

## CONTRACT FOR SODIUM HYPOCHLORITE TANK REPLACEMENT

THIS CONTRACT ("Contract") is made this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the **Town of Highland Beach**, a Florida municipal corporation ("Town") and **Odyssey Manufacturing Co.**, a Florida corporation, with its principal address at 1484 Massaro Boulevard, Tampa, FL 33619 ("Contractor").

WHEREAS, the Town is a municipal corporation organized and existing pursuant to its Charter and the Constitution of the State of Florida; and

WHEREAS, the Town is in need of a contractor to provide labor services, materials, and equipment to replace a sodium hypochlorite tank at the Town's Water Treatment Plant and the Town issued an Invitation to Bid No. 22-003 ("ITB") regarding the same; and

WHEREAS, Contractor submitted a response to the ITB and the Town desires to accept Contractor's bid to allow Contractor to render the goods and services to the Town as provided herein; and

WHEREAS, Contractor warrants that it is experienced and capable of performing the tasks hereunder in a professional and competent manner; and

WHEREAS, the Town finds awarding the bid to Contractor as described herein serves a valid public purpose.

NOW THEREFORE, in consideration of the promises and mutual covenants herein contained, the sufficiency of which is acknowledged by both parties, it is hereby agreed between Contractor and the Town as follows:

### Article 1. CONTRACT.

1.1 Contract Documents. The Contract Documents are incorporated herein by reference as if originally set forth in this Contract, and comprise the entire agreement between the Town and Contractor. The Contract Documents consist of this Contract; the Town's Bid, the Bid submitted by Contractor; and any duly executed and issued Change Orders, Work Directive Changes, Field Orders and amendments relating thereto. If, during the performance of the work, Contractor finds an ambiguity, error or discrepancy in the Contract Documents, Contractor shall so notify the Town, in writing, within five (5) business days and before proceeding shall obtain a written interpretation or clarification. Failure to obtain a written interpretation or clarification will be deemed a waiver of the ambiguity, error or discrepancy by Contractor. The Town will not be responsible for any oral instructions, clarifications, or other communications except those provided in writing in response to Contractor's request for clarification of an ambiguity, discrepancy or error.

In resolving conflicts in any of the Contract Documents, the order of precedence shall be as follows:

First Priority:	Duly executed change orders
Second Priority:	This contract
Third Priority:	Town's Bid (attached hereto as <b>Exhibit "A"</b> )

Fourth Priority: Contractor's proposal (attached hereto as **Exhibit "B"**)

- 1.2 Contract Administrator. Whenever the term Contract Administrator is used herein, it is intended to mean **the Town Manager or designee, Town of Highland Beach, Florida**. In the administration of this Contract, all parties may rely upon instructions or determinations made by the Contract Administrator except that all determinations that result in an increase in Contract Time and/or an increase in the Contract Price, shall require a formal Change Order executed by the Town Manager or the Town Commission (depending on the authority set forth in the Town's Procurement Code).
- 1.3 Contract Price. The Contract Price shall be **\$69,900.00 (Sixty-nine thousand nine hundred dollars and no cents)**, which shall be payable in accordance with Article 3 of this Contract.
- 1.4 Contract Time. Contractor agrees to fully complete the scope of work as set out in the Town's Bid, attached hereto and incorporated herein as **Exhibit "A"**, within 30 days of receiving a written notice to proceed from the Contract Administrator.
- 1.5 Liquidated Damages. **The Town and Contractor recognize that time is of the essence for this Contract and that the Town will suffer financial loss if the services described in the Contract Documents are not completed within the times specified in paragraph 1.4 above. The Town and Contractor recognize, agree and acknowledge that it would be impractical and extremely difficult to ascertain and fix the actual damages that the Town would suffer in the event Contractor neglects, refuses, or otherwise fails to complete the services within the time specified. Accordingly, instead of requiring any such proof, the Town and Contractor agree that as liquidated damages for delay (but not as a penalty) the Contractor shall pay the Town \$500.00 for each day that expires after the time specified in paragraph 1.4. The Liquidated Damage shall not be the Town's sole or exclusive remedy under the Contract Documents; there shall be no limitation on the amount of the Liquidated Damages that may be assessed; and, there shall be no bonus paid to the Contractor for early completion of the services**

