

**INTEGRATION AGREEMENT
FOR
ANNUAL CONTRACT FOR TREE & PALM TRIMMING, MAINTENANCE, AND
REMOVAL SERVICES**

**REQUEST FOR COMPETITIVE SEALED PROPOSAL (“RFCSP”)
NO. 23-123; RFX NO. 6100017224**

This Agreement is entered into by and between the **City of San Antonio**, Texas, a home-rule municipal corporation (“City”) acting by and through its Director of Finance or said Director’s designee (“Director”), pursuant to Ordinance No. _____ passed and approved on the _____ day of _____, 20____, and **Burkett Arbor Care LLC** (“Burkett Arbor Care” or “Vendor”). City and Vendor may be referred to herein collectively as the “Parties”.

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

**ARTICLE 1
CONTRACT DOCUMENTS**

The terms and conditions for performance and payment of compensation for this Agreement are set forth in the following contract documents, true and correct copies of which are attached hereto and fully incorporated herein for all purposes, and shall be interpreted in the order of priority as appears below:

- a. This Integration Agreement;
- b. City’s RFCSP No. 23-123; RFX No. 6100017224, including all exhibits, attachments and addendums thereto (**Exhibit A**); and
- c. Vendor’s Proposal in response to RFCSP No. 23-123; RFX No. 6100017224 (**Exhibit B**).

**ARTICLE 2
TERM**

- 2.1 Contract Term. This contract shall begin upon the effective date of the ordinance awarding the contract and terminate on December 31, 2026, unless sooner terminated in accordance with the provisions of this Agreement.
- 2.2 Renewals. At City’s option, this Contract may be renewed under the same terms and conditions for two (2) additional, one (1) year periods. Renewals shall be in writing and

signed by Director, without further action by the San Antonio City Council, subject to and contingent upon appropriation of funding therefor.

2.3 Temporary Short-Term Extensions.

City shall have the right to extend this contract under the same terms and conditions beyond the original term or any renewal thereof, on a month-to-month basis, not to exceed three months. Said month to month extensions shall be in writing, signed by Director, and shall not require City Council approval, subject to and contingent upon appropriation of funding therefor.

ARTICLE 3
NOTICE

Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City of San Antonio
Parks & Recreation Department
P.O. Box 839966
San Antonio, Texas 78283-3966

If intended for Vendor, to:

Burkett Arbor Care, LLC
139 Kendall Parkway
Boerne, Texas 78015

With copy to:

City of San Antonio
Finance Department, Procurement Division
P.O. Box 839966
San Antonio, Texas 78283-3966

ARTICLE 4
INSURANCE

4.1 Not later than 30 days prior to the commencement of any work under this Agreement, Vendor must provide a completed Certificate(s) of Insurance to City's Parks & Recreation Department. The certificate must be:

4.1.1 clearly labeled with the name of the contract in the Description of Operations block;

4.1.2 completed by an agent and signed by a person authorized by the insurer to bind coverage on its behalf (City will not accept Memorandum of Insurance or Binders as proof of insurance); and

4.1.3 properly endorsed and have the agent's signature, and phone number.

- 4.2 Certificates may be mailed or sent via email, directly from the insurer's authorized representative. City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by City's Parks & Recreation Department. No officer or employee, other than City's Risk Manager, shall have authority to waive this requirement.
- 4.3 If the City does not receive copies of insurance endorsement, then by executing this Agreement, Vendor certifies and represents that its endorsements do not materially alter or diminish the insurance coverage for this Agreement.
- 4.4 The City's Risk Manager reserves the right to modify the insurance coverages, their limits, and deductibles prior to the scheduled event or during the effective period of this Agreement based on changes in statutory law, court decisions, and changes in the insurance market which presents an increased risk exposure.
- 4.5 Vendor shall obtain and maintain in full force and effect for the duration of this Agreement, at Vendor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below. If the Vendor claims to be self-insured, Vendor must provide a copy of their declaration page so the City can review their deductibles:

<i>INSURANCE TYPE</i>	<i>LIMITS</i>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury d. Contractual Liability e. Independent Contractors* f. Damage to property rented by you* g. Explosion, Collapse, Underground Property Hazard Liability	For Bodily Injury and Property Damage \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage, which must be on a per project aggregate. f.) \$300,000*
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence.

c. Hired Vehicles	
5. Professional Liability (Claims-made Coverage)	\$1,000,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service.
6. Environmental Insurance (Contractor's Pollution Liability (Claims-made coverage)	\$1,000,000 per occurrence; \$2,000,000 general aggregate for claims associated with hazardous materials, to include spills and mitigation.
*If Applicable	

4.6 Vendor must require, by written contract, that all subcontractors providing goods or services under this Agreement obtain the same insurance coverages required of Vendor and provide a certificate of insurance and endorsement that names Vendor and City as additional insureds. Vendor shall provide City with subcontractor certificates and endorsements before the subcontractor starts work.

