

PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT is made and entered into this _____ day of February, 2021 by and between CITY OF STEVENSON, a municipal corporation of the State of Washington, and hereinafter referred to as "CITY," and BARTLETT CONSULTING, hereinafter referred to as the "Contractor."

IN CONSIDERATION of the mutual promises, agreements, and covenants contained herein, it is hereby agreed, by and between the parties, as follows:

SECTION I Nature and Scope of Work

Contractor will perform services as set forth in the attached Exhibit "A." Contractor shall make oral reports, and prepare and submit written reports, in such form and frequency as required by CITY.

SECTION II Payment for Services & Expense Reimbursement

A. PAYMENT

Contractor shall be paid by CITY, for the work to be performed hereunder, as set forth in the attached Exhibit "A." Any payment made to Contractor, however, shall not constitute acceptance of the work, or any portion thereof, which is not in accordance with this contract.

B. TRAVEL

Contractor shall be reimbursed for actual transportation costs that are necessary for the performance of this contract, and which are pre-approved by the City Administrator. Any approved air travel by Contractor shall be limited to coach class (restricted fare). Travel by private auto shall be reimbursable at a rate not to exceed the Internal Revenue Service's current mileage reimbursement rate for business related travel. **If the Contractor is based outside Skamania County, any travel to and from the area shall require the prior approval of CITY's Clerk/Treasurer.**

C. TRAVEL EXPENSES

Contractor shall be reimbursed for the actual reasonable subsistence costs incurred, by Contractor, while traveling in performance of the services hereunder, not to exceed State per diem rates.

SECTION III

General Terms & Conditions

A. DURATION

This contract shall commence as of the date indicated below, and shall continue December 31st, 2021 or until terminated by either party giving the other party thirty (30) days written notice of such termination. Notice shall be deemed to have been given at the end of three (3) working days, after the deposit of the same in the United States mail, addressed to the other party, postage prepaid, at the address of the parties as hereinafter stated. In the event of cancellation by either party, the notice may specify the services that are to be performed after receipt of the notice until the date of termination. Unless stated otherwise, Contractor shall perform no further services upon receipt of notice of the termination. On or before termination or expiration of the thirty (30) day period, Contractor agrees to deliver to CITY all records, notebooks, files, materials, reports, data, and other information pertaining to the services performed for CITY. In the event of termination, CITY shall pay Contractor for all contract costs incurred prior to termination. Contractor shall not be entitled to compensation for lost profits or expectations of profit due to CITY's early termination of this contract.

B. RELATIONSHIP OF THE PARTIES

Contractor is an independent contractor of CITY. Nothing contained herein shall be deemed to create a relationship of employer and employee or of principal and agent. Unless specifically restricted by this agreement, Contractor may hold itself out to the general public for the provision of similar services. Upon CITY's request, Contractor shall advise CITY of the approximate workload of its existing and new clients and the possibility of any conflicts of interest that may arise.

C. ASSIGNMENT

Contractor shall not assign any interest in this contract, and shall not transfer any such interest to any third party, without CITY's prior written consent. Any subcontract entered into by Contractor, for work covered by this agreement, shall require prior approval by CITY.

D. DISCLOSURE

Contractor agrees to keep confidential any information obtained by Contractor, or its employees, or any person under its control in the course of the services performed under this contract, and to refrain from publishing or revealing any information acquired by Contractor in the course of these services, without the written consent of CITY.

Any knowledge or information acquired or provided by the Contractor to CITY related to services performed under this contract shall not be considered confidential or proprietary unless such designation is approved, in writing, by CITY's City Administrator. However, regardless of the designation of information provided by the Contractor, CITY does

not waive attorney-client privilege or similar protections afforded by law.

E. DISPUTES

Except as otherwise provided or agreed, any dispute relating to this contract which is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction upon the filing of a legal action by the aggrieved party. During the pendency of any dispute, Contractor shall proceed diligently with the performance of this contract. It is further agreed by Contractor that litigation shall be limited and confined exclusively to the appropriate state court located within the State of Washington. **Venue shall be in Skamania County unless otherwise agreed to by CITY.** This contract shall be governed in accordance with the laws of the State of Washington.

F. NONWAIVER

The failure of CITY to insist upon or enforce strict performance of any provision of this contract shall not be construed as a waiver or relinquishment to any future enforcement of such contractual term.

G. AUDIT RIGHTS/PUBLIC RECORD RETENTION

During this contract, and for six (6) years thereafter, CITY shall have the right to inspect Contractor's records pertaining to this contract and to perform an audit in accordance with generally accepted audit standards. The Contractor shall make these records available without charge to CITY. Contractor agrees to either provide CITY with a copy of all records relating to the contract, or to retain such records for the applicable public records retention period and promptly provide them to CITY in order to fulfill any public records requests submitted during the retention period. Failure to promptly provide said records shall constitute a default of this agreement and entitle CITY to attorney fees and costs to recover the records, plus require Contractor to indemnify CITY against any statutory penalties for failure to promptly comply with a lawful public records request.

H. WORK PRODUCT

All "Work Product," which shall contain, without limitation, all documentation, data, studies, surveys, drawings, maps, photographs, and any object or source code for any software developed pursuant to or in connection with this contract, as well as any copyrights, patents, trade secrets, trademarks, or other intellectual property developed for or in connection with this contract, shall be work for hire and shall be the property of CITY. Contractor does hereby transfer and assign any rights that it has in the Work Product, or that may arise out of or in connection with this contract, to CITY. CITY's rights to the Work Product shall survive termination of this contract.

I. INSURANCE - HOLD HARMLESS

Contractor shall procure and maintain, during the life of this contract, the insurance policies

and associated limits listed below to protect it, and any subcontractor performing work under this contract, from claims for damages from personal injury, including death resulting therefrom, as well as from claims for property damage which may arise under this contract, whether such work is performed by Contractor or by any subcontractor, or by anyone directly or indirectly employed by either of them. Upon demand, Contractor shall provide CITY with copies of all applicable insurance policies.

General Liability	\$1,000,000 per claim/\$2,000,000 aggregate
Automobile Liability	\$1,000,000
Worker's Compensation	\$1,000,000
Professional Liability	\$1,000,000 per claim

CITY and Contractor ("Party" or "Parties") hereby agree to indemnify and hold harmless the other Party, its appointed and elective officers, and its employees, from and against any and all suits, claims, actions, losses, costs, penalties, fines, and damages of whatever kind and nature, including attorney fees and costs, by reason of any and all claims and demands on it, its officers and employees, as may be caused by the negligence or willful misconduct of the indemnitee, its agents or employees, (or anyone directly or indirectly employed or engaged by the indemnitee, including subcontractors) to perform or observe any term or condition of this contract, or for any act or inaction of the indemnitee in connection with or incident to the work covered by this contract. It is the intent of the Parties hereto that, where negligence is determined to have been contributory, principles of comparative negligence will be followed and each Party shall bear the proportionate costs of any loss, damage, expense and liability attributable to that Party's negligence.

In any and all claims against CITY by any employee of Contractor, the indemnification and hold-harmless obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor under workers' compensation acts, disability acts, or other employee benefits acts, AND THE CONTRACTOR SPECIFICALLY AND EXPRESSLY WAIVES ANY IMMUNITY UNDER SUCH ACTS.

