

**A RESOLUTION APPROVING AND AUTHORIZING THE
MAYOR TO EXECUTE AN AGREEMENT WITH OMNI
TREE SERVICE, INC. FOR ON-CALL EMERGENCY TREE
SERVICES.**

WHEREAS, the City of Twin Oaks (the “City”) sought formal proposals in response to its invitation for bids for emergency removal of fallen trees and tree limbs from streets and related City property within the city limits known as the “Emergency Tree Service”; and,

WHEREAS, in response, the City received one proposal from Omni Tree Service, Inc. (“Omni”) for the Emergency Tree Service Project; and,

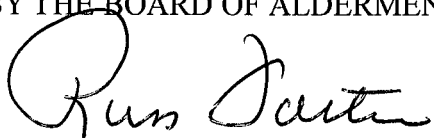
WHEREAS, the City has considered Omni’s bid under the guidelines in Section 145.030 of the Twin Oaks Code and finds it to be lowest and best bid.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF TWIN OAKS, MISSOURI, AS FOLLOWS:

Section 1. The Board of Aldermen hereby approves, and authorizes the Mayor to execute, and agreement with Omni Tree Service, Inc., for emergency removal of fallen trees and tree limbs from streets and related City property at the rate of \$420.00/hour. The agreement shall be substantially in the form of the Contractor Services Contract attached hereto as Exhibit 1 and incorporated herein by reference (the “Agreement”). The term of Agreement is for two (2) years with up to three (3) one-year extensions.

Section 2. This Resolution shall be effective upon its passage by the Board of Aldermen and execution by the Mayor.

THIS RESOLUTION WAS PASSED AND APPROVED THE 1ST DAY OF DECEMBER 2021,
BY THE BOARD OF ALDERMEN OF THE CITY OF TWIN OAKS, MISSOURI.



Russ Fortune, Mayor

Attest:



Frank Johnson, City Clerk

Exhibit 1
Twin Oaks, Missouri
CONTRACTOR SERVICES CONTRACT

THIS AGREEMENT made and effective as of December ____, 2021, by and between the **City of Twin Oaks, Missouri**, a municipal corporation hereinafter referred to as the "City," and Omni Tree Service, Inc., a Missouri corporation, hereinafter referred to as "Contractor," with a business mailing address of 55 Old State Road, Ballwin, MO 63021.

WHEREAS, the Contractor provided the City with the proposal, attached hereto as **Exhibit A**, and incorporated herein by reference, for certain services relating to emergency removal of fallen trees and tree limbs from streets and other City property within the City and the City wishes to engage the Contractor as provider of those services to the City, in accordance with the terms of this Agreement.

WITNESSETH: That the parties hereto for the considerations hereinafter set forth agree as follows:

I. SCOPE OF SERVICES

Contractor's services are necessary for the following services to the City: *Twin Oaks—Emergency Tree and Limb Removal Services.*

Except as expressly specified herein, Contractor hereby agrees to provide the expertise, supplies, supervision, labor, skill, materials, equipment, and apparatus to perform all the services and do all the things necessary for the proper completion of the scope of services for the services in the attached **Exhibit A** incorporated herein and which are particularly described in **Section II SCOPE OF SERVICES** below (hereinafter referred to as the "Services").

The Services shall be provided by the Contractor in accordance with all the provisions of the Proposal and the attached **Twin Oaks General Conditions** which are incorporated herein by reference, and the terms of the General Conditions shall prevail over any conflicting terms that may otherwise be adopted herein as part of any attachment, including the Proposal. If there is any conflict between the City's Agreement and General Conditions (attached hereto and incorporated herein by reference) and the Proposal, this Agreement and its General Conditions shall prevail.

II. SCOPE OF SERVICES

The Contractor agrees to perform the following Services to the City:

- A. The Contractor shall respond to emergency calls for clearing and removing fallen trees and tree limbs from City streets, right-of-way, and related City property at all times day or night within twelve (12) hours of following notice by the Mayor or City Clerk/Administrator.
- B. The Contractor will coordinate services with the Mayor or a designated representative.
- C. It shall be the responsibility of the Contractor to have sufficient equipment and personnel on site to complete operations in a timely manner. Such crew and equipment shall consist of two (2) workers, one (1) of which is an arborist, truck, and chipper,

plus all necessary pruning tools.

