# CONSULTANT AGREEMENT

City Manager's Office  
701 Laurel St., Menlo Park, CA 94025  
tel 650-330-6620

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<th>Agreement #: 3081</th>
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**AGREEMENT FOR SERVICES BETWEEN THE CITY OF MENLO PARK AND BARTLETT TREE EXPERTS**

THIS AGREEMENT made and entered into at Menlo Park, California, this 10/22/2020, by and between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as "CITY," and BARTLETT TREE EXPERTS, hereinafter referred to as “FIRST PARTY.”

**WITNESSETH:**

WHEREAS, CITY desires to retain FIRST PARTY to provide certain professional services for CITY in connection with that certain project called: Disinfect parks for COVID-19 protection

WHEREAS, FIRST PARTY is licensed to perform said services and desires to and does hereby undertake to perform said services.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, PROMISES AND CONDITIONS of each of the parties hereto, it is hereby agreed as follows:

1. **SCOPE OF WORK**

   In consideration of the payment by CITY to FIRST PARTY, as hereinafter provided, FIRST PARTY agrees to perform all the services as set forth in Exhibit "A," Scope of Services.

2. **SCHEDULE FOR WORK**

   FIRST PARTY's proposed schedule for the various services required pursuant to this agreement will be as set forth in Exhibit "A," Scope of Services. CITY will be kept informed as to the progress of work by written reports, to be submitted monthly or as otherwise required in Exhibit "A." Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents or other events beyond the control of the other, or the other's employees and agents.

   FIRST PARTY shall commence work immediately upon receipt of a "Notice to Proceed" from CITY. The "Notice to Proceed" date shall be considered the "effective date" of the agreement, as used herein, except as otherwise specifically defined. FIRST PARTY shall complete all the work and deliver to CITY all project related files, records, and materials within one month after completion of all of FIRST PARTY's activities required under this agreement.

3. **PROSECUTION OF WORK**

   FIRST PARTY will employ a sufficient staff to prosecute the work diligently and continuously and will complete the work in accordance with the schedule of work approved by the CITY. (See Exhibit "A," Scope of Services).
### 4. COMPENSATION AND PAYMENT

A. CITY shall pay FIRST PARTY an all-inclusive fee that shall not exceed $40,000 as described in Exhibit "A," Scope of Services. All payments shall be inclusive of all indirect and direct charges to the Project incurred by FIRST PARTY. The CITY reserves the right to withhold payment if the City determines that the quantity or quality of the work performed is unacceptable.

B. FIRST PARTY’s fee for the services as set forth herein shall be considered as full compensation for all indirect and direct personnel, materials, supplies and equipment, and services incurred by FIRST PARTY and used in carrying out or completing the work.

C. Payments shall be monthly for the invoice amount or such other amount as approved by CITY. As each payment is due, the FIRST PARTY shall submit a statement describing the services performed to CITY. This statement shall include, at a minimum, the project title, agreement number, the title(s) of personnel performing work, hours spent, payment rate, and a listing of all reimbursable costs. CITY shall have the discretion to approve the invoice and the work completed statement. Payment shall be for the invoice amount or such other amount as approved by CITY.

D. Payments are due upon receipt of written invoices. CITY shall have the right to receive, upon request, documentation substantiating charges billed to CITY. CITY shall have the right to perform an audit of the FIRST PARTY's relevant records pertaining to the charges.

### 5. EQUAL EMPLOYMENT OPPORTUNITY

A. FIRST PARTY, with regard to the work performed by it under this agreement shall not discriminate on the grounds of race, religion, color, national origin, sex, handicap, marital status or age in the retention of sub-consultants, including procurement of materials and leases of equipment.

B. FIRST PARTY shall take affirmative action to insure that employees and applicants for employment are treated without regard to their race, color, religion, sex, national origin, marital status or handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training including apprenticeship.

C. FIRST PARTY shall post in prominent places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

D. FIRST PARTY shall state that all qualified applications will receive consideration for employment without regard to race, color, religion, sex, national origin, marital status or handicap.

E. FIRST PARTY shall comply with Title VI of the Civil Rights Act of 1964 and shall provide such reports as may be required to carry out the intent of this section.

F. FIRST PARTY shall incorporate the foregoing requirements of this section in FIRST PARTY’s agreement with all sub-consultants.

### 6. ASSIGNMENT OF AGREEMENT AND TRANSFER OF INTEREST

A. FIRST PARTY shall not assign this agreement, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the CITY thereto, provided, however, that claims for money due or to become due to the FIRST PARTY from the CITY under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of an intended assignment or transfer shall be furnished promptly to the CITY.

B. In the event there is a change of more than 30 percent of the stock ownership or ownership in FIRST PARTY from the date of this agreement is executed, then CITY shall be notified before the date of said change of stock ownership or interest and CITY shall have the right, in event of such change in stock ownership or interest, to terminate this agreement upon notice to FIRST PARTY. In the event CITY is not notified of any such change in stock ownership or interest, then upon knowledge of same, it shall be deemed that CITY has terminated this agreement.
7. INDEPENDENT WORK CONTROL

It is expressly agreed that in the performance of the service necessary for compliance with this agreement, FIRST PARTY shall be and is an independent contractor and is not an agent or employee of CITY. FIRST PARTY has and shall retain the right to exercise full control and supervision of the services and full control over the employment, direction, compensation and discharge of all persons assisting FIRST PARTY in the performance of FIRST PARTY's services hereunder. FIRST PARTY shall be solely responsible for its own acts and those of its subordinates and employees.

8. CONSULTANT QUALIFICATIONS

It is expressly understood that FIRST PARTY is licensed and skilled in the professional calling necessary to perform the work agreed to be done by it under this agreement and CITY relies upon the skill of FIRST PARTY to do and perform said work in a skillful manner usual to the profession. The acceptance of FIRST PARTY’s work by CITY does not operate as a release of FIRST PARTY from said understanding.

