FOR COUNCIL MEETING
October 6, 2009

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

Members of the Council:

SUBJECT: Community Services – Authorize amendment to turf maintenance services agreement with Allison's New Leaf Inc. (DBA) Tri Valley Landscape Management.

Expenditure: Not to exceed $26,194.35

RECOMMENDATION:

Recommendation of the Community Services Director that City Council authorize an amendment to agreement C2009-052 with Allison's New Leaf Inc. (DBA) Tri Valley Landscape Management to shorten the term of the agreement from March 10, 2010 to October 31, 2009 and reduce the agreement from $88,697.90 to $31,433.22.

Funding

Funding is available in FEAP 654 Turf Improvements.

BACKGROUND/ANALYSIS

The Torrance City Council authorized funding under FEAP 654 for Turf Maintenance Improvements to the City's most used parks. Due to the unique nature of the services required to improve the turf, Community Services staff felt that it would be better to use a contractor who specializes in turf services rather than using internal resources.

Over the summer of 2008, staff solicited information from cities with contracts for similar services to create a Request for Proposal (RFP), which was issued in October 2008. Tri Valley Landscape Management was awarded the contract (C2009-052) in March 2009.

The first scheduled application of fertilizer and broad leaf weed control was performed in April 2009. After that service, it was brought to our attention by the contractor that the quantity of fertilizer and weed abatement chemicals per application (as specified in the RFP) was too low to make a significant difference to our fields and that we would not see the improvements that were anticipated.

Staff asked Tri Valley Landscape Management to recalculate their costs based on the additional materials that were recommended, but the cost proved prohibitive. At this time, the Department feels that it would be better modify the agreement by combining the remaining fertilizer and weed killer applications into one service. A single application at a higher rate of fertilizer and weed killer per 1,000 square feet will be closer to the industry standard that was originally intended under the RFP. By changing the application schedule, the agreement period will be modified from an end date of March 30, 2010, to October 31, 2009.

The value of the agreement is also recommended to be reduced from $88,697.90 to $31,433.22. To date, the Tri Valley Landscape Management has been paid $5,238.87 for services rendered. The combined application cost will be $26,194.35 giving the agreement a new total not to exceed $31,433.22.

At this time, the Community Services Department is requesting Your Honorable Body's approval to amend the agreement for services with Tri Valley Landscape Management. The amendment shortens the timeframe of the current agreement so that all services under this agreement will be completed by October 31, 2009, and reduces the value of the contract. In addition, the Department will be coming before Your Honorable Body with a request for permission to conduct a new turf maintenance RFP with improved specifications in October 2009 for services targeted to begin in early Spring 2010.

Respectfully submitted,

JOHN JONES
Community Services Director

CONCUR:

LeROY J. JACKSON
City Manager

Attachment: A) Amendment to Agreement C2009-052

AO:tlk:adminsvcs\councilitems\2009\authorizeamendwithtrivalley 10-6-09ci

ATTACHMENT A

AMENDMENT TO AGREEMENT

This Amendment to Agreement is made and entered into as of October ___, 2009, by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Allison's New Leaf, a California Corporation DBA Tri Valley Landscape Management ("CONTRACTOR").

RECITALS:

A. CITY and CONTRACTOR entered into Agreement C2009-052 on March 11, 2009, whereby CONTRACTOR agreed to provide turf maintenance services in accordance with the specifications of the agreement, Request for Proposal and Proposal.

B. Both parties wish to amend the contract to reflect the proper legal name of the contractor which is Allison's New Leaf, A California Corporation, DBA Tri Valley Landscape Management.

C. Both parties wish to decrease the term of the contract from the effective date of the contract through October 31, 2009.

D. Both parties wish to modify the services to be provided under the contract to only encompass lawn care services.

E. Both parties wish to decrease the not to exceed amount of the contract to $31,433.22.

AGREEMENT:

1. The first paragraph of the agreement is amended in its entirety to read as follows:

   "This CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into as of March 11, 2009 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY") and Allison's New Leaf, a California Corporation DBA Tri Valley Landscape Management ("CONTRACTOR").

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

   "1 CONTRACTOR will provide the services listed in the Scope of Services attached to this amendment as Exhibit A-1. CONTRACTOR warrants that all work and services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner.

3. 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 October 31, 2009.