J. WARRANTY

Contractor agrees that services performed as specified in Exhibit "A" shall be performed in a manner consistent with the highest professional standards and industry practices acceptable in the trade.

K. SEVERABILITY

The invalidity or unenforceability of any provision of this contract shall not affect the other provisions hereof, and this contract shall be construed, in all respects, as if such invalid or unenforceable provisions were omitted.

L. HEADINGS

The headings used in sections of this contract are for convenience of reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the provisions of such sections of this contract.

M. CONSEQUENTIAL DAMAGES

Notwithstanding any other provision of this contract, and to the fullest extent permitted by law, neither CITY nor Contractor, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the project or to this contract.

N. ENTIRE AGREEMENT

Contractor and CITY understand and agree that this document constitutes the entire understanding between the parties regarding the work or services described herein, and that this contract supersedes all other prior agreements and understandings, whether oral or written. This contract shall not be modified or amended, except in writing, signed by both parties.

[Signatures appear on next page]

IN WITNESS WHEREOF, the parties have executed this contract at Stevenson, Washington, this _____ day of _____, 20_____.

CITY OF STEVENSON

By: _____
_____, its Mayor

Approved as to form

Kenneth B Woodrich,
City Attorney

CONTRACTOR

By: _____

Name & Title

Mailing Address

Telephone Number

Federal Tax ID Number

UBI#

SCOPE OF WORK – EXHIBIT A

(Describe scope of services or attach proposal)



BARTLETT CONSULTING

A DIVISION OF THE F.A. BARTLETT TREE EXPERT COMPANY

PROPOSAL FOR CONSULTING SERVICES FOR THE STEVENSON PUBLIC TREE INVENTORY AND MANAGEMENT PLAN

Offer To:

Ben Shumaker, Planning Director
City of Stevenson
7121 E. Loop Road
Stevenson, WA 98648
1(509)427-5970
ben@ci.stevenson.wa.us

From:

Paul Thompson, Consultant
Urban Forestry Services | Bartlett Consulting
15119 McLean Rd,
Mount Vernon, WA 98273
1(360)428-5810 (office)
pthompson@bartlett.com

Date: February 18, 2021

Location of Work:

City of Stevenson, Washington

Overview:

The City of Stevenson has received a grant to conduct a tree inventory, prepare a management plan, engage the community, and train personnel. Bartlett Consulting submitted qualifications and interviewed with the City in January 2021. The City requested a fee proposal for Bartlett Consulting to perform these services. The following are the specific scope of services Bartlett Consulting shall provide and associated fees:

Specific Scope of Work:

Task 1 – Public Involvement Plan

- Project website; provide support for content (up to 3 hours.)
- Virtually interview Stevenson staff about challenges, goals, values, budgets, resources, and measures of success for public trees (up to 2 hours).
 - Work with city staff to identify up to 1,000 trees to include in the inventory.
- Virtually attend a Stevenson community meeting where we introduce the process of a tree inventory and management plan (up to 2 hours).
 - Ask for input on challenges, goals, and community values.
 - Provide opportunities for proactive community engagement.
- Identify key challenges and goals to be addressed in the inventory and management plan.

Deliverables:

- Public involvement plan -
- Project website
- Content for pre-project press release promoting the project and project website
- Content for public tree visioning meeting minutes
- Content for post-project summary story
- Content for bi-annual and final project reports

Task 2 - Tree Inventory

- Inventory trees designated by City of Stevenson staff in identified areas up to, but not exceeding, a quantity of 1,000 trees or completion of the specified area containing this quantity of trees. Exceptions include specific areas where groups of trees will be considered as one.



- Inventoried trees will be physically tagged/assigned with a corresponding number that will be referenced within the final deliverable(s).
- Additional Tree Inventory Specifications are provided after Task 4 below.

Deliverables: Provide City of Stevenson with access to ArborScope™ (see licensing agreement below)

- GPS-based tree inventory form with robust data dictionary based on DNR data standards
- Completed tree inventory
- Summary report on changes over time 1986, 2009, 2020 (up to 3 hours)
- GIS- and Google Earth-compatible map data displaying tree inventory
- City staff to perform quality assurance checks on collected data
- Four (4) partner agencies participating in inventory

Task 3 – Public Tree Management Plan

- Analyze the data on public trees related to challenges, goals, and measures of success in Task 1.
 - Include species, condition, maintenance, risk, mitigation actions, and costs
 - Develop pruning rotation and tree management plan
- Recommend actions across various priority levels to accomplish goals related to public trees included in the inventory.
 - Identify pathways for community engagement
 - Identify funding source and partnership opportunities
 - Identify opportunities to meet the Tree City USA requirements for further Washington state Urban Forestry Program assistance and education.
- Virtually meet with Stevenson staff to review key findings and recommendations (up to 2 hours).
- Virtually attend a Stevenson community meeting where Bartlett reviews key findings and recommendations (up to 4 hours).
- Incorporate Stevenson staff and community recommendations and edit draft Public Tree Management Plan.

Deliverables: Prepare a Public Tree Management Plan covering publicly owned trees.

- Three (3) Partner Agencies Participating in Management Plan.
- A list of ongoing, immediate, mid-range and long-range maintenance needs
- A decision matrix for selecting demonstration projects
- Three (3) actionable demonstration projects identified
- Actionable descriptions of selected demonstration projects
- Graphic illustrations of appropriate maintenance practices
- Maintenance log forms for tracking City changes to the tree inventory
- Procedures to update inventory and maps using maintenance logs

Task 4 – Maintenance Training

- Train on arboriculture and inventory maintenance for up to 12 hours. Suggested breakdown:
 - Virtual – Staff – Writing and enforcing pruning specifications (up to 2 hours)
 - In the field – Staff, contractors, and/or public – pruning techniques (up to 4 hours)



- In the field – Tree planting, care, and tree management education event to culminate the project (up to 4 hours)
- Virtual ArborScope™ training in inventory update (including maintenance logs), how to query data, produce and update maps, other data management and use (up to 2 hours)

Deliverables:

- Sixty (60) City Staff Training Hours
- Forty (40) Partner Agency and Public Training Hours

Additional Tree Inventory Specifications:

A professional Bartlett Tree Experts Regional Inventory Arborist with the International Society of Arboriculture (ISA) Certified Arborist® certification and ISA Tree Risk Assessment Qualification will perform this service, as set forth below. The service will be conducted to evaluate the structural integrity of the specified tree or trees and will include a report to the Client (and/or Owner) stating tree risk potential and recommendations for mitigating the risks associated with the designated subject tree(s).

Bartlett Tree Experts will perform the service in a safe, professional manner. The service can occur within 60 days of receiving a signed proposal, at a time mutually agreeable to the parties.

A separate proposal will be submitted for all recommended work.