9. NOTICES

All notices hereby required under this agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid or by overnight courier service. Notices required to be given to CITY shall be addressed as follows:

Nicole H. Nagaya
Public Works
City of Menlo Park
701 Laurel St.
Menlo Park, CA 94025
650-330-6740
nmmelgar@menlopark.org

Notices required to be given to FIRST PARTY shall be addressed as follows:
Frank Bombardier
Bartlett Tree Experts
882 Camden Avenue
Campbell, CA 95008
408-358-7888
fbombardier@bartlett.com

Provided that any party may change such address by notice, in writing, to the other party and thereafter notices shall be addressed and transmitted to the new address.

10. HOLD HARMLESS

The FIRST PARTY shall defend, indemnify and hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants from all claims, suits or actions that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the FIRST PARTY brought for, or on account of, injuries to or death of any person or damage to property resulting from the performance of any work required by this agreement by FIRST PARTY, its officers, agents, employees and servants. Nothing herein shall be construed to require the FIRST PARTY to defend, indemnify or hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants against any responsibility to liability in contravention of Section 2782.8 of the California Civil Code.
11. INSURANCE

A. FIRST PARTY shall not commence work under this agreement until all insurance required under this Section has been obtained and such insurance has been approved by the City, with certificates of insurance evidencing the required coverage.

B. There shall be a contractual liability endorsement extending the FIRST PARTY's coverage to include the contractual liability assumed by the FIRST PARTY pursuant to this agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the CITY, at the address shown in Section 9, of any pending cancellation of the policy. FIRST PARTY shall notify CITY of any pending change to the policy. All certificates shall be filed with the City.

1. Workers' compensation and employer's liability insurance:
   The FIRST PARTY shall have in effect during the entire life of this agreement workers' compensation and Employer's Liability Insurance providing full statutory coverage. In signing this agreement, the FIRST PARTY makes the following certification, required by Section 18161 of the California Labor Code: "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this agreement" (not required if the FIRST PARTY is a Sole Proprietor).

2. Liability insurance:
   The FIRST PARTY shall take out and maintain during the life of this agreement such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this agreement from any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the FIRST PARTY's operations under this agreement, whether such operations be by FIRST PARTY or by any sub-consultant or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be not less than one million dollars ($1,000,000) per occurrence and one million dollars ($1,000,000) in aggregate, or one million dollars ($1,000,000) combined single limit bodily injury and property damage for each occurrence. FIRST PARTY shall provide the CITY with acceptable evidence of coverage, including a copy of all declarations of coverage exclusions. FIRST PARTY shall maintain Automobile Liability Insurance pursuant to this agreement in an amount of not less than one million dollars ($1,000,000) for each accident combined single limit or not less than one million dollars ($1,000,000) for any one (1) person, and one million dollars ($1,000,000) for any one (1) accident, and Three Hundred Thousand Dollars, ($300,000) property damage.

3. Professional liability insurance:
   FIRST PARTY shall maintain a policy of professional liability insurance, protecting it against claims arising out of the negligent acts, errors, or omissions of FIRST PARTY pursuant to this agreement, in the amount of not less than one million dollars ($1,000,000) per claim and in the aggregate. Said professional liability insurance is to be kept in force for not less than one (1) year after completion of services described herein.

C. CITY and its subsidiary agencies, and their officers, agents, employees and servants shall be named as additional insured on any such policies of Commercial General Liability and Automobile Liability Insurance, (but not for the Professional Liability and workers' compensation), which shall also contain a provision that the insurance afforded thereby to the CITY, its subsidiary agencies, and their officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy, and that if the CITY, its subsidiary agencies and their officers and employees have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.

D. In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, CITY, at its option, may, notwithstanding any other provision of this agreement to the contrary, immediately declare a material breach of this agreement and suspend all further work pursuant to this agreement.

E. Before the execution of this agreement, any deductibles or self-insured retentions must be declared to and approved by CITY.
### 12. PAYMENT OF PERMITS/LICENSES

Contractor shall obtain any license, permit, or approval if necessary from any agency whatsoever for the work/services to be performed, at his/her own expense, before commencement of said work/services or forfeit any right to compensation under this agreement.

### 13. RESPONSIBILITY AND LIABILITY FOR SUB-CONSULTANTS AND/OR SUBCONTRACTORS

Approval of or by CITY shall not constitute nor be deemed a release of responsibility and liability of FIRST PARTY or its sub-consultants and/or subcontractors for the accuracy and competency of the designs, working drawings, specifications or other documents and work, nor shall its approval be deemed to be an assumption of such responsibility by CITY for any defect in the designs, working drawings, specifications or other documents prepared by FIRST PARTY or its sub-consultants and/or subcontractors.

### 14. OWNERSHIP OF WORK PRODUCT

Work products of FIRST PARTY for this project, which are delivered under this agreement or which are developed, produced and paid for under this agreement, shall become the property of CITY. The reuse of FIRST PARTY’s work products by City for purposes other than intended by this agreement shall be at no risk to FIRST PARTY.

### 15. REPRESENTATION OF WORK

Any and all representations of FIRST PARTY, in connection with the work performed or the information supplied, shall not apply to any other project or site, except the project described in Exhibit "A" or as otherwise specified in Exhibit "A."

### 16. TERMINATION OF AGREEMENT

A. CITY may give thirty (30) days written notice to FIRST PARTY, terminating this agreement in whole or in part at any time, either for CITY’s convenience or because of the failure of FIRST PARTY to fulfill its contractual obligations or because of FIRST PARTY’s change of its assigned personnel on the project without prior CITY approval. Upon receipt of such notice, FIRST PARTY shall:
   1. Immediately discontinue all services affected (unless the notice directs otherwise); and
   2. Deliver to the CITY all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated or produced by FIRST PARTY in performing work under this agreement, whether completed or in process.