4. Paragraph 3. "COMPENSATION" is amended to read in its entirety as follows:

"3. CONTRACTOR's Fee

For services rendered pursuant to this Agreement, CONTRACTOR will be paid in accordance with the Compensation Schedule attached hereto as Exhibit B-1, 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 $31,433.22.

5. Paragraph 4.A.3. "TERMINATION OF AGREEMENT" is amended to read in its entirety as follows:

"3. In case of such termination for CITY's convenience CONTRACTOR will be entitled to the full fee identified in Paragraph 3 "COMPENSATION."

6. Exhibit C "PAYMENT SUMMARY" is deleted in its entirety.

7. In all other respects, the Agreement dated March 11, 2009 between CITY and CONTRACTOR is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,
a Municipal Corporation

_____
Frank Scotto, Mayor

Allison's New Leaf,
a California Corporation DBA
Tri Valley Landscape Management

By: _____
Jennifer Allison,
President

ATTEST:

_____
Sue Herbers
City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____

EXHIBIT A-1

SCOPE OF SERVICES

I Terms of Statement of Work

1. The CONTRACTOR shall provide turf maintenance services to the following CITY of Torrance Parks:

Charles H. Wilson Park
2200 Crenshaw Blvd.
Torrance, CA 90501
Estimated Turf Acreage: 35.0

McMaster Park
3624 Artesia Boulevard
Torrance, CA 90504
Estimated Turf Acreage: 4.0

Columbia Park
4050 190th Street
Torrance, CA 90504
Estimated Turf Acreage: 45.0

Torrance Park
2001 Santa Fe Ave.
Torrance, CA 90501
Estimated Turf Acreage: 3.0

El Nido Park
18301 Kingsdale Avenue
Torrance, CA 90278
Estimated Turf Acreage: 11.0

Walteria Park
3855 West 242nd Street
Torrance, CA 90505
Estimated Turf Acreage: 3.0

II. General Responsibilities

1. Administrative Procedures

A. The CONTRACTOR agrees to perform all administrative procedures related to this Agreement within the period of this Agreement.

B. Failure of the CONTRACTOR to comply with the requirements of Exhibits A and B will constitute a material breach of Agreement, upon which the CITY may cancel, terminate, or suspend this Agreement.

2. Management, Staffing, and Direction of Programs

A. The CONTRACTOR shall keep accurate records concerning all of his/her employees or agents.

3. Hours of Operation

A. The CONTRACTOR shall perform all work between the hours of 7:00 a.m. and 3:00 pm, Monday through Friday excluding holidays for all park areas.

III. Services to Be Performed

1. CONTRACTOR Responsibilities

A. The CONTRACTOR shall furnish all labor, equipment, materials, and supervision to perform maintenance as described herein including but not limited to the following:

- Consolidate the five remaining fertilization/herbicide applications into a single application of not more than 4lbs of "Best Turf Supreme 16-6-8 with Trimec" per 1,000 sq. ft.

B. The CONTRACTOR shall notify the CITY immediately of any problems, with either the turf being serviced or the items listed in B. above to ensure prompt attention.

IV. Performance Objectives

1. Performance Standards

A. All work shall be performed in accordance with the highest landscape maintenance standards. Standards may be modified as deemed necessary by the CITY for the proper maintenance of the designated sites.

EXHIBIT B-1

COMPENSATION SCHEDULE

I. General Payment Terms

1. Failure to comply with any record keeping or reporting requirements or any other terms included in this Agreement shall be grounds for the CITY to withhold payment against submitted invoices until such compliance is demonstrated.

2. If the CITY judges that the level of maintenance is below the agreed upon standard, the CITY shall, at its option in addition to or in lieu of other remedies provided herein, withhold appropriate payment from the CONTRACTOR until services are rendered in accordance with specifications set forth within this document and providing no other arrangements have been made between the CONTRACTOR and the CITY.

3. No invoices will be processed unless accompanied by a the written approval of the Parks and Services Division of the City. If an agreement cannot be reached on the definition of quality of the services provided, the Director of Community Services will be the sole and final judge of the condition of the facility in question.

II. Invoicing

1. The CONTRACTOR shall prepare and submit invoices to the CITY upon completing the scheduled service.

CONTRACT SERVICES AGREEMENT

This CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into as of March 11, 2009 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Tri Valley Landscape Management, a Calfornia Corporation ("CONTRACTOR").