- The tree inventory will include the use of a GPS device to record field information about trees identified during the tree inventory. The tree inventory will include the recording of such information as the need for; a more in-depth evaluation, a structural inspection of the tree trunk, a further inspection of roots/root flare, an aerial inspection of the tree, pruning, the installation of structural support systems, the installation of lightning protection systems, soil management, pest management, or the need for tree removal.
- Attributes collected for each tree will include:
 - Tree Identification Number
 - Tree Botanical Name and Common Name
 - DBH (Diameter at Breast Height, diameter at 4.5 feet height above grade)
 - Condition Class
 - Age Class (New planting, Young, Semi-mature, Mature, Over-mature)
 - Height Class (Large, Medium, Small)
 - Estimated Canopy Radius (+/-5 ft.)
 - Root Zone Infringement (<25%, 25-50%, 51-75%, >75%)
 - Soil Care (Root Invigoration™, Soil Rx®)
 - Tree and Shrub Work:
 - Recommendations such as Tree pruning, Tree removal, Cabling or brace rod installation, and/or Lightning protection system installation
 - Phase (ASAP, 1, 2, 3, 4, or 5)
 - Category (Risk mitigation, Maintenance, Developmental, Ornamental, Specialized)
 - Observed Tree Defects
 - Observed Pests/Diseases



- Plant Health Care Recommendations
- Estimated Tree Asset Value
- *Level 2 Basic Assessment* for Tree Risk:
 - Date of inspection
 - High-value *targets* within the *target zone* of the tree(s)
 - Description of tree part(s) and associated observed defect(s)
 - *Likelihood of failure, the likelihood of impact, and consequences*
 - *Overall risk rating* for the subject tree(s)
 - Risk mitigation recommendations and/or options
 - Recommendations for *Level 3 Advanced assessment*.
- If the estimated tree asset value has been selected as the desired attribute, Bartlett will use an average per square inch nursery price, size (DBH), species factor, condition factor, and location factor to estimate the tree's asset value. This is not intended to replace a tree appraisal.
- The tree inventory includes a *Level 2 Basic Assessment*, as defined in the *International Society of Arboriculture's (ISA) Best Management Practices for Tree Risk Assessment* and *ANSI A300 Tree Risk Assessment Standard*:
 - The *Level 2 Basic Assessment* will be conducted from the ground.
 - The *Level 2 Basic Assessment* will be conducted for the *target(s)*, and estimated *occupancy rates*, determined after consultation with the Owner and/or after site review by the Regional Inventory Arborist, and mutually agreeable to the parties.
 - The *Level 2 Basic Assessment* will focus on identifying tree(s) or tree part(s) with a *probable or imminent likelihood of failure*, that is adjacent to the specific *target(s)* identified after consultation with the Owner and/or after site review by the Regional Inventory Arborist and could impact the *target(s)*.
 - Trees will be visually assessed following the *International Society of Arboriculture's (ISA) Best Management Practices for Tree Risk Assessment* and/or applicable industry standards. The *likelihood of failure* assessment, the *likelihood of impacting a target* estimation, and *consequences of failure* categorization will occur in the field so the *overall risk rating* can be determined. The *overall risk rating* assigned to the inventoried tree will correspond to the highest risk rating associated with the inventoried tree. This rating scale will serve to help the Owner or tree manager prioritize and schedule remedial treatments.
 - The *time frame* to be considered for the assessment services described above will be 3 years. This means that the specified *time frame* is used by the assessor in the risk assessment process to help determine the *overall risk rating* of the assessed tree for that period. It does not mean that the *overall risk rating* will stay the same over the specified *time frame*. Per industry standards, the Owner should not consider the specified *time frame* a "guarantee period" for the risk assessment's *overall risk rating*.
 - Risk assessment information is to be considered valid and current at the time and date of inspection.



- Tree risk assessment definitions have been provided in the Tree Risk Assessment Definition document provided with this proposal.
- For some trees, failure potential and risk cannot always be assessed by visual inspection from the ground during *Level 2 Basic Assessments* without additional work being performed, such as; the removal of soil or mulch covering a root flare, a root collar excavation, or a climbing inspection. Any separate services necessary to perform the *Level 2 Basic Assessments* will be recommended as needed, and a cost estimate to perform these services will be provided separately from this estimate and the resulting report or deliverable(s).
- For some trees, more detailed *Level 3 Advanced Assessments* may be required before further analysis and assessment of observed decay or defects can take place, which may be conducted using one or more of the following; decay detection with a drill, decay detection with a resistance-recording drill, decay detection with sonic tomography, decay detection with a decay detection device, soil excavation around the root collar/roots, root decay detection through drilling, root collar decay detection through drilling, aerial inspection with a tree climber, aerial inspection with an aerial lift device, aerial inspection with a drone device, installation of a device to measure the change in trunk angle, load testing by putting a rope in the tree to apply force and monitor tree movement.
- If a *Level 2 Basic* or *Level 3 Advanced Assessment* is recommended by the assessor or requested by the Owner, a cost estimate to perform these services will be provided separately from this resulting report or deliverable(s).
- Recommendations for preventative and remedial actions as outlined in the *International Society of Arboriculture's (ISA) Best Management Practices for Tree Risk Assessment* and applicable industry standards, will be provided for each tree designated with an *overall risk rating* above *low* to mitigate risk to acceptable levels, or for other treatment needs, as determined by the Owner. Treatment considerations can include, but are not limited to:
 - Pruning
 - Installation of supplemental structural supports
 - Installation of lightning protection systems
 - Regulate tree growth
 - Improve tree health with soil treatments
 - Improve tree health with pest management
 - Root collar excavation
 - Remove stem girdling
 - Remove tree
 - Move *target*
 - Restrict access for *target*
 - Reduce irrigation
 - Retain and monitor
 - Modify site
 - The need for follow-up inspections and analyses.



- The specific tree(s) described in the Specific Scope of Work will be the only tree(s) on the property visually assessed and included with these assessment services.
- Bartlett Tree Experts can inventory trees that have ropes courses, zip lines, swings, treehouses, or any other life support system attached for several different attributes; however, Bartlett Tree Experts is unable to provide tree risk assessment information on such trees, nor is Bartlett Tree Experts able to determine whether the correct hardware has been used, the systems are attached to the trees correctly, or whether the trees can withstand the additional forces that are placed on the tree or trees from such systems or structures. Bartlett Tree Experts does not recommend that any hardware or structures, other than those recommended by and installed by qualified arborists to aid the tree in structural support or protection from lightning, be installed in or attached to any tree(s). Bartlett Tree Experts recommends removing or discontinuing the use of, any such system or recreational structure until the Client hires or consults with an engineer/specialist that deals specifically with ropes courses, zip lines, swings, treehouses, or any other life support systems and how they attach to and impact trees to determine if the trees can handle the forces being placed on them.

If Bartlett Tree Experts observes an immediate safety issue with a tree with any such device attached, such as the presence of a dead, dying, or broken limb that could fall and injure a person or damage property, Bartlett Tree Experts may make a recommendation to remove or prune such a limb or otherwise mitigate the obvious safety issue. However, the Client should not infer that following such a recommendation and mitigating the immediate safety issue makes the tree in question safe for the use of the attached device or feature.

- Visual inspections will be performed and recommendations will be developed by ISA Certified Arborists who have had specific training in tree risk assessment.
- By signing this proposal, the Client (and/or Owner) is confirming that they own the property, or have been given permission by the Owner to make management decisions concerning the trees on the said property, in which case, confirmation of this permission will be provided to Bartlett Tree Experts. If the Client does not own the property, it will be the responsibility of the Client to inform the Owner of any risks, safety hazards, conditions, or defects as they relate to trees identified in the final deliverables provided by Bartlett Tree Experts, and a copy of the final deliverables will be provided to the Owner.

