

AGREEMENT
between
THE CITY OF COCONUT CREEK
and
ODYSSEY MANUFACTURING CO.
for
MONOCLOR RESIDUAL CONTROL SYSTEM (MRCS)

THIS AGREEMENT is made and entered into on this ____ day of _____, 2021, between the City of Coconut Creek, a municipal corporation, with principal offices located at 4800 West Copans Road, Coconut Creek, FL 33063 (the "City") and Odyssey Manufacturing Co., a foreign profit corporation with principal offices located at 1484 Massaro Blvd, Tampa, FL 33619 (the "Contractor"), to provide and install a Monoclor Residual Control System (MRCS) at the Hilton Road Tank, located at 4801 Hilton Road, Coconut Creek, FL 33073.

NOW THEREFORE, in consideration of the mutual covenants and benefits hereinafter set forth, the receipt and sufficiency hereby acknowledged, the City and Contractor agree as follows:

1) The Work

The Contractor shall perform all work for the City required by this Agreement as set forth below:

- a) Contractor shall furnish all labor, materials, and equipment necessary for installing a Monoclor Residual Control System (MRCS) at the Hilton Road Tank, located at 4801 Hilton Road, Coconut Creek, FL 33073, as specified in the proposal attached hereto as Exhibit "A."
- b) Contractor shall supervise the work force to ensure that all workers conduct themselves and perform their work in a safe and professional manner. Contractor shall comply with all OSHA safety rules and regulations in the operation of equipment and in the performance of the work. Contractor shall at all times have a competent field supervisor on the job site to enforce these policies and procedures at the Contractor's expense.
- c) Contractor shall provide the City with at least seventy-two (72) hours notice prior to the beginning of work under this Agreement and prior to any schedule change with the exception of changes caused by inclement weather.
- d) Contractor shall comply with any and all Federal, State, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to the Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein.
- e) The City and Contractor shall proceed with work at a mutually agreed upon time and date in writing. The Contractor will coordinate the service date and time in advance with Robert McDonald, Project Manager, on behalf of the City.

f) The City will provide adequate access to the work areas, including removing any personal items.

2) Time of Commencement

The work to be performed under this Agreement shall be commenced after execution of this Agreement and shall be completed no later than September 30th, 2022.

3) Contract Price

The City and Contractor agree that the value of the work under this Agreement, inclusive of labor and materials, is Two Hundred Eighteen Thousand Three Hundred and Sixty Nine dollars and Sixty cents (\$218,369.60).

4) Payment

Payment will be tendered to Contractor via City check as follows: twenty percent (20%) upon execution of the Agreement, sixty-five percent (65%) to be billed monthly for work completed, and fifteen percent (15%) to be paid when the work has been completed, inspected and accepted by the City.

5) Contract Term

The term of this Agreement shall begin on the day and year first written above and end upon completion of all work to the satisfaction of the City.

6) Warranty

Contractor warrants the work against defect for a period of one (1) year from the date of the City's acceptance of the work. In the event that defect occurs during this time, Contractor shall perform such steps as required by industry standards and the City's Fire Marshal or designee to cure the defect. Contractor shall be responsible for any damages or defects in the work areas caused by poor materials and/or workmanship of the Contractor.

7) Non-Discrimination

The Contractor agrees that it shall not discriminate against any of its employees or applicants for employment because of their age, race, color, religion, sex, national origin, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, gender identity or expression, or veteran or service member status, and to abide by all Federal, State, and County laws regarding non-discrimination. The Contractor further agrees to insert the foregoing provisions in all subcontractor's agreements hereunder. Any violation of such provisions shall constitute a material breach of this Agreement.

8) Independent Contractor

Contractor is an independent Contractor under this Agreement. All services provided by the Contractor shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of the Contractor.

9) Insurance

Workers' Compensation

Statutory Limits of coverage to apply for all employees in compliance with all applicable State of Florida and federal laws. The policy must include Employers Liability with a limit of \$100,000.00 each accident.

Note: Contractors who are exempt from Florida's Workers' Compensation law must provide proof of such exemption issued by the Florida Department of Financial Services, Bureau of Workers' Compensation.

General Liability

Commercial General Liability insurance with limits not less than \$1,000,000.00 each occurrence combined single limit for Bodily Injury and Property Damage including coverage for premises/operations, contractual liability, personal injury, explosion, collapse, underground hazard, products/completed operations, broad form property damage, cross liability and severability of interest clause. This policy of insurance shall be written in an "occurrence" based format.

Automobile Liability

Comprehensive or Business Automobile Liability insurance with limits not less than \$500,000.00 each occurrence combined single limit for Bodily Injury and Property Damage including coverage's for owned, hired, and non-owned vehicles and/or equipment as applicable. This policy of insurance shall be written in an "occurrence" based format.