4.7 If a loss results in litigation, then the City is entitled, upon request and without expense to the City, to receive copies of the policies, declaration page and all endorsements. Vendor must comply with such requests within 10 days by submitting the requested insurance documents to the City at the following address:

City of San Antonio
Attn: Parks & Recreation Department
P.O. Box 839966
San Antonio, Texas 78283-3966

4.8 Vendor's insurance policies must contain or be endorsed to contain the following provisions:

- Name City and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with City. The endorsement requirement is not applicable for workers' compensation and professional liability policies.
- Endorsement that the "other insurance" clause shall not apply to City where City is an additional insured shown on the policy. City's insurance is not applicable in the event of a claim.
- Vendor shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of City; and
- Provide 30 days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

- 4.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, Vendor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Vendor's performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.
- 4.10 In addition to any other remedies City may have upon Vendor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, City may order Vendor to stop work and/or withhold any payment(s) which become due to Vendor under this Agreement until Vendor demonstrates compliance with requirements.
- 4.11 Nothing contained in this Agreement shall be construed as limiting the extent to which Vendor may be held responsible for payments of damages to persons or property resulting from Vendor's or its subcontractors' performance of the work covered under this Agreement.
- 4.12 Vendor's insurance shall be deemed primary and non-contributory with respect to any insurance or self - insurance carried by City for liability arising out of operations under this Agreement.
- 4.13 The insurance required is in addition to and separate from any other obligation contained in this Agreement and no claim or action by or on behalf of City shall be limited to insurance coverage provided.
- 4.14 Vendor and any subcontractor(s) are responsible for all damage to their own equipment and/or property result from their own negligence.

ARTICLE 5

INDEPENDENT CONTRACTOR

Vendor covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City. City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by Vendor under this contract and that Vendor has no authority to bind City. The doctrine of respondeat superior shall not apply as between City and Vendor.

ARTICLE 6
HEAT ILLNESS PREVENTION ORDINANCE

Effective August 31, 2023, the Heat Illness Prevention Ordinance implemented requirements to certain City-funded contracts involving activities in outdoor and unconditioned spaces.

Vendor, as an employer, is currently responsible under the General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health Act of 1970 (the “Act”) to provide their employees with a place of employment that "is free from recognized hazards that are causing or likely to cause death or serious harm to employees", including heat-related hazards that are likely to cause death or serious bodily harm.

The San Antonio City Council approved an ordinance on August 31, 2023, to provide criteria to further guide contractors in San Antonio heat conditions to better protect its residents and contractor employees working in San Antonio (the “Heat Illness Prevention Ordinance”), which provides:

When the heat index for San Antonio, Texas equals or exceeds 95 degrees Fahrenheit, Contractor is required to take all of the following actions for all onsite workers working outdoors or unconditioned spaces (without air conditioning):

- a) Mandate at least a fifteen (15) minute rest break for every four (4) hours worked. No employee may be required to work more than 3.75 continuous hours without a rest break. These rest breaks are in addition to and shall not take the place of other required or otherwise provided rest breaks.
- b) Provide a heat relief station at the Site with a shaded area and water.
- c) Train supervisors and workers to recognize heat hazards and take appropriate actions.
- d) Post signage with City requirements in both English and Spanish within the Site where notices to employees are customarily posted. City will prescribe the size, content, and location of signs within applicable design guidance manuals.
- e) Contractor shall submit a “heat safety plan” as part of Contractor’s proposal.

By executing this Agreement with the City of San Antonio, Vendor hereby verifies that it agrees to adhere to the City’s Heat Illness Prevention Ordinance during the term of the contract. City hereby relies on Vendor’s verification. If found to be false, City may terminate the contract for material breach.

ARTICLE 7
ENTIRE AGREEMENT

This Agreement, together with its exhibits, if any, constitutes the final and entire agreement between the parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless the same are in writing, dated subsequent to the date hereto, and duly executed by the parties.

EXECUTED and **AGREED** to as of the dates indicated below. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

CITY OF SAN ANTONIO

BURKETT ARBOR CARE, LLC

Name: Angelica Mata

Name: Amy Burkett

Title: Assistant Finance Director

Title: President/CEO

Date: _____

Date: _____

Approved as to Form:

Assistant City Attorney