AGREEMENT

City of West Lafayette

2015 Operation Releaf Spring Planting Project

This agreement made the 7th day of April, 2015 at West Lafayette, Indiana by and between the City of West Lafayette, Indiana (hereinafter referred to as the “City”) and Custom Cuts (hereinafter referred to as the “Contractor.”)

WITNESSETH:

That in consideration of the mutual covenants hereinafter set forth, the City and the Contractor agree as follows:

Article 1: SCOPE OF WORK

The Contractor shall provide all material, labor and equipment to deliver and install 111 trees as specified in the attached quote and specification package.

Article 2: PAYMENT

The City shall pay to the Contractor, in full and complete payment for all performance of the Contract, in current funds; the sum of $26,743.00 (twenty six thousand, seven hundred forty-three dollars) defined as the contract price. Any additions or deletions to the contract will be done by change order approved by the City.

Article 3: CONTRACT DOCUMENTS

The contract documents included in this agreement are, the Contractor’s bid sheet, and the Contractor’s certification of insurance. Said documents are hereby incorporated into and are made a part of this agreement the same as if herein fully set forth.

Article 4: SEVERANCE

The intent of the parties is that this agreement is deemed entire in the sense that its purpose is to establish one price for the doing of the whole work, and that it be deemed severable in the sense that the voidance of any part or portion shall not void the remainder.

Article 5: RECORDS

The Contractor will maintain proper records for review by the City.

Article 6: DATE OF COMPLETION

The Contractor agrees that he will have the work contained in this contract substantially completed by June 1, 2015.

Article 7: INSURANCE

During construction of the Project, Contractor shall maintain policies of insurance for Workers' Compensation as well as general liability insurance in the amount of $1,000,000 or more. Each such policy shall: (a) be written by a company reasonably acceptable to City; and (b) provide that it shall not be modified or canceled without written notice to City at least 30 days in advance. The policy of general liability insurance required by this Section to be maintained by Contractor shall name the City as an additional insured. Contractor shall deliver to the City certificates of the insurance policies required by this Section, executed by the insurance company or the general agency writing such policies.

Article 8: INDEMNITY AND HOLD HARMLESS AGREEMENT.

The City shall be indemnified, held harmless, and defended by Contractor for any claims whatsoever arising out of, as a result of, or in connection with the work performed by Contractor including, but not limited to:

(i) injury to, or death of, persons or loss of, or damage to, property, suffered in connection with performance of any work on the project site by Contractor or any party acting by, under, through, or on behalf of Contractor;

(ii) the negligence or willful misconduct of Contractor or any party acting by, under, through, or on behalf of Contractor; or

(iii) the breach by Contractor of any term or condition of this Agreement;

Further, Contractor shall be responsible for obtaining or maintaining any permits required by any governmental or public or private administrative body, whatever it may be, in connection with the services set out in Article 1. Contractor shall be required to ensure that the company, and its operations in connection with the services set out in Article 1, conform to any applicable statutes, regulation, ordinances, treaties, rules of common law, or other law.

Article 9: PREVAILING PARTY – ATTORNEY FEES

Notwithstanding any term or condition in this Contract to the contrary, in the event litigation is commenced to enforce any term or condition of this Contract, the prevailing party shall be entitled to costs and expenses of litigation including a reasonable attorney fee.

Article 10: ENGAGING IN ACTIVITIES WITH IRAN

By signing this Contract, Contractor certifies that it is not engaged in investment activities in the country of Iran as set forth in I.C. 5-22-16.5.

Article 11: E-VERIFY

Contractor shall comply with E-Verify Program as follows:

a. Pursuant to IC 22-5-1.7, Contractor shall enroll in and verify the work eligibility status of all newly hired employees of Contractor through the E-Verify Program ("Program"). Contractor is not required to verify the work eligibility status of all newly hired employees through the Program if the Program no longer exists.

b. Contractor and its subcontractors shall not knowingly employ or contract with an unauthorized alien or retain an employee or contract with a person that Contractor or its subcontractors subsequently learns is an unauthorized alien. If Contractor violates this Section 9(b), the City shall require Contractor to remedy the violation not later than thirty (30) days after the City notifies Contractor. If Contractor fails to remedy the violation within the thirty (30) day period, the City shall terminate the contract for breach of contract. If the City terminates the contract, Contractor shall, in addition to any other contractual remedies, be liable to the City for actual damages. There is a rebuttable presumption that Contractor did not knowingly employ an unauthorized alien if Contractor verified the work eligibility status of the employee through the Program.

c. If Contractor employs or contracts with an unauthorized alien but the City determines that terminating the contract would be detrimental to the public interest or public property, the City may allow the contract to remain in effect until the City procures a new contractor.

d. Contractor shall, prior to performing any work, require each subcontractor to certify to Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and has enrolled in the Program. Contractor shall maintain on file a certification from each subcontractor throughout the duration of the Project. If Contractor determines that a subcontractor is in violation of this Section 7(d), Contractor may terminate its contract with the subcontractor for such violation. Such termination may not be considered a breach of contract by Contractor or the subcontractor.

e. By its signature below, Contractor swears or affirms that it i) has enrolled and is participating in the E-Verify program, ii) has provided documentation to the City that

it has enrolled and is participating in the E-Verify program, and iii) does not knowingly employ an unauthorized alien.

Article 12: NON-DISCRIMINATION

Contractor agrees:

a. That in the hiring of employees for the performance of work under this contract or any subcontract hereunder, no contractor, or subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, religion, color, sex, national origin, or ancestry, discriminate against any citizen of the State of Indiana who is qualified and available to perform the work to which the employment relates;

b. That no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, religion, color, sex, national origin, or ancestry;

c. That the City may deduct from the amount payable to the contractor a penalty of five dollars ($5.00) for each person for each calendar day during the which such person was discriminated against or intimidated in violation of the provisions of this Agreement;

d. If there is a second or any subsequent violation of the terms or conditions of this section, then this Agreement may be cancelled or terminated by the City and all money due or to become due hereunder will be forfeited.

IN WITNESS WHEREOF we have set our hands the day and year first above written.

CONTRACTOR:

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Matthew Overman, President
Custom Cuts