

RESOLUTION No. 2019-08

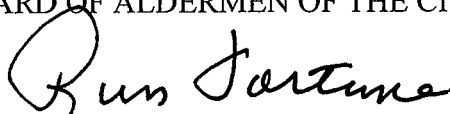
A RESOLUTION OF THE TWIN OAKS BOARD OF ALDERMEN APPROVING AN AGREEMENT WITH NICK DAMATO D/B/A STL HOLIDAY LIGHTING FOR WINTER-HOLIDAY RELATED DECORATION SERVICES.

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 on behalf of the City of Twin Oaks, an agreement for services substantially in the form of "Exhibit 1" attached hereto and incorporated herein, with Nick Damato d/b/a STL Holiday Lighting, for certain services related to hanging lights and other winter holiday-related decorations at Twin Oaks Park, for a total cost not to exceed \$1,635.00 and under the terms set forth in Exhibit 1.

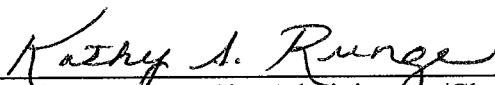
Section 2. This Resolution is adopted and shall be in full force and effect on and after its passage and approval.

THIS RESOLUTION WAS PASSED AND APPROVED THE 22 DAY OF MAY 2019, BY THE BOARD OF ALDERMEN OF THE CITY OF TWIN OAKS, MISSOURI.



Russ Fortune, Mayor

Attest:



Kathy A. Runge, City Administrator/Clerk

Exhibit 1

Twin Oaks, Missouri
CONTRACTOR SERVICES CONTRACT

THIS AGREEMENT, made and effective as of May 22, 2019, by and between the **City of Twin Oaks, Missouri**, a municipal corporation hereinafter referred to as the “City,” and **Nick Damato d/b/a STL Holiday Lighting**, an individual with a fictitious name registered with the Missouri Secretary of State, hereinafter referred to as “Contractor,” with a business mailing address of 19027 Old Manchester Road, Pacific, Missouri 63069;

WHEREAS, the Contractor provided the City with the proposal, attached hereto as **Exhibit A** and incorporated herein by reference, for certain services relating to hanging lights and other winter holiday-related decorations at 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 Project of City: *Twin Oaks—Hanging of Winter Holiday Lights and other Decorations at Twin Oaks Park (the “Lighting Project”).*

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 and maintenance of the Lighting Project consisting of lights along the entire outline of the building and which is more particularly described in the **2019 Holiday Lighting Display for Twin Oaks Park**, attached as **Exhibit A** and incorporated herein by reference (the “Proposal”).

The above-reference services for the Lighting Project (hereinafter referred to as the “Work”) 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 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 an amount not to exceed **\$1,635.00** in accordance with the Proposal, as full compensation for the complete and satisfactory performance of the Work, including all expenses and costs related thereto.

B. *Additional Compensation.* Any cost not specifically allowed the Contractor pursuant to this paragraph B dealing with additional compensation is included in Basic Compensation. As stated in the Proposal, if the City directs in writing additional services, Contractor shall be

paid at \$25.00 – \$30.00 per strand of mini lights or \$25.00 per wreath, or such other cost as set forth in the Proposal.

IV. TIME AND MANNER OF PAYMENTS

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

V. CONTRACT SCHEDULE

Time is of the essence. The installation of the lights to be performed under this Contract shall be commenced and completed **prior to November _____, 2019**. Lighting take-down will occur between January 2 and January 15, 2020, and Contractor gaurantees lighting will be completely removed by January 15, 2020.

