

SPOTSYLVANIA COUNTY  
CONTRACT AGREEMENT  
FOR GOODS AND SERVICES  
Contract #21-06-TV-01

THIS AGREEMENT ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by and between the BOARD OF SUPERVISORS OF SPOTSYLVANIA COUNTY, a political subdivision of the Commonwealth of Virginia, ("COUNTY"); and, BRIGHTVIEW LANDSCAPE SERVICES, INC., a Virginia Corporation ("CONTRACTOR"), in good standing and duly licensed to do business in the Commonwealth of Virginia.

WITNESSES:

WHEREAS, the COUNTY desires to obtain Grounds Maintenance Services for County Government Facilities for Spotsylvania County; and

WHEREAS, CONTRACTOR desires to provide Grounds Maintenance Services for County Government Facilities to Spotsylvania County.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises stated in this Agreement, the COUNTY and CONTRACTOR agree as follows:

ARTICLE 1

CONTRACT DOCUMENTS:

1.1. The documents listed in Section 1.2 of this Article shall constitute the Contract Documents ("Contract Documents"). These Contract Documents shall represent the entire agreement and understanding between the parties. Any oral or written understanding not incorporated in these Contract Documents is not binding on either party. These Contract Documents shall be amended only by written instrument signed by both parties. The Contract Documents are presented in descending order of priority with the first document listed being of the highest priority and governing over subsequently listed documents, in case of ambiguity. In the case of conflict between the Contract Documents, or provisions therein, the most exacting performance standard shall be undertaken.

1.2. The Contract Documents consist of:

1. Spotsylvania County Contract Agreement for Goods and Services, #21-06-TV-01 between COUNTY and CONTRACTOR; and
2. County of Spotsylvania Invitation for Bid (IFB) #21-06-TV for Grounds Maintenance Services for County Government Facilities, dated November 20, 2020; including Attachments A, B, C and D; and
3. Addendums to County of Spotsylvania Invitation for Bid (IFB) #21-06-TV for Grounds Maintenance Services for County Government Facilities listed as follows: Addendum #4 to Spotsylvania County IFB #21-06-TV for Grounds Maintenance Services for County Government Facilities, dated December 8, 2020, Addendum #3 to Spotsylvania County IFB #21-06-TV for Grounds Maintenance Services for County Government Facilities, dated December 4, 2020, Addendum #2 to Spotsylvania County IFB #21-06-TV for Grounds Maintenance Services for County Government Facilities, dated December 3, 2020 and Addendum #1 to Spotsylvania County IFB #21-06-TV for Grounds Maintenance Services for County Government Facilities, dated December 2, 2020; and
4. Email from Ashley Moose of Brightview Landscape Services, Inc. to Toni Vaughan, dated March 16, 2021 honoring bid pricing and IFB obligations; and
5. REVISED ATTACHMENT B, Bid Form, IFB #21-06-TV, Grounds Maintenance Services for County Government Facilities, submitted by Brightview Landscape Services, Inc., signed and dated on December 18, 2020.

1.3. It is the intent of the Contract Documents to describe a functionally complete and whole understanding to be constructed in strict accordance with the Contract Documents. Any labor, services, documentation, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result shall be provided by the CONTRACTOR without increase in the contract price or

contract timelines whether or not specifically called for.

## ARTICLE 2

### THE WORK AND AGREEMENT TERM LIMITS:

2.1. CONTRACTOR shall provide all project management, supervision, labor, materials, tools, equipment, machinery, fuel, insurance, personnel and any additional services necessary to provide grounds maintenance services as specified herein. The County reserves the right to add additional locations as needed throughout the contract period as set forth in the contract documents.

Upon finalization of the contract, the successful bidder shall provide Spotsylvania County a list of all employees/crews working in performance of this contract. All workers' employed by Contractor to provide services for the grounds maintenance contract shall be subject to approval following a VCIN background check by the Spotsylvania County Sheriff's office. The Contractor shall send updated reports to the County when an employee is hired or has terminated their employment. The information shall include, but not limited to, legal name, address, telephone number, social security/driver's license number. This information will be held confidential by the County and used only for conducting background checks on these individuals.

CONTRACTOR agrees by signing this Contract that he has examined the sites for work and has satisfied himself as to existing and probable conditions under which he will be obligated to perform the work. Therefore, no extra charges will be allowed for failure of the Contractor to have examined the work sites.

The CONTRACTOR shall possess and maintain all state and federal licenses as required to perform work under this contract for duration of the contract. The CONTRACTOR shall supply a copy of such license and all subsequent renewals for the full term of the contract to the COUNTY.