B. If termination is for the convenience of CITY, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.

C. If the termination is due to the failure of FIRST PARTY to fulfill its agreement, CITY may take over the work and prosecute the same to completion by agreement or otherwise. In such case, FIRST PARTY shall be liable to CITY for any reasonable additional cost occasioned to the CITY thereby.

D. If, after notice of termination for failure to fulfill agreement obligations, it is determined that FIRST PARTY had not so failed, the termination shall be deemed to have been effected for the convenience of the CITY. In such event, adjustment in the contract price shall be made as provided in Paragraph B of this Section.

E. The rights and remedies of the CITY provided in this Section are in addition to any other rights and remedies provided by law or under this agreement.

F. Subject to the foregoing provisions, the CITY shall pay FIRST PARTY for services performed and expenses incurred through the termination date.
### 17. INSPECTION OF WORK

It is FIRST PARTY's obligation to make the work product available for CITY's inspections and periodic reviews upon request by CITY.

### 18. COMPLIANCE WITH LAWS

It shall be the responsibility of FIRST PARTY to comply with all State and Federal Laws applicable to the work and services provided pursuant to this agreement, including but not limited to compliance with prevailing wage laws, if applicable.

### 19. BREACH OF AGREEMENT

A. This agreement is governed by applicable federal and state statutes and regulations. Any material deviation by FIRST PARTY for any reason from the requirements thereof, or from any other provision of this agreement, shall constitute a breach of this agreement and may be cause for termination at the election of the CITY.

B. The CITY reserves the right to waive any and all breaches of this agreement, and any such waiver shall not be deemed a waiver of any previous or subsequent breaches. In the event the CITY chooses to waive a particular breach of this agreement, it may condition same on payment by FIRST PARTY of actual damages occasioned by such breach of agreement.

### 20. SEVERABILITY

The provisions of this agreement are severable. If any portion of this agreement is held invalid by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect unless amended or modified by the mutual consent of the parties.

### 21. CAPTIONS

The captions of this agreement are for convenience and reference only and shall not define, explain, modify, limit, exemplify, or aid in the interpretation, construction, or meaning of any provisions of this agreement.

### 22. LITIGATION OR ARBITRATION

In the event that suit or arbitration is brought to enforce the terms of this agreement, the prevailing party shall be entitled to litigation costs and reasonable attorneys' fees. The Dispute Resolution provisions are set forth on Exhibit "B," 'Dispute Resolution' attached hereto and by this reference incorporated herein.

### 23. RETENTION OF RECORDS

Contractor shall maintain all required records for three years after the City makes final payment and all other pending matters are closed, and shall be subject to the examination and /or audit of the City, a federal agency, and the state of California.

### 24. TERM OF AGREEMENT

This agreement shall remain in effect for the period of October 19, 2020 through December 31, 2020 unless extended, amended, or terminated in writing by CITY.
25. ENTIRE AGREEMENT

This document constitutes the sole agreement of the parties hereto relating to said project and states the rights, duties, and obligations of each party as of the document's date. Any prior agreement, promises, negotiations, or representations between parties not expressly stated in this document are not binding. All modifications, amendments, or waivers of the terms of this agreement must be in writing and signed by the appropriate representatives of the parties to this agreement.

26. STATEMENT OF ECONOMIC INTEREST

Consultants, as defined by Section 18701 of the Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations, are required to file a Statement of Economic Interests with 30 days of approval of a contract services agreement with the City of its subdivisions, on an annual basis thereafter during the term of the contract, and within 30 days of completion of the contract.

Based upon review of the Consultant's Scope of Work and determination by the City Manager, it is determined that Consultant IS NOT required to file a Statement of Economic Interest. A statement of Economic Interest shall be filed with the City Clerk’s office no later than 30 days after the execution of the agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

FOR FIRST PARTY:

Signature
frank bombardier
10/21/2020
Printed name
frank bombardier
Title

APPROVED AS TO FORM:

Cara E. Silver, Interim City Attorney
10/21/2020

FOR CITY OF MENLO PARK:

Starla Jerome-Robinson
10/22/2020
Starla Jerome-Robinson, City Manager

ATTEST:

Judi A. Herren, City Clerk
10/22/2020
EXHIBIT “A” – SCOPE OF SERVICES

A1. SCOPE OF WORK

FIRST PARTY agrees to provide consultant services for CITY’s Public Works. In the event of any discrepancy between any of the terms of the FIRST PARTY’s proposal and those of this agreement, the version most favorable to the CITY shall prevail. FIRST PARTY shall provide the following services:
Provide consultant services set forth in Exhibit A-1, attached hereto.

FIRST PARTY agrees to perform these services as directed by the CITY in accordance with the standards of its profession and CITY’s satisfaction.

A2. COMPENSATION

CITY shall pay FIRST PARTY an all-inclusive fee of $40,000.00 as described in Exhibit "A," Scope of Services. All payments, shall be inclusive of all indirect and direct charges to the Project incurred by FIRST PARTY. The CITY reserves the right to withhold payment if the City determines that the quantity or quality of the work performed is unacceptable.

FIRST PARTY's fee for the services as set forth herein shall be considered as full compensation for all indirect and direct personnel, materials, supplies and equipment, and services incurred by FIRST PARTY and used in carrying out or completing the work.

Payments shall be monthly for the invoice amount or such other amount as approved by CITY. As each payment is due, the FIRST PARTY shall submit a statement describing the services performed to CITY. This statement shall include, at a minimum, the project title, agreement number, the title(s) of personnel performing work, hours spent, payment rate, and a listing of all reimbursable costs. CITY shall have the discretion to approve the invoice and the work completed statement. Payment shall be for the invoice amount or such other amount as approved by CITY.