- D. The Contractor's vehicle shall carry sufficient equipment to effect safe control of traffic. When the Contractor arrives at the site, the Contractor shall set up traffic warning and control devices, if deemed necessary, and proceed to accomplish the necessary work.
- E. The Contractor shall supply the City with the name(s) and telephone number(s) of responsible persons(s) representing the Contractor for twenty-four (24) hour emergency response. The contact information shall always remain current.

III. RESPONDING TO EMERGENCY; TRAFFIC CONTROL

Time is of the essence. The Contractor shall mobilize and be on scene as soon as possible after receiving a call from the Mayor or City Clerk/Administrator and in no case more than twelve (12) hours of following notice of the emergency requiring the Services.

The City and the Contractor understand that in the course of the Services, the Contractor will be required to close a street or lane of traffic to safely remove a damaged or fallen tree or limb. The Contractor's Services on accomplished in such that thru traffic is maintained if possible. It shall be the Contractor's responsibility to provide a traffic way that is usable in all weather conditions.

When it is necessary to close a lane of traffic, the Contractor agrees that **it will be the responsibility of the Contractor** to provide all necessary traffic control and safety barriers, signage, lane markers, and all other equipment that may be necessary to assure safe street or lane closure. At all times during any work provided under this Agreement, the Contractor shall provide and maintain such necessary traffic control and safety barriers, signage, lane markers, and all other equipment necessary to assure safe and least restrictive lane closure and provide watchmen and flaggers as may be necessary to properly protect the Contractor's employees and provide for safe and convenient public travel. No additional payment shall be made for the traffic control and safety barriers, signage, lane markers, and all other equipment that may be necessary to assure safe and least restrictive lane closure needed to maintain traffic and to protect the public. All labor, equipment, and material necessary to accomplish this task shall be considered incidental costs to Contractor.

Any injury to person or property due to the Contractor's failure to adequately provide all necessary traffic control and safety barriers, signage, lane markers, and other necessary equipment—including, but not limited to, injury to the public, injury to the Contractor's or the City's employees, or damage to property—will be the sole responsibility of the Contractor and Contractor expressly holds City harmless and agrees to indemnify the City as set forth in the City's General Conditions which are attached and incorporated herein by reference. The Contractor's failure to adequately provide all necessary traffic control and safety barriers, signage, lane markers, and other necessary equipment indicating closure of a street or lane shall be a material breach of this Contract.

IV. COMPENSATION

Upon the satisfactory performance of the Services, the City hereby agrees to pay the Contractor at the rate of \$420 per hour as full compensation for the Services.

V. TIME AND MANNER OF PAYMENTS

All invoices complete with necessary support documentation shall be submitted in triplicate to the City and payment shall be made by City within thirty (30) days of receipt of an invoice received after satisfactory performance of the Services for the fees, prices, rates, or schedule of values set forth in the Proposal.

VI. TERM; OPTION TO EXTEND; AMENDMENT

The initial term of the Agreement shall be from December 1, 2021, to November 30, 2023, and upon the expiration of the initial term may be extended at the City's option for up to three (3), one-year terms, the first of which would commence on December 1, 2023, and end November 30, 2024 (the "First Renewal Term), subject to the right of termination as set forth in the General Conditions. The cost of services charged by Contractor for the First Renewal Term shall be as provided in the Proposal. At the expiration of the First Renewal Term or any subsequent renewal term, the cost of services charged by Contractor shall be as set forth in the Proposal unless otherwise mutually agreed by the parties in writing for the second and/or third Renewal Terms. The Contract may be amended by the parties in writing.

VII. COUNTERPARTS

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the effective date of Contract first above written.

OMNI TREE SERVICE, INC.

CITY OF TWIN OAKS

By: _____

By: _____

Title: _____

Title: _____

DATED: _____

DATED: _____

ATTEST: _____

City Clerk

TWIN OAKS GENERAL CONDITIONS
CITY OF TWIN OAKS, MISSOURI
CONTRACTOR SERVICES AGREEMENT

Independent Contractor. The Contractor shall be and operate as an independent contractor in the performance of this Contract. The Contractor shall have complete charge of the personnel engaged in the performance of the Services, and all persons employed by the Contractor shall be employees of said Contractor and not employees of the City in any respect.