2.2. This Agreement shall have an initial term from date of award through December 31, 2022 and may be renewable for five (5) additional one (1) year terms at the option of Spotsylvania County. Prices shall remain fixed during the initial term of the contract. Price increases may be negotiated only at the time of renewal. If Spotsylvania County elects to exercise the option to renew the contract for an additional one-year period, the contract price for the additional one year shall be agreed upon in writing by both parties.

### ARTICLE 3

#### DATES OF COMMENCEMENT

3.1. The date of commencement shall be concurrent with the execution of this Agreement.

3.2. Time is of the essence.

3.3. Force Majeure. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of strikes, industry-wide material shortages, riots, insurrection, fires, flood, storm, explosions, earthquakes, pandemic flu, acts of God, war, governmental action or labor conditions. In the case of an industry wide material shortage, the CONTRACTOR shall provide to the COUNTY within 24 hours of CONTRACTOR'S determination that there exists an industry-wide material shortage, the following: 1) a written description of the specific material alleged to be in short supply; 2) a written list of all manufacturers, wholesalers, contractors and/or retailers from which CONTRACTOR has attempted to obtain, and/or contracted to obtain, said material; 3) a written description detailing all actions taken by CONTRACTOR to obtain said materials; 4) a written statement, signed by an authorized representative of CONTRACTOR, that CONTRACTOR has used due diligence to secure said materials in the most expeditious manner; and, 5) a written time frame in which CONTRACTOR anticipates that it will obtain said materials. The County, or its authorized representative, must concur that there is an industry-wide shortage of the specific material so identified by CONTRACTOR.

### ARTICLE 4

#### CONTRACT PRICE AND TERMS OF PAYMENT:

4.1. The COUNTY shall pay for services out of appropriated funds and the COUNTY's performance under these Contract Documents is expressly subject to appropriation of funds by the Board of Supervisors.

4.2. The COUNTY agrees to pay fees per year not to exceed Two Hundred Fifty-Eight Thousand Six Hundred Sixty-Eight Dollars (\$258,668.00) for Grounds Maintenance for County Government Facilities. The COUNTY agrees to pay fees at the rates contained in this provision of

the Agreement, in accordance with any requirements and limitations specified, and as follows:

PRICING SCHEDULE – FOR YEARLY SERVICES				
TAX MAP	LOCATION/SITE	ADDRESS	TOTAL AGRES	TOTAL YEARLY PRICE
<b>PART A – GENERAL GOVERNMENT SITES</b>				
24C-7-14	Animal Shelter	450 TV Drive	2.1	\$3,240.00
47-A-67	Berea Church	8956 Courthouse Rd.	1	\$1,884.00
47A-4-A1	Capital Construction	8960 Courthouse Rd.	0.35	\$1,996.00
47A-A-2	Circuit Court	9107 Judicial Center Ln.	part of 23.18	\$4,908.00
47A-A-2	County Attorney	9105 Courthouse Rd.	part of 23.18	\$2,604.00
47A-A-2	Court Services	9111 Courthouse Rd.	part of 23.18	\$5,454.00
55-A-7B	Fire & Rescue Belmont	7100 Belmont Road	7.54	\$11,820.00
58-A-110A	Fire & Rescue Livingston	11700 Volunteer Lane	4.97	\$9,615.00
23-A-71B	Fire & Rescue Salem Church Road	5700 General Semmes Road	0.97	\$3,342.00
63A-2-A3	Fire & Rescue Thornburg	6429 Jefferson Davis Highway	1.17	\$2,208.00
9-A-37D	Fire & Rescue Wilderness	10501 Orange Plank Road	13.44	\$3,174.00
48-A-4	Fire and Rescue Company 1	7200 Courthouse Commons Blvd.	11.24	\$13,092.00
24-6-C & C2	Fire and Rescue Company 4	4804 Bancroft Rd.	5.58	\$14,085.00
11-A-28B	Fire and Rescue Company 5	6204 Plank Road	4.93	\$9,354.00
22T-33-B	Fire and Rescue Company 10	11201 Gordon Rd.	3	\$9,984.00
37-A-51	Fire and Rescue Company 11	9517 Crossroads Parkway	4.34	\$7,389.00
47A-1-1,2,2A,3	Holbert Building	9104 Courthouse Rd.	2.31	\$17,310.00
47A-A-2	Judicial Center	9115 Courthouse Rd.	part of 23.18	\$5,766.00
23-A-69C	Library (Salem Church)	2607 Salem Church Road	3.96	\$10,965.00
47A-1-1	Magistrate's Office	9102 Courthouse Rd.	1.16	\$708.00
47-A-76A	Marshall Center - Main Area in Front of Building(s)	8800 Courthouse Rd.	6.2	\$3,216.00
47A-A-4	Maupin House/ Shrum Properties	9110 Courthouse Rd.	0.55	\$2,004.00
47A-A-2	Old Courthouse/Old Sheriff's Office	9101 Courthouse Rd.	part of 23.18	\$5,340.00
47A-A-2	Public Defender's Office	9105 Judicial Center Ln.	part of 23.18	\$975.00
47A-A-2	Public Safety Building	9119 Dean Ridings Ln.	part of 23.18	\$15,414.00
49-A-80,82A	Tourism Pull-Off Area, Guinea Station Road	Located North of TM #'s - 49-A-80 & 49-A-82A	.50	\$888.00
31-A-74A	Tourism Pull-Off Area, Todds Tavern (Brock Road)	9626 Brock Road	0.3	\$888.00
35-A-108L	Visitor's Center / Registrar	4704 Southpoint Pkwy.	0.93	\$2,190.00
47-A-154	Old Voter Registrar	9106A Courthouse Rd.	part of 14.09	\$2,484.00
	Courthouse Gateway Sign	Intersection of Courthouse Bypass & Courthouse Business		\$1,296.00
55-A-7B	Conv. Center, Belmont	7102 Belmont Rd.	1.25	\$1,716.00
75-A-37	Conv. Center, Berkley	6043 Stanfield Rd.	0.5 (part of 14.34)	\$1,560.00
23-A-50	Conv. Center, Chancellor	5917 Harrison Rd.	4.0 (part of 68.49)	\$6,780.00
43-A-6B	Conv. Center, Chewning Park	13001 Post Oak Rd.	1.55	\$780.00
73-13-9	Conv. Center, Cole Hill	5029 Partlow Rd	.25 (part of 26.23)	\$780.00
36-8-A	Conv. Center, Lee Hill	9904 Lee Hill Park Rd.	part of 15.14	\$984.00
58-A-130A	Conv. Center, Livingston	6241 Massey Road	3 (part of 769.39)	\$3,516.00
47-A-27	Conv. Center, Marshall Park	7114 Massaponax Church Rd.	3.06	\$2,886.00
36-4-B,36-A-111	Conv. Center, Mine Road	4010 Mine Rd.	0.5 (part of 2.67)	\$960.00
45-A-36C	Conv. Center, Post Oak	10020 Post Oak Rd.	0.5 (part of 1.36)	\$1,112.00
85-A-19B	Conv. Center, The Barn	2805 Lewiston Rd.	0.25 (part of 1.0)	\$1,134.00
9-A-16	Conv. Center, Wilderness	10501 Plank Rd.	1.5 (part of 13.82)	\$1,260.00
22-8-C3	Fire & Rescue Station on Harrison Road	7030 Harrison Road	0.77	\$1,140.00
47-A-76	Marshall Center - Area in Rear of Building(s)	8800 Courthouse Rd.	3.83	\$1,260.00
12-A-99	Fire Academy Training Facility and parking lot	12901 Trench Hill Lane	part of 1039.57	\$8,880.00

## PRICING SCHEDULE – FOR YEARLY SERVICES

TAX MAP	LOCATION/SITE	ADDRESS	TOTAL ACRES	TOTAL YEARLY PRICE
58-A-130A	Sheriffs Shooting Range at Livingston Landfill	6241 Massey Rd.	part of 763.69	\$1,272.00
22-A-65	Gordon Road - Lot 11330, Wheeler	11330 Gordon Road	1.37	\$408.00
22G-7-10	Gordon Road - Lot 11408, Shifflett	11408 Gordon Road	0.33	\$252.00
22G-7-9	Gordon Road - Lot 11410, O'Malley	11410 Gordon Road	0.31	\$252.00
22G-7-7	Gordon Road - Lot 11414, Hjelm	11414 Gordon Road	0.32	\$252.00
22G-7-1	Gordon Road - Lot 6901, Runnymede Trail	6901 Runnymede Trail	0.41	\$252.00
23-A-50	Tower Site, Chancellor	5917 Harrison Rd.	part of 68.49	\$276.00
58-A-130A	Tower Site, Livingston	6241 Massey Rd.	part of 763.69	\$246.00
9-A-37D	Radio Tower Site (Co. 7), Wilderness	10501 Orange Plank Rd,	13.44	\$348.00