Condition of Proposal:

Prior to conducting the inventory and *Level 2 Basic Assessments*, the Owner must recognize that evaluating the potential for tree risk and failure is not an exact science. While many factors will be considered during such an assessment including the extent of any defects, the species of tree, the tree characteristics, and environmental conditions, the Owner must understand that all trees inherently pose a certain degree of hazard and risk from breakage, failure or other causes and conditions. The purpose of this assessment is to help the Owner understand which trees appear to possess a higher degree of likelihood or potential for failure based on accepted industry practices; it is not meant to declare any tree to be “safe” or unlikely to be hazardous. As such, the Owner should not infer that any tree not identified as having an *imminent* or *probable likelihood of failure*, or not identified with a *moderate*, *high*, or *extreme overall risk rating*, or not having a condition rating of *poor*



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Exhibit 'A'

PROPOSAL FOR CONSULTING SERVICES FOR THE STEVENSON PUBLIC TREE INVENTORY AND MANAGEMENT PLAN

or *dead*, or not having a tree and shrub work categorization of *risk mitigation*, or not having a tree and shrub work phase of *asap*, 1, or 2, is “safe” or will not fail in any manner.

All recommendations made by Bartlett Tree Experts will be based on the defects which are present and detectable at the time of the assessment, and the commonly accepted industry practices for reducing or minimizing the risks associated with the trees. Bartlett Tree Experts can make no guarantees or warranties of any kind that all defects will be detected, nor can Bartlett Tree Experts accept any liability in any manner whatsoever for any damage caused by any tree on this property, whether the tree was assessed or not. Therefore, to the fullest extent permitted by law, the Owner agrees to indemnify and hold harmless Bartlett Tree Experts, its agents or employees, from and against all claims, damages, losses, and expenses, including reasonable attorney's fees, arising out of or resulting from the performance of the assessment, evaluation, inventory, and the performance of any recommended work. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.

ArborScope™ Licensing Agreement:

Subject to the acceptance of, and terms and conditions of, this full proposal, Bartlett Tree Experts grants the Owner as Licensee (Licensee) a non-exclusive, non-transferable limited license to use the ArborScope™ web-based data application in an executable format for the Licensee's own use for a three-year period beginning upon the date of the delivery of the tree inventory, basic management plan, and mapping data. The Licensee may not, however, transfer or sublicense the ArborScope™ web-based data application to any third party, in whole or in part, in any form, whether modified or unmodified. This limited license does not convey any ownership rights of the source code, or rights to modify the source code in any manner to the Licensee. The use of the ArborScope™ web-based data application is licensed, not sold.

This limited license allows the Licensee to utilize ArborScope™ to interface with Google® Mapping features to assist in managing the inventory information dynamically by displaying the data in tabular or geographic map views, keeping records, and documenting and displaying dedicated trees for organizational purposes. The Licensee must have and maintain a live internet connection, separately from this agreement, and utilize a recommended web browser to ensure optimum performance.

By accepting this agreement and limited license, the Licensee acknowledges that Bartlett Tree Experts retains the right to modify, change, or alter the ArborScope™ web-based data application, and to provide continual upgrades to the program. All such modifications, changes, alterations, and upgrades, during the initial three-year licensing period specified, shall be at no additional charge to the Licensee. If renewed, all subsequent modifications, changes, alterations, and upgrades during each renewal period shall be provided at no additional cost to the Licensee.

The Licensee understands and agrees that Bartlett Tree Experts will provide the ArborScope™ web-based data application on an “as is” basis without warranty of any kind, expressed or implied. The Licensee also understands and agrees that Bartlett Tree Experts cannot guarantee the accuracy of the data (both geographic and attributes) nor can it be held responsible for inaccuracies or omissions in the data.

The Licensee further understands and agrees that any damages based on the functionality of the ArborScope™ web-based data application will be limited solely and exclusively to the prorated licensing cost of the ArborScope™ web-based data application listed on this proposal. The



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ArborScope™ web-based data application function is separate and distinct from the scope and cost of the inventory service, management plan, and mapping data listed above.

- **Renewal Option:**

At the end of the three-year licensing period specified above, provided that the Licensee is not in breach of its obligations according to this agreement, the Licensee will have the option to renew the limited license for a cost that will be determined by the current ArborScope™ licensing pricing schedule (pricing schedule at the time of the renewal) based on the Client's desired number of locations to be included with the three-year limited license for as long as the ArborScope™ web-based data application remains functional.

- **Information Retrieval:**

The information that is presented in ArborScope™ is the property of the Licensee. If the limited license is not renewed, or if the Licensee decides to stop using the ArborScope™ web-based data application before the end of a three-year limited license period, and wishes to retrieve the information, then upon written request by the Licensee, the information as it is on or near the date of the written request in ArborScope™ will be provided to the Licensee in shapefile or spreadsheet format within two weeks of the written notice.



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Schedule of Payment:

- **Task 1 – Goal Setting:**.....\$3,500
- **Task 2 – Tree Inventory:**.....\$13,500
- **Task 3 – Management Plan:**.....\$12,000
- **Task 4 – Training:**.....\$8,000
- **Three-year limited license to use the Bartlett ArborScope™ application:**.....\$1,500

TOTAL:.....\$38,500

Additional Services and Fees:

Additional services will be provided upon request and approval of related fees. Additional work such as the inventory of additional trees or available planting spaces, additional meetings beyond those outlined above, or any other consulting services requested shall be billed upon approval by the client at \$150 per hour.

Invoicing Method:

Bartlett Tree Experts will invoice the Client upon completion of the service.

Notice of Right to Cancel:

You, the buyer, may cancel this transaction at any time before midnight of the third business day after the date of this agreement. Such cancellation may be made without penalty, or obligation, and shall entitle you to a full refund of any money provided as a down payment for services. Should you choose to cancel this agreement, you may do so by mailing a copy of this proposal with the word “canceled” with the date of cancellation and your signature, mail certified, receipt requested to the Bartlett Tree Experts office listed on the proposal, by delivering the canceled proposal in person to the listed office, or by sending any other written notice of your cancellation to the listed office. All money received as a down payment shall be returned within thirty days of receipt of any notice of cancellation.

Need for Future Inspections:

It shall be the responsibility of the Owner to ensure that future tree risk assessment inspections are conducted, by a qualified arborist, annually, or after any major weather event, to monitor and evaluate any changes in the condition of the risk associated with the trees on the aforementioned property.

Additional Terms and Conditions:

After reviewing the terms and conditions provided with this proposal, which become part of this agreement, please return the signed copy. If the Client should issue additional work authorization terms, if agreed upon, such terms will be incorporated into this agreement. If such terms conflict with this agreement, then the terms of this agreement shall govern over any conflicting language. The original document should be retained for your reference.



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Offer:

Bartlett Tree Experts will perform the above-referenced service in a safe, professional manner, following all laws, rules, regulations, and industry standards governing tree care.

Bartlett Representative Signature: Paul Hans Thompson

Date: February 18, 2021

Printed Name: PAUL HANS THOMPSON

Authorization to Proceed:

I hereby authorize Bartlett Tree Experts to perform the above services. Unless otherwise agreed upon in writing by Bartlett Tree Experts, I agree to make total payment of the estimated costs and all authorized additional costs upon completion of the work.

Client's Signature: _____

Date: _____

Printed Name: _____



General Terms for Commercial Consulting Services

The F.A. Bartlett Tree Expert Company ("Bartlett Tree Experts") provides tree-care and related consulting services to commercial and government clients. The agreed upon "Work" has been expressed in a separate Client Agreement between Bartlett Tree Experts and the Client, and is identified within the portion of the Client Agreement communicating the Scope of the Work, the Goals, the Specifications, the Schedule of the Work, and the Payment Terms. These general terms combine with the approved Client Agreement and form the complete agreement between the parties.

