

with Chapter 2258, Texas Government Code shall not be construed to relieve GRANTEE from its obligation under any federal or state law regarding the wages to be paid to or hours worked by laborers, workmen or mechanics insofar as applicable to the work to be performed under this Agreement.

3.2 GRANTEE agrees to comply with the Small Business Economic Development Advocacy (SBEDA) goals assigned to this Agreement as outlined in Exhibit B- Small Business Economic Development Advocacy (SBEDA) Program.

IV. LEGAL AUTHORITY

4.1 GRANTEE represents, warrants, assures, and guarantees that it possesses the legal authority, pursuant to any proper, appropriate, and official motion, resolution or action passed or taken, to enter into this Agreement and to perform the responsibilities herein required.

4.2 GRANTEE represents, warrants, assures, and guarantees that the undersigned has full legal authority to execute this Agreement on behalf of GRANTEE and to bind GRANTEE to all terms, performances, and provisions herein contained.

V. FUNDING AND ASSISTANCE BY CITY

5.1 In consideration of GRANTEE's performance of all services and activities set forth in this Agreement, CITY agrees to reimburse the GRANTEE for all eligible expenses as defined in Exhibit A – Scope of Work incurred hereunder. Notwithstanding any other provisions of this Agreement, the total of all payments and other obligations made or incurred by CITY shall not exceed \$250,000.00.

5.2 In order to partially offset GRANTEE's expenses associated with the Project, the CITY will provide advanced payments during the term of this Agreement for the expenses reflected directly tied to the services outlined in Exhibit A – Scope of Work. If advance payments are requested, GRANTEE shall provide an advance payment request. Prior to the next payment request, GRANTEE shall provide CITY with evidence of funds expended which shall include but not limited to: payee, date paid, service provided, and copy of paid invoice(s).

5.3 The Director of the Parks and Recreation Department (herein called "Director") may amend this Agreement without further action by City Council in order to revise the term of the agreement and/or Exhibit A – Scope of Work.

5.4 CITY shall not be obligated nor liable under this Agreement to any party, other than GRANTEE, for payment of any monies or provision of any goods or services.

VI. RECEIPT, DISBURSEMENT AND ACCOUNT OF FUNDS BY GRANTEE

6.1 GRANTEE understands and agrees that it shall maintain a numbered account for the receipt and disbursement of all funds received pursuant to this Agreement and further agrees that all checks and withdrawals from such account shall have itemized documentation in support of the use of such CITY funds.

6.2 GRANTEE agrees to maintain records that will provide accurate, current, separate, and complete disclosure of the status of any funds received pursuant to this Agreement. GRANTEE further agrees:

- (A) That maintenance of said records shall be in compliance with all terms, provisions, and requirements of this Agreement and with all generally accepted accounting practices; and
- (B) That GRANTEE's record system shall contain sufficient documentation to provide, in detail, full support and justification for each expenditure.

6.3 GRANTEE agrees to retain all books, records, documents, reports, written accounting policies and procedures, and all other relevant materials ("Records") pertaining to activities pertinent to this Agreement for a minimum of four (4) years after the termination of this Agreement.

6.4 In order to be reimbursed for eligible expenses, GRANTEE agrees to submit to CITY a report indicating the amount of funds expended, the payee, the date paid, the purpose of the payment, and shall provide supporting documentation, in such detail as CITY may request, including but not necessarily limited to, a copy of the subsequent paid invoice(s).

6.5 CITY agrees to provide GRANTEE written notice regarding any expenditure the CITY reasonably determines to be outside the permissible parameters of this Agreement. GRANTEE shall have thirty (30) days from receipt of such notice to cure the deficiency or, in the event that payment has been made to GRANTEE, refund to the CITY those funds, determined to:

- (A) Have not been spent by GRANTEE strictly in accordance with the terms of this agreement; or
- (B) Not be supported by adequate documentation to fully justify the expenditure.

6.6 Unless CITY has questions concerning an expenditure by GRANTEE, CITY agrees to provide payment to GRANTEE within thirty (30) calendar days of receipt of a request for reimbursement as defined above.

6.7 Upon termination of this Agreement, should any expense or charge be subsequently disallowed or disapproved using the same criteria as set out in this section as a result of any auditing or monitoring by CITY, GRANTEE shall refund such amount to CITY within thirty (30) calendar days of CITY's written request therefore wherein the amount disallowed or disapproved shall be specified.