**TOTAL OF GENERAL GOVERNMENT SITES – PART A \$211,899.00**

### PART B – UTILITIES SITES

23-A-8	Utilities Administration Office	600 Hudgins Road	3.79	\$5,898.00
12-A-99A	Mott's Barn	13000 Trench Hill Ln.	2 (part of 23.24)	\$4,212.00
12-A-99A	Mott's Run Water Treatment Plant	13000 Trench Hill Ln.	5.5 (part of 23.24)	\$6,378.00
12-A-99A, 94	**Mott's Run Water Treatment Plant Outside of Fenced Area and Electrical Easement	13000 Trench Hill Ln.	10.6 (part of 159.5)	\$2,496.00
13-A-2A	**Mott's Raw Water Pump Station and Roadway	5805 River Rd.	1.02 (part of 3.68)	\$804.00
33-A-3	Ni River Water Treatment Plant	10516 Gordon Rd.	2.38(part of 515.64)	\$7,044.00
22-A-156	Sheraton Hills	intersection of Calhoun Dr. & Filmore Dr.	.58	\$1,494.00
22-A-94S	*Holleybrook Lot - Utilities Easement	*SEE NOTES BELOW*	35.11	\$1,788.00
34-A-39E	Meter Maintenance Shop, "Little Plant"	9449 Courthouse Rd	.41	\$360.00
35E-3-132A	Millgarden Subdivision (County owned "green area")	Rock Creek Rd. (behind 2105) part of 3.32	2	\$1,812.00
24-6-B1	Odor Control Center	10700 Ann Davis Dr.	0.50	\$354.00
23H-1-A	Pump Station #11	0 homeowners lot, near 5802 Queen's Mill Circle	2.04	\$354.00
34-A-39D	Pump Station #33	6758 Sparrow Ln.	9.56	\$2,112.00
47-A-85, 75, 73, 47-3-1, 2, 3	Pump Station #28 Keswick	8416 Courthouse Rd.	2.13 (part of 100.4)	\$354.00
23K-2-75	Pump Station #39	10816 Bent Tree Dr.	.53	\$144.00
not on tax map	Route 3 Booster Station	3201-A Plank Rd. , beside Exxon Station	part of Exxon lot	\$564.00
23-A-56E	Tank, Battlefield	11120 Leavells Rd. (address nearest tank)	.48	\$831.00
19B-1-E1	Tank, Brock Road	10201 Brock Rd. (address nearest tank)	1.0	\$1,272.00
47A-4-A	Tank, Courthouse	7400 Crestar Dr.	.33	\$708.00
34-A-56A	Tank, Courtland (enter behind football stadium)	6701 Smith Station Rd. (address nearest tank)	part of 97.85	\$1,428.00
22-A-123A	Tank, Gordon Road	11815 Gordon Rd. (address nearest tank)	1.03	\$759.00
36-4-B	Tank, Mine Road	4010 Mine Rd.	0.42 (part of .92)	\$708.00

### PRICING SCHEDULE – FOR YEARLY SERVICES

TAX MAP	LOCATION/SITE	ADDRESS	TOTAL ACRES	TOTAL YEARLY PRICE
49-A-101E	Tank, Nuline	4950 Ondura Dr. (address nearest tank)	.34	\$564.00
20-A-18A	Tank, Saw Hill	11600 Catharpin Rd.	0.08 (part of 104.6)	\$1,308.00
63-A-43D	Tank, Thornburg	5118 Mudd Tavern Rd.	0.33	\$708.00
22-A-149	Tank, Five Mile Fork	11919 Cherry Rd.	0.23	\$516.00
23-18-27	Pump Station #7	27 A Carriage Hill Ln.	0.13 (part of 6.83)	\$132.00
21E-5-A	Pump Station #22	519 Stonewall Lane	.35	\$672.00
49-A-82	Pump Station #61	Route 1 at NiRiver, next to 7695 Jeff. Davis Hwy	.05 (part of 122.24)	\$144.00
12-23-13	Pump Station #65	5701 Plank Rd.	0.38 (part of 31.55)	\$132.00
11L-6-P	Pump Station #66, The Retreat at Chancellorsville	7435 Lee's Command Blvd (North of 8117 Burbank Ave)	0.42 (part of 19.11)	\$719.00

**TOTAL OF UTILITIES SITES – PART B \$46,769.00**

**\*Holleybrook Lot – Utilities Easement**

This is an easement lot and a portion of a Utilities easement that Parks & Recreation was asked to start mowing approximately 15 years ago on the back border of the Holleybrooke subdivision. The access easement lot is located between 11000 & 11914 Cedar Post Lane which Parks and Recreation mows in addition to approximately 30' swath along the rear of the following lots: 11006, 11004, 11002, 11000, 10914, 10912, 10910 Cedar Post Lane and 11003, 11004 & 11005 Holleybrooke Drive.

