

URBAN FOREST INITIATIVE GRANT AGREEMENT

This Grant Agreement (“*Agreement*”) is entered into as of the Effective Date listed below between Denver Civic Ventures (“DCV”), a Colorado nonprofit corporation that is a charitable organization organized under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “*Code*”), and the undersigned grant recipient (“*Grantee*”). This Agreement consists of: (i) this Signature Page; (ii) the Master Terms and Conditions; and (iii) any number of attachments, exhibits or addenda attached hereto.

Title of Project: Urban Forest Initiative Project Grant ID#: [] Effective Date: TBD															
Purpose of Project: DCV, along with the Downtown Denver Partnership (“The Partnership”), the Downtown Denver Business Improvement District (“BID”), and the City and County of Denver (“City”), have coordinated to establish an Urban Forest Initiative through the distribution of Urban Forest Initiative Grants. The mission of the Urban Forest Initiative Grant Program is to build a robust urban tree canopy, providing a healthier, cleaner, more vibrant community for all by providing grants to property owners in Downtown Denver to be used for expanding tree planting areas and/or installing new tree planting spaces including costs for concrete work, soil remediation, design, suspended pavement systems, structural cells, permit fees, irrigation system installation and/or repairs, tree planting and installation, shrubs, perennial plantings, and other tree related work as determined by DCV.															
Grantee: _____ _____ _____	Checks to be Made Payable to: _____ _____ Employer Identification Number: _____														
Estimated Project Cost: \$ _____	Grant Funding Amount: _____ or ____ % total funding request, whichever is less														
Number of Tree Planting Areas New _____ Existing _____															
Expected Milestones (“Milestones”):															
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #f2f2f2;"> <th style="text-align: left; padding: 5px;"><i>Milestone</i></th> <th style="text-align: left; padding: 5px;"><i>Expected Completion Date</i></th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;">1. Final site plan submitted to the Partnership</td> <td style="padding: 5px;"><i>Prior to March 1, 2021</i></td> </tr> <tr> <td style="padding: 5px;">2. Complete construction and planting</td> <td style="padding: 5px;"><i>Prior to July 1, 2021</i></td> </tr> <tr> <td style="padding: 5px;">3. Submit inspection request</td> <td style="padding: 5px;"><i>Prior to July 1, 2021</i></td> </tr> <tr> <td style="padding: 5px;">4. Final approval and acceptance</td> <td style="padding: 5px;"><i>Prior to August 1, 2021</i></td> </tr> <tr> <td style="padding: 5px;">5. Submit reimbursement request</td> <td style="padding: 5px;"><i>Prior to August 1, 2021</i></td> </tr> <tr> <td style="padding: 5px;">6. Three-year guarantee inspection</td> <td style="padding: 5px;"><i>Prior to August 1, 2024</i></td> </tr> </tbody> </table>		<i>Milestone</i>	<i>Expected Completion Date</i>	1. Final site plan submitted to the Partnership	<i>Prior to March 1, 2021</i>	2. Complete construction and planting	<i>Prior to July 1, 2021</i>	3. Submit inspection request	<i>Prior to July 1, 2021</i>	4. Final approval and acceptance	<i>Prior to August 1, 2021</i>	5. Submit reimbursement request	<i>Prior to August 1, 2021</i>	6. Three-year guarantee inspection	<i>Prior to August 1, 2024</i>
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Grant Budget (“Budget”): Based on the information provided in your Grant scope of work (attached as Exhibit A), your Grant proposal (“Proposal”) has been approved in the Grant funding amount set forth above or ____ percent of the total project cost, whichever is less. The Grant amount is based on the amount of soil provided to each tree as well as the other evaluation criteria listed in the Scope of Work attached hereto.															
Urban Forest Initiative Amanda Miller, Service Coordinator Downtown Environment 1515 Arapahoe St., Tower 3, Suite 100 Denver, CO 80202 Phone: (303) 571-8230 amiller@downtowndenver.com	Grantee Organization Primary Contact														

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Denver Civic Ventures and Grantee, intending to be legally bound, have caused this Agreement to be executed by their authorized representatives as of the Effective Date. By signing below, each of DCV and Grantee agree that it has read and fully understands all terms included in the attached documents and agrees and accepts all of the foregoing.