## Article 2. SCOPE OF WORK.

- 2.1 The Scope of Work (or Work) includes providing labor, materials, and equipment to remove and replace an existing sodium hypochlorite tank at Town Hall, according to the Town's specifications as set forth in its Bid.
- 2.2 Contractor represents to the Town that the services rendered in the Scope of Work shall be in accordance with accepted and established trade practices and procedures recognized in Contractor's trade in general and that the materials shall conform to the highest standards and in accordance with this Contract.
- 2.3 Contractor represents that it is licensed to do business in the State of Florida and holds and will maintain all applicable licenses required for the work to be completed under this Contract. Contractor further warrants its capability and experience to perform the work provided for herein in a professional and competent manner.
- 2.4 The Scope of Work shall be performed by Contractor or under its supervision and all personnel engaged in performing the Scope of Work shall be fully qualified and, if required, authorized

or permitted under the state and local law to perform such Scope of Work. All of Contractor's personnel (and all subcontractors) while on the Town's premises, shall comply with all Town requirements governing safety, conduct and security.

- 2.5 The Scope of Work shall be completed in accordance with the terms and conditions set forth in the Contract Documents.

### Article 3. PAYMENT PROCEDURES

- 3.1 Generally. The Contractor shall submit invoices on a monthly basis detailing all work accomplished in the prior month and all materials installed and used in the Project. Contractor's invoices shall be submitted to:

Town of Highland Beach  
Attn: Finance Department  
3614 S. Ocean Blvd.  
Highland Beach, FL 33487

The Town's Contract Administrator will review each invoice submitted by Contractor. If approved by the Town's Finance Department, the Town will make payment in accordance with the Contract Documents. If not approved, the Town will notify Contractor within ten (10) business days of the Town's receipt and identify the action necessary to correct the invoice or a deficiency.

- 3.2 Final Payment. Upon final completion and acceptance of the Work in accordance with this Contract (including all punch-list items) and final inspection Contractor shall submit a "final invoice" to the Town. In order for both parties to close their books and records, Contractor will clearly state "FINAL" on Contractor's final invoice. This certifies that all Work has been properly completed and all charges have been invoiced to the Town. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by Contractor. If Contractor's Final Invoice is approved as set forth above, the Town shall pay the remainder of the Contract Price including any amount held as retainage.
- 3.3 Notwithstanding the foregoing, the Town shall not be required to pay or release any amount of retainage that is subject of a good faith dispute, the subject of a claim brought pursuant to section 255.05, Florida Statutes, or otherwise the subject of a claim or demand by the Town.
- 3.4 The Town is exempt from payment of Florida State Sales and Use Tax. Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fill contractual obligations with the Town, nor is Contractor authorized to use the Town's Tax Exemption Number in securing such materials.

### Article 4. SUBCONTRACTORS

All sub-contractors shall be properly licensed, bondable and shall be required to furnish the Town with a Certificate of Insurance in accordance with the contract general conditions.

## Article 5. CONTRACTOR'S REPRESENTATIONS

In order to induce the Town to enter into this Contract, Contractor makes the following representations:

- 5.1 Contractor has familiarized itself with the nature and extent of the Contract Documents, work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the work.
- 5.2 Contractor has obtained at its own expense and carefully studied, or assumes responsibility for obtaining and carefully studying, soil investigations, explorations, and test reports which pertain to the subsurface conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the work as Contractor considers necessary for the performance or furnishing of the work at the Contract Price, within the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or is deemed necessary by Contractor for such purposes.
- 5.3 Contractor has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
- 5.4 Contractor has given the Contract Administrator written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the resolution thereof is acceptable to the Contractor.

## Article 6. INDEMNITY.

The Contractor shall defend, indemnify and hold harmless the Town, its officers and employees from and against any and all claims, costs, losses and damages including, but not limited to reasonable attorney's fees, caused by the negligent acts or omissions of the Contractor, its officers, directors, agents, partners, Subcontractor, employees and managers in the performance of audit services pursuant to this Agreement and the RFP.