Article 1 TREE RISK

1.1 Tree Risk

- (a) The Client acknowledges that having trees on one's property involves risk, including the risk that a tree or tree limb might fall. As part of the Work, Bartlett Tree Experts may recognize the risk posed by failure of trees within the Scope of Work and recommend to the Client ways to reduce that risk, but the Client acknowledges that Bartlett Tree Experts cannot detect all defects and other conditions that present the risk of tree failure and cannot predict how all trees will respond to future events and circumstances. Trees can fail unpredictably, even if no defects or other conditions are apparent. Bartlett Tree Experts will not be responsible for damages caused by subsequent failure of a tree, or tree part, within or around the Scope of Work due to defects or other preexisting structural or health conditions.
- (b) Unless the Work includes having Bartlett Tree Experts perform a tree risk assessment for designated trees, the Client acknowledges that in performing the Work Bartlett Tree Experts is not required to inspect and report to the Client on risks to, and risks posed by, trees on or near the Client's property.
- (c) The Client also acknowledges that because trees are living organisms that change over time, the best protection against the risk associated with having trees on the Client's property is for the Client to arrange to have them inspected by a qualified arborist annually and after each major weather event to identify any defects or other conditions that present the risk of tree failure. Then, once inspected, the Client should review any possible defects or conditions that present the risk of failure and request recommendations for, and implement, remedial actions to mitigate the risks.

Article 2 THE WORK

2.1 Ownership

The Client states that all trees and other vegetation within the Scope of Work are owned by the Client or that the Owner has authorized the Client to include them within the Scope of Work.

2.2 Specified Trees or Work

The specific trees, shrubs, plant materials or work described in the Scope of Work or in the Agreement will be the only trees, shrubs, plant materials, or work included in the scope of the consultative services or Work performed by Bartlett for the Client.

2.3 Insurance

- (a) Bartlett Tree Experts states that it is insured for liability resulting from injury to persons or damage to property while performing the Work and that its employees are covered under workers' compensation laws.

- (b) The scope of ongoing operations of the Work shall be defined as beginning when the performance on the site begins and ending when the performance on the site concludes.

2.4 Compliance

Bartlett Tree Experts shall perform the Work competently and in compliance with the law and industry standards, including the American National Standards Institute's A-300 Standards for tree care.

2.5 Access Over Roads, Driveways, and Walkways

The Client shall arrange for Bartlett Tree Experts' representatives, vehicles, and equipment to have access during working hours to areas where the Work is to be performed. The Client shall keep roads, driveways, and walkways in those areas clear during working hours for the passage and parking of vehicles and equipment. Unless the Client Agreement states otherwise, Bartlett Tree Experts is not required to keep gates closed for animals or children.

2.6 Personnel

Bartlett Tree Experts will determine and provide the correct Bartlett personnel for completing the Work based scope of the project, the expertise needed, and the geographic location of the work, in order to meet the goals of the Client.

2.7 Accuracy of Information Provided By the Client or By Third Parties Acting on Behalf of the Client

- (a) The Client acknowledges that Bartlett Tree Experts cannot be held responsible for the accuracy of or content of information provided by the Client or third parties acting on behalf of the Client, including but not limited to: the legal description of the property, issues of title and/or ownership of the property, software programs, property and property line locations and/or boundaries, or other pieces of information provided which are integral to the final outcome of the consulting Work.

- (b) The Client agrees to correct any errors in any such inaccurate information that it or any third party acting on its behalf, provides Bartlett Tree Experts, once the inaccuracy is known, if such information will be necessary for Bartlett Tree Experts to base its final analysis, management plans, written reports, information or recommendations on for the finalization of the Work.

2.8 Information Provided By Reliable Sources

In certain circumstances, Bartlett Tree Experts may need to engage outside reliable sources to provide specialized information, cost estimates, or opinions. Bartlett Tree Experts will make every effort to engage reputable and reliable sources, and will communicate the use of these sources to the Client if such sources are used to help determine an integral part of the Work.

2.9 Tree Locations, Maps, Sketches, and Diagrams

The Client acknowledges that Bartlett Tree Experts may use several means and methods to provide tree locations on maps,

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<p>sketches, or drawings, and that the use of tree locations on maps, sketches, diagrams, and/or in pictures are intended to aid the Client in understanding the deliverables provided, and may not be to scale and should not be considered precise locations, engineering surveys, or architectural drawings.</p>	
<p>2.10 Global Positioning Systems</p> <p>The Client acknowledges that all global positioning system (GPS) devices used to locate trees, shrubs, and plant material, have some accuracy limitations, and regardless of the methodologies or software programs used to enhance the accuracy of the locations, there will always be some level of meter or sub meter locational discrepancies within any deliverable product.</p>	
<p>2.11 Advice, Opinions, Conclusions, and Recommendations</p> <p>(a) The Client Acknowledges that all advice, opinions, conclusions, and recommendations provided represent the professional objective opinion(s) of Bartlett Tree Experts; which are in no way predetermined, or biased toward any particular outcome.</p> <p>(b) The Client acknowledges that all advice, opinions, conclusions, and recommendations provided verbally or in written format such as email, management plans, or reports will be based on the present status of the tree(s), property(s), environmental conditions, and industry standards. Any advice, opinions, conclusions, and recommendations provided do not take into account any future changes in environmental conditions or changes to current industry standards which are unknown and unforeseen at the time the Work is performed.</p>	<p>2.13 Tree or Plant Value Appraisals</p> <p>(a) The Client acknowledges that tree appraisal is not an exact science. If the Client Agreement is for Bartlett Tree Experts to provide the Client with an appraisal estimate of cost or value, or estimated tree asset value, for specified trees or plant materials, the Client understands that those estimates will be based on a combination of visible conditions at the time of appraisal, information or pictures provided by the Client, local knowledge, information and/or cost estimates provided by local nurseries or plant wholesalers, information and/or costs provided by tree care or landscape installation and maintenance companies, industry best practices, and/or asset value software.</p> <p>(b) The Client understands that while any such appraisal will be based on one or several accepted industry methods of appraising plant material values, the appraised values provided may or may not be accepted as the final value by third parties, or decision makers in disputes over plant values, such as courts, arbitrators, insurers, or mediation efforts.</p>
<p>2.12 Tree Risk Assessments and Inventories</p> <p>(a) If the Client Agreement is specifically for Bartlett Tree Experts to provide a <i>Level 1 Limited Visual</i>, <i>Level 2 Basic</i>, or <i>Level 3 Advanced assessment</i> of tree risk for any tree or group of trees for the Client in accordance with industry standards, the Client understands that any <i>risk ratings</i> and recommendations for mitigating such risks will be based on the observed defects, conditions, and factors at the time of the tree risk assessment or inventory.</p> <p>(b) The Client acknowledges that any recommendations made to mitigate risk factors will be made in accordance with industry best practices and standards, but that the decision to implement the recommended mitigation or remove the risk factors rests solely with the Client.</p> <p>(c) The Client understands that all <i>risk ratings</i> used are intended to assist the Client with understanding the potential for tree or tree part failure, and are not meant to be used to declare any tree or tree part to be safe or free from any defect. As such, the Client should not infer that any tree not identified as having an <i>imminent</i> or <i>probable likelihood of failure</i>, or not identified with a <i>moderate</i>, <i>high</i>, or <i>extreme risk rating</i>, or not having a condition rating of <i>poor</i> or <i>dead</i> is "safe" or will not fail in any manner.</p> <p>(d) The Client understands that it is the Client's responsibility to ensure that the assessed tree or trees are continually inspected and reassessed periodically, or after any major weather event, in order to ensure that risk rating information is kept current, and to enter any changes to risk ratings or mitigation measures to the inventory or tracking system used by the Client.</p>	<p>2.14 Local and Tree-Related Permits</p> <p>Unless the Client Agreement states differently, the Client is responsible for obtaining and paying for all required local or tree related permits required. If the Work stated in the Client Agreement involves Bartlett Tree Experts submitting for, or assisting the Client in submitting for, any kind of local or tree-related permit, the Client understands that Bartlett Tree Experts cannot guarantee the successful outcome. If Bartlett Tree Experts submits a local or tree permit application on behalf of the Client, the Client must provide all necessary information for Bartlett to make such a submittal, and the Client will be responsible for paying for, or reimbursing Bartlett Tree Experts for, all fees and expenses related to the application process, regardless of the outcome.</p> <p>2.15 Expert Witness and Testimony</p> <p>The Client acknowledges that unless the Scope of Work in Client Agreement is specifically to perform Expert Witness services and testimony for the Client, then nothing in the Client Agreement will obligate Bartlett Tree Experts to perform Expert Witness services or provide expert testimony for or on behalf of the Client.</p> <p>2.16 Environmental Benefits Assessments</p> <p>(a) The Client understands that Bartlett Tree Experts may use one or more software, or other programs, developed by other companies or government agencies, which are designed to help provide estimates on the environmental benefits of trees, shrubs, or other plant materials if the Work involves providing an environmental benefit assessment for the Client.</p> <p>(b) The Client acknowledges that while Bartlett Tree Experts will be responsible for the correct collection and input of data into any such software or other program used to help estimate environmental benefits of trees, shrubs, and other plant materials, the determinations of the data made by any such program may vary based on the method, software, type, year, or version used at any given time. The Client understands that any such method, software, type, year, or version used is meant to provide a sound, scientific method to help the Client understand the environmental benefits of the collected data.</p> <p>2.17 Tree and Property Hazards and Safety Issues</p> <p>The Client understands that in no way does Bartlett Tree Experts imply, nor should the Client infer that Bartlett Tree</p>