Denver Civic Ventures:

Grantee:

Authorized Signature

Authorized Signature

Printed Name

Printed Name

Title

Date: _____

Title

Date: _____

FOR REVIEW ONLY - TO BE SIGNED WITH SITE PLAN EXHIBIT

MASTER TERMS AND CONDITIONS

1. Grant Purpose and Use of Grant Funds. Grantee agrees that the Grant will be used only for the charitable and conservation purposes outlined in the Grant Agreement (referred to herein as the “*Purpose*”) unless approved otherwise by prior written consent of DCV.

2. Term of Grant. The term of this Agreement will commence on the Effective Date of this Agreement (unless a different date is set forth on the Signature Page) and will expire five (5) years after Final Approval and Acceptance, unless terminated earlier as provided herein (the “*Term*”). All milestones to be performed under this Grant shall be completed by the Expected Completion Date set forth in the Agreement. Should an extension be required to complete work called for in the Proposal, Grantee shall provide a written request prior to expiration of the Milestone.

3. Amount and Payment of Grant Funds. DCV will transfer to Grantee the Amount of Grant Awarded as set forth in the Grant Agreement by check in one single payment within thirty (30) days of DCV’s receipt and approval of Grantee’s complete reimbursement request by DCV. Supporting documentation shall be submitted with reimbursement request including invoice(s) from the contractor(s) that performed the tree planting or improvement of a planting area and other documentation as may be required by DCV to verify satisfactory completion of said work. Reimbursement request and supporting documentation must be reviewed and approved by DCV before DCV disburses any funds to Grantee. Grantee acknowledges that, other than as expressly set forth in this Agreement, DCV has no obligation to Grantee for any additional or future funding. DCV reserves the right to discontinue, modify, or withhold any payments to be made under this Agreement or to require Grantee to promptly return to DCV any amounts of the Grant previously paid to Grantee which have not yet been expended or which were not used for the Purposes if, in DCV’s sole judgment, such action is necessary or prudent (a) because Grantee has not fully complied with the terms and conditions of this Agreement, (b) to protect the purpose and objectives of this Agreement, or (c) to comply with the requirements of any law or regulation applicable to Grantee, DCV or this Grant.

4. Expenditure and Investment of Grant Funds by Grantee. Grantee may expend the Grant funds only for the Purpose. Grantee’s expenditure of Grant funds can only be used for reimbursement based on the amount of soil provided to each tree as well as the other evaluation criteria listed in the Grant Application. Any changes to the approved Scope of Work must be approved in writing by DCV. Any costs incurred above the amount agreed to in this Grant Agreement are the sole responsibility of Grantee, whether due to unforeseen circumstances or any other reason.

5. Records. Grantee will maintain accurate and complete records of all receipts and expenditures made from Grant funds and will keep these records during the Term and for at least three (3) years thereafter. During the Term, and for three (3) years thereafter, upon the request of DCV, Grantee shall make such records available for inspection by DCV and its representatives during normal business hours, and Grantee shall cooperate and assist DCV with DCV’s review of such records.

6. Reporting and Information.

Grantee shall provide information and documentation to DCV before any changes are made to the Proposal submitted in the Scope of Work. Grantee shall provide to DCV reports of Program work, expenditures, and requirements described in Maintenance Requirements, Paragraph 10. Grantee shall use the report formatting provided by DCV, which DCV reserves the right to change at any time. Upon request, Grantee shall provide any additional pertinent information to assist DCV or the City in assessing the work funded by the Grant and its status.

7. Inspection

DCV staff or designee shall be allowed to inspect the Project on a regular basis. Upon reasonable request, Grantee shall provide access to and information about the Project, including, but not limited to, irrigation, tree planting structure, or other tree maintenance and infrastructure elements.

8. Design

a) Grantees shall submit final site plan to DCV by expected completion date stated in Milestone 1.

b) All trees must be planted according to the City and County of Denver Office of City Forester’s spacing, species and planting requirements.

c) All trees planted under the Grant Program shall be a minimum of 3” caliper, have a proper central leader, and a form conducive to the urban environment. No tree shall be planted that has less than a 3” caliper without prior approval by DCV.

d) All trees are subject to inspection by DCV and/or the City prior to planting. In DCV’s sole discretion, DCV may order any tree in an unhealthy or unsightly condition and/or which does not have a proper central leader be replaced by a healthy tree prior to planting.

e) Project must be executed in accordance with all [City and County of Denver rules and regulations](#).