RECITALS:

A. CITY wishes to retain the services of an experienced and qualified CONTRACTOR to provide turf maintenance services.

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 March 10, 2010.

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 and the Payment Summary attached as Exhibit C, 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 $88,697.90 ("Agreement Sum"), unless otherwise first approved in writing by CITY.

C2009-0562

COPY

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**

Mike Simoneau 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:

Jennifer Allison, President

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	Jennifer Allison, President Tri Valley Landscape Management 7 Duesenberg Dr. Westlake Village, CA 91362 Fax: 805-494-5001
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

Frank Scotto, Mayor

ATTEST:

Sue Herbers
City Clerk

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

By:

Tri Valley Landscape Management
a California Corporation

By: 3-25-09
Jennifer Allison,
President

3/25/09
CERTIFIED
WILLIAM ALLISON
SECRETARY

Attachments:

	Exhibit A	Scope of Services
	Exhibit B	Compensation Schedule
	Exhibit C	Payment Summary

Revised: 10/29/2008

EXHIBIT A

SCOPE OF SERVICES

I Terms of Statement of Work

1. The CONTRACTOR shall provide turf maintenance services to the following CITY of Torrance Parks:

Charles H. Wilson Park
2200 Crenshaw Blvd.
Torrance, CA 90501
Estimated Turf Acreage: 35.0

McMaster Park
3624 Artesia Boulevard
Torrance, CA 90504
Estimated Turf Acreage: 4.0

Columbia Park
4050 190th Street
Torrance, CA 90504
Estimated Turf Acreage: 45.0

Torrance Park
2001 Santa Fe Ave.
Torrance, CA 90501
Estimated Turf Acreage: 3.0

El Nido Park
18301 Kingsdale Avenue
Torrance, CA 90278
Estimated Turf Acreage: 11.0

Walteria Park
3855 West 242nd Street
Torrance, CA 90505
Estimated Turf Acreage: 3.0

II. General Responsibilities

1. Administrative Procedures

A. The CONTRACTOR agrees to perform all administrative procedures related to this Agreement within the period of this Agreement.

B. Failure of the CONTRACTOR to comply with the requirements of Exhibits A and B will constitute a material breach of Agreement, upon which the CITY may cancel, terminate, or suspend this Agreement.

C. Materials submitted to the CITY are incorporated into this Agreement by reference, if not physically attached, and will be used as part of the assessment, evaluation, inspection, monitoring, and auditing of this Agreement and the CONTRACTOR's attainment of Agreement goals. The CONTRACTOR's bid document is not attached to this agreement, the terms of which are referenced herein.

D. If requested by the CITY, the Contractor agrees to a one-year renewal of this agreement with terms and conditions unchanged.

2. Management, Staffing, and Direction of Programs

A. The CONTRACTOR shall keep accurate records concerning all of his/her employees or agents.

B. The CONTRACTOR shall be required to designate a supervisor(s) in writing as Project Manager and who will be the contact person for this project. The CONTRACTOR's Project Manager shall conduct the day-to-day turf maintenance operations under this Agreement.

C. Within one week of the contract execution, the CONTRACTOR shall provide the CITY with names and telephone numbers of at least two qualified persons who can be called by CITY representatives when emergency conditions occur during hours when the CONTRACTOR's normal workforce is not present within the CITY.

D. The Project Manager will be required to communicate effectively both verbally and in writing with CITY Staff.

E. The Project Manager must be available to respond to inquiries, walk-throughs, and inspections of the projects as required.

F. The Project Manager will perform maintenance inspections of all areas within the scope. Such inspections shall be both visual and operational. It shall include a visual inspection of all areas with in the scope of the agreement specifications.

3. Hours of Operation

A. The CONTRACTOR shall perform all work between the hours of 7:00 a.m. and 3:00 pm, Monday through Friday excluding holidays for all park areas.

B. Work performed outside of this service window shall only be done with prior approval from the Director of Community Services or an authorized representative.

