



Proposal No. - 78
October 5, 2015

Property Name: Yorktown Gateway - Interstate

LANDSCAPE MAINTENANCE AGREEMENT

THIS AGREEMENT is made on October 05, 2015, by and between **Town of Yorktown**, whose principal place of business is located at **9800 W. Smith St., , Yorktown, IN 47396** ("Client) and **Jay-Crew Landscape, Inc.**, whose principal place of business is located at **2901 S. Gharkey, Muncie, IN 47302** ("Jay-Crew").

Client, as owner of the property known as **Yorktown Gateway - Interstate, I-69, Yorktown, IN 47396** the "Property") desires to have landscape and grounds maintenance services performed by Jay-Crew.

TERM OF AGREEMENT: The term of this Agreement shall commence on January 01, 2016 and shall continue until December 31, 2019 unless sooner terminated by either party with 60 days written notice.

Spring Cleanup

Includes clean-up of all lawn and landscaped areas as well as hard surfaces. Clean-up will generally include removal of all leaves and debris that have accumulated since last winter, cut back any remaining debris from perennials and ornamental grasses, and minor trimming on shrubs as needed.

Bed Edging

Includes edging of all landscaped beds and tree rings around the property. May include manual spade edging or machine edging depending on the property and the site conditions.

Spring Mulch

Installation of granular, pre-emergent weed control and topdressing of 'black, dyed' mulch to all landscaped beds and tree rings.

Field Mowing

Includes bush-hogging of the lawn areas near the signs on a monthly basis during the growing season. Mowing will occur approximately May 1, June 1, July 1, August 1, September 1, and October 1.

Turf Application Round 2

Includes an application of a balanced rate of slow-release granular fertilizer (with iron) along with a blanket application of liquid broadleaf weed control.

Turf Application Round 5

Includes an application of a balanced rate of slow-release granular fertilizer (with iron) along with a blanket application of liquid broadleaf weed control.

Tree and Shrub-Dormant Oil Application

Includes application of dormant oil or soil injected insecticide to prevent insect damage to trees and shrubs.

Tree and Shrub-Insect and Disease Application

Application of insecticides, miticides, and/or fungicides (depending on condition of plants) to help control a variety of insects and disease.

Tree and Shrub-Deep Root Fertilization

Annual application of a balanced rate of slow release liquid fertilizer (injected or drenched) to trees and shrubs.

Shrub & Ornamental Tree Pruning

Includes pruning of all shrubs to maximize color and to maintain proper shape. Also includes pruning and 'limbing up' of all ornamental trees 12' tall and under. Dead and damaged branches from trees & shrubs will be removed to promote healthy growth. All debris to be hauled off site.

Bed & Hard Surface Weed Control

Includes hand pulling or spot spraying of unwanted weeds in landscaped beds, around tree rings, and throughout all hard surfaces such as drives, parking lots, and sidewalks.

Perennial Cutback/Fall Cleanup

Includes clean-up of all landscaped bed areas as well as hard surfaces during the Fall. Main activity is to cut back perennials and ornamental grasses. Clean-up will also include minor amount of leaf removal but does not include large volume leaf removal (this will be priced as a separate service if required based on property conditions).

AGREEMENT SUMMARY

| Services | Occurs | Price Each | Ext. Price | Sales Tax | Total Price |
|---|--------|---------------|---------------|--------------------|--------------------|
| Spring Cleanup | 1 | \$570.00 | \$570.00 | \$0.00 | \$570.00 |
| Bed Edging | 1 | \$380.00 | \$380.00 | \$0.00 | \$380.00 |
| Spring Mulch | 1 | \$1,950.00 | \$1,950.00 | \$0.00 | \$1,950.00 |
| Field Mowing | 6 | \$375.00 | \$2,250.00 | \$0.00 | \$2,250.00 |
| Turf Application Round 2 | 1 | \$800.00 | \$800.00 | \$0.00 | \$800.00 |
| Turf Application Round 5 | 1 | \$800.00 | \$800.00 | \$0.00 | \$800.00 |
| Tree and Shrub-Dormant Oil Application | 1 | \$200.00 | \$200.00 | \$0.00 | \$200.00 |
| Tree and Shrub-Insect and Disease Application | 4 | \$200.00 | \$800.00 | \$0.00 | \$800.00 |
| Tree and Shrub-Deep Root Fertilization | 1 | \$200.00 | \$200.00 | \$0.00 | \$200.00 |
| Shrub & Ornamental Tree Pruning | 2 | \$456.00 | \$912.00 | \$0.00 | \$912.00 |
| Bed & Hard Surface Weed Control | 15 | \$76.00 | \$1,140.00 | \$0.00 | \$1,140.00 |
| Perennial Cutback/Fall Cleanup | 1 | \$912.00 | \$912.00 | \$0.00 | \$912.00 |
| | | | | \$0.00 | |
| | | | | \$10,914.00 | \$0.00 |
| | | | | | \$10,914.00 |