9. Construction

a) Grantee shall comply with Denver Code, including the requirement to obtain a permit from the [Office of the City Forester](#) prior to planting or removing trees from the public right of way.

b) Before any work is begun, Grantee shall obtain a [Street Occupancy Permit](#) from Denver Public Works for any construction or repair of curbs, gutters, sidewalks, service walks, driveways, street pavement, and related public right-of-way improvements within the confines of public streets.

c) All tree work, including but not limited to the installation of new trees, excavation, and work in the critical root zone of existing trees shall not be performed unless a Certified Arborist is present.

d) At the completion of the Project, a punch list inspection will be performed for quality control. Punch list items will include, but are not limited to, correct species, planting height, tree structure, location within the planting area, and Denver Public Works construction approval.

10. Maintenance Requirements

a) All trees planted and planting areas improved under this Grant shall be maintained and irrigated consistent with the BID's Tree Health Program. Grantee shall comply with and participate in the BID Tree Health Program. If work performed under this Grant is outside of the BID service area, Grantee shall enroll in the BID Tree Health Program.

b) Any tree, which in the opinion of DCV or the Office of City Forester, is deemed dead, unhealthy, or unsightly, and/or has lost its natural shape due to dead branches, excessive pruning, inadequate or improper maintenance, or other causes including vandalism, prior to final acceptance, shall be replaced at the sole cost of the Grantee.

c) Following final approval and acceptance, Grantee shall maintain all planting areas according to the approved site plan.

d) Grantee shall water all trees throughout the life of the tree, including during the winter, in accordance with [Denver Water's Tree Care Guide](#). Watering may be contracted to the [BID](#) or another tree care entity. If watering is contracted to an entity other than the BID, proof of services must be submitted to DCV concurrently with the watering contract.

e) For the first three (3) years following final approval of the project, Grantee shall provide an annual report concerning its tree watering program, including when the irrigation system was turned on, turned off, the annual schedule, and any repairs performed.

f) For commercial properties within the Downtown Denver Business District boundary, the BID has agreed to provide integrated pest management, fertilization, organic soil enhancements, and pruning on a five year cycle over the course of a tree's life or for as long as the Tree Health Program continues.

g) Should DCV determine, in its sole reasonable judgment that Grantee is not watering or providing proper care for trees planted through this Grant, DCV may request that the BID provide tree care services at the expense of the Grantee.

h) For a period of three (3) years following approval or acceptance of trees, DCV or its designee and/or the Office of City Forester will inspect for successful establishment at least once annually. Such inspection will include, but not limited to, planting depth, root establishment, trunk damage, proper structure, percent live canopy to nearest 10%, shoot tip extension, surface treatment kept 4-6" away from trunk. If any tree is deemed unsuccessful, DCV or its designee will discuss remediation or replacement options with the Grantee, remediation or replacement cost shall be the sole cost of the Grantee.

i) All tree planting areas included in this Grant program are subject to monitoring over the course of the tree's life for purposes of follow-up studies.

11. Assurance

Grantee shall maintain and preserve the trees planted through the Urban Forest Initiative Grant in accordance with Denver Municipal Code Section 57.

12.. Termination. This Agreement may be terminated by DCV if any of the following has occurred, it being understood and agreed that the determination of whether any such condition or event has

occurred will be made by DCV in its sole discretion:

(a) Any statement or representation made or information provided by the Grantee in the Project Application or this Agreement is or becomes untrue, inaccurate or incomplete in any material respect;

(b) Any of the conditions precedent to funding in this Agreement, are not fulfilled by Grantee or are unsatisfactory to DCV, in its sole discretion.

(c) Grantee materially misrepresents to DCV its activities;

(d) Grantee uses any portion of the Grant for any purpose other than the Purpose without the prior written consent of DCV;

(e) Grantee fails to comply with any of the provisions of this Agreement (including compliance with the Budget and Milestones in a manner satisfactory to DCV); or

(f) The Grant or its Purpose does not contribute to the accomplishment of the Grantee's charitable mission as originally anticipated.

