CITY OF TUCSON DEPARTMENT OF PROCUREMENT 255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701 P.O. BOX 27210, TUCSON, AZ 85726 (520) 837-4132 ISSUE DATE: NOVEMBER 20, 2015 CONTRACT NO.: 120535 CONTRACT AMENDMENT NO.: FIVE (5) PAGE 1 of 1 SA CONTRACT OFFICER: GILLIAN BUCCIARELLI

THIS CONTRACT IS AMENDED AS FOLLOWS:

GROUNDSKEEPING, GOLF AND SPORTS FIELD MAINTENANCE

- 1. Pursuant to Contract No. 120535, Special Terms and Conditions, Section 8, Price Adjustment, the City accepts the following Price Adjustments:
 - 1. Attachment A Toro Commercial Pricing active 11/1/2015
 - 2. Attachment B Toro LCE Price List IPA 11/9/2015
 - 3. Attachment C-F16 SWS Pricing_TCPN_IPA 12/10/2015

ALL OTHER PROVISIONS OF THE CO	FRACT SHALL REMAIN	IN THEIR	LENTIRETY.
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CONTRACTOR HEREBY ACKNOWLEDGES RECEIPT OF AND UNDERSTANDING OF THE ABOVE AMENDMENT.	THE ABOVE REFERENCED CONTRACT, AMENDMENT IS HEREBY EXECUTED THIS
Typed Name and Title The Toso Company Company Name	
Brad. hamiltone toro, com	MAP ()
Email Address Blooming w 55420 City State Zip	as Director of Procurement and not personally

CITY OF TUCSON DEPARTMENT OF PROCUREMENT 255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701 P.O. BOX 27210, TUCSON, AZ 85726 (520) 837-4137 ISSUE DATE: SEPTEMBER 15, 2015 CONTRACT NO.: 120535
CONTRACT AMENDMENT NO.: FOUR (4)
PAGE 1 of 3
SA
CONTRACT OFFICER: JENN MYERS

THIS CONTRACT IS AMENDED AS FOLLOWS:

GROUNDSKEEPING, GOLF AND SPORTS FIELD MAINTENANCE

- 1. Pursuant to Contract No. 120535, Special Terms and Conditions, Section 6, Term and Renewal, the City is hereby exercising its option to renew the contract for the period of November 27, 2015 through November 26, 2016.
- 2. Paragraph 20 of the Standard Terms and Conditions section is hereby replaced in its entirety with the following paragraph:
 - 20. INDEMNIFICATION: To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Tucson, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, including claims of patent or copyright infringement, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. The Contractors agrees to waive all rights of subrogation against the City of Tucson, it's agents, representatives, officers, directors, officials, employees and volunteers for losses arising from the work performed by the Contractor for the City of Tucson.

Contractor is responsible for compliance with the Patient Protection and Affordable Care Act (ACA), for its employees in accordance with 26 CFR §54, 4980H. Additionally, Contractor is responsible for all applicable IRS reporting requirements related to ACA. If Contractor or any of Contractor's employees is certified to the City as having received a premium tax credit or cost sharing reduction which contributes to or triggers an assessed penalty against the City, or Contractor fails to meet reporting requirements pursuant to section 6056 resulting in a penalty to City, Contractor indemnifies City from and shall pay any assessed tax penalty.

3. Paragraph 8 of the Special Terms and Conditions section is hereby replaced with the following paragraph:

INSURANCE:

The Contractor agrees to:

- A. Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this contract. All policies will contain an endorsement providing that written notice be given to the City at least thirty (30) calendar days prior to termination, cancellation, or reduction in coverage in any policy.
- B. The Commercial General Liability Insurance and Commercial Automobile Liability Insurance policies will include the City as an additional insured with respect to liability arising out of the performance of this contract. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract. The Contractor agrees that the insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.
- C. Provide and maintain minimum insurance limits as applicable.