Payments are due upon receipt of written invoices. CITY shall have the right to receive, upon request, documentation substantiating charges billed to CITY. CITY shall have the right to perform an audit of the FIRST PARTY's relevant records pertaining to the charges.

A3. SCHEDULE OF WORK

FIRST PARTY’S proposed schedule for the various services required will be set forth in Exhibit A-1.

A4. CHANGES IN WORK -- EXTRA WORK

In addition to services described in Section A1, the parties may from time to time agree in writing that FIRST PARTY, for additional compensation, shall perform additional services including but not limited to:
• Change in the services because of changes in scope of the work.
• Additional tasks not specified herein as required by the CITY.

The CITY and FIRST PARTY shall agree in writing to any changes in compensation and/or changes in FIRST PARTY's services before the commencement of any work. If FIRST PARTY deems work he/she has been directed to perform is beyond the scope of this agreement and constitutes extra work, FIRST PARTY shall immediately inform the CITY in writing of the fact. The CITY shall make a determination as to whether such work is in fact beyond the scope of this agreement and constitutes extra work. In the event that the CITY determines that such work does constitute extra work, it shall provide compensation to the FIRST PARTY in accordance with an agreed cost that is fair and equitable. This cost will be mutually agreed upon by the CITY and FIRST PARTY. A supplemental agreement providing for such compensation for extra work shall be negotiated between the CITY and the FIRST PARTY. Such supplemental agreement shall be executed by the FIRST PARTY and may be approved by the City Manager upon recommendation of the Department Head.
### A5. BILLINGS

FIRST PARTY’s bills shall include the following information: A brief description of services performed, project title and the agreement number; the date the services were performed; the number of hours spent and by whom; the current contract amount; the current invoice amount;

Except as specifically authorized by CITY, FIRST PARTY shall not bill CITY for duplicate services performed by more than one person. In no event shall FIRST PARTY submit any billing for an amount in excess of the maximum amount of compensation provided in Section A2.

The expenses of any office, including furniture and equipment rental, supplies, salaries of employees, telephone calls, postage, advertising, and all other expenses incurred by FIRST PARTY in the performances of this agreement shall be incurred at the FIRST PARTY’s discretion. Such expenses shall be FIRST PARTY’s sole financial responsibility.
EXHIBIT “B” - DISPUTE RESOLUTION

B1.0 All claims, disputes and other matters in question between the FIRST PARTY and CITY arising out of, or relating to, the contract documents or the breach thereof, shall be resolved as follows:

B2.0 Mediation
B2.1 The parties shall attempt in good faith first to mediate such dispute and use their best efforts to reach agreement on the matters in dispute. After a written demand for non-binding mediation, which shall specify in detail the facts of the dispute, and within ten (10) days from the date of delivery of the demand, the matter shall be submitted to a mutually agreeable mediator. The Mediator shall hear the matter and provide an informal opinion and advice, none of which shall be binding upon the parties, but is expected by the parties to help resolve the dispute. Said informal opinion and advice shall be submitted to the parties within twenty (20) days following written demand for mediation. The Mediator’s fee shall be shared equally by the parties. If the dispute has not been resolved, the matter shall be submitted to arbitration in accordance with Paragraph B3.1.

B3.0 Arbitration
B3.1 Any dispute between the parties that is to be resolved by arbitration as provided in Paragraph B2.1 shall be settled and decided by arbitration conducted by the American Arbitration Association in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, as then in effect, except as provided below. Any such arbitration shall be held before three arbitrators who shall be selected by mutual agreement of the parties; if agreement is not reached on the selection of the arbitrators within fifteen (15) days, then such arbitrator(s) shall be appointed by the presiding Judge of the court of jurisdiction of the agreement.

B3.2 The provisions of the Construction Industry Arbitration Rules of the American Arbitration Association shall apply and govern such arbitration, subject, however to the following:

B3.3 Any demand for arbitration shall be writing and must be made within a reasonable time after the claim, dispute or other matter in question as arisen. In no event shall the demand for arbitration be made after the date that institution of legal or equitable proceedings based on such claim, dispute or other matter would be barred by the applicable statute of limitations.

B3.4 The arbitrator or arbitrators appointed must be former or retired judges, or attorneys at law with last ten (10) years’ experience in construction litigation.

B3.5 All proceedings involving the parties shall be reported by a certified shorthand court reporter, and written transcripts of the proceedings shall be prepared and made available to the parties.

B3.6 The arbitrator or arbitrators must be made within and provide to the parties factual findings and the reasons on which the decisions of the arbitrator or arbitrators is based.

B3.7 Final decision by the arbitrator or arbitrators must be made within ninety (90) days from the date of the arbitration proceedings are initiated.

B3.8 The prevailing party shall be awarded reasonable attorneys’ fees, expert and non-expert witness costs and expenses, and other costs and expenses incurred in connection with the arbitration, unless the arbitrator or arbitrators for good cause determine otherwise.

B3.9 Costs and fees of the arbitrator or arbitrators shall be borne by the non-prevailing party, unless the arbitrator or arbitrators for good cause determine otherwise.

B3.10 The award or decision of the arbitrator or arbitrators, which may include equitable relief, shall be final, and judgment may be entered on it in accordance with applicable law in any court having jurisdiction over the matter.
NOTICE TO CLIENT:
Bartlett Tree Experts has entered this property for the specific purpose of writing this proposal, pursuant to the owner’s request. Bartlett Tree Experts makes no warranties and accepts no responsibility regarding the potential risks involving any trees on this property. Bartlett Tree Experts recommends having a qualified arborist inspect your property periodically to assist you in identifying potential risks or hazardous conditions related to your trees and shrubs. THIS IS NOT AN INVOICE.