Professional Liability/Errors and Omissions Coverage

If the Consultant is to provide professional services under this Agreement, the Consultant must provide the City with evidence of Professional Liability insurance with, at a minimum of \$1,000,000.00 per occurrence and in the aggregate. "Claims-Made" forms are acceptable for Professional Liability insurance. Coverage shall include all claims arising out of the Consultant's operations or premises, any person directly or indirectly employed by the Consultant, and the Consultant's obligations under indemnification under this contract.

Consultant acknowledges that the City is relying on the competence of the Consultant to design the project to meet its functional intent. If it is determined during construction of the project that changes must be made due to Consultant's negligent errors and omissions, Consultant shall promptly rectify them at no cost to City and shall be responsible for additional costs, if any, of the project to the proportional extent caused by such negligent errors or omissions.

10) Indemnification

The parties agree that one percent (1%) of the total compensation paid to Contractor for the work of the Contract shall constitute specific consideration to Contractor for the indemnification to be provided under the Agreement. The Contractor shall indemnify and hold harmless the City, its elected and appointed officials, employees, and agents from any and all claims, suits, actions, damages, liability, and expenses (including attorneys' fees) in connection with loss of life, bodily or personal injury, or property damage, including loss of use thereof, directly or indirectly caused by, resulting from, arising out of or occurring in connection with the operations of the Contractor or its officers, employees, agents,

subcontractors, or independent Contractors, excepting only such loss of life, bodily or personal injury, or property damage solely attributable to the gross negligence or willful misconduct of the City or its elected or appointed officials and employees. The above provisions shall survive the termination of this Agreement and shall pertain to any occurrence during the term of this Agreement, even though the claim may be made after the termination or expiration hereof.

Nothing contained herein is intended nor shall be construed to waive City's rights and immunities under the common law or Section 768.28, Fla. Stat., as amended from time to time.

11) Public Records

Contractor shall comply with all public records laws in accordance with Chapter 119, Fla. Stat. In accordance with state law, Contractor agrees to:

- a) Keep and maintain all records that required by the City to perform the services.
- b) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copies within a reasonable time at a cost that does not exceed the costs provided in Chapter 119, Fla. Stat., or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.
- d) Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- e) If Contractor does not comply with this Section, the City shall enforce the Agreement provisions in accordance herewith and may unilaterally cancel this Agreement in accordance with state law.
- f) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-973-6774, PublicRecords@coconutcreek.net, 4800 West Copans Road, Coconut Creek, FL 33063.**

12) Assignment and Subcontracting

Contractor shall not transfer or assign the performance required by this Agreement without the prior consent of the City. This Agreement, or any portion thereof, shall not be subcontracted without the prior written consent of the City.

13) Notice

Whenever either party desires or is required under this Agreement to give notice to any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended at the following addresses:

CITY

Robert McDonald, Project Manager
City of Coconut Creek
4800 West Copans Road
Coconut Creek, FL 33063
Phone: 954-956-1568

CONTRACTOR

Patrick H. Allman, General Manager
Odyssey Manufacturing Co.
1484 Massaro Blvd
Tampa, FL 33619
Phone: 800-639-7739
Fax: 813-630-2589
Email: PAllman@odysseymanufacturing.com
Website: www.odysseymanufacturing.com

14) Termination

Upon thirty (30) calendar days, written notice delivered by certified mail, return receipt requested, to the Contractor, the City may without cause and without prejudice to any other right or remedy, terminate the Agreement for the City's convenience whenever the City determines that such termination is in the best interest of the City. If the Agreement is terminated by the City, the City must state in its notice to Contractor that the Agreement is being terminated under the termination clause and the extent of the termination and reasonable payment for work already done. The Contractor shall discontinue all work on the appointed last day of service.

15) Venue

This Agreement shall be governed by the laws of the State of Florida as now and hereafter in force, without regard to conflicts of law principles. The venue for actions arising out of this Agreement is exclusively in the Seventeenth Judicial Circuit in and for Broward County, Florida for state claims, or the United States District Court for the Southern District of Florida for federal claims.

16) Severability; Waiver of Provisions

If any provision of this Agreement or application thereof to any person or situation shall to

any extent, be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement, and this application of such provisions shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

17) Merger; Amendment

This Agreement constitutes the entire Agreement between the Contractor and the City, and negotiations and oral understandings between the parties are merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the Contractor and the City.

18) Antitrust Violations; Denial or Revocation of the Right to Transact Business with Public Entities; Denial of Economic Benefits

Pursuant to Section 287.137, Florida Statutes, effective July 1, 2021 a person or an affiliate who has been placed on the antitrust violator vendor list (electronically published and updated quarterly by the State of Florida) following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity. A finding that a person or affiliate was on the antitrust violator vendor list prior to entering this Agreement will be cause to terminate this Agreement at the option of the City.

