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AMENDMENT NO 3 TO THE AGREEMENT
WITH EAST BAY CONSTRUCTION COMPANY , INC. FOR
PARKS & STREETScape MAINTENANCE SERVICE

This Amendment is entered into this 21st day of November 2012, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and **East Bay Construction Company, Inc.**, (hereafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, the parties entered into an Agreement for parks and streetscape maintenance services on October 1, 2011; which was approved by City Council on September 20, 2011; and

WHEREAS, the parties desire to amend the Agreement to allow contractor do perform additional work.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to amend the Agreement as follows:

Restroom Maintenance at Parc Metro East and John McDermott Parks: Once per day, 7 days a week, (including holidays). Opening: Restroom at 5:30 AM and Restrooms must then be cleaned, and trash emptied, including scrubbing and disinfecting all toilets, urinals, and sink basins. Any graffiti shall be removed. All floors must be washed daily and squeegeed out so as to leave no standing water, all dust and cobwebs shall be removed from walls and rafters inside and outside of the restroom. Ensure all lights are on, and activate all faucets and hand dryers. Flush all toilets and urinals and check for proper operation. Unplug any plugged fixture drains immediately.

The restroom must be restocked as needed, including replacing light bulbs, and making any repairs of leaks or inoperable equipment as fast as scheduling permits. For purposes of this Contract, "regularly scheduled work" shall constitute once a day, daily work as set forth in this paragraph. Only work not covered by the preceding sentence shall be considered discretionary "as needed" work. All damage, non-functional equipment or acts of vandalism and graffiti must be reported to the City daily

Park Clean Up: All parks are cleaned each Monday and include removing all trash and debris, and graffiti from picnic areas and all path ways, and raking leaves and other organic debris from the picnic areas. Picnic tables, benches and surrounding concrete shall be washed as necessary to be kept clean of spilled food and drink. Parks are monitored every day and cleaned as necessary depending on weather conditions and usage.

Playground Inspections: All play structures and play ground areas at Parc Metro Central, East, O'Tool Elms, Tom Evatt, and John McDermott Parks shall be cleaned and inspected weekly. All playground inspections must be conducted per U.S. CPSC requirements. Weekly reports using the City's standard form must be provided to the City.

Playground Repairs/Adjustments. Adjustments include maintaining proper surface material (sand and/or fibar) height, under swings and slides. Damaged equipment must be secured immediately and reported to the City. Swings must be kept untangled and unwrapped from poles.

Tennis and Basketball courts shall be cleaned weekly and kept litter and debris free. Nets shall be replaced as needed when worn, or as directed by the City.

Graffiti: All graffiti must be removed within 24 hours of being spotted or reported using graffiti remover, water and or sand blasting, and or painted over with a matching color on tables or benches or other painted surfaces.

Protective Fencing – All exterior perimeter fencing, including wooden, cyclone, and steel bar fencing surrounding all service areas including playgrounds, horse shoe pits, athletic courts; must be kept in good repair, free of graffiti. Minor repair or maintenance of all fencing areas as well as graffiti removal must be completed within one business day of occurrence or reporting. Larger repairs must be completed within 3 business days of the occurrence or reporting by the City.

Bike Racks - Must be kept in good repair and free of graffiti.

Dog Bag Dispensers - Replenish bag dispensers in all parks weekly as needed. Replace dispensers as needed. Bags must be bio-degradable.

Bulletin Boards - Must be kept in good repair, free of graffiti, including replacement of Plexiglas doors as needed.

Raised Planters/Retaining Walls - Come in two types wooden and pre-cast concrete blocks, all must be kept in good repair, free of graffiti,

Shade Structures - come in three types: wooden, canvas and steel must be kept in good repair and free of graffiti.

Picnic Tables and Benches - must be kept in good repair and free of graffiti, including painting and replacing damaged boards. Picnic areas shall be maintained in a clean and sanitary condition. Litter, broken glass, and other debris shall be cleaned from the site and tables and concrete pads cleaned of sticky or unsightly residue, pop tops, etc.

Drinking Fountains – must be kept clean and in good repair and fully operational at all times. Minor repairs and unplugging as needed are considered as included in the contract.

Barbecues. –Steel barbecues must be cleaned out weekly, and painted annually with black hi-temp paint and replaced as necessary due to rusting out. Minor repairs are considered as included in the contract.

Catch Basins – All catch basins must be kept clear of accumulated debris. Grating must be maintained in good condition and replaced as necessary.

Pathway Maintenance and Repairs - Pathways come in three types: decomposed granite, asphalt, and concrete. They must be kept free of tripping hazards, pot holes, and vehicle ruts. Tripping hazards or raised areas must be ground down as necessary, pot holes and vehicle ruts must be filled in with like material. All pathways must be keep free of litter, broken glass, pop tops and other debris. Asphalt and concrete pathways shall be cleaned of sticky or unsightly residue, gum, etc.

Parking Lot Cleaning: All trash and leaves must be removed twice a week or as needed.

Service Requests: CONTRACTOR Must be able to respond to all service requests within the same business day. Service requests can include any aspect of any duty under the contract. Hazards have to be taken care of the same day; all other repairs must be worked into the schedule as soon as possible and within a maximum of three (3) days. Service requests come from City dispatch and/or various City departments, and or the community hotline. Requests will be transferred by email or phone to the contractor.

PERFORMANCE MEASURES

The CONTRACTOR shall perform all services in a diligent way to avoid callbacks from the CITY. Thoroughness and completeness of the work is required. Lack of completeness and neatness, will result in callbacks from the CITY.

Callbacks from the CITY due to unacceptable work shall be solely the CONTRACTOR’s responsibility at the CONTRACTOR’s expense. Callback work shall be performed in a timely manner and shall not exceed 24 hours from first notification. Notification of unacceptable work will be sent in writing to the project manager no more than 24 hours after initial finding.

**Exhibit “B”
Fees**

- 1) Parc Metro East & John McDermott Park Restroom unlocking, cleaning, supplies including stocking dog bag dispensers:
\$23,700.00
- 2) Parc Metro Central, West, O’Tool Elms, Tom Evatt, & John McDermott Park Playground certifications:
\$1,587.00
- 3) Playground weekly cleaning and inspections including graffiti removal:
\$18,200.00
- 4) Tom Evatt Park Tennis and Basket Ball Court cleaning, and net replacements:
\$4,575.00
- 5) Park drinking fountain cleaning and minor repairs:
\$2,496.00
- 6) Contingency allowance for “as needed” work and repairs directed by the City
\$25,000.00

Total Amendment Price: \$75,558.00

1. The dollar value of the contract shall be increased by \$75,558.00 from \$137,944.00 to \$213,502.00 for the remaining four years of the contract.
2. All other provisions of the Agreement shall remain in full force and effect.

This Amendment is executed as of the date written on page one.

APPROVED BY:

CITY OF MILPITAS

East Bay Construction Co., Inc.

Thomas C. Williams, City Manager

Name and Title

Approved As
To Form:

Approved As
To Content:

Michael J. Ogaz, City Attorney

Steve Erickson, City Project Manager