VII. ALLOWABLE EXPENDITURES

7.1 Expenditures of the funds by GRANTEE provided under this Agreement shall only be allowed if incurred directly and specifically in the performance of and in compliance with this Agreement and all applicable City, State, and Federal Laws, regulations and/or ordinances.

7.2 Procurements and/or purchases which must be approved pursuant to the terms of this Agreement shall be conducted entirely in accordance with all applicable terms, provisions, and requirements hereof.

VIII. FURTHER REPRESENTATIONS, WARRANTIES AND COVENANTS

8.1 GRANTEE further represents and warrants that as of the date hereof:

- (A) All information, data or reports heretofore or hereafter provided to CITY is, shall be, and shall remain complete and accurate in all material respects as of the date shown on the information, data, or report, and that since said date shown, shall not have undergone any significant change without written notice to CITY.
- (B) It is financially stable and capable of fulfilling its obligations under this Agreement and that GRANTEE shall provide CITY immediate written notice of any adverse material change in the financial condition of GRANTEE that may materially and adversely affect its obligations hereunder.
- (C) No litigation or proceedings are presently pending or to GRANTEE's knowledge, threatened against GRANTEE.
- (D) None of the provisions contained herein contravene or in any way conflict with the authority under which GRANTEE is doing business or with the provisions of any existing indenture or agreement of GRANTEE.

IX. ACCESSIBILITY OF RECORDS

9.1 At any time during normal business hours and as often as CITY may deem necessary, upon three (3) days written notice, GRANTEE shall make all of its records pertaining to this Agreement available to CITY or any of its authorized representatives and shall permit CITY or any of its authorized representatives to audit, examine, and make excerpts and/or copies of same.

9.2 GRANTEE agrees and represents that it will cooperate with CITY, at no charge to the CITY, to satisfy, to the extent required by law, any and all requests for information received by CITY under the Texas Public Information Act or related laws pertaining to this AGREEMENT.

X. MONITORING AND EVALUATION

10.1 GRANTEE agrees that CITY may carry out reasonable monitoring and evaluation activities, and GRANTEE shall provide reasonable access to CITY for such activities, so as to ensure compliance by GRANTEE with this Agreement and with all other laws, regulations and ordinances related to the performance hereof.

XI. INDEMNIFICATION

11.1 GRANTEE covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to GRANTEE's activities under this Agreement, including any acts or omissions of GRANTEE, any agent, officer, director, representative, employee, GRANTEE or subcontractor of GRANTEE, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT GRANTEE AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

11.2 The provisions of this INDEMNITY are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. GRANTEE shall advise the CITY in writing within twenty-four (24) hours of any claim or demand against the CITY or GRANTEE known to GRANTEE related to or arising out of GRANTEE's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at GRANTEE's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving GRANTEE of any of its obligations under this paragraph.

XII. INSURANCE

12.1 No later than thirty (30) days before the scheduled event, GRANTEE must provide a completed Certificate(s) of Insurance to CITY's Parks and Recreation Department. The Certificate must be:

- a. clearly labeled with the legal name of "Urban Canopy TX" in the Description of Operations block
- b. 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)
- c. properly endorsed and have the agent's signature, and phone number,

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 and Recreation Department. No officer or employee, other than CITY's Risk Manager, shall have authority to waive this requirement.

12.2 If the CITY does not receive copies of insurance endorsement, then by executing this Agreement, GRANTEE certifies and represents that its endorsements do not materially alter or diminish the insurance coverage for the event.

12.3 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.

12.4 GRANTEE shall obtain and maintain in full force and effect for the duration of this Agreement, at GRANTEE'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 GRANTEE claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

TYPE:	AMOUNTS
1. Workers' Compensation	Statutory
2. Employers' Liability	\$500,000/\$500,000/\$500,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury d. Independent Contractors* e. Environmental Impairment/ Impact – sufficiently broad to cover disposal liability f. Damage to property rented by you*	For Bodily Injury and Property Damage \$500,000 per occurrence; \$1,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage must be on a per project aggregate. *f. \$300,000
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$500,000 per occurrence.
*If Applicable	

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

12.6 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. GRANTEE must comply with such requests within ten (10) days by submitting the requested insurance documents to the CITY at the following address:

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

12.7 GRANTEE’s insurance policies must contain or be endorsed to contain the following provisions:

- a. 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.
- b. 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.
- c. GRANTEE shall submit a waiver of subrogation to include, Workers’ Compensation, Employers’ Liability, General Liability and Auto Liability policies in favor of CITY; and
- d. Provide thirty (30) days advance written notice directly to CITY of any suspension, cancellation, non-renewal, or materials change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

12.8 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, GRANTEE shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend GRANTEE’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.