19) Interpretation

The language of this Agreement has been agreed to and prepared by both Parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

20) Scrutinized Companies pursuant to Section 287.135 and 215.473

CONTRACTOR certifies that it is not participating in a boycott of Israel. **CONTRACTOR** also certifies that **CONTRACTOR** is not on the Scrutinized Companies that Boycott Israel list, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and has not been engaged in business operations in Cuba or Syria. Subject to limited exceptions provided in state law, **CITY** will not contract for the provision of goods or services with any scrutinized company referred to above. **CONTRACTOR** must submit the certification that is attached to this contract. Submitting a false certification shall be deemed a material breach of contract. The **CITY** shall provide notice, in writing, to the **CONTRACTOR** of the **CITY'S** determination concerning the false certification. The **CONTRACTOR** shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active contract term, the **CONTRACTOR** shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that

the determination of false certification was made in error. If the **CONTRACTOR** does not demonstrate that the **CITY'S** determination of false certification was made in error then the **CITY** shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes, as amended from time to time.

CONTRACTOR understands and agrees that pursuant to Sections 287.135 and 287.473, Florida Statutes, the submission of a false certification; or being placed on the Scrutinized Companies that Boycott Israel List, or engaging in a boycott of Israel; or being placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or engaging in business operations in Cuba or Syria will be cause for the **CITY** to terminate this Agreement at the option of the **CITY**.

21) **E-Verify**

a) Definitions:

“Contractor” means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration.

“Subcontractor” means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

b) Effective January 1, 2021, public and private employers, contractors and subcontractors will begin required registration with, and use of the E-verify system in order to verify the work authorization status of all newly hired employees. Vendor/Consultant/Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:

- 1) All persons employed by Vendor/Consultant/Contractor to perform employment duties within Florida during the term of the contract; and
- 2) All persons (including subvendors/subconsultants/subcontractors) assigned by Vendor/Consultant/Contractor to perform work pursuant to the contract with the Department. The Vendor/Consultant/Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security’s E-Verify System during the term of the contract is a condition of the contract with the City of Coconut Creek; and
- 3) By entering into this Contract, the Contractor becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of 1 year after the date of termination.

**SCRUTINIZED COMPANIES
CERTIFICATION PURSUANT TO
FLORIDA STATUTE § 215.4725 AND § 215.473**

I, _____, on behalf of _____,
Print Name Company Name

certifies that _____ does not:
Company Name

1. Participate in a boycott of Israel; and
2. Is not on the Scrutinized Companies that Boycott Israel list; and
3. Is not on the Scrutinized Companies with Activities in Sudan List; and
4. Is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and
5. Has not engaged in business operations in Cuba or Syria.

Signature

Title

Phone

Date

E-VERIFY FORM

Project Name:	Monoclor Residual Control System (MRCS)
Project No.:	Sole Source

ACKNOWLEDGEMENT	<p>Definitions:</p> <p>“Contractor” means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration.</p> <p>“Subcontractor” means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.</p> <p>Effective January 1, 2021, public and private employers, contractors and subcontractors will begin required registration with, and use of the E-verify system in order to verify the work authorization status of all newly hired employees. Vendor/Consultant/Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:</p> <p>(a) All persons employed by Vendor/Consultant/Contractor to perform employment duties within Florida during the term of the contract; and</p> <p>(b) All persons (including subvendors/subconsultants/subcontractors) assigned by Vendor/Consultant/Contractor to perform work pursuant to the contract with the Department. The Vendor/Consultant/Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security’s E-Verify System during the term of the contract is a condition of the contract with the City of Coconut Creek; and</p> <p>Should vendor become successful Contractor awarded for the above-named project, by entering into this Contract, the Contractor becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of 1 year after the date of termination.</p>
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COMPANY CONTACT INFORMATION	Company Name:
	Authorized Signature:
	Print Name:
	Title:
	Date:
	Phone:
	Email:
	Website:

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature. CITY OF COCONUT CREEK, through its City Manager or designee and Odyssey Manufacturing Co. signing by and through its General Manager, Patrick H. Allman, duly authorized to execute same.

CITY OF COCONUT CREEK

ATTEST:

Karen M. Brooks, City Manager _____
Date

Marianne Bowers _____
Interim City Clerk Date

Approved as to form and legal sufficiency:

Terrill C. Pyburn , City Attorney _____
Date

[Vendor's Signature to Follow]

ODYSSEY MANUFACTURING CO.

ATTEST:

(Corporate Secretary)

Patrick H. Allman, General
Manager

Date

Type/Print Name of Corporate Secy.

Type/Print Name of General Manager

(CORPORATE SEAL)

CORPORATE ACKNOWLEDGEMENT

STATE OF _____:

COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of physical presence or online
notarization, this _____ day of _____, _____, by
_____ as _____ for
_____.

Signature of Notary Public
State of Florida at Large

Print, Type or Stamp
Name of Notary Public

- Personally known to me or
- Produced Identification

- _____
Type of I.D. Produced
- DID take an oath, or
 - DID NOT take an oath.