

**A RESOLUTION APPROVING AN AGREEMENT WITH DJM
ECOLOGICAL SERVICES FOR LANDSCAPING AND
EXCAVATION SERVICES IN TWIN OAKS PARK.**

WHEREAS, the City of Twin Oaks (the “City”) sought sealed bids for a contractor to provide services for the excavation and reconstruction of an existing water feature along with associated landscaping at the north end of Twin Oaks Park as described in the City’s Request for Proposals (the “Landscaping/Excavation Project”); and,

WHEREAS, in response to the Request for Proposals, the City received proposals from five (5) bidders to provide the desired Landscaping/Excavation Project to the City; and,

WHEREAS, Section 145.030 (“Bid Evaluation Guidelines”) of the Twin Oaks Purchasing Policy provides standards for the City to use in determining the lowest and best bidder; and,

WHEREAS, the City Clerk/Administrator and Mayor after reviewing the proposals using the Bid Evaluation Guidelines has determined that DJM Ecological Services is the lowest and best bidder; and,

WHEREAS, the Board of Aldermen has considered the recommendation from the City Clerk/Administrator and Mayor and has reviewed the bids under the Bid Evaluation Guidelines of Section 145.030 of the Twin Oaks Purchasing Code and has determined DJM Ecological Services’ bid to be the lowest and best bid.

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

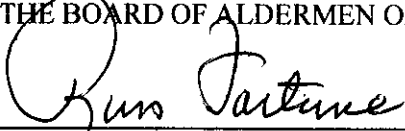
Section 1. The Board of Aldermen hereby approves, and the Mayor is hereby authorized to execute, a contract substantially in the form of Exhibit 1 (attached hereto and incorporated herein by reference) on behalf of the City of Twin Oaks with DJM Ecological Services for certain excavation, landscaping, and related services for the Landscaping/Excavation Project in Twin Oaks Park (the “Agreement”), at a cost of \$15,720.00 for the base bid and \$6,300.00 for the alternate bid for a total cost of \$22,020.00, all as more fully set forth in the Contract.

Section 2. 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 (form affidavit included herein) that the Responder (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. Contractor shall also abide by Section 208.009 RSMo., that requires all applicants at the time of application for any contract provided by a local government to 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” which affirmative proof may 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 RSMo.

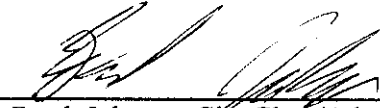
Section 3. This Resolution is adopted and shall be in full force and effect on and after its passage and approval.

THIS RESOLUTION WAS PASSED AND APPROVED THE 16th DAY OF AUGUST 2023, BY THE BOARD OF ALDERMEN OF THE CITY OF TWIN OAKS, MISSOURI.



Russ Fortune, Mayor

Attest:



Frank Johnson, City Clerk/Administrator

Exhibit 1

Twin Oaks, Missouri
CONTRACTOR SERVICES CONTRACT



THIS AGREEMENT, made and effective as of _____, 2023, by and between the **City of Twin Oaks, Missouri**, a municipal corporation hereinafter referred to as the "City," and _____, a Missouri _____, hereinafter referred to as "Contractor," with a business mailing address of _____.

WHEREAS, the Contractor provided the City with the proposal, attached hereto as **Exhibit A** and incorporated herein by reference, for certain services relating to landscaping excavation and construction services for a specified area in Twin Oaks Park (the "Proposal"), 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—Landscaping Excavation and Construction Services* (hereinafter referred to as the "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 listed above and which are particularly described in the attached **Exhibit A** incorporated herein.

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. COMPENSATION

A. Basic Compensation. The City hereby agrees to pay the Contractor the sum set forth in the Proposal, as full compensation after the complete and satisfactory performance of the Services, which include all expenses and costs related thereto.

III. TIME AND MANNER OF PAYMENTS

All invoices complete with necessary support documentation shall be submitted 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.

IV. CONTRACT SCHEDULE

Time is of the essence. The Services shall be completed in a reasonable manner no later than December 31, 2023. In addition, no more than 30 days shall pass between the start of the project and its completion. Failure to complete the Services by the completion date or within the time period allotted shall result in a reduction in the amount due to the Contractor under this Contract in the amount of \$150.00 per day as liquidated damages, herein acknowledged to be reasonable compensation for such delay, in addition to any other remedy that the City may have hereunder.

V. PERFORMANCE AND MAINTENANCE BOND

The Contractor shall furnish within five (5) days of notification of contract award a satisfactory Performance and Maintenance Bond in the full amount of the Contract Sum. The Performance and Maintenance Bond furnished shall guarantee the faithful performance of the Work and warrant the Work for the guaranty period established in this Contractor Services Agreement. The submitted Performance and Maintenance Bond shall be substantially in the form of the "Form of Performance and Maintenance Bond" included within the Bid Documents.

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

Contractor

By _____

Title _____

DATED: _____

CITY OF TWIN OAKS

By Russ Johnson

Title Mayor

DATED: Aug 18, 2023

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
CITY OF TWIN OAKS**

Name of Company
Submitting Bid: DJM Ecological Services, Inc.