PAYMENT SCHEDULE

| Schedule | Price | Sales Tax | Total Price |
|-----------------|--------------------|----------------------|------------------------|
| January | \$0.00 | \$0.00 | \$0.00 |
| February | \$0.00 | \$0.00 | \$0.00 |
| March | \$1,212.67 | \$0.00 | \$1,212.67 |
| April | \$1,212.67 | \$0.00 | \$1,212.67 |
| May | \$1,212.67 | \$0.00 | \$1,212.67 |
| June | \$1,212.67 | \$0.00 | \$1,212.67 |
| July | \$1,212.67 | \$0.00 | \$1,212.67 |
| August | \$1,212.67 | \$0.00 | \$1,212.67 |
| September | \$1,212.67 | \$0.00 | \$1,212.67 |
| October | \$1,212.67 | \$0.00 | \$1,212.67 |
| November | \$1,212.64 | \$0.00 | \$1,212.64 |
| December | \$0.00 | \$0.00 | \$0.00 |
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| | \$10,914.00 | \$0.00 | \$10,914.00 |

- **TERMINATION:** In the event either Party defaults on any of its material obligations, representations, or warranties under this Agreement, the non-defaulting party shall notify the defaulting party, in writing, specifying in sufficient detail the nature and extent of such default, with supporting documentation, and unless, within thirty (30) days after such written notice, the defaulting party remedies the default, the non-defaulting party may terminate this Agreement. This Agreement will immediately terminate if: 1) either Party files for bankruptcy or is found Bankrupt; 2) either Party becomes insolvent or makes an assignment for the benefit of its creditors; or 3) if either party discontinues business. Upon such termination the terms and obligations of this Agreement will terminate and become null and void except for the obligations to pay monies due and owing under this Agreement.
- **TERMS OF PAYMENT:** The parties hereby agree to the total annual cost for the Services and Client agrees to pay the amounts set forth in accordance with the Payment Schedule contained in this Agreement.. For the convenience of the Client the total annual cost of the routine maintenance services accepted will be billed in accordance to the attached payment schedule. Optional services are invoiced separately in the month service is rendered and due upon completion. This billing does not reflect the true monthly costs of the services actually rendered by Jay-Crew. Jay-Crew's fee is due and payable thirty (30) days from the invoice date. All invoices thirty (30) days past due will be subject to a service charge of one and one half percent (1 1/2%) per month of the amount due. After 60 days, services may be suspended until all balances are made current.
- **ATTORNEY'S FEES:** Client agrees to pay to Jay-Crew all collection costs, including reasonable attorneys' fees and expenses, incurred by Jay-Crew in collecting any overdue balance. Failure of Jay-Crew at any time to exercise its rights here under shall not be construed as a waiver of such rights or as a bar to the later exercise thereof.
- **ASSIGNABILITY:** This Agreement shall not be assigned by either party without prior written consent of the other party.
- **LIMITATION OF LIABILITY:** The parties to this Agreement hereby agree and understand that Jay-Crew's liability shall be limited to actual costs incurred to correct or replace any defective or non-conforming service. Furthermore, Jay-Crew will not be liable for loss or damage of plant material caused by persons not employed by Jay-Crew or extreme acts of nature.
- **INDEMNIFICATION BY JAY-CREW:** Jay-Crew shall defend, indemnify and save Client, its respective successors, partners, subsidiaries and affiliates and their officers, directors, agents, employees, heirs, personal representatives or assigns (the "Indemnities") harmless from and against any actions, claims, losses, damages, demands liabilities or expenses (including, without limitation, all court costs and reasonable attorneys' fees on account thereof) arising from or related to the work described herein, including, but not limited to, those claims directly or indirectly causes or contributed to in part by any act or omission of Jay-Crew, its agents, employees, subcontractors, material men, or anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of the work described herein. Provided, however, that the foregoing shall not apply to the extent of claims caused by the gross negligence or willful misconduct of the party indemnified.
- **INDEMNIFICATION BY CLIENT:** Client shall defend, indemnify and save Jay-Crew, its respective successors, partners, subsidiaries and affiliates and their officers, directors, agents, employees, heirs, personal representatives or assigns (the "Indemnities") harmless from and against any actions, claims, losses, damages, demands liabilities or expenses (including, without limitation, all court costs and reasonable attorneys' fees on account thereof) arising from Client's negligence, gross negligence, and intentional misconduct, including, but not limited to, those claims directly or indirectly causes or contributed to in part by any act or omission of Client, its agents, employees, subcontractors, material men, or anyone acting under its direction or control or on its behalf. Provided, however, that the foregoing shall not apply to the extent of claims caused by the gross negligence or willful misconduct of the party indemnified.
- **PARTIAL INVALIDITY:** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force without being impaired or invalidated in any way.
- **APPLICABLE LAW:** This Agreement will be governed by and construed in accordance with the laws of the state of Indiana.
- **ENTIRE AGREEMENT:** This Agreement, including any addendums, supersedes any and all agreements, both oral and written, between the parties with respect to the rendering of services by Jay-Crew for the Client and contains all covenants and agreements between parties with respect to the rendering of these services in any manner whatsoever. Each party acknowledges that no representations, inducements, promises, agreements, or undertakings, written or oral, have been made by either party nor relied on by either party, or by anyone acting on behalf of either party, that are not embodied in this Agreement. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged.

By: _____
 (Signature)
 Title: _____
 Name (Printed): _____
 Date: 10/5/2015

 Town of Yorktown

By: _____
 (Signature) Relationship Manager
 Name (Printed): Josh Perkins

 Date: _____

 Jay-Crew