**\*\*See notes annotated in the specifications in regards to these sites.**

**TOTAL BID PRICE FOR PART A + PART B: \$258,668.00**

4.3. The COUNTY agrees to pay fees for additional grounds maintenance services, not included in 4.2. above, at the rates contained in this provision of the Agreement, in accordance with any requirements and limitations specified, and as follows:

### PRICING FOR ADDITIONAL SERVICES

Task	Unit of Measure	Rate For Services
Mulching (Double Shredded Hardwood)	Per Cubic Yard Delivered and Installed	\$75.67
Trimming	Per Linear Foot	\$45.00
Edging	Per Linear Foot	\$45.00
Mowing (Zeroturn Or Equivalent)	Per Acre	\$70.64
Mowing (Under 40 hp tractor and bush hog)	Per Acre	\$240.65
Herbicide Application Round Up (Large areas i.e. gravel parking lots, etc)	Per 1,000 s.f.	\$75.00
Herbicide Spraying (Fence Line and Edging)	Per Linear Foot	\$0.05
Fertilizer Application	Per lb per 1,000 square feet	\$15.00
Lime Application	Per lb of Lime per 1,000 square feet	\$15.00
Overseeding (Fescue Blend at 4lbs/1,000 s.f.)	Per 1,000 square feet	\$7.34
New Seeding (Fescue Blend at 8 lbs/1,000 s.f. including starter fertilizer)	Per 1,000 square feet	\$8.95

Aeration (2 to 3 inches)	Per 1,000 square feet	\$4.12
Leaf Removal	Per Man-Hour	\$45.00
Brown Patch/Fungi Control	Per 1,000 square feet treated	\$12.00
Insect Control (Grubs, etc)	Per 1,000 square feet treated	\$12.00
Soil Sampling and Testing	Per Occurrence	\$41.20
Pruning and shrub/brush removal	Per Man-Hour	\$46.35
Replanting and/or Replacing shrubs/bushes and New Planting/Landscaping	Per Man-Hour	\$46.35

4.4. For billing purposes, the sites locations listed in 4.2. above are broken up by Part A and Part B. All sites within each group should be billed as follows:

1. Part A – General Government Sites:  
Contractor shall send billing invoices for these sites to:  
Parks and Recreation Department  
P.O. Box 28  
Spotsylvania, VA 22553
2. Part B – Utilities Sites:  
Contractor shall send billing invoices for these sites to:  
Utilities Department  
600 Hudgins Road  
Fredericksburg, VA 22408

4.5. Pursuant to Section 2.2-4354 of the Code of Virginia (1950, as amended), the CONTRACTOR covenants and agrees to:

1. Within seven (7) days after receipt of any amounts paid to the CONTRACTOR under this Agreement, (i) pay any subcontractor for its proportionate share of the total payment received from the COUNTY attributable to the work under the Contract Documents performed by such subcontractor, or (ii) notify the COUNTY and the subcontractor, in writing, of its intention to withhold all or part of the subcontractor's payment and the reason therefore;
2. Provide its federal employer identification number or social security number, as applicable, before any payment is made to the CONTRACTOR under the Agreement;
3. Pay interest, which shall accrue at the rate of one percent per month unless otherwise provided under the terms of the Contract Documents, on all amounts owed by the CONTRACTOR to any subcontractor that remain unpaid after

seven (7) days following receipt by the CONTRACTOR of payment from the COUNTY for work performed by the subcontractor under this Agreement, except for amounts withheld as allowed in Section 4.4., subdivision 1 above; and

4. Include in its contracts with any and all subcontractors the requirements of 1, 2, and 3 above.

4.5. The parties hereby agree that any finance charge lawfully assessable against the COUNTY for failure to pay any payment(s) pursuant to the terms of this Agreement shall not exceed 2% per annum, and shall only accrue from the latest date such payment was due under the applicable provisions of this Agreement.

## ARTICLE 5

### RIGHTS AND RESPONSIBILITIES OF CONTRACTOR:

5.1. CONTRACTOR shall indemnify, defend and hold harmless the COUNTY and its employees, agents, and/or representatives from any and all claims, suits and actions for injury or damage sustained by any person or property from any act or omission by CONTRACTOR and/or its subcontractors or employees, or anyone else for whom CONTRACTOR is or may be responsible. This section shall survive the termination of this Agreement.