The Contractor shall be fully responsible to Town for all acts and omissions of the Contractor, its employees, Subcontractor, suppliers, or other persons directly or indirectly employed by its Subcontractor or suppliers, and any other persons or organizations performing or furnishing supplies under a direct or indirect agreement with the Contractor. Nothing in the Contract Documents shall create any contractual relationship between Town and any such Subcontractor, supplier or other person or organization, nor shall it create any obligation on the part of Town to pay or to cause the payment of any money due any Subcontractor, supplier, employee or agent except as may otherwise be required by law.

The purchase of insurance by the Contractor with respect to the obligations required herein shall in no event be construed as fulfillments or discharge of such obligations.

If any Subcontractor, supplier, laborer, or materialmen of the Contractor or any other person

directly or indirectly acting for or through the Contractor files or attempts to file a lien against the real property on which the work is performed or any part or against any personal property or improvements or make a claim against any monies due or to become due from the Town to the Contractor or from the Contractor to a Subcontractor, for or on account of any audit services, labor, construction services, material, equipment, or other items furnished in connection with the audit, the Contractor agrees to satisfy, remove, or discharge such lien or claim at its own expense by bond, payment, or otherwise within ten (10) Days of the filing or from receipt of written notice from the Town.

Nothing contained in this Agreement is any way intended to be a waiver of the limitation placed upon the Town's liability as set forth in Chapter 768, Florida Statutes. Additionally, the Town does not waive sovereign immunity, and no claim or award against the Town shall include attorney's fees, investigative costs or pre-judgment interest.

#### Article 7. TERMINATION.

7.1 Termination by the Town for Cause: The Town may terminate the Contract and the Contract Documents if Contractor:

- (a) refuses or fails to supply enough properly skilled workers or proper materials;
- (b) fails to make payment to suppliers for materials in accordance with the respective agreements between the Contractor and suppliers
- (c) disregards or takes action contrary to any laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
- (d) takes action, short of declaring bankruptcy, evidencing insolvency;
- (e) fails or refuses to provide and/or maintain insurance or proof of insurance as required by the Contract Documents; or
- (f) otherwise is in breach of a provision of the Contract Documents.

When any of the above reasons exist, the Town, may without prejudice to any other rights or remedies of the Town and after giving Contractor and Contractor's surety, three (3) days' written notice, and five (5) days to cure, terminate the Contract and Contract Documents and may:

- (a) take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by or paid for by the Town; and
- (b) finish the Work by whatever reasonable method the Town may deem expedient.

Contractor and its sureties shall be liable for any damage to the Town, including additional attorney and engineering/architectural fees, resulting from the Contractor's termination under this provision by the Town, including but not limited to, and any increased costs incurred by the Town in completing the work.

When the Town terminates the Contract for one of the reasons stated above, Contractor shall not be entitled to receive further payment, if any, until the Work is finished.

Should it be determined by a mediator or a court of competent jurisdiction that the Town wrongfully terminated the Contract, then Contractor agrees to treat such termination as a termination for convenience.

7.2 Termination by the Town for Convenience: In addition to other rights the Town may have at law and pursuant to the Contract Documents with respect to cancellation and termination of the Contract, the Town may, in its sole discretion, terminate for the Town's convenience the performance of any audit services under this Contract or the ITB, in whole or in part, at any time upon written notice to the Contractor. The Town shall effectuate such Termination for Convenience by delivering to the Contractor a Notice of Termination for Convenience, specifying the applicable scope and effective date of termination, which termination shall be deemed operative as of the effective date specified therein without any further written notices from the Town required. Such Termination for Convenience shall not be deemed a breach of the Contract, and may be issued by the Town with or without cause.

Upon receipt of such Notice of Termination for Convenience from the Town, and except as otherwise directed by the Town, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this Article:

- (a) stop the Work specified as terminated in the Notice of Termination for Convenience;
- (b) immediately deliver to the Town all records, in their original/native electronic format (i.e., CAD, Word, Excel, etc.), any and all other unfinished documents, and any and all equipment or materials already installed or purchased;
- (c) take actions necessary, or that the Town may direct, for the protection and preservation of the Work; and
- (d) except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

Upon issuance of such Notice of Termination for Convenience, the Contractor shall only be entitled to payment for that work satisfactorily performed up until the date of its receipt of such Notice of Termination for Convenience, but no later than the effective date specified therein. Payment for the any work satisfactorily performed shall be determined by the Town in good faith, in accordance with the percent completion of the audit.