Compliance with Laws. The Contractor shall comply with all applicable City ordinances and other laws and regulations, Federal, State, and any political subdivision thereof, including but not limited to, unemployment and workers' compensation, occupational safety, equal employment and affirmative action and wage and price laws insofar as applicable to the performance of the Contract. Specifically, Contractor shall comply with the following state law requirements:

- **Work Authorization Program.** If the Contract is for services expected to cost more than \$5,000.00, the Contractor shall comply with Section 285.530 RSMo., pertaining to enrollment and participation in a federal work authorization program (as defined therein) and shall provide verification through an affidavit (attached as Exhibit B) that the Contractor (1) does not knowingly employ any person who is an unauthorized alien in connection with the Contract and (2) is enrolled in a federal work authorization program and provide documentary proof thereof. The affidavit shall contain the notarized signature of the registered agent, legal representative or corporate officer of the business entity including but not limited to the human resources director or their equivalent.
- **Proof of Lawful Presence.** Section 208.009 RSMo., requires that all applicants at the time of application for any contract provided by a local government provide "affirmative proof that the applicant is a citizen or a permanent resident of the United States or is lawfully present in the United States." Contractor's affirmative proof must be established through (i) a Missouri driver's license, (ii) any "documentary evidence recognized by the department of revenue when processing an application for a driver's license," or (iii) "any document issued by the federal government that confirms an alien's lawful presence in the United States." §208.009.3.

Subcontracts. The Contractor shall not subcontract any of the Services to be performed by it hereunder without the express written consent of the City. In addition, this Contract shall not be assigned by the Contractor.

Indemnification. To the fullest extent permitted by law, the Contractor agrees to defend with counsel selected by the City, and indemnify and hold harmless the City, its officers, engineers, representatives, agents and employees from and against any and all liabilities, damages, losses, claims or suits, including costs and attorneys' fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or any other circumstances, sustained by the City or others, arising from Contractor's breach of the Contract or out of services and operations performed hereunder by the Contractor, including the City's reliance on or use of the services or products provided by the Contractor under the terms of this agreement. The Contractor shall not be liable for any loss or damage attributable solely to the negligence of the City. To the extent required by law to enforce this provision, Contractor agrees that this indemnification requires Contractor to obtain insurance in amounts specified herein and that Contractor has had the opportunity to recover the costs of such insurance in the Compensation set forth in this Agreement.

Insurance. The Contractor shall obtain and maintain for itself during the term of the Project and the City-Contractor Agreement liability insurance coverage of at least \$2,000,000 aggregate and \$450,000 per occurrence or as maybe provided in the Agreement. Insurance policies providing required coverages shall be with companies licensed to do business in the State of Missouri and rated no less than AA by Best or equivalent. All costs of obtaining and maintaining insurance coverages are included in the Bid Amount and no additional payment will be made therefor by the City

In addition, the Contractor and all subcontractors shall provide Worker's Compensation Insurance in at least statutory amounts for all workers employed for the Services. Before commencing any Services, the Contractor shall provide to the City certificates of insurance evidencing the issuance and maintenance in force of the coverages required by this paragraph and bearing an endorsement precluding cancellation of or change in coverage without at least thirty (30) days written notice to the City. Any self-insurance or deductible above \$50,000.00 is not permitted. The City may waive any insurance coverages or amounts required to be carried by the Contractor under this paragraph when the City deems such waiver to be in the interest of the public health, safety, and general welfare.

NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER OF THE CITY'S SOVEREIGN IMMUNITY UNDER SECTION 537.610.1 OR OTHERWISE. The purpose of the insurance required under this paragraph is to confirm that the Contractor has adequate insurance to cover the Contractor for tort claims that may arise out of the Services. It is not for the purchase of insurance for the City EXCEPT FOR AND ONLY TO THE LIMITED EXTENT OF any claims against the City arising out of the Contractor's Services and based upon one of the two statutory exceptions to sovereign immunity as expressly set forth in Section 537.600.1(1) and (2). To that limited extent, the City shall be named as an additional insured the policy bearing an endorsement that: "The Insurer shall not be liable to make any payment for Loss in connection with any Claim made against the City of Twin Oaks as an additional Insured that is barred by sovereign immunity, and nothing contained in this Policy shall constitute a waiver of the City's sovereign immunity."

Nondisclosure. The Contractor agrees that it will not divulge to third parties without the written consent of the City any information obtained from or

through the City in connection with the performance of this Contract. Nothing herein shall preclude disclosure of information by the City.

Changes. No change in this Contract shall be made except in writing prior to the change in the Services or terms being performed. The Contractor shall make any and all changes in the Services without invalidating this Contract when specifically ordered to do so in writing by the City. The Contractor, prior to the commencement of such changed or revised Services, shall submit promptly to the City, a written cost or credit proposal for such revised Services. If the City and Contractor shall not be able to agree as to the amount, either in consideration of time or money to be allowed or deducted, it shall nevertheless be the duty of Contractor, upon written notice from the City, to immediately proceed with such alteration or change, and Contractor shall be compensated the reasonable value of such Services. No Services or change shall be undertaken or compensated for without prior written authorization from the City.