5.2. CONTRACTOR agrees to obtain a business license from the Spotsylvania County Commissioner of Revenue if required by the Code of Virginia (1950, as amended) and/or Spotsylvania County Code and to present such license for inspection by the COUNTY if requested. CONTRACTOR also agrees to maintain as current all required business licenses and permits required by the Commonwealth of Virginia and to present such licenses and permits as may be requested or required by the COUNTY.

5.3. CONTRACTOR shall maintain the following insurance coverage, naming COUNTY as additional insured, during the course of this Agreement, and provide the COUNTY with certificates of insurance for said coverage upon execution of this Agreement:

1. General Liability – in an amount not less than \$1,000,000 for any occurrence involving bodily injury, and not less than \$1,000,000 for any occurrence involving property damage. Coverage should be provided on a per project/per

location basis.

2. Automobile Liability Policy – in an amount not less than \$500,000 combined single limit bodily injury and property damage. This coverage shall include liability for use of hired and non-owned vehicles; and
3. Workers' Compensation – in compliance with all states in which CONTRACTOR does business, including Coverage B Employer's liability in not less than the following amounts:
  - i. Bodily Injury by accident \$100,000 for each accident;
  - ii. Bodily Injury by disease, \$500,000 policy limit; and
  - iii. Bodily Injury by disease, \$100,000 for each employee.

5.4. During the performance of this Agreement, CONTRACTOR agrees that:

1. It will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the CONTRACTOR;
  2. It will post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; and
  3. It will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that such contractor is an equal opportunity employer.
- Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient to meet this requirement, and CONTRACTOR agrees it will include the provisions of the foregoing paragraph in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

5.5. During the performance of this Agreement, the CONTRACTOR agrees to:

1. Provide a drug-free workplace for the CONTRACTOR'S employees and comply with the Federal Drug Free Workplace Act;

2. Post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the CONTRACTOR'S workplace and specifying the actions that will be taken against employees for violations of such prohibition;
3. State in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR that the CONTRACTOR maintains a drug-free workplace;
4. Include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means any site at which the performance of work is done in connection with this contract awarded to the CONTRACTOR, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

5.6. CONTRACTOR acknowledges that the Spotsylvania County Procurement Policy is applicable to this Agreement.

5.7. Except as noted in the Contract Documents, neither this Agreement, nor any part hereof, may be assigned or subcontracted by CONTRACTOR to any other party without the express written permission of the COUNTY.

5.8. The CONTRACTOR providing goods or services to the COUNTY under these Contract Documents represents and warrants to the COUNTY that it is:

1. Conforming to the provisions of the Civil Rights Act of 1964, as amended, the Virginia Fair Employment Contracting Act of 1975, as amended, and the Virginia Human Rights Act, as amended, where applicable;
2. Not employing illegal alien workers or otherwise violating the provisions of the Immigration Reform and Control Act of 1986 and Virginia Code §2.2-4311.1;

3. Not requiring, and shall not require, any employee or subcontractor to sign an internal confidentiality agreement or statement prohibiting or otherwise restricting, or purporting to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a department or agency authorized to receive such information, or otherwise violate any federal and state laws and regulations protecting employees for reprisal against whistleblowing;
  4. Complying with federal, state and local laws and regulations applicable to the performance of the services procured;
  5. Complying fully with the Virginia Conflict of Interest Act; and
  6. Authorized to transact business in the Commonwealth of Virginia.
- Pursuant to Section 2.2-4311.2 of the Code of Virginia.

5.9. In the event of a termination under section 6.1 of this Agreement, CONTRACTOR acknowledges and agrees that it shall not be entitled to any compensation in excess of the value of the work performed. Under no circumstances shall CONTRACTOR, or any subcontractor, be entitled to anticipatory or unearned profits, unabsorbed overhead, opportunity costs or consequential or other damages as a result of a termination under this section. Payment to CONTRACTOR of any and all sums already earned by CONTRACTOR under the terms of Article 4 constitutes CONTRACTOR'S exclusive remedy for a termination hereunder.

5.10. CONTRACTOR agrees that it shall keep confidential all photographs, digital imagery, reports, information, or data given to CONTRACTOR by the COUNTY as well as any photographs, digital imagery, reports, studies, analysis, data tables, or calculations prepared by the CONTRACTOR under these Contract Documents. No release of any such data by the CONTRACTOR shall be made to any individual or organization without the prior written approval of the COUNTY, which approval the COUNTY shall be under no obligation to grant.