Thank you for thinking of Bartlett for these services. If I have overlooked any of your immediate concerns, please let me know.

Pest Management:

Hardscape Disinfectant

SCOPE OF WORK
Bartlett Tree Experts offers to apply a disinfectant treatment according to label directions to specified hardscape areas at the client’s direction.

- Play area
  Standford Hills Park: 2400 Branner Dr.
  Sharon Park: 1100 Monte Rosa Drive
  Tinker Park: 1550 Santa Cruz Ave.
  Jack Lyle Park: 500 Arbor Rd.

- Play area
  Nealon Park: 800 Middle Ave.
  Burgess Park: 701 Laurel St.
  Menlo Childrens Center: 801 LaurelSt.
  Seminary Oaks Park: Seminary Drive @ Santa Monica

- Play area
  Willow Oaks Park: 490 Willow Rd.
  Belle Haven Child Development Center: 410 Ivy Dr.
  Belle Haven School Tot Lot: Ivy Drive and Chilco St.
Client: City of Menlo Park  
Attn: Brian P. Henry, Assistant Public Works Director  

Hamilton Park: 545 Hamilton Ave.  
Karl E. Clark Park: 313 Market Place  
Belle Haven Youth Center: 100 Terminal Ave  

Provide 10 treatments at $3,450.00 per treatment.


Amount: $34,500.00  
Total Amount: $34,500.00  

Once authorized the work is then scheduled and invoiced after work has been completed. Invoices are payable on receipt.

Here are our Payment Options:

1. Can set up automatic payments online @ www.bartlett.com

2. Once Invoiced: Can mail check in our return envelope provided, to our Corporate Office in Connecticut.

3. Once Invoiced: Can call in credit card to Local Office.

Thank you for thinking of Bartlett for your tree and shrub care needs.

Additional Information

Keep people and pets out of treated areas until sprays have dried. The pesticides listed above can be harmful if swallowed or absorbed through the skin or eyes. Avoid breathing vapors or spray mist. In the event of exposure wash thoroughly with soap and water, and launder clothing before reuse.

For your convenience, we have placed the pesticide labels, precautionary statements, material safety data sheets, as well as any pertinent consumer information notices relating to your proposed plant health care treatment, on our website at http://www.bartlett.com/productlabels/ for you to review. When accessing this website, simply go to the listed state in which the proposed treatment will take place, and review any of the information relating to your treatment options. If you have any questions, or if you wish to receive any of the treatment information separately, please contact your local Bartlett office. We will be happy to answer any questions, or provide you with this information on a CD Rom or paper if you prefer.
NOTICE OF RIGHT TO CANCEL: You, the homeowner or tenant (client) have the right to require the contractor to furnish you with a performance and payment bond. If a performance or payment bond is requested, the client understands that the cost of such a bond will be added to the original proposed price for the services, and such cost will be assumed by the client. You, the client, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. Or if this is a contract for the repair of damages resulting from an earthquake, flood, fire, hurricane, riot, storm, tidal wave, or other similar catastrophic occurrence, you the client may cancel this transaction at any time prior to midnight of the seventh business day after the date of this transaction. Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint is filed within three years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, CA 95826.

CONDITION(S) OF PROPOSAL
Disinfectants are antimicrobial pesticides used to control, prevent, or destroy harmful microorganisms on inanimate objects or surfaces. Bartlett Tree Experts uses disinfectants that are registered by the Environmental Protection Agency with active ingredients that are recommended for treating a range of microorganisms. While no treatment can prevent disease or guarantee the destruction of every pathogen on a property, Bartlett Tree Experts will use each disinfectant product in accordance with the manufacturer's label directions, the Center for Disease Control guidelines, and the Environmental Protection Agency recommendations. The owner or property manager should keep people and pets away from treated areas until dry, and determine the need for follow up treatments based on site conditions and use. This product is phytotoxic to plants, flowers, and turf areas.

Please review the information and the terms and conditions attached, which become part of the agreement, and sign and return one copy authorizing the program.

__________________________________________________________________________
(Customer Signature) (Date)

__________________________________________________________________________
(Customer Email Address) 10/15/2020

(Bartlett Representative - Frank Bombardier) (Date)

Prices are guaranteed if accepted within thirty days.
All accounts are net payable upon receipt of invoice.
Work is done in accordance with ANSI A300 Tree Care Standards.

To access a certificate of liability insurance for Bartlett Tree Experts, please navigate to http://www.bartlett.com/BartlettCOI.pdf
STAFF REPORT

City Council
Meeting Date: 10/13/2020
Staff Report Number: 20-227-CC

Regular Business: Adopt Resolution No. 6592 authorizing the city manager to safely reopen public playgrounds with restrictions to comply with public health orders and prevent the spread of COVID-19; and appropriate $49,500 for required playground cleaning, handwashing stations and signage

Recommendation

Staff recommends that City Council:

1. Authorize the city manager to rescind the portion of the Emergency Order No. 2 (Attachment D) issued March 27, that closed City-owned playgrounds;
2. Direct staff to reopen City-owned playgrounds with substantial restrictions to comply with state and local health requirements and prevent the community spread of COVID-19; and,
3. Amend the fiscal year 2020-21 operating budget to include a new appropriation in the amount of $49,500 for required playground cleaning, handwashing stations and signage.

Policy Issues

The City Council provides policy direction to the city manager regarding service provision to the community; authorizes expenditures of City funds; approves or ratifies local emergency orders and/or their rescission; and sets prioritization for the use of City resources to serve the community.

Background

On March 27, the City of Menlo Park issued Emergency Order No. 2 which closed all City facilities to the public, including City-owned playgrounds, to protect public health and safety from the COVID-19 pandemic.

On September 28, the California Department of Public Health (CDPH) issued new guidance on usage of outdoor public playgrounds which allows local communities to reopen these facilities with several restrictions to prevent the spread of COVID-19.