12.9 In addition to any other remedies CITY may have upon GRANTEE's failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, CITY may order GRANTEE to stop work and/or withhold any payment(s) which become due to GRANTEE under this Agreement until GRANTEE demonstrates compliance with requirements.

12.10 Nothing contained in this Agreement shall be construed as limiting the extent to which GRANTEE may be held responsible for payments of damages to persons or property resulting from GRANTEE's or its subcontractors' performance of the work covered under this Agreement.

12.11 GRANTEE'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.

12.12 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.

12.13 GRANTEE and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XIII. NON-DISCRIMINATION

13.1 As a party to this contract, GRANTEE understands and agrees to comply with the *Non-Discrimination Policy* of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age, or disability, unless exempted by state or federal law, or as otherwise established herein.

XIV. CONFLICT OF INTEREST

14.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the CITY or any CITY agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the CITY or in the sale to the CITY of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (A) a CITY officer or employee;
- (B) his parent, child or spouse;
- (C) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (D) a business entity in which any individual or entity above listed is a (i) subcontractor on a CITY contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

14.2 Consultant warrants and certifies as follows:

- (A) Consultant and its officers, employees and agents are neither officers nor employees of the CITY.
- (B) Consultant has tendered to the CITY a Contracts Disclosure Statement in compliance with the CITY's Ethics Code.

14.3 Consultant acknowledges that CITY's reliance on the above warranties and certifications is reasonable.

XV. POLITICAL ACTIVITY

15.1 None of the activities performed hereunder shall involve, and no portion of the funds received hereunder shall be used, either directly or indirectly, for any political activity including, but not limited to, an activity to further the election or defeat of any candidate for public office or for any activity undertaken to influence the passage, defeat, or final content of Federal, State, Local legislation.

XVI. CONTRACTING

16.1 Any work or services contracted hereunder shall be contracted only by written contract or agreement and, unless specific waiver is granted in writing by CITY, shall be subject by its terms to each and every provision of this Agreement. Compliance by contractors with this Agreement shall be the responsibility of GRANTEE. GRANTEE is responsible to ensure that all permits required for the activities under this Agreement are obtained.

16.2 CITY shall in no event be obligated to any third party, including any sub-contractor of GRANTEE, for performance of or payment for work or services.

XVII. CHANGES AND AMENDMENTS

17.1 Except when the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall only be by amendment in writing executed by both CITY and GRANTEE under authority granted by formal action of the Parties' respective governing bodies.

17.2 It is understood and agreed by the Parties hereto that changes in Federal, State, and Local rules, regulations, or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto and shall become a part hereof as of the effective date of the rule, regulation, or law.

XVIII. ASSIGNMENTS

18.1 GRANTEE shall not transfer, pledge, or otherwise assign this Agreement, any interest in and to same, or any claim arising thereunder, without first procuring the written approval of CITY. Any attempt at transfer, pledge or other assignment shall be void *ab initio* and shall confer no rights upon any third person.

XIX. SEVERABILITY OF PROVISIONS

19.1 If any clause or provision of this Agreement is held invalid, illegal, or unenforceable under present or future federal, state, or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties hereto that such invalidity, illegality, or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal, or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal, or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XX. DEFAULT

20.1 Upon default by GRANTEE in the performance of its obligations hereunder, CITY shall give GRANTEE notice of the same and GRANTEE shall have thirty (30) days following receipt of written notice of default from CITY (or such reasonably longer time as may be necessary provided GRANTEE commences the cure within thirty (30) days and continuously and diligently pursues the cure to completion) to cure such default. If GRANTEE fails to timely cure such default, CITY may pursue all remedies available in law or at equity and/or other rights CITY may have in this Agreement; provided that it is expressly agreed that neither Party hereto shall have the right to seek consequential or punitive damages against the other for any default under this Agreement.

20.2 Upon default by CITY in the performance of its obligations hereunder GRANTEE shall give CITY notice of the same and CITY shall have thirty (30) days following receipt of written notice of default from GRANTEE (or such reasonably longer time as may be necessary provided CITY commences the cure within thirty (30) days and continuously and diligently pursues the cure to completion) to cure such default. If CITY fails to timely cure such default, GRANTEE may pursue all remedies available in law or equity and/or other rights GRANTEE may have in this Agreement, subject to the limitations set forth in Section 23.01.