5.11. The CONTRACTOR shall not employ any employee who is a registered sex offender and shall enforce the same restriction upon all subcontractors and agents of CONTRACTOR. Prior to starting work and quarterly during performance of the work, the CONTRACTOR shall check the Virginia State Police Sex Offender Registry to verify sex offender status of all employees and

agents of CONTRACTOR and sub-contractors who are employed by the CONTRACTOR or sub-Contractor. The CONTRACTOR shall furnish the COUNTY with evidence verifying compliance with the services. Notwithstanding any other provision of this Agreement, materially false statements by the CONTRACTOR about the sex offender status of its employees or agents shall be grounds for immediate termination of this Agreement.

## ARTICLE 6

### RIGHTS AND RESPONSIBILITIES OF COUNTY:

6.1. The COUNTY may cancel this Agreement and project for any reason upon ten (10) days' written notice in compliance with the notice procedure set forth in Article 7, Section 7.1 to the parties named therein. Anything contained in the Agreement to the contrary notwithstanding, a termination under this section shall not waive any right or claim to damages which COUNTY may have with respect to work performed or failed to be performed when it should have been by the CONTRACTOR. In either case, the COUNTY may pursue any cause of action which it may have by law or under this Agreement on account of such damages claimed by the COUNTY.

6.2. In case of default by the CONTRACTOR for failure to deliver or perform in accordance with the Contract specifications or terms and conditions, the COUNTY may procure the articles or services from other sources and hold the defaulting CONTRACTOR responsible for any resulting additional purchase and administrative costs including, but not limited to, fees and charges of engineers, architects, attorneys, and other professionals and all court or other dispute resolution costs. If the completion of the contract work results in increased costs to the COUNTY, a letter will be sent to the defaulted CONTRACTOR requiring payment for additional costs ("Repayment"). When Repayment is requested, the CONTRACTOR will be removed from future bidding until the Repayment has occurred, and the COUNTY reserves the right to debar CONTRACTOR from doing further business with the COUNTY. Failure of a CONTRACTOR'S source to deliver is not considered to be an unavoidable cause upon which the CONTRACTOR may rely as to a delay in the work to be done under the terms of the Contract Documents, and the burden of proof rests with the CONTRACTOR to prove that any default was not related to CONTRACTOR'S, or any subcontractor's or vendor's, acts or failure to act.

6.3. Pursuant to Section 2.2-4343.1 of the Code of Virginia of 1950, in all invitations to bid, requests for proposals, contracts, and purchase orders, the COUNTY does not discriminate against faith-based organizations.

“Faith-based Organization” means a religious organization that is or applies to be a CONTRACTOR to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

If CONTRACTOR is a faith-based organization, then CONTRACTOR shall give to each individual who applies for or receives goods, services, or disbursements provided pursuant to this Agreement the following notice:

NOTICE

*Pursuant to Section 2.2-4343.1 of the Code of Virginia of 1950, as an applicant for or recipient of goods, services, or disbursements provided pursuant to a contract between the COUNTY and a faith-based organization, you are hereby notified as follows:*

*Neither the COUNTY’S selection of a charitable or faith-based provider of services nor the expenditure of funds under this contract is an endorsement of the provider’s charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the County Administrator.*

ARTICLE 7

MISCELLANEOUS:

7.1. The following persons shall be contact persons for the parties, and notice given them, by certified return receipt requested mail to the addresses shown, shall constitute valid notice under the requirements of this Agreement:

1. For COUNTY:  
Edward Petrovitch  
County Administrator

P.O. Box 99  
Spotsylvania, VA 22553

With a copy to:

Spotsylvania County Attorney  
9105 Courthouse Road  
P.O. Box 308  
Spotsylvania, VA 22553

2. For CONTRACTOR:  
Susan DeSantis, Assistant Secretary  
Brightview Landscape Services, Inc.  
5121 Park Drive  
Fredericksburg, VA 22408

The parties may amend such addresses by written notice to the opposite party at the given address.

7.2. The parties agree that the Contract Documents are governed by and shall be interpreted in accordance with the laws of the Commonwealth of Virginia, and that proper venue, in the event of litigation concerning this matter, shall be in the state or federal Courts having jurisdiction in or over Spotsylvania County, Virginia. The parties agree that any litigation involving these Contract Documents shall be brought only in such court.

7.3. In the event that any provision of this Agreement is unenforceable, then the parties agree that all other provisions of this Agreement have full force and effect and shall not be affected thereby.