The effective date of DCV's termination of this Agreement (the "*Termination Effective Date*") shall be the date notice is given by DCV to Grantee of the termination. The delay in, or failure of, DCV to exercise its right to terminate at any time shall not be a waiver of such right, either with respect to the cause giving rise thereto or any other cause for termination, and the payment by DCV of any portion of the Grant after notice of an event giving rise to a right to terminate shall not be a waiver of the right to terminate or any rights of DCV upon termination, and in no event will such delay, failure or payment give rise to any argument for novation, ratification, estoppel, laches or any other equitable or legal defense if DCV later elects to exercise its right of termination.

13. Payment Obligation; Return of Funds. In the event that DCV terminates this Agreement pursuant to the terms hereunder:

a) Any remaining payment obligation of DCV to Grantee, whether under this Grant or otherwise, shall be null and void as of the Termination Effective Date.

14. Indemnity; Liability. Grantee shall indemnify, defend and hold harmless DCV, the Partnership and the City and their officers, directors, founders, attorneys, employees, agents, and the City's appointed and elected officials and each of their affiliates (collectively "*Indemnified Parties*"), from and against, any liability, damage, loss or expense (including reasonable attorneys' fees and expenses of litigation) incurred or imposed upon Indemnified Parties in connection with any claims, suits, actions, demands or judgments, arising out of or related to (a) any act or omission of Grantee, its employees or agents in applying for or accepting the Grant, (b) the expending of Grant funds furnished pursuant to this Agreement or (c) the carrying out of any programs or projects funded by the Grant. DCV shall not be liable for any losses, damages, claims or other liabilities arising out of Grantee's activities, including from any expenditures of the Grant funding. Under no circumstance shall Grantee, the Indemnified Parties or the BID be liable for any special or consequential damages that may arise from activities involved in the construction of projects funded through this Grant.

15. Insurance

(a) General Conditions. Grantee agrees to secure, at or before the

time of execution of this Agreement, the following insurance covering all operations, goods, or services provided pursuant to this Agreement. Grantee shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to DCV in the event any of the above-described policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference Grant ID number listed in this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Grantee shall provide written notice of cancellation, non-renewal and any reduction in coverage pursuant to the Notices section of this Agreement within three (3) business days of such notice by its insurer(s) and referencing the Grant ID number. If any policy is in excess of a deductible or self-insured retention, Grantee must notify DCV. Grantee shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Grantee. Grantee shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

(b) Proof of Insurance. Grantee shall provide a copy of this Agreement to its insurance agent or broker. Grantee may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Grantee certifies that the certificate of insurance attached as **Exhibit B**, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. DCV requests that the Grant Number be referenced on the Certificate. DCV's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Grantee's breach of this Agreement or of any of DCV's rights or remedies under this Agreement.

(c) Additional Insureds. For Commercial General Liability and Automobile Liability, Grantee and subcontractor's insurer(s) shall include DCV and the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

(d) Waiver of Subrogation. For all coverages required under this Agreement, with exception of Professional Liability (if required), Grantee's insurer shall waive subrogation rights against DCV and the City.

(e) Subcontractors; Subconsultants. All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of Grantee. Grantee shall include all such subcontractors as an additional insured under its

policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. Grantee agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by DCV.

(f) Workers' Compensation/Employer's Liability Insurance. Grantee shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Grantee expressly represents to DCV, as a material representation upon which DCV is relying in entering into this Agreement, that none of Grantee's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Grantee executes this Agreement.

(g) Commercial General Liability. Grantee shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

(h) Business Automobile Liability. Grantee shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.

(i) Additional Provisions

(1) For Commercial General Liability, the policy must provide the following:

- (a) That this Agreement is an Insured Contract under the policy;
- (b) Defense costs are outside the limits of liability;
- (c) A severability of interests, separation of insureds provision (no insured vs. insured exclusion); and
- (d) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by DCV or the City.

(2) For claims-made coverage:

(a) The retroactive date must be on or before the contract date or the first date when any goods or services are provided, whichever is earlier.