Analysis

COVID-19 continues to pose a substantial public health risk to the community and requires all people in California to follow necessary precautions to prevent the spread of the virus and protect those who are most vulnerable to severe illness and death.

New guidance issued by CDPH allows communities in San Mateo County the flexibility to safely reopen their public playgrounds in a limited fashion at this time if they so choose, but specifies a series of
requirements and mitigations to maintain a safe environment for children and families.

A complete list of the CDPH requirements is included in Attachment B. Significant requirements for playground visitors include:

- All playground visitors over the age of two years must wear face coverings at all times
- All playground visitors, including children and adults, must maintain social distance from others at all times
- All children must be actively supervised by an adult caregiver at all times to ensure that children wear face coverings and maintain social distance from others at all times
- All playground users must wash or sanitize hands before and after using the playground
- No eating or drinking are allowed in the playground
- All playground visitors must abide by the posted maximum number of children allowed in the playground.
  When the number of visitors in a playground has reached the posted maximum, no additional visitors may enter until the number of visitors in the playground decreases
- Playground users must limit visits to no more than 30 minutes per day when others are present.

The new CDPH guidance also outlines multiple recommended mitigations for playground operators that would result in significant new financial cost to the City of Menlo Park if City-owned playgrounds were to reopen at this time. Estimated costs to implement these steps are summarized in the “Impact on City Resources” section of this report.

- Increase cleaning of frequently touched surfaces
- Provide handwashing stations and/or hand sanitizing stations
- Post the maximum number of children allowed at the entrance to each playground
- Post signage at each playground containing information about the various rules, restrictions and requirements of playground use.

The City of Menlo Park owns and operates 14 playgrounds located throughout the city. A list of City-owned playgrounds is included in Attachment C.

City staff has conferred with counterparts in the other cities throughout San Mateo County to learn what those communities are planning with respect to their playgrounds. Most, if not all cities in San Mateo County are making plans to safely reopen public playgrounds with reduced capacity per the CDPH requirements by the end of October, and most are preparing to clean playgrounds on a weekly basis.

Since the new CDPH guidance was announced September 28, staff has received multiple community requests to reopen playgrounds to provide Menlo Park children and families the opportunity to safely engage in outdoor play on these facilities.

In light of all the above, City staff recommend the following next steps:

1. Rescind the portion of the Emergency Order No. 2 that closed City-owned playgrounds
2. Safely reopen all City of Menlo Park owned playgrounds with CDPH restrictions and precautions no later than October 29
3. Amend the fiscal year 2020-21 Operating Budget to include a new appropriation for the costs of safely reopening all 14 City-owned playgrounds in compliance with CDPH requirements
4. Acquire and post signage at each playground as outlined in the CDPH guidance
5. Provide handwashing stations at each playground starting when the playgrounds reopen, and maintain them on a regular basis through the remainder of the current calendar year
6. Clean each playground on a weekly basis starting when the playgrounds reopen and through the remainder of the current calendar year
7. If the CDPH requirements remain in effect at the end of the calendar year, or if the requirements
Staff Report #: 20-227-CC

materially change before the end of the calendar year, staff will return to City Council with new or additional recommendations accordingly.

Impact on City Resources

The estimated total cost to safely reopen all 14 City-owned playgrounds is $49,500 and includes the cost of new signage, handwashing stations, and cleaning regimens through the end of the calendar year. A breakdown of the estimated costs is provided in Table 1.

<table>
<thead>
<tr>
<th>Item</th>
<th>Estimated cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weekly cleaning of 14 playgrounds at $4,000/week for 10-weeks</td>
<td>$40,000</td>
</tr>
<tr>
<td>Handwashing stations at 14 playgrounds plus regular maintenance for 12-weeks (vendor contract duration)</td>
<td>$6,500</td>
</tr>
<tr>
<td>New signage at 14 playgrounds</td>
<td>$3,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$49,500</strong></td>
</tr>
</tbody>
</table>

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

A. Resolution No. 6592  
B. State of California – COVID-19 guidance on outdoor playgrounds  
C. List of City of Menlo Park playgrounds  
D. Emergency Order No. 2

Report prepared by:  
Sean Reinhart, Library and Community Services Director  
Adriane Lee Bird, Assistant Community Services Director  
Brian Henry, Assistant Public Works Director  
Clay Curtin, Public Engagement Manager

Report reviewed by:  
Starla Jerome-Robinson, City Manager  
Cara Silver, Interim City Attorney
RESOLUTION NO. 6592

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
AMENDING THE FISCAL YEAR 2020-21 OPERATING BUDGET TO
APPROPRIATE $49,500 FOR EXPENDITURES RELATED TO SAFELY
REOPENING CITY-OWNED PLAYGROUNDS; AND AUTHORIZING THE CITY
MANAGER TO RESCIND THE PORTION OF EMERGENCY ORDER NO. 2
RELATED TO CITY-OWNED PLAYGROUNDS

WHEREAS, on March 27, 2020, the City of Menlo Park issued Emergency Order No. 2 that
closed all City facilities to the public, including City-owned playgrounds, to protect public health
and safety from the COVID-19 pandemic; and

WHEREAS, on September 28, 2020, the California Department of Public Health (CDPH) issued
new guidance on usage of outdoor public playgrounds which allows local communities to
reopen these facilities with several restrictions to prevent the spread of COVID-19; and

WHEREAS, the CDPH guidance includes multiple new requirements for playground operators
that would result in significant new financial cost to the City of Menlo Park if City-owned
playgrounds were to reopen at this time; and

WHEREAS, the City Council acknowledges the desire of community members to reopen
playgrounds to provide Menlo Park children and families the opportunity to safely engage in
outdoor play on these facilities;

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Menlo Park hereby
amends the fiscal year 2020-21 operating budget to appropriate $49,500 for expenditures
related to safely reopening City-owned playgrounds; and authorizes the city manager to rescind
the portion of Emergency Order No. 2 related to City-owned playgrounds.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City
Council Resolution was duly and regularly passed and adopted at a meeting by said City
Council on the thirteenth day of October 2020, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City
on this thirteenth day of October, 2020.

