streets, gutters, curbs and walkways, the roots are to be cut-off flush at the concrete.

   All trees to be removed will be marked by the City with red paint.

   All stumps to be removed will be marked by the City with red paint.

   Grindings from the stump grinder can be used as backfill after stumps and roots are ground out.

   All debris other than backfill grindings and homeowner requested logs are to be removed from the site and properly disposed of by the Contractor.

   The trees may not be removed from the site in a whole or substantially whole condition unless the Streetscape Manager grants special permission.

   The contractor shall have all rights to any salvage value that may be contained in these trees.

   All work shall be performed during the hours of 8:00 a.m. through 4:30 p.m., Monday through Friday unless work is being performed on an arterial roadway. Work performed on an arterial roadway shall be scheduled for off peak traffic hours and traffic control as noted in section B below and approved by the Streetscape Manager.

   The City of Torrance Streetscape Division reserves the right to inspect the jobs " in progress " and to halt the work that the City decides is being performed unsatisfactorily at any time.

7. All public streets, curbs, gutters and sidewalks shall remain in their present conditions. If anytime during the progress of this project the Contractor encounters a situation where property damage occurs or is inevitable, the Contractor must immediately stop work and contact the City's Street Department/Streetscape Division and report the condition before work continues. The Contractor at their cost shall repair any damage caused as a result of Contractor's work.

8. The Contractor shall be responsible for the immediate repair of any sprinkler system damage caused by tree removal.

9. The Contractor may, upon request of the homeowner at the site, leave fireplace sized logs for the homeowner's own use.

10. The Contractor will provide the City a list of all equipment that will be used in completing this contract.

11. The Contractor will provide the City with a Quarterly Green Waste Report, The report will need to include the date, recycling site type of material and the weight of the material

12. Monthly invoices shall include the following: address, size (dbh & height) type dates that tree was removed, stump removal, trimmed or planted.

B. **Traffic Requirements:**

Street Closures, Detours and Barricades

1.1 All costs involving street closures, detours, delineators and barricades shall be paid by the Contractor.

1.2 The Contractor shall notify the following City departments at least two (2) working days before closing or partially closing any street or alley:

Street Services Department . . . . . (310) 781-6900
Torrance Police Department . . . . . (310) 328-3456
Torrance Fire Department . . . . . (310) 781-7040
Engineering Department . . . . . (310) 618-2820

1.3 The Contractor shall notify Underground Service Alert at (800) 422-4133 at least three (3) working days in advance of starting any work involving underground utilities.

1.4 Immediately upon completion of work and opening or reopening of any street or alley, the three (3) parties above shall be notified.

1.5 The Contractor shall install, maintain, and remove all temporary delineators, barricades, lights, warning signs and other facilities necessary to control traffic as specified in the "Work Area Traffic Control Handbook" (Watch Manual). Materials for a temporary facility may be provided from new or used materials. If used materials are provided, they shall be sound, in good condition and otherwise meet the requirements of new materials. All traffic control devices shall be free of graffiti, and the Contractor shall be responsible to immediately clean and/or replace any device to the satisfaction of the Streetscape Manager.

1.6 The Contractor is responsible to post "Temporary No Parking" signs at least 48 hours (two work days) in advance of the first date of enforcement. Each sign must include the beginning and end dates and the hours in effect (if not 24 hours/day), if applicable "Tow-Away" and "City of Torrance" must be written on sign face.

C. Public Notification:

At least three (3) days prior to starting work in any location, the Contractor shall provide written notices to all homeowners and residents who will be impacted by his work.

Any notice to be distributed by the Contractor to the adjacent residents and/or property owners must be approved by the City in advance. Contractor must provide a copy of the notice at least one week (5 working days) prior to the proposed or required date of distribution

Delivery and Installation Schedule:

The Contractor will provide the City with a schedule and work plan for approval three (3) days prior to the beginning of work.

All work must commence within 14 days of the notice from the City. Work scheduled must be completed within 30 days. (Example: tree removed, stump grounded, and new tree replanted)

EXHIBIT B

COMPENSATION SCHEDULE

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

Costs:

Unit Description	Unit Price
Full Trim	
Small variety, 0-6" dbh	$ 19.00 per tree
Medium variety, 7-16" dbh	$ 49.00 per tree
Large variety, over 16" dbh	$ 98.00 per tree
Clearance Trim	
Small variety, 0-6" dbh	$ 15.00 per tree
Medium variety, 7-16" dbh	$ 15.00 per tree
Large variety, over 16" dbh	$ 15.00 per tree
Palm Tree Trim	
Coco palm, any size	$ 19.00 per tree
Washington palm, any size	$ 49.00 per tree
Date palm, any size	$ 98.00 per tree
Removals	
Complete tree and stump removal < 29"dbh	$ 220.00 per tree
Stump removal only	$ 65.00 per stump
Complete tree and stump removal > 29"dbh $	$ 27.00 per inch
Palm Tree Removal – Phoenix Canariensis < 30'	$ 220.00 per tree
Palm Tree Removal – Phoenix Canariensis > 30'	$ 650.00 per tree
Stump Removal - Phoenix Canariensis	$ 65.00 per stump
Planting	
24 inch box tree with root barrier and stakes	$ 215.00 per tree
24 inch box tree without root barrier and stakes	$ 95.00 per tree
Root Pruning	
	$ 6.00 per linear foot