III. Services to Be Performed

1. CONTRACTOR Responsibilities

A. The CONTRACTOR shall furnish all labor, equipment, materials, and supervision to perform maintenance as described herein including but not limited to the following:

- Broadleaf weed control with chemicals.
- Fertilization.
- August/September Core Aeration to a minimum depth of 4."
- Sports Mix over-seeding.
- Spring Core Aeration to a minimum depth of 4."
- Flag sprinklers prior to Core Aeration service and remove flags after aeration has been completed.
- CONTRACTOR shall also be responsible for any damages due to personnel and/or equipment (i.e. should aerating damage a sprinkler).

B. It shall not be the CONTRACTOR's responsibility to maintain or repair:

- Area lighting systems.
- Fencing.
- Gates.
- Any building located at the specified sites.
- Graffiti.
- Signage.
- Damage resulting from vehicular accidents.
- Vandalism.
- Water, sewer, and electrical lines or systems, except to the extent required in the specifications.
- Hardscape repairs (curbs, gutters, sidewalks, etc.)

C. The CONTRACTOR shall notify the CITY immediately of any problems, with either the turf being serviced or the items listed in B. above to ensure prompt attention.

2. CITY's Roles and Responsibilities

A. Within one week of the contract execution, the CITY shall provide the CONTRACTOR with names and telephone numbers of at least two qualified persons who can be called by the CONTRACTOR when emergency conditions occur.

B. The CITY shall provide an Agreement Liaison(s) to assist in program management and technical assistance.

C. The CITY shall monitor the CONTRACTOR at least twice during the program year (tentatively June 2009 and November 2009) to ensure program quality and provide technical assistance as needed.

IV. Performance Objectives

1. Reporting

A. The CONTRACTOR shall submit all reports and information as requested by the CITY including, but not limited to the following:

- Annual Maintenance Schedule
- Monthly Maintenance Schedule
- Aeration Schedule
- Fertilization Report
- Chemical Use Report
- Extra work approval list
- List of Emergency contacts

B. The Agreement Liaison shall perform monthly maintenance inspections of all areas within in the scope of the agreement. Such inspections shall be both visual and operational. It shall include a visual inspection of all areas within the scope of the Agreement specifications. Within three working days following the inspection, the Agreement Liaison shall prepare a written list of any deficiencies to the Park Services Manager of the Community Services Department or his designee.

2. Performance Standards

A. All work shall be performed in accordance with the highest landscape maintenance standards. Standards and frequencies may be modified from time to time as deemed necessary by the CITY for the proper maintenance of the designated sites.

B. Within one month after contract execution and after consultation with the CONTRACTOR, CITY will develop a bonus/deduction value for the agreement based upon a performance rating system. This system may be modified during the term of the agreement at the CITY's discretion. Different weights may be assigned to categories.

C. Each month prior to submittal of the monthly invoice, the Project Liaison and the Park Services Manager shall tour the facilities using the rating system and come to a mutual agreement.

D. All work shall meet with the approval of the CITY. There shall be a minimum of monthly meetings with the CONTRACTOR and the CITY representative to determine progress and establish areas needing attention. Changes to the monthly maintenance schedule will be submitted in writing to the CITY by the first of said month.

E. Any specific problem area, which does not meet the conditions of the specifications set forth herein, shall be called to the attention of the CONTRACTOR and, if not corrected, payment to the CONTRACTOR will not be made until the condition is corrected in a satisfactory manner as set forth in the specifications.

F. Work or materials of a minor nature which may not be specifically mentioned, but which may reasonably be assumed as necessary for the completion of this work, shall be performed by the CONTRACTOR as if described in the specifications.

G. No work of any kind outside the scope of this agreement or the Contractor's bid shall be considered unless a separate estimate is given for said work and the estimate is approved by the CITY before the work is commenced.

H. The CONTRACTOR shall complete a monthly maintenance report indicating work performed and submit this complete report to the CITY. At a minimum, this report should contain a description of service, including labor hours, equipment, and materials breakdowns, and costs.

I. Any additional work that the CONTRACTOR deems to be beyond the scope of work will not be authorized unless the additional work and associated costs are first approved in writing by the CITY.

J. The CONTRACTOR will be required to provide before and after photographs of safety items or emergency repairs that were made with CITY approval. Documentation of contract compliance may be required on some occasions.

K. Within 15 days of the effective date of the executed agreement, the CONTRACTOR shall prepare and submit a written annual maintenance calendar to the CITY.

L. This written annual maintenance calendar shall clearly indicate all of the turf maintenance tasks required by this agreement and the month of the year, they are scheduled to be performed.