CITY OF TUCSON DEPARTMENT OF PROCUREMENT 255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701 P.O. BOX 27210, TUCSON, AZ 85726 (520) 837-4137 ISSUE DATE; SEPTEMBER 15, 2015 CONTRACT NO.: 120535 CONTRACT AMENDMENT NO.: FOUR (4) PAGE 2 of 3 SA

CONTRACT OFFICER: JENN MYERS

COVERAGE	LIMITS OF LIABILITY
I, Commercial General Liability:	and the state of t
Policy shall include Bodily Injury, Property Damage, Personal Injury and	
Broad Form Contractual Liability	
Each Occurrence	\$1,000,000
General Aggregate Per Project	\$2,000,000
Products & Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability	\$1,000,000
II. Commercial Automobile Liability	
Policy shall include Bodily Injury and Property Damage, for any owned, Hired,	
and/or Non-owned vehicles used in the operation, installation and maintenance	
of facilities under this agreement.	\$4,000,000
Combined Single Limit	\$1,000,000
III. Workers Compensation (applicable to the State of Arizona)*	0
Per Occurrence	Statutory
Employer's Liability	\$1,000,000
Disease Each Employee	\$1,000,000
Disease Policy Limit	\$1,000,000

^{*1} Sole Proprietor/Independent Contractor designation is given to those who desire to waive their rights for workers' compensation coverage and benefits as outlined in ARS\$ 23-901 and specifically ARS \$ 23-961 (O). If applicable, please request the Sole Proprietor/Independent Contractor form from the Contract Officer listed in the solicitation.

- D. ADDITIONAL INSURANCE REQUIREMENTS: All policies shall include, or be endorsed to include, the following provisions:
 - 1. A waiver of subrogation endorsement in favor of the City of Tucson, for losses arising from work performed by or on behalf of the Contractor.
 - 2. The insurance afforded the contractor shall be primary insurance and that any insurance carried by the City of Tucson and its agents, officials or employees shall be excess and not contributory.
 - Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
- E. NOTICE OF COVERAGE MODIFICATIONS: Any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the City of Tucson. Such notice shall be sent directly to the Department of Procurement.
- F. ACCEPTABILITY OF INSURERS: Contractors insurance shall have an "A.M. Best" rating of not less than A-VII. The City of Tucson in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- G. VERIFICATION OF COVERAGE: Contractor shall furnish the City of Tucson with certificates of insurance (ACORD form or equivalent approved by the City of Tucson) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the City of Tucson before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work and remain in effect for the duration of the contract and two (2) years after completion. Failure to

CITY OF TUCSON DEPARTMENT OF PROCUREMENT 255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701 P.O. BOX 27210, TUCSON, AZ 85726 (520) 837-4137

CONTRACT NO.: 120535 CONTRACT AMENDMENT NO.: FOUR (4) PAGE 3 of 3

'AGE 3 of 3 SA

CONTRACT OFFICER: JENN MYERS

ISSÚE DATE: SEPTEMBER 15, 2015

maintain the insurance policies as required by this Contract, or to provide evidence of renewal upon the City's request, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Department of Procurement.

The City of Tucson project/contract number and project description shall be noted on the certificate of insurance. The City of Tucson reserves the right to require complete copies of all insurance policies required by this Contract at any time.

- H. SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the City of Tucson separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self- Insurance.

CONTRACTOR HEREBY ACKNOWLEDGES RECEIPT OF AND UNDERSTANDING OF THE ABOVE AMENDMENT. 9 23 15 Signature Date	THE ABOVE REFERENCED CONTRACT AMENDMENT IS HEREBY EXECUTED THIS 23 rd DAY OF September 2015, AT TUCSON, ARIZONA.
Brad Hamilton, General Mar. Typed Name and Title	
Company Name	
8111 Lywdale Aw. S. Address	Δ .
brad. hamilton etoro. com Email Address	Wathan Daon
Bloomington MN 55420 City State Zip	as Director of Procurement and not personally