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

NICK DAMATO
d/b/a STL HOLIDAY LIGHTING

CITY OF TWIN OAKS

Nick Damato

By _____

Title _____

DATED: _____

DATED: _____

ATTEST: _____

City Clerk

**GENERAL CONDITIONS
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 Work, 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 requirement:

- *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 Work 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. Contractor shall furnish the City the certificates of insurance for workers' compensation, public liability, and property damage, including automobile coverage in the amounts specified by the City in the request for proposals, if any, otherwise in the amounts as acceptable to the City, but unless otherwise provided shall be no less than the maximum amounts of liability set forth in Chapter 537.610 RSMo., applicable to political subdivisions. The policies of insurance shall be in such form and shall be issued by such company or companies as may be satisfactory to the City. The City, and such additional persons and entities as may be deemed to have an exposure to liability as a result of the performance of the Contractor's work, as determined by the City, shall be named as additional insured and the applicable insurer shall owe the City a duty of defense on all insurance policies required hereunder. The Contractor shall provide an Additional Insured Endorsement to the City that shall be approved by the City prior to commencement of any Work.

In addition to the foregoing, the Contractor shall maintain Professional Liability "errors and omissions" insurance in the form for the coverages satisfactory to City as indicated in the request for proposals, if any, otherwise as acceptable to the City. The City and Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by Builder's Risk or any other property insurance, except such rights as they may have to the proceeds of such insurance; provided that nothing herein shall be deemed a waiver of the City's sovereign immunity relative to any claim against the City.

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 Work or terms being performed. The Contractor shall make any and all changes in the Work 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 Work, shall submit promptly to the City, a written cost or credit proposal for such revised Work. 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 Work. **No Work 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 Work 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 Work.

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.

Other Contractors. The City reserves the right to employ other Contractors in connection with the Work.

Proposals. If the City issued a written request for proposals in connection with the Work or orally asked for a proposal, 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 terms of the Contractor's proposal and the executed Contractor/Services Contract (including these General Conditions) or the City's request for proposal, the requirements of the City's request for proposal and this executed Contractor/Professional Services Contract shall control and supersede the Contractor's proposal unless a change thereto is specifically stated in this Contract.

Project Records and Work Product. The Contractor shall provide the City with copies of all documents pertinent to the Work 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 Work.

Personnel. The Work 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 Work 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. The special provisions set forth on Exhibit A are incorporated herein by reference and made a part hereof.

EXHIBIT A



2019 Holiday Lighting Display for Twin Oaks Park from STL Holiday Lighting: \$1,515 - \$1,635

Last year, we installed mini-lights and wreaths in 4 different areas of Twin Oaks Park for a total of \$795. (Those services included installing clear mini-lights on the roof of the pavilion seating area, installing clear mini-lights and a wreath along the lookout deck, installing clear mini lights and 2 wreaths on the bridge, and installing clear mini lights and 1 wreath on the small gazebo over the lake, with Twin Oaks supplying the wreaths.) For 2019, the price to re-install the same display will be the same (\$795). *See next page for additional details regarding the 2017 display.*

This year, as you requested, we will also wrap 4 trees total (2 trees at each end of the bridge) with clear mini-lights for an additional charge between \$720 - \$840. (Exact amount will depend on the final count of how many mini-lights are installed on the trees). *See details below.*

Thus, our total estimated price for 2019 is between \$1,515 and \$1,635.

(Calculated as \$795 for re-installation of the 2017 display + \$720 to \$840 for addition of the 4 large trees)

2019 Add-On: Wrap Clear Mini-Lights around the 4 Trees (2 at each end) of the Bridge: \$720 - \$840

To install lights on these 4 trees, we will wrap each tree trunk with 1 strand of mini-lights, and then spiral wrap around the outsides of the tree branches, using another 5-6 strands of mini-lights per tree. Thus, each tree would require 6-7 strands of mini lights.

When we wrap the trees, we will coil 1 strand around each of the trunks. For the branches, using 5-6 strands of mini-lights per tree should result in between 4 and 5 spirals around the outsides of each tree's branches.

This will require between 24 and 28 strands of mini-lights total, which at \$30 per strand for tree wrapping, would total between \$720 - \$840.



Review of What We Installed in 2017 that we Will Be Re-Installing this Year: \$795

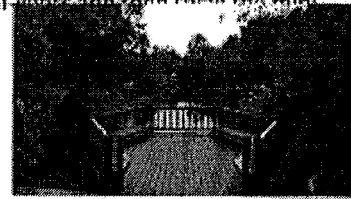
1. Installing Clear Mini-Lights on the Roof of the Pavilion Seating Area: \$275

- a. We will use 5 strands of our clear mini-lights to outline all 6 sides of the pavilion roof and 6 strands of our clear mini-lights to outline from each corner of the roof up to the top.
- b. This will require 11 strands of mini-lights, for \$25 each (\$275).