Termination. The City shall have the right to terminate the Contract at any time for any reason by giving the Contractor written notice to such effect. The City shall pay to the Contractor in full satisfaction and discharge of all amounts owing to the Contractor under the Contract an amount equal to the cost of all Services performed by the Contractor up to such termination date, less all amounts previously paid to the Contractor on account of the Contract Price. The Contractor shall submit to the City its statement for the aforesaid amount, in such reasonable detail as the City shall request, within thirty (30)-days after such date of termination. The City shall not be liable to the Contractor for any damages on account of such termination for loss of anticipated future profits with respect to the remainder of the Services.

Multi-year contracts; Non-appropriation. Notwithstanding any provision herein to the contrary, the City is obligated only to make the payments set forth in the attached Contract as may lawfully be made from funds budgeted and appropriated for that purpose during the City's then current fiscal year at the discretion of the City. If no funds are appropriated or otherwise made legally available to make the required payments for this Agreement during the next occurring fiscal year (an "Event of Nonappropriation"), this Agreement will terminate at the end of the then current fiscal year as if terminated expressly. The failure or inability of the City to appropriate funds for this Agreement in any subsequent fiscal year shall not be deemed a breach of this Agreement by any party. If applicable, this Agreement may be annually renewed at each fiscal year by inclusion of specific appropriation for this Agreement, from year to year not to exceed the maximum renewal period or term as set forth in the Agreement.

Accounting. During the period of this Contract, the Contractor shall maintain books of accounts of its expenses and charges in connection with this Contract in accordance with generally accepted accounting principles and practices. The City shall at reasonable times have access to these books and accounts to the extent required to verify all invoices submitted hereunder by the Contractor.

Correction Period. Contractor hereby expressly guarantees the aforesaid Services as to workmanship and quality of materials used in connection herewith for a term of one (1) year, commencing on the date of final acceptance by the City, and binds itself, its successors or assigns, to make all repairs or replacements which may become necessary within said period due to construction defects and nonconformity with the City specifications or contract. The Contractor warrants to the City that all materials and equipment furnished under the Contract and incorporated in the Work will be new unless otherwise specified, and that all Services will be of good quality, free from faults and defects and in conformance with the Contract. The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Services as set forth herein, nor are they limited by any other remedies provided in the Contract.

Request for Proposals. If the City issued a request for proposals in connection with the Services, such request for proposals and the proposal of the Contractor in response thereto are incorporated herein by reference and made a part of this Contract. In case of any conflicts between the request for proposals and the executed Contractor Services Contract or proposal of the Contractor, the requirements of the City's Request for Proposal and this executed Contract shall control and supersede unless a change thereto is specifically stated in this Contract (including Exhibit A, "Scope of Services").

Project Records and Work Product. The Contractor shall provide the City with copies of all documents pertinent to the Services which shall include, without limitation, reports, correspondence, meeting minutes, and originals of all deliverables. The City shall own all right, title and interest, including without limitations, all copyrights and intellectual property rights, to all documents and Work Product of the Contractor created in performance of or relating to this Contract. Contractor agrees to take all steps reasonably requested by the City to evidence, maintain, and defend the City's ownership rights in the Work Product.

Site Operations. Where appropriate, the City will arrange for right of entry to any property at the request of the Contractor for the purpose of performing studies, tests, and evaluations in connection with the Services.

Personnel. The Services shall be performed exclusively by the personnel of the Contractor identified in the Contractor's proposal and no other personnel of the Contractor shall perform any of the Services without the express written approval of the City.

Representations. Contractor agrees that it has not relied on any representations or warranties of the City, oral or written, other than expressly identified in this Contract. The parties agree the Contract represents the entire agreement between the parties.

Governing/Choice of Law. This Agreement shall be governed by and construed and interpreted in accordance with the internal laws of the State of Missouri, without regard to its principles of conflict of laws.

Other Special Provisions. There are no additional special provisions set forth in the Contractor Services Agreement.

Exhibit A

Bid Proposal Form
Emergency Tree Service
2021
CITY OF TWIN OAKS

Name of Company
Submitting Bid:

Omni Tree Service, Inc.

