

RESOLUTION NO. 2024-09

**A RESOLUTION OF THE TWIN OAKS BOARD OF ALDERMEN
APPROVING AN AGREEMENT WITH LAKE MANAGEMENT
SERVICES, INC. FOR PREVENTATIVE WEED CONTROL SERVICES
IN TWIN OAKS PARK.**

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, on behalf of Twin Oaks with Lake Management Services, Inc. for preventative weed control services for the lakes in Twin Oaks Park to be provided under the terms set forth in Exhibit 1.

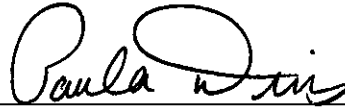
Section 2. This Resolution is adopted and shall be in full force and effect on and after its passage and approval.

THIS RESOLUTION WAS PASSED AND APPROVED THE 6th DAY OF MARCH 2024, BY THE BOARD OF ALDERMEN OF THE CITY OF TWIN OAKS, MISSOURI.



Russ Fortune, Mayor

Attest:



Paula Dries, Assistant City Clerk

Exhibit I
Proposal by Lake Management Services, Inc.

City of Twin Oaks, Missouri
SERVICES CONTRACT

THIS AGREEMENT, made and effective as of March ____, 2024, by and between the **City of Twin Oaks, Missouri**, a municipal corporation hereinafter referred to as the "City," and **Lake Management Services, Inc.**, a Missouri corporation hereinafter referred to as "Contractor";

WHEREAS, the City wishes to engage the Contractor as provider of preventative weed control 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 Project of the City: *2024 Pond Treatments at #1 Twin Oaks Ct.*

Except as expressly specified herein, Contractor hereby agrees to provide all of the 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 services which are generally described as monthly spraying, for the period of April - September 2024, of aquatic herbicides, algaecides and lake colorant to control aquatic weeds and algae at the pond located at #1 Twin Oaks Ct., as more specifically described in the proposal dated February 19, 2024, attached hereto and incorporated herein as **Exhibit A**.

The Services shall be provided by the Contractor in accordance with all the provisions of the Contract and the attached **City of Twin Oaks General Conditions** which are incorporated herein by reference.

II. COMPENSATION

A. Basic Compensation. The City hereby agrees to pay the Contractor, as full compensation for the complete and satisfactory performance of the contract, and all expenses and costs related thereto:

such amount as is set forth in Article III of this Agreement.

B. Additional Compensation. Any cost not specifically allowed the Contractor pursuant to this paragraph B dealing with additional compensation is included in Basic Compensation. If City directs in writing additional services not included in this Agreement, Contractor shall be paid as follows:

[inapplicable if left blank]

III. TIME AND MANNER OF PAYMENTS

Contractor will either submit an invoice to the City monthly after the completion of each individual weed prevention application, or submit one invoice to the City after the completion of all applications for the April - September 2024 service period. The City shall remit payment for the Services within 30 days of being invoiced by Contractor, at a total contract price not to exceed \$3,460.00, for eight (8) total applications.

IV. CONTRACT SCHEDULE

Time is of the essence.

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

LAKE MANAGEMENT SERVICES, INC.

By _____

Title _____

CITY OF TWIN OAKS

By *Russ Jattine*

Title *Mayor*

DATED: *3-7-2024*

ATTEST: _____

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 \$1,000,000 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 on a primary and noncontributory basis 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 - Proposal

LAKE MANAGEMENT SERVICES, INC.

11424 Ballard Pl.

Marthasville, MO 63357

Office (636) 673-1296 // Cell (636) 485-7757

February 19, 2024

Frank Johnson
City of Twin Oaks
1381 Big Bend Rd.
Twin Oaks, MO 63021

636-225-7873

fjohnson@cityoftwinoaks.com

Frank,

Our updated bids for our Pro-active weed control program for 2024 is attached.

If you have questions or would like bids on additional services, please give us a call.

Sincerely,

Dan Colby
President

LAKE MANAGEMENT SERVICES, INC.

**LAKE MANAGEMENT SERVICES, INC.
BID & CONTRACT FOR 2024**

11424 Ballard Place, Marthasville, MO 63357
Office (636) 673-1296

.....
WE ARE PLEASED TO SUBMIT THE FOLLOWING BIDS FOR 2024 TO:

City of Twin Oaks

Date: February 19, 2024

.....
NOTE: TO ACCEPT A JOB PLEASE SIGN, DATE AND RETURN A COPY. TO DECLINE A JOB PLACE AN X THROUGH JOB DESCRIPTION. A SIGNED CONTRACT IS NECESSARY BEFORE ANY JOBS CAN PROCEED.
.....

Job 1 Monthly Weed and Algae Control Program for Spot and Marginal Shoreline Treatment

This job will consist of applying EPA registered aquatic herbicides to control most aquatic weeds, and EPA registered algaecides to control filamentous, plankton, Chara, and also resistant pithophora algae. It does *not* include control of duckweed or watermeal. Your lake will be inspected every 3 to 4 weeks from April through September.

Note: The following bid is offered as a range because there is no way of knowing how wide spread the plant infestation will be, how much herbicide will be needed during any given application, or how much time will be needed to spray, until we actually arrive to treat the pond.

Cost: \$290 - \$390 per application
Estimated Annual Cost Based on 8 Applications: \$2,320 - \$3,120

Acceptance of Job 1 _____ Date _____

**Exhibit B
Insurance**

Unless otherwise instructed in writing by the City, the Contractor shall obtain and maintain during the term of the Project and the Contractor Services Contract the insurance coverages at least equal to the coverages below, and as further provided in the General Conditions, but no event less than the individual and combined sovereign immunity limits established by Section 537.610 R.S.Mo. 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 proposal and no additional payment will be made therefor by the City.

Comprehensive General Liability Insurance (including coverage for Bodily Injury and Property Damage)	\$1,000,000 per occurrence \$3,370,137 aggregate
Comprehensive Automobile Liability Insurance (including coverage for Bodily Injury and Property Damage)	\$1,000,000 per occurrence \$3,370,137 aggregate

In addition, the Contractor and all subcontractors shall provide Worker's Compensation Insurance in at least statutory amounts for all workers employed at the Project site. Unless instructed otherwise, the Contractor shall also provide a policy of Builder's Risk Insurance in the amount of 100% of the complete insurable value of the Project, which policy shall protect the Contractor and the City, as their respective interests shall appear. Before commencing any work, the Contractor shall provide to the City certificates of insurance evidencing the issuance and maintenance in force of the coverages required by this Exhibit D. Each such certificate shall show the City, and such other governmental agencies as may be required by the City to be insured by underlying grant or contract relating to the Project, as an additional insured, and shall bear an endorsement precluding cancellation of or change in coverage without at least thirty (30) days written notice to the City.

The City may waive any insurance coverages or amounts required by this Exhibit when the City deems such waiver may be in the interest of the public health, safety, and general welfare.