#### Article 8. INSURANCE.

Prior to commencing the Scope of Work, Contractor shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. Contractor shall not commence services until the required insurance is in force and evidence of insurance acceptable to the Town has been provided to, and approved by, the Town. An appropriate Certification of Insurance shall be satisfactory evidence of insurance. Until such insurance is no longer required by this Agreement, Contractor shall provide the Town with renewal or replacement evidence of insurance at least thirty (30) days prior to the expiration or termination of such insurance. The required insurance is as follows:

<b><u>Type of Coverage</u></b>	<b><u>Amount of Coverage</u></b>
Commercial general liability (Products/completed operations Contractual, insurance broad form property, Independent consultant, personal injury)	\$1, 000,000 per occurrence  \$2,000,000 annual aggregate
Automobile (owned, non-owned, & hired)	\$ 1,000,000 single limits
Worker's Compensation	\$ statutory limits

The commercial general liability and automobile liability policies will name the Town as an additional insured.

Contractor's failure to obtain, pay for, or maintain any required insurance shall constitute a material breach upon which the Town may immediately terminate or suspend this Contract. In the event of any termination or suspension, the Town may use the services of another contractor without the Town incurring any liability to Contractor.

#### **Article 9. PUBLIC RECORDS.**

**Public Records:** Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the Town as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- A. Keep and maintain public records required by the Town to perform the service.
- B. Upon request from the Town's custodian of public records or designee, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Contract and following completion of this Contract if Contractor does not transfer the records to the Town.
- D. Upon completion of this Contract, transfer, at no cost, to the Town all public records in possession of Contractor or keep and maintain public records required by the Town to perform the service. If Contractor transfers all public records to the Town upon completion of the Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the Contract Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records or designee, in a format that is compatible with the information technology systems of the Town.

**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 CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT 561-278-4548, [lgaskins@highlandbeach.us](mailto:lgaskins@highlandbeach.us), OR BY MAIL AT TOWN OF HIGHLAND BEACH, 3614 S. Ocean Blvd., HIGHLAND BEACH, FL 33487.**

**Article 10. MISCELLANEOUS.**

- 10.1 *Binding Agreement; Successors & Assigns:* The Town and Contractor each binds itself, its partners, its successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.
- 10.2 *Changes to Work:* Additional work, changes to the Contract Price, or Contract Time, is subject to the Town's prior written approval. Contractor has no authority to approve such changes and has no authority to waive the requirement of prior written authorization for extra work, changes in the Contract Time, or change orders
- 10.3 *Headings and References & Exhibits:* The headings contained in this Contract are inserted for convenience of reference only and shall not be a part or control or affect the meaning hereof. All references herein to Articles are to the Articles of this Contract. All references herein to Exhibits are to the exhibits hereto, each of which shall be incorporated into and deemed to be a part of this Contract.
- 10.4 *Counterparts:* This Contract may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall be deemed to be an original, but each of which together shall constitute one and the same instrument.
- 10.5 *Entire Contract; Amendment and Waiver:* This Contract (together with the other Contract Documents) supersedes any and all prior negotiations and oral or written agreements heretofore made relating to the subject matter hereof and, except for written agreements, if any, executed and delivered simultaneously with or subsequent to the date of this Contract, constitutes the entire agreement of the parties relating to the subject matter hereof. This Contract may not be altered or amended except by a writing signed by the parties hereto. No waiver of any of the terms or conditions of this Contract shall be effective unless in writing and executed by the party to be changed therewith. No waiver of any condition or of the breach of any term, covenant, representation, warranty or other provision hereof shall be deemed to be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant, representation, warranty or other provision contained in this Contract.
- 10.6 *Governing Law; Consent to Jurisdiction:* This Contract shall be governed by and construed and interpreted in accordance with the laws of the State of Florida. Each of the parties hereto (a) irrevocably submit itself to the exclusive jurisdiction of the Fifteenth Judicial



Circuit Court in and for Palm Beach County, Florida for the purposes of any suit, action or other proceeding arising out of, or relating to, this Contract; (b) waives and agrees not to assert against any party hereto, by way of motion, as a defense of otherwise, in any suit, action or other proceeding, any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason whatsoever; and (ii) to the extent permitted by applicable law, any claim that such suit, action or proceeding by any part hereto is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper or that this Contract or the subject matter hereof may not be enforced in or by such courts.