Name of Person
Submitting Bid:

Tom Reid

Address:

55 Old State Rd
Ballwin, MO 63021

Telephone Number:

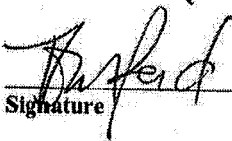
636-391-9944

Email:

jessica@omni-treeservice.com

Item No.	Description	Unit	Unit Price
1	2 crew members with truck & equipment (emergency response)	Hourly	\$400.00

Signature



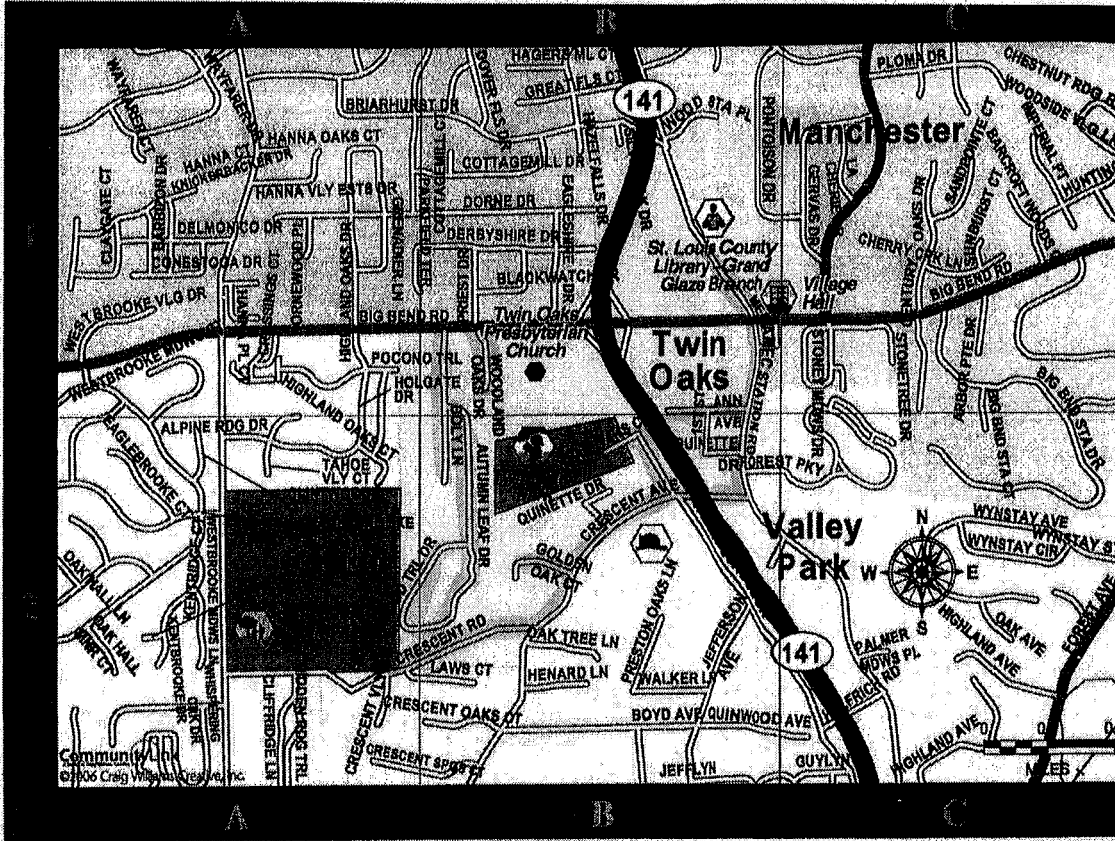
Date

11/4/2021

Tom- 314-568-0337
Brendan 314-800-5712
Manuel 314-280-0018
Fernando 314-402-2391

City of Twin Oaks Streets

(Streets are highlighted)



STREET INDEX

1st St B2	Boly Ln B1	Meramec Station Rd . B1
Ann Ave B1	Crescent Ave B2	Quinette Dr B2
Autumn Leaf Dr . . . B1	Crescent Rd A2	Twin Oaks Ct B2
Birnamwood Trl Dr . . A2	Golden Oak Ct B2	Woodland Oaks Dr . . A1

List of Streets:

Approximately 4.5 miles

- | | | |
|------------------------|------------------|----------------------|
| Ann Avenue | Crescent Avenue | Meramec Station Road |
| Autumn Leaf Drive | Crescent Road | Quinette Drive |
| Boly Lane | First Street | Twin Oaks Court |
| Birnamwood Trail Drive | Golden Oak Court | Woodland Oaks Drive |

EMERGENCY TREE SERVICE NOT REQUIRED ON BIG BEND ROAD