



**\*12**

**AMENDMENT NO. 3 TO THE AGREEMENT**  
**WITH**  
**TERRACARE ASSOCIATES, LLC.**  
**FOR**  
**STREETSCAPE LANDSCAPE MAINTENANCE AND REPAIR SERVICES**

This Amendment is entered into this 20<sup>th</sup> day of November, 2013, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and **Terracare Associates, LLC.**, a Limited Liability Corporation registered in the State of California (hereafter referred to as "CONTRACTOR").

**RECITALS**

WHEREAS, the parties entered into an Agreement entitled "City of Milpitas Streetscape Landscape Maintenance and Repair Service" on June 6, 2012, which was approved by City Council on June 5, 2012 and became effective July 1, 2012 ("Agreement"). This is a two (2) year agreement with three (3) one (1) year options to renew. The first year contract amount, is One Hundred Twenty-Five Thousand Two Hundred Eighteen dollars (\$125,218.00); and

WHEREAS, the parties entered into Amendment No. 1 to the Agreement on April 25, 2013 to add three (3) medians adjacent to Cerano Park to the Agreement for a monthly increase of Three Hundred and Eighty-Five Dollars (\$385.00) for the remainder of the Agreement for a total year one contract amount of One Hundred Twenty-Six thousand Three Hundred and Seventy-Three dollars (\$126,373.00); and

WHEREAS, the parties entered into Amendment No. 2 to the Agreement on April 30, 2013 to incorporate the requirements of the "California Regional Water Quality Control Board, Municipal Regional Stormwater NPDES Permit" at no cost to the City; and

WHEREAS, the parties now desire to further amend the Agreement to allow CONTRACTOR to provide additional streetscape landscape maintenance and repair services for Tasman Median at McCarthy Blvd and the Sinclair Horizons walking path located in Landscape Maintenance District LMD 98-1, along the Berryessa Creek Trail for a monthly total of \$535.00 for the remainder of the agreement for a total year two contract amount of One Hundred Thirty-Three Thousand Five Hundred and Eighty-Three dollars (\$133,583.00).

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

1. The Agreement is amended to include the following two service areas in the Scope of Services.
  - A. Tasman Median at McCarthy Blvd.
  - B. Sinclair Horizons walking path located in Landscape Maintenance District LMD 98-1, along the Berryessa Creek Trail.
2. City agrees to pay CONTRACTOR for all services performed in accordance with the amended Agreement in the amounts no-to-exceed as follows:

- A. 7/01/12 to 6/30/13: \$126,373.00
- B. 7/01/13 to 6/30/14: \$133,583.00
- C. 7/01/14 to 6/30/15: \$136,258.00
- D. 7/01/15 to 6/30/16: \$136,258.00
- E. 7/01/16 to 6/30/17: \$136,258.00

- 2. This amendment shall become effective December 1, 2013.
- 3. All other provisions of the Agreement not amended by this Amendment No. 3 shall remain in full force and effect.

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

APPROVED BY:  
CITY OF MILPITAS

TERRACARE ASSOCIATES

\_\_\_\_\_  
Thomas C. Williams, City Manager

\_\_\_\_\_  
Name of Authorized Representative

\_\_\_\_\_  
Title of Authorized Representative

Approved As  
To Form:

\_\_\_\_\_  
Michael J. Ogaz, City attorney

Approved As  
To Content:

\_\_\_\_\_  
Steve Erickson, City Project Manager