

# **LANDSCAPE MAINTENANCE AGREEMENT**

This **Landscape Maintenance Agreement** (the “Agreement” or “Contract”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019 by and between **4-V RANCH, LLC** (“4V”) and the **CITY OF BLUE RIDGE, GEORGIA** (“the City”) for the provision of lawn maintenance services to certain portions of real property owned, operated, maintained or controlled by the City (“City Property”).<sup>1</sup>

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged by all parties, 4V and the City agree as follows:

## **1. Scope of Services**

4V shall provide lawn maintenance services as defined in the description attached hereto as Exhibit “A” for all City Property as directed including, but not limited to, the City Property described on Exhibit “B” attached hereto (the “Work”). Minor changes to the identification of the City Property can be submitted by the City to 4V from time to time. Major additions shall only be by mutual agreement.

## **2. Contract Period**

The contract period initial term shall be from June 1, 2019 to December 31, 2019 and shall be automatically renewed for subsequent two additional terms of one year each unless either party notifies the other in writing that a party wishes to cancel this Agreement. Notice of cancellation shall be required thirty (30) days prior to the auto-renewal date.

## **3. Costs and Billing Procedures**

4V shall tender monthly invoices to City in the amount of \$8,000 per month for work performed in the prior month. City shall, after review, pay said invoices in a timely manner.

## **4. Personnel and Subcontractors**

### **4.1 Personnel**

4-V will employ and assign only qualified, e-verified, and competent personnel or subcontractors to perform the services required hereunder.

### **4.2 Sub-contractors**

4V will employ and assign only qualified subcontractors and 4V will be responsible for all and any acts, defaults, omissions or negligence of its personnel and subcontractors or any other person who is authorized by 4V to participate in any way in performing services for the City.

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<sup>1</sup> 4V was awarded the Agreement per the bid process and approved in the May 19, 2019 Minutes of the City Council.

#### 4.3 Supervision of the Work

The Work shall be strictly supervised and directed using 4V's best and highest skill and effort and in full compliance with all applicable rules, regulations, laws and standards of care. 4V bear full responsibility for any and all acts or omissions of those engaged in the Work on behalf of the 4V.

### 5. Termination of Contract

#### 5.1 Causes of Termination

(a) Uncured Material Breach of Contract. Either party may terminate this agreement should either party be found to be in default of this Agreement, by materially failing or refusing to perform or observe the terms, conditions or covenants in this Agreement and said default is not cured within thirty (30) days of receipt or written notice by the non-defaulting party, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) days following receipt of written notice, the defaulting party fails to commence the remedy of such default within said thirty (30) days following such written notice, or having so commenced shall fail thereafter to continue with diligence the curing thereof (with the defaulting party having the burden of proof to demonstrate any reason for the failure to perform).

(b) For Any Reason. Either party may terminate this Agreement for any reason by giving the other ninety (90) day's advance written notice, to be served as provided herein.

(c) O.C.G.A. § 36-30-3(d). City may terminate this Agreement with thirty (30) days written notice in the event that the City's ability to comply with the Agreement is impaired by war, natural disaster, catastrophe, or any other emergency creating conditions under which the City compliance with the Agreement would become impossible or create a substantial financial burden upon the City or its taxpayers.

### 6. Indemnification

4V hereby indemnifies and holds the City harmless from any and all claims, liability, damages, loss, cost and expense of every type whatsoever including, without limitation, attorneys' fees and expenses, which arise out of or relate in any way to 4V's performance under this Agreement, including but not limited to, claims, liability, damage, loss, cost or expense, sickness, personal injury, disease or death, or to loss or destruction of tangible property, including loss of use resulting therefrom, to the extent caused by 4V or anyone for whom 4V may be liable; (b) the negligence or willful misconduct of 4V, its employees, agents or subcontractors, in the performance of the services under this Agreement; (c) any material breach by 4V of any representation, warranty or covenant in this Agreement; and (d) any violation by 4V of any applicable laws, rules, regulations or ordinances. The provisions of this Section shall survive termination of this Agreement.

**7. Insurance**

4V shall at all times during the Agreement maintain in full force and effect the following types of insurance in at least the limits specified below:

<u>COVERAGE</u>	<u>LIMITS OF LIABILITY</u>
Worker's Compensation	\$500,000
Employer's Liability	\$500,000
Bodily Injury Liability	\$2,000,000 each occurrence (Except Automobile) \$3,000,000 aggregate
Property Damage Liability	\$2,000,000 aggregate (Except Automobile) \$3,000,000 aggregate
Automobile Bodily Injury & Property	\$1,000,000 combined single limit
Commercial General Liability	\$2,000,000 each occurrence (Except Automobile) \$3,000,000 aggregate

4V will name the City as an additional insured on the above shown insurance policy and provide a copy of the insurance certificates to the City Attorney James Balli upon request but no less than annually.

**8. Agreement Not to Discriminate**

During the performance of this Contract, 4V will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, or disability, which does not preclude the applicant or employee from performing the essential functions of the position.

**9. Waiver**

A waiver by either party of any breach of any provision, term, covenant, or condition of this agreement shall not be deemed a waiver of any subsequent breach of the same or any other provision, term, covenant, or condition.

**10. Severability**

The parties agree that each of the provisions included in this agreement is separate, distinct and severable from the other and remaining provisions of this agreement, and that the invalidity of any agreement provision shall not affect the validity of any other provision or provisions of this agreement.

**11. Governing Law**

The parties agree that this agreement shall be governed and construed in accordance with the laws of the State of Georgia. Any provision in this Agreement that violates any provision of Georgia law relating to municipal corporations shall be deemed null and void.

**12. Merger**

The parties agree that the terms of this agreement include the entire agreement between the parties, and as such, shall exclusively bind the parties. No other representations, either oral or written, may be used to contradict the terms of this agreement.

**13. 4V to Cooperate**

If the City undertakes or awards other contracts for related work or work in the areas of the City Property in which 4V performs the Work, 4V shall fully cooperate with such other contractor and with the City's employees and 4V will not commit or permit any act, which will interfere with the performance of work by any other contractor or by the City's employees. Likewise, the City will not significantly interfere with the activities of 4V in performing the Work.

**14. Modifications**

Any change, alteration or addition to the terms and conditions set forth in this Agreement must be in the form of a written modification signed by both parties.

**15. Notices**

Any written notices, other than routine notices pursuant the project work described herein, shall be given hereunder by either party to the other by personal delivery in writing, by mail, registered or certified, postage prepaid with return receipt requested, or by a recognized overnight delivery service. Any notices to the City by 4V shall not be considered valid unless a copy is also delivered to the City Attorney and addressed [unless a change of address is provided in writing by City] to James A. Balli, Taylor, English Duma, LLP, 1600 Parkwood Circle, Suite 200, Atlanta, Georgia 30339 and [jballi@taylorenghish.com](mailto:jballi@taylorenghish.com).

**16. Remedies**

All claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Agreement, including but not limited to breach thereof, shall be governed by the laws of the State of Georgia and the only and exclusive jurisdiction for the filing of any action shall be the Superior Court of Fannin County, Georgia which shall be the sole venue for any such action and all parties expressly submit to the jurisdiction of the Superior Court of Fannin County.

**18. Safety**

4V will be solely and completely responsible for working conditions and safety on any of the City's property occupied or utilized by 4V with regard to its activities contemplated herein, including safety of all persons and property during the performance of the Work, as well as compliance with OSHA regulations and any other applicable law or regulation.

Effective this \_\_\_\_\_ day of June, 2019.

**4V-RANCH, LLC**

**THE CITY OF BLUE RIDGE, GEORGIA**

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_