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Experts assumes the responsibility for inspecting, identifying, and correcting tree or property hazards or safety issues on or near the Client's property, or conducting tree risk assessments, for which the Client Agreement does not specify, during the course of any of its ongoing consultative or other activities related to this Agreement.

2.18 Remote Sensing and Tree Canopy Assessments

- (a) If the Work requires Bartlett Tree Experts to evaluate aerial imagery to classify land cover classes, classify random points, or create or manipulate shapefile boundaries, the Client understands that certain factors can prohibit the accuracy of the final Work product, such as: the availability of imagery, files, and shapefiles for the property or site from reliable sources, the accuracy and quality of imagery, files, or shapefiles obtained from reliable sources or provided by the Client, the date of when the imagery, files, or shapefiles were taken or created, and the ability for a person to visually discern the difference between the pixels of aerial imagery.
- (b) If such factors inhibit the accuracy of the Work, Bartlett Tree Experts may choose to conduct visual assessments, or use other means, to verify or classify points or imagery into the required specifications. If such alternate methods are used, Bartlett Tree Experts will communicate the use of such methods to the Client in the final work product. If it is not possible or feasible to use alternative methods, then the Client acknowledges that the final work product may have some gaps in accuracy.

2.19 Use of Drones and Drone-Related Equipment

- (a) If the Work specifies the use of Drones or Drone-related equipment to help collect information, the Client acknowledges that in some cases the use of Drones and Drone-related equipment can provide detailed information, imagery, views, and pictures of a tree(s) or property(s); however, in some cases, not all aspects of a tree(s) or property(s) can be seen or accessed by a Drone. The Client understands that this technology can be limited and should not be used by the Client as the sole decision-making criteria, but rather one of many factors used by the Client in the decision-making process.
- (b) The Client agrees that other methods of obtaining the required information must be included in the Client Agreement, and may be required to be utilized, in addition to or separate from the use of Drones or Drone related equipment in the event that the limitations are too severe to perform the required Work.

2.20 Decay Detection Devices

- (a) The Client acknowledges that all decay detecting devices have limitations, and the use of any such device should be used to supplement information regarding the decay within a tree or trees, and not as the sole source of information.
- (b) If the Work requires the use of a decay detection device, unless the Client Agreement specifies the type of device, Bartlett Tree Experts will decide the most appropriate type of decay detecting device to use based on the conditions present and the information needed to supplement and complete the Work.

2.21 Diagnostic Services

Bartlett Tree Experts may offer diagnostic services as a means of attempting to isolate certain plant pest or soil problems for the Client, and determining the most logical possibility as to the cause of the condition of the trees, shrubs, or plants in question. The Client understands that in some

cases government quarantines may prohibit samples from being sent to a diagnostic clinic, and in some cases, determinations on samples may be inconclusive.

2.22 Tree Preservation, Tree Protection, and Construction and Site Monitoring

- (a) If the Work includes Bartlett Tree Experts conducting or providing tree preservation or tree protection evaluations, tree impact evaluations, recommendations, specifications, and/or documents required by the governing agency, the Client understands that Bartlett Tree Experts will review the project, materials or plans that are provided by the Client, combined with industry best practices and current tree conditions, to arrive at the recommendations and specifications. The Client also understands that trees are living organisms and that even following all industry best practices and specifications cannot guarantee that a tree will survive construction impacts, which may include but are not limited to soil compaction, root damage, inadequate soil moisture, and decrease in tree stability.
- (b) If the Work includes Bartlett Tree Experts conducting or providing tree monitoring during project construction, the Client understands that Bartlett Tree Experts will review the project, materials, or plans that are provided by the Client and/or described by the Client representative at the site, and provide recommendations to the Client to assist with tree preservation or protection, but that the Client will be responsible for ensuring the implementation of such recommendations by the Client or any third parties.

2.23 Irrigation and Recycled Water Assessments

- (a) If the Work requires Bartlett Tree Experts to provide irrigation or recycled water assessments as a means of aiding the Client with their tree care needs, the assessments will be provided using the best known site conditions, the best available water quality information, or the best available water quality test results provided to Bartlett Tree Experts; however, the Client acknowledges that Bartlett Tree Experts cannot provide information on water source, delivery systems, water chemistry, water quality testing methodology, or distribution systems.

2.24 Bird, Water Fowl, and Wildlife Habitat Assessments

If the Work requires Bartlett Tree Experts to provide bird, water fowl, and wildlife habitat assessments or identifications as a means of aiding the Client with their tree care needs and wildlife considerations, the assessments will be based on known site conditions and available industry bird, waterfowl, and wildlife management information.

2.25 Endangered or Protected Species and Habitats

- (a) If the Work is for Bartlett Tree Experts to identify trees or plant materials that may be endangered or protected species, or to identify trees or plant materials that may be primary or secondary habitat for endangered or protected species, or to provide any analysis for a project that may affect any endangered species or protected species or its habitat, then Bartlett Tree Experts will base all reports and information on the existence of any known endangered or protected species and known habitats using government approved endangered or protected species or habitat information.
- (b) The Client acknowledges that Bartlett Tree Experts cannot be responsible for identifying unknown endangered species or habitats.