XXI. NON-WAIVER OF PERFORMANCE

21.1 No waiver by either Party of a breach of any of the terms, conditions, covenants, or guarantees of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other

term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification, or discharge by either Party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged.

21.2 No act or omission of either Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to either Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

21.3 No representative or agent of CITY may waive the effect of the provisions of this Article without formal action from the City Council.

XXII. ENTIRE AGREEMENT

22.1 This Agreement 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 same is in writing, dated subsequent to the date hereof and duly executed by the Parties.

XXIII. NOTICES

23.1 For purposes of this Agreement, all official communications and notices among the Parties shall be deemed sufficient if in writing and shall be (1) mailed, registered, or certified mail, postage prepaid, return receipt requested, or (2) delivered by a nationally recognized overnight air or ground courier service to the addresses set forth below:

CITY:

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

GRANTEE:

Urban Canopy
Attn: CEO/Executive Director
24114 Blanco Rd
San Antonio, Texas 78258

Such Notice shall be deemed received within three (3) days after deposit in the U.S. mail or on the first business day after deposit with an overnight air or ground courier service. Notice of change of address by either Party must be made in writing and mailed to the other Party's last known address within five (5) business days of such change.

XXIV. PARTIES BOUND

24.1 This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns, except as otherwise expressly provided herein.

XXV. RELATIONSHIP OF PARTIES

25.1 Nothing contained herein shall be deemed or construed by the Parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between the Parties hereto.

XXVI. TEXAS LAW TO APPLY

26.1 This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Bexar County, Texas.

XXVII. GENDER

27.1 Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XXVIII. CAPTIONS

28.1 The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

EXECUTED IN DUPLICATE ORIGINALS, each of which shall have the full force and effect of an original this the ____ day of _____, 20__.

**CITY OF SAN ANTONIO
PARKS AND RECREATION DEPARTMENT**

URBAN CANOPY

By: _____
Home Garcia III, Director

By: _____
Scott Anderson, Founder

Date: _____

Date: _____

APPROVED AS TO FORM:

City Attorney

Exhibit A – Scope of Work
Exhibit B- Small Business Economic Development Advocacy (SBEDA) Program- (if needed)

Exhibit A – Scope of Work

I. Scope of Work

The Community Tree Maintenance Program will assist low income and other qualifying residents in need of tree care or tree removal services. GRANTEE will manage program applications, eligibility, tree care, tree removal and reporting services. Compensation will be based on an hourly rate bases, ensuring fair payment for all services rendered. GRANTEE agrees to provide each deliverable identified above no later than the timeline established by the CITY.

II. Deliverables

GRANTEE agrees to manage and perform all work/services as listed below:

1. Application Submission Process

- Evaluation of the City hosted webpage on-line application submissions.
- Management and processing of all phone-based applications to include electronic documentation of all relevant information from all phone-based applications.
- Full intake, processing, assessment, and prioritization of each applicant, using the City provided scoring matrix to determine eligibility.
 - In cases where the scoring matrix will not be used, GRANTEE must seek approval from the City’s Urban Forestry Team before confirming eligibility.
- Non-emergency services will be scheduled on a first-come, first-served basis.

2. Consultation & Evaluation:

- Site visits to assess tree health and determine appropriate action, which may include preservation or removal.

3. Tree Maintenance & Preservation:

- Pruning, trimming, and other maintenance services to preserve the health and safety of trees on eligible properties.

4. Tree Removal Services:

- Removal of dead, diseased, or otherwise hazardous trees where preservation is no longer viable or when they pose a safety risk.

5. Emergency Services:

- Prioritized services for homeowners with immediate, urgent needs (e.g., fallen trees after storms or trees at risk of causing damage).

6. Reporting & Documentation:

- Detailed documentation of services provided, including resident eligibility documentation, and ensuring compliance with program requirements.
- Monthly invoices to the City, detailing hours worked, services rendered, and associated costs for each eligible property.

III. Budget

The City shall reimburse GRANTEE for program costs not to exceed \$250,000. Pricing structure for services will include the following:

1. Hourly Rate for Arborist Services: \$100/hr per Crew Member
2. Inspection Fee (one inspection fee per property): \$XXX