CITY OF TUCSON DEPARTMENT OF PROCUREMENT 255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701 P.O. BOX 27210, TUCSON, AZ 85726 (520) 837-4137 ISSUE DATE: APRIL 10, 2015

CONTRACT NO.: 120535 CONTRACT AMENDMENT NO.: THREE (3) PAGE 1 of 1

SA

CONTRACT OFFICER: JENN MYERS

THIS CONTRACT IS AMENDED AS FOLLOWS:

GROUNDSKEEPING, GOLF AND SPORTSFIELD MAINTENANCE EQUIPMENT

1. Per the Scope of Work, Section C. Service Requirements, Item 1. Financing, the following language shall be added to the contract:

Under the terms of this contract, the City or cooperative partners may lease, finance or use other lease/buy options to product the products within this contract.

CONTRACTOR HEREBY ACKNOWLEDGES RECEIPT OF AND ENDERSTANDING OF THE ABOVE AMENDMENT. JULIAN J	THE ABOVE REFERENCED CONTRACT AMENDMENT IS HEREBY EXECUTED THIS
Peter Whitners, Sales Manager - State and Local Government Typed Name and Title	
The Toro Company Company Name	
8111 Lyndale Avo South Address	
Peter whitnere (Ettern com Email Address	Mathan Davi
Bloomington MN 55420 City State Zip	As Director of Procurement and not personally

CITY OF TUCSON
DEPARTMENT OF PROCUREMENT
255 W. ALAMEDA, 6TH FLOOR
TUCSON AZ 85726-7210

CONTRACT NO. 120535-01
CONTRACT AMENDMENT NO. 2
PAGE 1

CONTRACT OFFICER: LLOYD B. WINDLE II/swb

THIS CONTRACT IS AMENDED AS FOLLOWS:

GROUNDSKEEPING, GOLF AND SPORTSFIELD MAINTENANCE EQUIPMENT

Pursuant to Contract Number 120535-01 Special Terms and Condition, Paragraph 6, the City is hereby exercising its option to renew the contract for the time period of November 27, 2014 through November 26, 2015.

CONTRACTOR HEREBY ACKNOWLEDGES AND UNDERSTANDING OF THE ABOVE AN		THE ABOVE REFERENCED CONTRACT AMENDMENT
AND BUDGIO (VIDINO OL THE VIDOVE VI	REMDIVICINE.	IS HEREBY EXECUTED THIS 27 the DAY
Dave Pettis		OF October, 2014, AT TUCSON, ARIZONA.
Signature	<u>10/27/14</u> Date	OF VC 1900, 2014, AT TUCSON, ARIZONA.
Darren Redetzke Vice President, Con	nmercial Business	
Typed Name and Title		
The Toro Company		
Company Name		
8111 Lyndaje Ave S		
Address		- 0 0
darren.redetzke@toro.com		\bigcirc
Email Address		1 atlan Jaon
		Marcheta Gillespie, C.P.M., CPPO, CPPB, CPM
Bloomington MN	55420	
City State	Zip	As Director of Procurement and not personally

CITY OF TUCSON DEPARTMENT OF PROCUREMENT 255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701 P.O. BOX 27210, TUCSON, AZ 85726 (520) 837-4105 ISSUE DATE: October 2, 2013

CONTRACT NO.: 120535 CONTRACT AMENDMENT NO.: ONE () PAGE 1of 1

CONTRACT OFFICER: LLOYD B. WINDLE, II

THE ABOVE REFERENCED CONTRACT AMENDMENT

THIS CONTRACT IS AMENDED AS FOLLOWS:

GROUNDSKEEPING, GOLF AND SPORTS FIELDS MAINTENANCE EQUIPMENT

Pursuant to Contract No. 120536-01, Special Terms and Conditions, Section 4, Term and Renewal, the City is hereby exercising its option to renew the contract for the period of November 27, 2013 through November 26, 2014.