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2.26 Wetland and Riparian Habitat Mapping

The Client understands that if the Work involves wetland or riparian habitat mapping, such maps will require the Client to provide the tree or plant species considered to be the primary or secondary habitat for the specific species of animal in question, and such maps will be limited to the species information provided as it overlays within the known designated wetland areas.

2.27 Representation Services

If the Work involves a member of Bartlett Tree Experts acting as a representative for, or decision-maker for, the Client, including but not limited to activities such as reviewing, approving or declining tree-related permits, plants, designs, or selections submitted by third parties, then the Client agrees to be the final decision-maker in the event of a third party appeal of an adverse decision or recommendation made by Bartlett Tree Experts with respect to granting or denying a tree related permit, plant, design, or selection submitted by a third party. The Client also agrees to defend Bartlett Tree Experts against any claims made by third parties regarding such decisions or recommendations, and represent the decisions and recommendations of Bartlett Tree Experts, as if such decisions or recommendations were made by the Client.

2.28 Integrated Pest Management

- (a) If the Work includes consultation for integrated pest management services, the Client understands that the final product may involve recommendations for plant health care treatments that will be tailored to meet the Client's needs for specific trees, shrubs, turf areas, or plants. In creating these recommendations, Bartlett Tree Experts will consider the Client's objectives, priorities, budgetary concerns, plant materials, site conditions, pest and disease infestation levels and the expectations of those levels, and timing issues.
- (b) The Client acknowledges that such recommendations may involve one or more inspections of specific plants to help determine insect and disease concerns, the sampling of specific plant materials or soil areas, an understanding of the cultural needs of certain plants, consideration of biological control concepts and limitations (natural and/or introduced predators), recommended improvements to physical site conditions, or the use of pesticide treatments. The integrated pest management service does not combine all possible controls and concepts for every tree, shrub, turf area, or plant, but rather it considers the most reasonable option or options for control of and mitigation of insect and disease damages to the specific trees, shrubs, turf areas or plants as designated by the Client to meet the Client's goals.
- (c) The Client understands and acknowledges that during the course of an integrated pest management program, as inspections are taking place, and treatments or other services are being performed to certain trees or shrubs, not every tree or shrub inspected will require a specific treatment or other service, and in fact, some trees or shrubs may not require any specific treatment or other service throughout the course of a season to maintain health and vigor if the inspections show insignificant pest thresholds, and sound environmental and cultural conditions.
- (d) The Client also understands that tree, shrub, plant and turf inspections conducted during the integrated pest management program are for the purpose of determining plant health issues and, insect and disease thresholds; and are not conducted for the purposes of determining tree, shrub, plant, or turf safety.

2.29 Plant Species Selection

If the Work involves Bartlett Tree Experts providing advice and guidance on plant species selection to aid the Client with their landscape site needs, Bartlett Tree Experts will provide the advice and guidance based on the known site conditions, the available plant species locally at the time, and the plant species characteristics. The Client will be responsible for the planting and maintenance, and ensuring the survival of such plant selections in the landscape.

2.30 Trees and Subsidence Assessments

- (a) If the Work involves Bartlett Tree Experts providing an assessment of relationship between certain trees or tree parts and the subsidence or movement of a building or structure, the Client understands that certain inferences and assumptions will be made given the location, visibility, soil and drainage conditions, size, species, and condition of the tree or trees, and other factors, in order to perform the Work in the least intrusive manner possible.
- (b) Bartlett Tree Experts recommends that the Client reviews any tree related report recommendations, prior to having the work completed, with their structural engineer or other qualified building contractor to help the client determine any potential adverse impact to the buildings or structures.

2.31 Investigation of Covenants, Easements, Constraints, or Restrictions

The Client is responsible for investigating and identifying to Bartlett Tree Experts any covenants, easements, constraints, or other restrictions to the title or deed on the property that may adversely impact Bartlett Tree Experts' ability to perform the Work.

2.32 Cancellation

If the Client cancels or reduces the Work after the Work has started, the Client shall pay Bartlett Tree Experts for all the items of the Work that have been completed and all reasonable costs Bartlett Tree Experts has incurred in preparing to perform the remainder of the Work.

2.33 Payment

The Client shall pay for the Work when the Client receives Bartlett Tree Experts' invoice for the Work, unless specific payment terms have been agreed upon by the parties. If any amount remains unpaid 30 days after the date of the invoice or any period stated in the Client Agreement, whichever is longer, as a service charge the unpaid amount will accrue interest at the rate of 1.5% per month (or 18% per year) or the maximum rate permitted by law, whichever is lower. The Client shall reimburse Bartlett Tree Experts for any expenses (including attorneys' fees and court costs) it incurs in collecting amounts that the Client owes under the Client Agreement.

Article 3 TREE CONDITIONS

3.1 Cables, Braces and Tree-Support Systems

The Client acknowledges that cables, braces or tree-support systems are intended to reduce the risk associated with tree part breakage by providing supplemental support to certain areas within trees and in some cases by limiting the