7.4. The CONTRACTOR certifies that:

1. The bid or offer (1) was made without prior participation, understanding, agreement, or connection with any corporation, firm or person submitting a bid/offer for the same materials, supplies, equipment, or services with respect to the allocation of the business afforded by or resulting from the acceptance of the bid or proposal, (2) was in all respects fair and without collusion or fraud, and (3) was or was intended to be competitive and free from any collusion with any person, firm or corporation;
2. The CONTRACTOR did not offer or receive any kickback from any other

bidder or contractor, supplier, manufacturer, or subcontractor in connection with the bid/offer on this solicitation. A kickback is defined as an inducement for the award of a contract, subcontracts or order, in the form of any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged. Further, no person shall demand or receive any payment, loan, subscription, advance, and deposit of money, services or anything of value in return for an agreement not to compete on a public contract;

3. The CONTRACTOR is not a party to nor has it participated in nor is it obligated or otherwise bound by agreement, arrangement or other understanding with any person, firm or corporation relating to the exchange of information concerning bids, prices, terms or conditions upon which the contract resulting from the acceptance of its bid proposal is to be performed;
4. The CONTRACTOR understands that collusive bidding is a violation of the Virginia Governmental Frauds Act and federal law, and can result in fines, prison sentences, and civil damage awards and agrees to abide by all conditions of these provisions; and
5. The CONTRACTOR or subcontractor has not and will not confer on any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

7.5. CONTRACTOR warrants to COUNTY that:

1. The work performed pursuant to these Contract Documents shall conform to all professional principles generally accepted as standards of the industry in the Commonwealth;
2. The CONTRACTOR'S work performed shall be free of defects;

3. Any new materials and equipment furnished under these Contract Documents shall be of good quality and in working condition; and
4. The CONTRACTOR'S work performed shall meet all of the requirements set forth in these Contract Documents.

7.6. Any reports, studies, photographs, negatives, drawings, or other documents prepared by CONTRACTOR in the performance of its obligations under these Contract Documents shall be remitted to the COUNTY by the CONTRACTOR upon completion, termination or cancellation of this Agreement. CONTRACTOR shall not use, willingly allow or cause to have such materials used for any purpose other than performance of CONTRACTOR'S obligations under this Agreement without the prior written consent of the COUNTY. The COUNTY shall own the intellectual property rights to all materials produced under this Agreement.

7.7. Any failure of the COUNTY to demand rigid adherence to one or more of the terms and provisions as set forth in this Agreement, on one or more occasions, shall not be construed as a waiver nor deprive the COUNTY of the right to insist upon strict compliance with the terms of this Agreement. Any waiver of a term of this Agreement, in whole or in part, must be in writing and signed by the party granting the waiver to be effective.

7.8. The bankruptcy, takeover, merger, outright purchase of a majority of the voting capital stock by another organization, or other change in ownership or status of CONTRACTOR, or any assignment for the benefit of creditors shall fully obligate the newly formed organization, corporation or legal entity to fulfill all terms and conditions of this Agreement, and to perform or supply items in accordance with the specifications or descriptions contained herein. Should such newly formed organization, corporation or legal entity fail to fulfill all the terms and conditions of this Agreement or fail to perform or supply items in accordance with the specifications or descriptions contained herein to the satisfaction of the COUNTY, the COUNTY shall have the right unilaterally to terminate this Agreement and/or to pursue any remedy for damages and otherwise which is available at law and in equity. The COUNTY reserves the right to enforce any subcontract directly against the subcontractor, CONTRACTOR or any newly formed organization, corporation or legal entity. Failure of any sub-contractor to perform shall not relieve CONTRACTOR of its obligation to fulfill the terms and conditions of this Agreement as set forth

herein.

7.9. CONTRACTOR and COUNTY agree that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

7.10. Contractual claims and disputes shall be conducted and resolved pursuant to Section 4-7 of the current Spotsylvania County Procurement Policy.

7.11. Article and Paragraph headings are inserted for convenience only and are not a part of this Agreement.

WITNESS the following signatures and seals in agreement with the above terms for Contract #21-06-TV-01, Grounds Maintenance for County Government Facilities:

SPOTSYLVANIA COUNTY, VIRGINIA

By: \_\_\_\_\_  
EDWARD PETROVITCH                      Dated  
COUNTY ADMINISTRATOR

BRIGHTVIEW LANDSCAPE SERVICES, INC.

By: Susan DeSantis 3-25-2021  
SUSAN DESANTIS              Dated  
ASSISTANT SECRETARY



Approved as to form:

[Signature] 3-25-21  
COUNTY ATTORNEY              Dated