CONTRACTOR HERRHY ACKNOWLEDGES RECEIPT OF AND UNDERSTANDING OF THE ABOVE AMENDMENT. Date Darken Date Darken D	THE ABOVE REFERENCED CONTRACT AMENDMEN'T IS HEREBY EXECUTED THIS			
Company Name 8111 Lyndal A. 5. Address				
Darren Redatzle & toro. Com Blooming fon MN 55490 City State Zip	Mercheta Gillespie, G.P.M., CPPO, CPPB, APM as Director of Procurement and not personally			

City of Tucson

Contract
For
Grounds Maintenance Equipment
With
The Toro Company

Effective: November 27, 2012

The following documents comprise the executed contract between the City of Tucson and The Toro Company, effective November 27, 2012:

- I. Signed Offer and Acceptance
- II. Negotiated Confirmation Letter dated November 9, 2012
- III. Toro's Response to Request for Best and Final Offer, October 29, 2012
- IV. Toro's Response to Request for Revise Offer, September 20, 2012
- V. Toro's Response to the Interview Agenda, September 6, 2012
- VI. Toro's Response to the Request for Proposal
- VII. The Terms and Conditions of the Request For Proposal, incorporated by reference

National Cooperative, Term and Renewal, Scope and Pricing language are found in the RFP

REQUEST FOR PROPOSAL NO. 120535 PAGE 34 OF 35 CONTRACT OFFICER: LLOYD B. WINDLE, II PH: (520) 837-4105 / FAX: (520) 791-4735

OFFER AND ACCEPTANCE

<u>OFFER</u>

TO TH	E CI	TY (of 1	UC	SON:
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The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein.

	For clarification of this offer, contact:		
THE TORO COMPANY Company Name	Name:		
SILL LYNDALE AV. S.	Title:		
BLOOM INGTON MN 55470 City State Zip	Phone:		
Signature of Person Authorized to Sign	Fax:		
DARREW REDETZKE	E-mail:		
VICE PRESIDENT			
ACCEPTANCE	OF OFFER		
The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as Contract No120535			
anth	CITY OF TUCSON, a municipal corporation		
Approved as to form this 27 day of Nev , 2012.	Awarded this 26 day of November , 2012.		
Ston Stanth	Victoria Contral		
As Tucson City Attorney and not personally	As Director of Procurement and not personally		

November 9, 2012

Mr. Pete Whitnere The Toro Company 8111 Lyndale Ave. S. Bloomington, MN 55420 Sent this day via email to: pete.whitacre@toro.com

RE: City of Tucson RFP #120535 - Groundskeeping, Golf and Sports Field Maintenance Equipment Negotiation Confirmation Letter

Dear Mr. Whitacre:

Based on previous discussions and negotiations, this letter serves as a request for confirmation that the statements below represent your firm's best and final offer to the City of Tucson regarding the subject solicitation. Specifically, you are asked to provide written confirmation by signing the concurrence line below. Points of agreement not identified below are not included in the offer. In the event there is any disagreement with this document or if there is other information that must be included in this document, The Toro Company must specify such in a written response to this request.

A. Negotiated Items:

The following agreement and clarifications have been made between the City of Tucson and The Toro Company with regard to Request for Proposal No. 120535.



- 2. Parts Pilot Program:
 - a. It is agreed that OEM and Performance Parts are included in this contract.
 - b. The pilot program is limited to the territory covered by Simpson Norton, If successful, the contract will be amended to add national coverage.
 - c. Additional details are contained in The Toro Company Revised Offer.
- Price Lists: It is agreed that the discount off each product line is applied to the current MSRP. MSRP price lists are typically revised and published with an effective date of November 1.
- 4. Used Equipment: It is agreed that used equipment is included in the contract, but that no administrative fee is applicable. The authorized Toro distributors will provide pricing based on fair market value for available equipment.
- 5. Golf Irrigation: At this time, Golf Irrigation equipment is not included in the contract. The City is amenable to re-consider this product line during the term of the
- pCard: pCard is accepted for payment with a convenience fee allowable per Visa guidelines at the distributor level.
- 7. Payment Terms: Payment terms are Net 30. Late fees may be applicable.
- 8. Field Day: It is agreed that the City of Tucson's Toro Distributor shall conduct an annual field day for the City of Tucson to include in general a demonstration of equipment, education programs, training programs, etc. Similar programs could be provided by other participating Toro distributors for their respective agencies.