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	movement of leaders, limbs, or entire trees, and are intended to mitigate the potential damage associated with tree part breakage; but that such supplemental support systems cannot eliminate the risk of breakage or failure to trees or tree parts entirely, and future breakage and damage is still possible		
	(a) The Client acknowledges that for cables, braces or tree-support systems to function optimally, the Client must arrange for them to be inspected and maintained by a qualified arborist periodically and after each major weather event.		
3.2	Lightning Protection Systems		
	(a) The Client acknowledges that lightning protection systems are intended to direct a portion of the electricity from a lightning strike down through the system into the ground, and mitigate the potential damage to the tree from a lightning strike, but that such systems cannot prevent damage to structures, nor can such systems prevent damage to trees caused by lightning entirely.		
	(b) The Client acknowledges that for lightning protection systems to function optimally, the Client must arrange for them to be inspected and maintained by a qualified arborist periodically and after each major weather event.		
3.3	Recreational Features		
	(a) The Client acknowledges that Bartlett Tree Experts recommends stopping the use of, and removing, any tree house, ropes course, swing, or other recreational feature attached to a tree. Regardless of the health or condition of the tree, such features might be unsuited for the intended use or might place unpredictable forces on the feature or the tree, resulting in failure of the feature or the tree and injury to persons or damage to property. Bartlett Tree Experts is not responsible for the consequences of use of any such feature.		
	(b) The Client acknowledges that if a recommendation is made to mitigate an observed and immediate safety issue on a tree with any such device or feature attached, such as the removal of a dead, dying, or broken limb that could fall and injure a person or damage property, the Client should not infer that following the recommendation and mitigating the immediate safety issue makes the tree in question safe for the use of the attached device or feature.		
3.4	Root Pruning		
	In the right circumstances, root pruning is a valuable and necessary service, but it might pose a risk to the health and structural integrity of trees. To limit that risk, Bartlett Tree Experts performs root pruning to industry standards, but the Client acknowledges that the health and structural integrity of trees within the Scope of Work might nevertheless be adversely affected by any root pruning performed as part of the Work. Bartlett Tree Experts shall assist the Client in understanding the risks involved before opting for root pruning, but the Client will be responsible for deciding to proceed with root pruning.		
3.5	Stumps, Stump Grinding, Tree Grates		
	The Client acknowledges that if any recommendations call for the removal of certain trees, that the remaining stumps may present tripping hazards, and that it is the Client's responsibility to remove any such tripping hazard, whether such hazard is created by the stump, the grindings if the stump is ground down, or any tree grates that exist.		
		3.6	Client Trees in Hazardous Condition
			If the Client Agreement specifies that one or more trees within the Scope of Work are in hazardous condition, have an <i>extreme</i> , <i>high</i> or <i>moderate risk rating</i> , or should be removed for safety reasons, the Client acknowledges that removing those trees would prevent future damage from trees or tree limbs falling. If the Client requests that one or more of those trees be pruned instead of removed, the Client acknowledges that although pruning might reduce the immediate risk of limbs falling, it does not preclude the possibility of future limb, stem, or root failure. Bartlett Tree Experts is not responsible for any such future failure.
		3.7	Trees in Poor Health or a Severe State of Decline
			The Client acknowledges that if a tree is in poor health or in a severe state of decline, Bartlett Tree Experts cannot predict how that tree will respond to any recommended plant health care or soil care and fertilization treatment and might not be able to prevent that tree from getting worse or dying.
		3.8	Trees Planted and Maintained by Other Contractors
			The Client acknowledges that if trees within the Scope of Work were recently planted or are being maintained by one or more other contractors or if one or more other contractors will be watering and providing services with respect to trees within the Scope of Work, how those trees respond to treatment in the course of the Work might be unpredictable, and Bartlett Tree Experts cannot be responsible for the health of such trees or plants.
		3.9	Trees with Cones and Large Seed Pods
			The Client acknowledges that large tree cones or seedpods on some trees can become dislodged and fall without notice, creating a hazard to persons or property. If the Client has the type of tree on their property that produces large, heavy cones or seedpods, and the Client does not wish to remove the tree, Bartlett Tree Experts recommends that the Client marks off and restricts the area under and near the tree from pedestrian and vehicle traffic whenever possible, places a warning sign near the tree, remains aware of the hazardous conditions the falling cones can create, and inspects the tree annually and removes any observable cones if possible in order to mitigate the potential for damage from falling cones.
		3.10	Fire Damage
		(a)	Regardless of the species, trees exposed to fire can suffer structural damage that goes beyond whatever external damage might be visible. Fire can cause cracking and brittleness in tree structure and integrity; it can make pre-existing defects worse; it can make roots less stable; and it can weaken the overall health of the tree, making it susceptible to disease and pest infestations. The effects of fire damage are unpredictable and difficult to determine. Bartlett Tree Experts is not responsible for any injury to persons or damage to property resulting from services performed on fire-damaged trees as part of the Work.
		(b)	The Client acknowledges that if trees and shrubs on the Client's property have been exposed to fire, the Client should have qualified arborist periodically inspect trees and shrubs on the property for fire damage.

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Article 4 DISPUTE RESOLUTION

4.1 Arbitration

- (a) As the exclusive means of initiating adversarial proceedings to resolve any dispute arising out of or related to the Client Agreement or Bartlett Tree Experts' performance of the Work, a party may demand that the dispute be resolved by arbitration administered by the American Arbitration Association in accordance with its commercial arbitration rules, and each party hereby consents to any such dispute being so resolved. Any arbitration commenced in accordance with this section must be conducted by one arbitrator. Judgment on any award rendered in any such arbitration may be entered in any court having jurisdiction. The parties also agree that the issue of whether any such dispute is arbitrable will be decided by an arbitrator, not a court.
- (b) The arbitrator must not award punitive damages in excess of compensatory damages. Each party hereby waives any right to recover any such damages in any arbitration.

4.2 Third Party Liability

The Client acknowledges that the use of any management plans created, reports written, recommendations, maps, sketches, and conclusions made are for the Client's use and are not intended to benefit or cause damage to any third party. Bartlett Tree Experts accepts no responsibility for any damages or losses suffered by any third party or by the Client as a result of decisions made or actions based upon the use of reliance of the management plans created, reports written, recommendations, maps, sketches, and conclusions made by any third party.

4.3 Limitation of Liability

The maximum liability of Bartlett Tree Experts for any losses incurred by the Client arising out of the Client Agreement or Bartlett Tree Experts' performance of the Work will be the amount paid by the Client for the Work, except in the case of negligence or intentional misconduct by Bartlett Tree Experts.

Article 5 MISCELLANEOUS

5.1 Client Responsibilities

- (a) The Client is responsible for the maintenance of the Client's trees, shrubs, and turf and for all decisions as to whether or not to prune, remove, or conduct other types of tree work on each respective tree, or when to prune, remove, or conduct other tree work on any respective tree, and all decisions related to the safety of each respective tree, shrub, and turf area.
- (b) Nothing in this Agreement creates an ongoing duty of care for Bartlett Tree Experts to provide safety maintenance or safety inspections in and around the Client's property. It is the responsibility of the Client to ensure the safety of its trees and landscape, and to take appropriate actions to prevent any future tree or tree part breakage or failures, or otherwise remove any hazardous conditions which may be present or may develop in the future.

5.2 Severability

If any portion of this Client Agreement is found to be unenforceable, then only that portion will be stricken from the Client Agreement, and the remainder of the Client Agreement will remain enforceable.

5.3 Unrelated Court Proceedings

The Client acknowledges that Bartlett Tree Experts has prepared the Client Agreement solely to help the Client understand the Scope of Work and the related costs. If a court subpoenas Bartlett Tree Experts' records regarding, or requires that a Bartlett representative testify about, the Client Agreement or the Work in connection with any Proceeding to which Bartlett Tree Experts is not a party or in connection with which Bartlett Tree Experts has not agreed to provide expert testimony, the Client shall pay Bartlett Tree Experts Two Hundred Dollars (\$200.00) per hour for time spent by Bartlett representatives in collecting and submitting documents for those Proceedings and attending depositions or testifying as part of those Proceedings.

5.4 Use of Information

The Client acknowledges that the information provided within the Client Agreement and any deliverables provided is solely for the use of the Client for the intended purpose of helping the Client understand and manage their tree care needs. All deliverables must be used as a whole, and not separated or used separately for other purposes.

5.5 Notices

For a notice or other communication under the Client Agreement to be valid, it must be in writing and delivered (1) by hand, (2) by a national transportation company (with all fees prepaid), or (3) by email. If a notice or other communication addressed to a party is received after 5:00 p.m. on a business day at the location specified for that party, or on a day that is not a business day, then the notice will be deemed received at 9:00 a.m. on the next business day.

4.4 Amendment; Waiver

No amendment of the Client Agreement will be effective unless it is in writing and signed by the parties. No waiver under the Client Agreement will be effective unless it is in writing and signed by the party granting the waiver. A waiver granted on one occasion will not operate as a waiver on other occasions.

5.5 Conflicting Terms

If these terms conflict with the rest of the Client Agreement, the rest of the Client Agreement will prevail. If these terms conflict with any other Client documentation, terms, or purchase order agreement, then the Client Agreement and these terms will prevail.

5.6 Entire Agreement

The Client Agreement with these terms constitutes the entire understanding between the parties regarding Bartlett Tree Experts' performance of the Work and supersedes all other agreements, whether written or oral, between the parties.