Name of Person
Submitting Bid: Becky McMahon

Address: 4630 West Florissant Road
Saint Louis, MO 63115

Telephone Number: 314-278-5591

Email: bmcMahon@djmecological.com

2023 Landscaping Excavation and Construction Services					
Base Bid					
Item No.	Description	Units	Quantity	Unit Price	Total
1	Removal of existing boulders and rock base, and removal of existing pond liners	EA	1	\$1,250.00	\$1,250.00
2	Excavate pond beds to a depth of 36"	EA	2	\$435.00	\$870.00
3	Install new pond liner and rock base.	EA	1	\$6,320.00	\$6,320.00
4	Reinstall previously removed boulders	EA	1	\$1,925.00	\$1,925.00
5	Trenching of new irrigation line.	LF	150	\$20.10	\$3,015.00
6	Installation of electric pond fill sensor	EA	1	\$2,450.00	\$2,450.00
<i>Total Charges for Base Bid</i>					\$15,720.00

***Note:** Linear feet is approximate. Specific locations for the work will be identified by the City of Twin Oaks as part of the Mandatory Pre-Bid Meeting.

DJM acknowledges receipt of Addendum #1.

2023 Landscaping Excavation and Construction Services					
Alternate Bid					
Item No.	Description	Units	Quantity	Unit Price	Total
1	Construct dry creek bed with geotextile fabric and rip rap.	SF	2,000	\$7.00	TBD
		SF	900	\$7.00	\$6,300.00
<i>Total Charges for Alternate Bid</i>					\$6,300.00

*Note: Square feet is approximate. Specific locations for the work will be identified by the City of Twin Oaks as part of the Mandatory Pre-Bid Meeting.

Dusty McHale

8-14-2023

Signature

Date

Please see attached drawing for explanation of the reduction of SF that DJM is proposing.



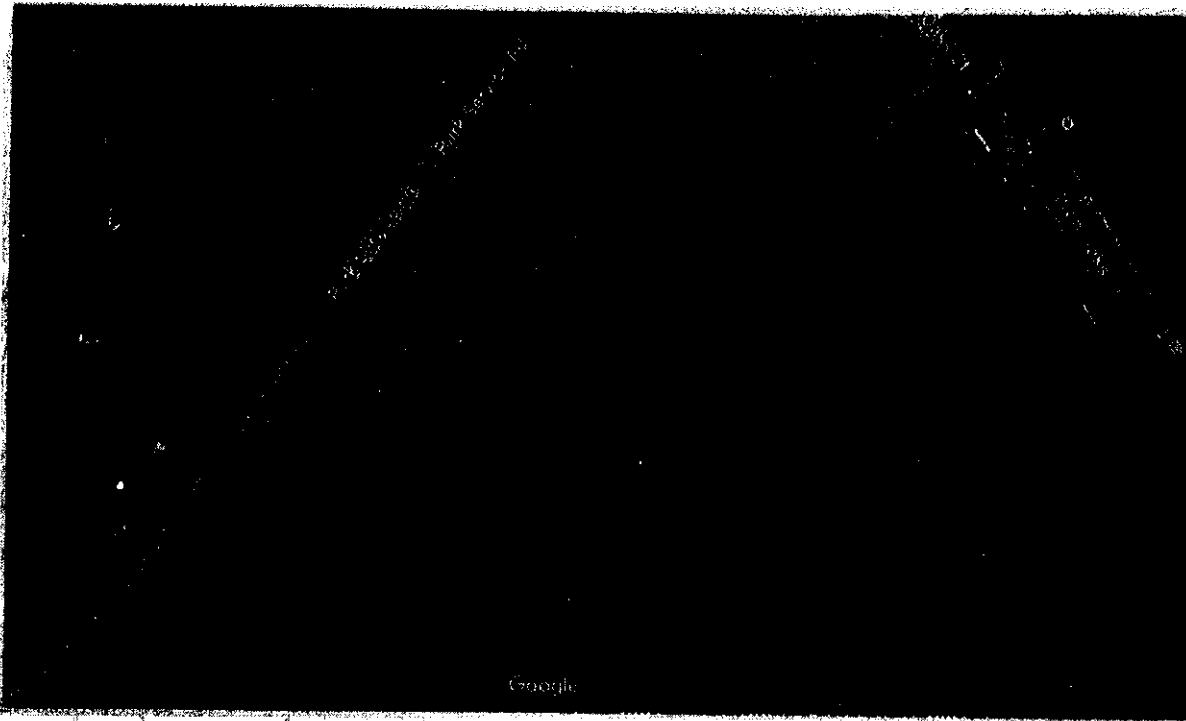
**ecological
services, inc.**

St. Louis, MO
4630 West Florissant Ave.
St. Louis, MO 63115

Wentzville, MO
2205 Ebert Lane
Wentzville, MO 63385

Kansas City, MO
905 NE 45th St.
Kansas City, MO 64116

Providing comprehensive ecological restoration and management of native plant communities.



The meandering dry creek bed swale will be lined in Mirafi geotextile fabric and positioned such that the drip lines of the trees will not be disturbed. The swale will have an average width of 6' with wider areas at the source point and at the point of discharge and a depth of 8". DJM recommends the removal of two hackberry trees that are growing under the mature oak tree to release the oak from competition and provide additional space for the swale. As drawn, the swale measures 150 linear feet, 6' wide, 8" depth will require 36 Ton of rip rap.

Alternate 1: Upgrade rip rap material to Iowa Rainbow 2-5" for more aesthetic appeal.
Complete swale cost: \$12,570.00.



Alternate 2: Upgrade to install 4 Ton small weathered limestone boulders scattered along dry creek bed for more aesthetic appeal and to match the existing creek bed across the service road. Material and Install cost: \$1,645.00.