Grantee shall advise DCV in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, Grantee will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

16. Publicity. Grantee consents to DCV's use of information about the Grant, including Grantee's name and amount of the Grant, in its periodic public reports and may make such information available on its website and as part of press releases, public reports, newsletters, information returns, presentations, and other public disclosures or external communications. Grantee

agrees to acknowledge DCV's funding when referencing the programs funded with the Grant in its publications, on its website, in other publicly available information regarding the programs funded with the Grant. For example, Grantee should use the term "Funded by Urban Forest Initiative," "Made Possible by Urban Forest Initiative," or similar wording when referring to programs funded by the Grant. Grantee, however, must obtain DCV's prior written approval before issuing a press release or other public announcement regarding the Grant or making any other public use of DCV's or the Partnership's name or logo. Any proposed press release or public announcement shall be provided to DCV pursuant to the notice requirements set forth in Paragraph 22. In addition, Grantee will furnish DCV with copies of any such news releases or other written materials releasing or including such information that has received prior written approval from DCV within a reasonable time after such release. Grantee will advise DCV immediately if there is any unauthorized release of information.

17. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado and the applicable provisions of the Charter and Revised Municipal Code of the City and County of Denver and the applicable resolutions, rules and regulations of the City, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Colorado or any other jurisdiction) that would cause the application of the law of any jurisdiction other than the State of Colorado. In the event a dispute arises under this Agreement, the parties agree that the sole and exclusive jurisdiction and venue for the resolution of any dispute arising under or related to this Agreement shall be in the state district court for the City and County of Denver. Grantee irrevocably submits in advance to personal jurisdiction in the state district courts of the City and County of Denver, Colorado.

18. No Discrimination in Employment. In connection with the performance of this Agreement, the Parties agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, gender identity or gender expression, age, military status, sexual orientation, marital status, or physical or mental disability; and the Parties further agree to insert the foregoing provision in all approved contracts and subcontracts hereunder.

19. Entire Agreement; Amendment. This Agreement, including its recitals and exhibits, contains the entire agreement and understanding between the parties and supersedes all other prior oral or written agreements, understanding or communications between the parties regarding the subject matter of this Agreement. This Agreement may not be amended or modified, nor any of its provisions waived, except in a written document signed by authorized representatives of the Grantee and DCV.

20. Severability. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided, however, the Parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a term or condition that will achieve the original intent and purposes of the Parties hereunder.

21. Authority. Each Party represents and warrants that it has taken all actions that are necessary or that are required by its applicable law to legally authorize the undersigned signatories to

execute this Agreement on behalf of the Party and to bind the Party to its terms. The person(s) executing this Agreement on behalf of each Party warrants that he/she/they have full authorization to execute this Agreement.

22. Waiver. Any waiver of any kind by either party of a breach of this Agreement shall not operate or be construed as a waiver of such breach or any subsequent breach. Either party's delay or omission in exercising any right, power, or remedy pursuant to a breach or default by the other party shall not impair any right, power, or remedy which that party may have.

23. Remedies. The rights and remedies provided in this Agreement are cumulative in nature and shall be in addition to any such other rights and remedies available at law or equity.

23. Assignment. This Agreement and the rights and obligations hereunder shall inure to the benefit of and be binding upon the parties hereto and their respective permitted successors, assigns, heirs and legatees; *provided, however,* Grantee cannot assign or otherwise transfer its rights or delegate any of its obligations under this Agreement without the prior written consent of DCV, which consent DCV may withhold, condition or delay in its sole discretion, unless such transfer is to an affiliate of Grantee, which shall not require the DCV's consent.

24. Independent Parties. Nothing in this Agreement shall constitute the naming of Grantee as an agent or representative of DCV for any purpose. This Agreement shall not be deemed to create any relationship of agency, partnership or joint venture between the parties hereto, and Grantee shall make no such representation to anyone.

25. Survival. The provisions of Sections 3, 7, 10, 11, 22, 23 and 24 shall survive any expiration or termination of this Agreement, and each party shall remain obligated under any other provisions that expressly or by their nature survive any expiration or termination of this Agreement.

26. Multiple Counterparts, Electronic Signature. This Agreement may be signed in multiple counterparts, which **may** be signed by the parties separately, but together shall constitute a single agreement. The counterparts of this Agreement may be executed and delivered by facsimile, email, other means of electronic transmission, or other electronic signature and shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement.

27. Notices. Any notice required to be given hereunder shall be sufficient if it is in writing, and sent by hand delivery, via facsimile, by national overnight delivery service, or by certified or registered mail, return receipt requested, postage prepaid to the address or facsimile number set forth on the Signature Page. For DCV, such notice should be addressed to Adam Perkins and any notice should also be sent to: Polsinelli PC, Attn: Colin Deihl, Shareholder, 1401 Lawrence St., Suite 2300, Denver, CO 80203.