M. Each month prior to service, the CONTRACTOR will submit a monthly maintenance calendar detailing specific services to each of the locations. If it is necessary to make periodic revisions to this maintenance schedule, a modified calendar must be submitted to the CITY for approval prior to the date the changes are to take effect.

V. Tentative Master Maintenance Schedule

1. Turf Maintenance Services

A. Aeration

- Spring 2009--Core Aeration/Sports Mix Overseeding
- Fall 2009--Core Aeration/Sports Mix Overseeding
- Spring 2010--Spring Core Aeration

B. Fertilization and Pest Control

- March 2009
  - Fertilization with Best Supreme 16-6-8 or equal
  - Broadleaf weed control
- April 2009
  - Fertilization with Best Supreme 16-6-8 or equal
  - Broadleaf weed control
- June 2009
  - Fertilization with Best Supreme 16-6-8 or equal
  - Broadleaf weed control
- August 2009
  - Fertilization with Best Supreme 16-6-8 or equal
  - Broadleaf weed control
- October 2009
  - Fertilization with Best Supreme 16-6-8 or equal
  - Broadleaf weed control
- December 2009
  - Fertilization with Best Supreme 16-6-8 or equal
  - Broadleaf weed control

- January 2010
  - Fertilization with Best Supreme 16-6-8 or equal
  - Broadleaf weed control

- February 2010
  - Fertilization with Best Supreme 16-6-8 or equal
  - Broadleaf weed control

EXHIBIT B

COMPENSATION SCHEDULE

I. General Payment Terms

1. Failure to comply with any record keeping or reporting requirements or any other terms included in this Agreement shall be grounds for the CITY to withhold payment against submitted invoices until such compliance is demonstrated.

2. If the CITY judges that the level of maintenance is below the agreed upon standard, the CITY shall, at its option in addition to or in lieu of other remedies provided herein, withhold appropriate payment from the CONTRACTOR until services are rendered in accordance with specifications set forth within this document and providing no other arrangements have been made between the CONTRACTOR and the CITY.

3. No invoices will be processed unless accompanied by a signed performance report. If an agreement cannot be reached on the definition of quality of the services provided, the Director of Community Services will be the sole and final judge of the condition of the facility in question.

4. Compensation will be provided on a monthly basis after submission of an invoice. Payments will be based on the compensation figures contained in the CONTRACTOR's bid document, and which are summarized in Exhibit C—PAYMENT SUMMARY.

II. Invoicing

1. Invoices shall be submitted in a format pre-approved by the CITY so that payments may be processed immediately.

2. The CONTRACTOR shall prepare and submit invoices to the CITY once a month.

3. The CONTRACTOR shall submit the following information for payment:

   - Invoice in a format approved by the CITY
   - Monthly Maintenance Calendar
   - Monthly Performance Report Sheet

4. Before the first month's billing cycle, the CITY will design and send to the CONTRACTOR a performance report template. The sheet will be designed with input from the CONTRACTOR to document the meeting for both to sign signaling readiness to submit invoice.

EXHIBIT C

PAYMENT SUMMARY

SECTION II RFP SPECIFICATIONS

CITY OF TORRANCE
3031 Torrance Blvd.
Torrance, CA 90503
RFP NO. B2008-62

Request for Proposal to Provide Sports Turf management at Various Parks

Addendum #1

Park	Total
Columbia Park	$ 39,357.60
El Nido Park	$ 9,620.74
Mc Master Park	$ 3,860.45
Torrance Park	$ 2,623.84
Walteria Park	$ 2,623.84
Wilson Park	$ 30,611.40

Total Annual Contract Service Cost $ 88,697.90

Price Proposal:

TURF MAINTENANCE
RFP SPECIFICATIONS

Columbia Park 4050 190th Street. Torrance, CA 90504 310/781-6901	Estimated Turf Acreage: 45.0

Lawn Care Services

Treatment	Description	Frequency	Cost
March 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	2,334.15
	Broadleaf Weed control		
May 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	2,334.15
	Broadleaf Weed control		
July 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	2,334.15
	Broadleaf Weed control		
September 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	2,334.15
	Broadleaf Weed control		
November 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	2,334.15
	Broadleaf Weed control		
January 2009/10	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	2,334.15
	Broadleaf Weed control		
			14,004.90