2. Installing Clear Mini-Lights and Hanging a Wreath on the Lookout Deck: \$115

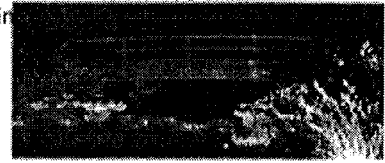
- a. We will wrap the 2 front posts of the railing with our clear mini-lights and then wrap the mini-lights from 1 section of the railing to another, on the outside of the railing.
- b. This will require 3 strands of mini-lights, for \$30 each (\$90).
- c. Twin Oaks Community will provide a wreath that we will hang at the head of the deck for \$25.



(We suggest using a 3-foot wreath, and if it is lit, the lights should be clear LED lights.)

3. Installing Clear Mini-Lights and Hanging 2 Lit Wreaths on the Bridge: \$170

- a. We will swag our clear mini-lights along both sides of the railing (10 feet long), using 2 strands of mini-lights for each side of the bridge (4 strands total).
- b. This will require 4 strands of mini-lights at \$30 each, (\$120).
- c. Twin Oaks Community will provide 2 wreaths that we will hang and wire on each side of the center of the bridge, for \$25 per wreath (\$50 total with 2 wreaths). We suggest using two 4-foot wreaths, both with clear LED lights.



4. Installing Clear Mini-Lights and Hanging 1 Lit Wreath on Small Gazebo Over Lake: \$235

- a. We will install small, permanent, brass I-hooks so that we can swag our clear mini-lights around the gazebo railing, between each post (3 swags per side), for a price of \$30 per strand (3 strands x \$30 each = \$90).
- b. We will swag our clear mini-lights along both the walkways to and the railing around the gazebo, using a total of 4 strands of mini-lights for \$30 per strand (\$120).
- c. Twin Oaks Community will provide a wreath that we will hang it on the front of the gazebo over the lake for \$25. (We suggest using a 3-foot wreath and if it has lights, they should be clear LEDs.)



We will also provide and install 4 timers, one for each area where we will be installing lights, and we will set all of them to turn the lights on around 4pm and off around 10pm.



This is only an estimate, not a guaranteed quote. We will charge \$25 - \$30 for each strand of mini-lights we install and \$25 for each wreath we hang. (If you ask us to hang more or less strands of mini-lights than the quantities indicated in this proposal, your price will be adjusted accordingly.) We will provide and maintain ownership of all of the necessary materials for the services listed above except for the wreaths. You will be responsible for purchasing the wreaths, which will be your property to store and keep at the end of the season, after we take them down for you.

Our per-strand prices of \$25 - \$30 for each strand of mini-lights installed (mini-light strands for the seated pavilion area are priced at \$25 per strand while mini lights hung in all other areas and on trees are priced at \$30 per strand due to time involved) are all-inclusive in that we will provide all of the necessary materials, install the indicated strands of mini-lights along the indicated areas, custom-fit the wiring, replace any strands that go out and provide you with any needed service on your display throughout the season, take the lights down in January, and store them in our warehouse.

Notes on Contract Terms:

- Let us know what date the Park's turn-on ceremony is and we will make sure the park's display is installed and working properly by or before that date. (You are welcome to put that date into the contract you send us for this year.)
- We are willing to guarantee take-down between January 2nd and January 15th. (We do need a few weeks to guarantee completion of the take down, as weather radically affects our take-down scheduling, which is why the take-down deadline needs to be no earlier than January 15th.)
- As the City of Twin Oaks is now a repeat customer, no advance payment is necessary. We will bill you once we complete the install, with the exact price depending on how many strands we install. (If Twin Oaks does not instruct us to make any changes to this display as it is proposed in this document, we can guarantee that the final price will be a total of \$1,635 or less.)