B. Order of Precedence:

The following documents comprise the order of precedence of the executed contract.

1. Negotiated Confirmation Letter dated October 30, 2012. Neverther 9, 2012.

- Firm's Response to Request for Best and Final Offer
 - a. The Toro Company Best and Final Offer email and attachment dated October 29, 2012.
- 3. Firm's Response to Request for Revised Offer
 - The Toro Company Revised Offer Response email and attachment dated September 20, 2012.
- 4. Firm's Response to Interview Agenda
 - The Toro Company Interview Agenda Response email and attachment dated September 6, 2012.

Date: 1/12/2012

- 5. Firm's Response to Request for Proposal
 - a. The Toro Company Request for Proposal Response.

Your response to this letter must be received by the City's Department of Procurement on or before November 13, 2012 at 4:00 PM local Arizona time.

The City of Tucson appreciates your interest in this contract. If you should have any questions, please do not hesitate to contact me at (520) 837-4105.

Sincerely, Llay & B. Which I

Lloyd Windle II, C.P.M.

Principal Contract Officer

Concurrences Darren Redetzke, Vice President

e: File No. 120535

October 23, 2012

Mr. Pete Whitacre The Toro Company 8111 Lyndale Ave. S. Bloomington, MN 55420 Sent this day via email to: pete.whitacre@toro.com

RE: City of Tucson RFP #120535 – Groundskeeping, Golf and Sports Field Maintenance Equipment Request for Best and Final Offer

Dear Mr. Whitacre:

Based on previous discussions and negotiations, this letter serves as a request for The Toro Company to submit a Best and Final Offer to include the items detailed below.

- A. As stated in the negotiations meeting, Toro has asked the City to make concessions that include a lower administrative fee on whole goods and a lower administrative fee on parts, with the parts program initially limited to a pilot program within the territory covered by Simpson Norton. Toro is positioned well for increased sales and higher margin under this contract; however, Toro has not offered equal considerations to the City. Provide Toro's Best and Final Offer for the following items:
 - 1. The Administrative Fee for Whole Goods.

As discussed in our negotiation meeting, Toro agrees to a 2% administration fee on Whole Goods.

2. The Administrative Fee for Parts (both performance parts and OEM parts). Toro proposed 1.75%; however, considering Toro's risk is limited given the parts program is a pilot program and limited to the Simpson Norton territory, the City requests 2%.

For the pilot program limited to Simpson Nortons' territory Toro agrees to the 2% administrative fee. As with the entire parts pilot program this will be re-evaluated following the pilot period.

3. The Discount offered for Whole Goods.

The discount offered in our initial proposal remains our Best and Final discount offering.

- 4. Parts Program: Submit the minimum discount offered for performance parts.

 The average discount for Performance Parts is 33%.
- B. Details of the following items will be included in the eventual Negotiations Confirmation letter. Include any revisions offered in Toro's Best and Final Offer.
 - Used Equipment: It is agreed that language will be added to indicate that used equipment will be offered. Used Equipment will not have an Administrative Fee.
 - 2. Golf Irrigation: At this time, the City is not inclined to add this product line to the contract, but is amendable to re-reviewing during the term of the contract.
 - 3. Credit Card: It is agreed that language will be added to indicate that late fees may be applicable.
 - 4. Parts Program: It is agreed that language will be added to detail the agreed to pilot program for parts which includes defining tracking, reporting and the offered and accepted 10% discount for OEM parts.