Beneficial Services

July 2009 Core Aeration/Sports Mix Overseeding	1	21,280.20
Spring Core Aeration	1	4,072.50
Annual Beneficial Services Cost		25,352.70
Total Annual Service Cost		39,357.60

El Nido Park 18301 Kingsdale Avenue. Torrance, CA 90278 310/781-6901	Estimated Turf Acreage: 11.0		
Lawn Care Services			
Treatment	**Description**	**Frequency**	**Cost**
March 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	570.57
	Broadleaf Weed control		
May 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	570.57
	Broadleaf Weed control		
July 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	570.57
	Broadleaf Weed control		
September 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	570.57
	Broadleaf Weed control		
November 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	570.57
	Broadleaf Weed control		
January 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	570.57
	Broadleaf Weed control		
			3423.42
Beneficial Services			
July 2009 Core Aeration/Sports Mix Overseeding			5,201.82
Spring Core Aeration			995.50
Annual Beneficial Services Cost			6,197.32
Total Annual Service Cost			9620.74

Mc Master Park 3624 Artesia Boulevard. Torrance, CA 90504 310/781-6901	Estimated Turf Acreage: 4.0

Lawn Care Services

Treatment	Description	Frequency	Cost
March 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	207.48
	Broadleaf Weed control		
May 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	207.48
	Broadleaf Weed control		
July 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	207.48
	Broadleaf Weed control		
September 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	207.48
	Broadleaf Weed control		
November 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	207.48
	Broadleaf Weed control		
January 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	207.48
	Broadleaf Weed control		
			1,244.88

Beneficial Services

Aug- Sept 2009 Core Aeration/Sports Mix Overseeding		2,253.57
Spring Core Aeration		362.00
Annual Beneficial Services Cost		2615.57
Total Annual Service Cost		3,860.45

Torrance Park 2001 Santa Fe Ave. Torrance, CA 90501 310/781-6901	Estimated Turf Acreage: 3.0		
Lawn Care Services			
Treatment	**Description**	**Frequency**	**Cost**
March 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal Broadleaf Weed control	1	155.61
May 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal Broadleaf Weed control	1	155.61
July 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal Broadleaf Weed control	1	155.61
September 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal Broadleaf Weed control	1	155.61
November 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal Broadleaf Weed control	1	155.61
January 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal Broadleaf Weed control	1	155.61
			933.66
Beneficial Services			
July 2009 Core Aeration/Sports Mix Overseeding			1,418.68
Spring Core Aeration			271.50
Annual Beneficial Services Cost			1,690.18
Total Annual Service Cost			2,623.84

JJ:CK:gmb:Parks & Facilities/2008/Bid info-lawn care srvcs for parks

Walteria Park 3855 West 242nd St. Torrance, CA 90505 310/781-6901	Estimated Turf Acreage: 3.0		
Lawn Care Services			
Treatment	**Description**	**Frequency**	**Cost**
March 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	155.61
	Broadleaf Weed control		
May 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	155.61
	Broadleaf Weed control		
July 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	155.61
	Broadleaf Weed control		
September 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	155.61
	Broadleaf Weed control		
November 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	155.61
	Broadleaf Weed control		
January 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	155.61
	Broadleaf Weed control		
			933.66
Beneficial Services			
July 2009 Core Aeration/Sports Mix Overseeding			1,418.68
Spring Core Aeration			271.50
Annual Beneficial Services Cost			1,690.18
Total Annual Service Cost			2,623.84

Charles Wilson Park 2200 Crenshaw Blvd. Torrance, CA 90501 310/781-6901	Estimated Turf Acreage: 35.0

Lawn Care Services

Treatment	Description	Frequency	Cost
March 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	1815.45
	Broadleaf Weed control		
May 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	1815.45
	Broadleaf Weed control		
July 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	1815.45
	Broadleaf Weed control		
September 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	1815.45
	Broadleaf Weed control		
November 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	1815.45
	Broadleaf Weed control		
January 2009	Fertilization with Best Turf Supreme 16-6-8 or approved equal	1	1815.45
	Broadleaf Weed control		
			12,892.70

Beneficial Services

July 2009 Core Aeration/Sports Mix Overseeding		16,551.20
Spring Core Aeration		3,167.50
Annual Beneficial Services Cost		19,718.70
Total Annual Service Cost		30,611.40