____________________________________
Judi A. Herren, City Clerk
State of California—Health and Human Services Agency
California Department of Public Health

September 28, 2020

TO: All Californians

SUBJECT: Outdoor Playgrounds and other Outdoor Recreational Facilities

Summary

COVID-19 continues to pose a severe risk to communities and requires all people in California to follow necessary precautions and to adapt the way they live and function in light of this ongoing risk. This guidance provides direction on usage of outdoor playgrounds and outdoor recreational facilities (hereafter facilities), to support a safe environment for children and families. It applies to outdoor playgrounds located in parks, campgrounds, and other publicly accessible locations. This guidance does not apply to indoor playgrounds or family entertainment centers.

Outdoor Playground Definition:

- Fully outdoors
- Publicly accessible
- Free to enter and use
- Operated by a city, state, county, or federal government
- Designed primarily to serve nearby residents within a half a mile
- Can provide State-mandated outdoor space for preschools (which could be scheduled in advance to avoid overlapping use)
- Typically includes recreational equipment, like play structures, slides, swings, etc. intended to enrich children's physical health and development

Visitors to outdoor community playgrounds must comply with the following requirements:

1. Face masks over the mouth and nose are required for everyone 2 years of age or older with caregiver supervision at all times to ensure face mask use.

2. Do not use the playground when different households are unable to maintain a physical distance of 6 feet or when the capacity limit has been reached.

3. Caregivers must monitor to keep adults and children from different households at least 6 feet apart.

4. Consider coming on different times or days to avoid wait times and potential crowded times.

5. No eating or drinking in playground, to ensure face masks are worn at all times.

6. Wash or sanitize hands before and after using the playground.

7. Elderly and persons with underlying medical conditions should avoid playground when others are present.
8. Limit visit to 30 min per day when others are present

**Note:** Facility operators should download and print this flyer to post at all outdoor playgrounds.

**All playground facilities operators should review and follow these recommendations:**

1. An adult must actively supervise each child at all times to make sure that children two years of age or older keep their face covering over their nose and mouth and stay 6 feet away from adults and children outside their household.
   a. Children who are supervised by the same adult must stay together in the same play area or play structure at all times, to allow active supervision.
   b. If an infant or child requires attention (nursing, diapering) that precludes an adult from actively supervising other children using the playground, the adult should ask the other children to leave the play structure/area and stay by the adult’s side until needed care is complete.
2. People standing outside the playground, including people waiting to enter the playground, should remain 6 feet away from areas of the playground used by children and adults.
3. Maintain six-foot distancing between children and adults from different households including children using or waiting to use play structures or play areas, and families waiting to enter the playground.
4. Increase cleaning of frequently touched surfaces, daily as practicable.
5. To the extent feasible, provide handwashing stations or sanitizer to facilitate hand hygiene, especially during times of heavy usage. Use a hand sanitizer containing (60% ethanol or 70% isopropanol). Never use hand sanitizers with methanol due to its high toxicity to both children and adults.
6. Post the maximum number of children allowed at the entrance of each playground.
   a. Determine and post the maximum occupancy of each play structure, (e.g., climbing structures, slides, swings, spinning structures, and sand areas) with 6 foot vertical and horizontal distancing.
   b. Determine and post the maximum occupancy for supervising adults to ensure that each adult can maintain six feet of distance from other adults and children.
   c. Provide directions on how to wait in line when maximum playground occupancy has been reached.
7. Mark playgrounds to help children and adults maintain 6 foot distancing.
   a. Mark spaces for families to stand while waiting to enter the playground. The spaces should be far enough apart to allow 6 feet of distance between households.
   b. For play structures or play areas that can hold more than one child while allowing 6 foot distancing:
      i. Post the maximum number of children allowed on each structure/in each area to allow 6 foot distancing vertically and horizontally.
      ii. For play structures or areas that can hold more than 1 child, consider marking with tape or other visual indicators to help children assess whether they are 6 feet apart.
c. Mark designated spaces 6 feet apart for children to stand while waiting to use a play structure/area.

**Additional Considerations**

If there is a pre-scheduled activity that will access the playground, the playground must be closed to the broader public during that time.

Child care programs, schools, out-of-school time programs and other programs for children and youth where children must remain in cohorts may not use playgrounds during times when they are open to the public. However, if the playground operator permits, the childcare, school or other program may reserve a time for the exclusive use of the playground by the program. While on the playground, cohorts should maintain separation and avoid mixing.

California Department of Public Health
PO Box, 997377, MS 0500, Sacramento, CA 95899-7377
Department Website (cdph.ca.gov)

Page Last Updated: September 29, 2020
Due to the ongoing spread of COVID-19 in our communities, please follow these simple steps to help keep our outdoor playgrounds safe, open and fun.

✔ WEAR A MASK
Everyone 2 years and older should wear a mask covering their face.

✔ MAINTAIN DISTANCE
Maintain physical distance of 6 feet between individuals from different households and prevent crowding of children.

✔ NO FOOD OR DRINK
Do not eat or drink in playground to ensure face masks are worn at all times.

✔ WASH HANDS
Wash or sanitize your hands before and after you visit.

✔ PLAN AHEAD
Visit the park at different times or days to avoid crowds and waits.

✔ KNOW WHEN TO STAY HOME
Elderly individuals and people with underlying medical conditions should avoid playgrounds when others are present.

✔ SHARE OUR SPACE
To avoid crowding and allow everyone to use this space, please limit your visit to 30 minutes when others are waiting.
Debido a la propagación continua de Covid-19 en nuestras comunidades, siga estos pasos sencillos para ayudar a mantener nuestros parques infantiles al aire libre seguros, abiertos y divertidos.

✔ **USE UNA MASCARILLA**
Todas las personas mayores de dos años deben usar una mascarilla que cubra su cara.

✔ **MANTENGA DISTANCIA**
Mantén una distancia física de 6 pies entre personas de diferentes hogares y evite que se amontonen los niños.

✔ **NADA DE COMIDA NI BEBIDA**
No coma ni beba en el parque infantil para asegurarse que se usen mascarillas en todo momento.

✔ **LAVE MANOS**
Lávese y desinfecte sus manos antes y después de su visita.

✔ **PLANEA CON ANTICIPACIÓN**
Visite el parque en diferentes horarios o días para evitar demasiadas personas y esperas.

✔ **SEPA CUANDO QUEDARSE EN CASA**
Las personas mayores y las personas con condiciones médicas subyacentes deben evitar parques infantiles cuando hay otros presentes.

✔ **COMPARTE EL ESPACIO**
Para evitar aglomeraciones y permitir que todos usen el espacio, por favor limite su visita a 30 minutos cuando otros están esperando.

CITY OF MENLO PARK
CITY-OWNED PLAYGROUNDS
OCTOBER 13, 2020

BELLE HAVEN CHILD DEVELOPMENT CENTER*; 410 Ivy Drive
BELLE HAVEN SCHOOL TOT LOT; Ivy Drive and Chilco St.
BELLE HAVEN YOUTH CENTER*; 100 Terminal Avenue
BURGESS PARK; 701 Laurel St
HAMILTON PARK; 545 Hamilton Ave
JACK LYLE PARK; 500 Arbor Road
KARL E. CLARK PARK; 313 Market Pl
MENLO CHILDREN’S CENTER*; 801 Laurel Street.
NEALON PARK; 800 Middle Avenue
SEMINARY OAKS PARK; Seminary Drive at Santa Monica Avenue
SHARON PARK; 1100 Monte Rosa Drive
STANFORD HILLS PARK; 2400 Branner Drive
TINKER PARK; 1550 Santa Cruz Ave
WILLOW OAKS PARK; 490 Willow Road

*Childcare center playgrounds are dedicated for use by childcare program participants and are not open to the general public
CITY OF MENLO PARK DIRECTOR OF EMERGENCY SERVICES/CITY MANAGER
EMERGENCY ORDER NO. 2

WHEREAS, the Centers for Disease Control and Prevention has stated that based on current information a novel coronavirus named “COVID-19” is a serious public health threat;

WHEREAS, a complete clinical picture of this respiratory disease is not yet fully understood, though it is highly contagious;

WHEREAS, on March 3, 2020, and pursuant to Section 101080 of the California Health and Safety Code, the San Mateo County Health Officer (“Health Officer”) declared a local health emergency throughout San Mateo County related to COVID-19;

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to help the state prepare for the spread of COVID-19;

WHEREAS, on March 10, 2020, the Health Officer issued a statement on March 10, 2020, that evidence exists of widespread community transmissions of COVID-19 in San Mateo County; WHEREAS, on March 10, 2020, the San Mateo County Board of Supervisors ratified and extended the declaration of a local health emergency;

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 constituted a world pandemic;

WHEREAS, on March 11, 2020, the City Council of the City of Menlo Park declared a local emergency based on the current COVID-19 world pandemic and empowered the Director of Emergency Services to take all necessary actions;

WHEREAS, on March 14, 2020, the Health Officer prohibited all public or private gatherings of 50 of more people and urged the cancelation of all gatherings of 10 or more people in a single confined space;

WHEREAS, on March 16, 2020, the Health Officer issued an order that, among other things, directs all individuals currently living within San Mateo County to shelter in their place of residence (“Shelter-in-Place Order”), and authorizes individuals to leave their residences only for certain “Essential Activities”, “Essential Governmental Functions,” or to operate “Essential Businesses,” all as defined in the Shelter-in-Place Order;

WHEREAS, Government Code Section 8634 empowers the Director of Emergency Services to promulgate orders and regulations necessary to provide for the protection of life and property;

WHEREAS, during the existence of this local emergency, pursuant to Municipal Code Chapter 2.44, the City Manager as Director of Emergency Services is empowered to
make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency.

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order No. N-33-20 ordering all individuals in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors;

WHEREAS, the Governor empowered local cities to take actions to preserve and protect the health and safety of their communities in light of their own circumstances;

WHEREAS, the City Council desires to do what it can to help slow the spread of COVID-19, reduce the load on local hospitals and emergency rooms, prevent unnecessary deaths, and preserve limited resources in order to allocate them to the most critical projects; and

NOW, THEREFORE, the City Manager as the Director of Emergency Services does hereby make the following order:

1. Public Facilities Closures. For the duration of the local emergency, the following public facilities shall be closed to the public: City Hall; Arrillaga Family Recreation Center; Arrillaga Family Gymnasium; Arrillaga Family Gymnastics Center; Burgess Pool; Belle Haven Pool; Onetta Harris Community Center; Menlo Park Senior Center; Menlo Park Main Library and Belle Haven Branch Library; all public restrooms and playgrounds located in all public parks; Burgess Park skate park; all public tennis courts, and all public basketball courts.

2. Effective date. This order shall be effective immediately and shall terminate upon the earlier of (1) Director of Emergency Services order or (2) cessation of local emergency.

3. Enforcement. This order shall be enforceable as a misdemeanor as provided in Menlo Park Municipal Code Section 2.44.110.

Dated: 3/27/2020

______________________________
Director of Emergency Services

Approved as to form:

______________________________
Interim City Attorney