- 10.7 *Third Party Beneficiary rights:* This Contract shall create no rights or claims whatsoever in any person other than a party herein.
- 10.8 *Severability:* If any one or more of the provisions of the Contract shall be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.
- 10.9 *Effective date:* The effective date of this Contract is the date the Contract is approved by the Town Commission.
- 10.10 *Preparation:* This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.
- 10.11 *Independent Contractor:* Contractor is and shall be, in the performance of the Scope of Work under this Contract, an independent contractor, and not an employee, agent, or servant of the Town. All persons engaged in any of the Scope of Work performed pursuant to this Contract shall at all times, and in all places, be subject to Contractor's sole direction, supervision, and control. Contractor shall exercise control over the means and manner in which it and its employees perform the Scope of Work.
- 10.12 *Enforcement; Waiver of Jury Trial:* If any legal action or other proceeding is brought for the enforcement of this Contract or the Contract Documents, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract or the Contract Documents, each party shall be responsible for their own attorney's fees at all levels. EACH PARTY ALSO AGREES AND VOLUNTARILY WAIVES ANY RIGHT TO A JURY TRIAL ARISING OUT OF ALLEGED DISPUTE, BREACH, DEFAULT, MISREPRESENTATION OR ANY OTHER CLAIM IN CONNECTION WITH OR ARISING FROM ANY PROVISION OF THIS CONTRACT OR THE CONTRACT DOCUMENTS
- 10.13 *Continuing Obligation:* Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.
- 10.14 *Waiver of Subrogation:* Contractor hereby waives any and all rights to Subrogation against the Town, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights

of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should Contractor enter into such an agreement on a pre-loss basis.

- 10.15 *Notice:* Any notice required to be given under the Contract Documents shall be sent by certified mail (return receipt requested) or by nationally recognized overnight courier as follows to the Town:

Town of Highland Beach  
Attn: Town Manager  
3614 S. Ocean Blvd.  
Highland Beach, FL 33487

and to Contractor as follows:

Odyssey Manufacturing Co.  
Attn: Martin T. Rakes, President  
1484 Massaro Blvd.  
Tampa, FL 33619

Either party may amend this provision by written notice to the other party.

- 10.16 *Public Entity Crimes:* Contractor acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a consultant, supplier or sub-consultant/sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. Contractor will advise the Town immediately if it becomes aware of any violation of this statute.
- 10.17 *Force Majeure:* Neither party shall be considered in default in the performance of its obligations hereunder or any of them, if such obligations were prevented or delayed by any cause, existing or future beyond the reasonable control of such party which include but are not limited to acts of God, labor disputes or civil unrest.
- 10.18 *Palm Beach County Inspector General:* In accordance with Palm Beach County ordinance number 2011-009, Contractor acknowledges that this Contract may be subject to investigation and/or audit by the Palm Beach County Inspector General. Contractor has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.
- 10.19 *Scrutinized Companies:* Contractor certifies that it and its subcontractors are not on the

Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the Town may immediately terminate this Contract at its sole option Contractor or any of its subcontractors are found to have submitted a false certification; or if Contractor or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Contract.

If this Contract is for one million dollars or more, Contractor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the Town may immediately terminate this Contract at its sole option if Contractor, or any of its subcontractors are found to have submitted a false certification; or if Contractor or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Contract.

- 10.20 *Protection of Property:* Contractor shall at all times guard against damage or loss to the property of the Town or of other vendors or contractors and shall be held responsible for replacing or repairing any such loss or damage. The Town may withhold payment or make such deductions as deemed necessary to insure reimbursement or replacement for loss or damage to property through negligence of Contractor or its agents. Contractor shall be responsible to safeguard all of their property such as tools and equipment while on site. The Town will not be held responsible for any loss of Contractor property due to theft or vandalism.
- 10.21 *Defects:* Contractor warrants that all goods and services provided under this Contract will be free of defects in materials and workmanship for a period of one (1) year following completion of all services unless a longer manufacturer warranty applies. The undersigned, upon notice of such defect, shall make the foregoing repairs as soon as reasonably possible or, if such repairs have already been made by the Town, the undersigned, upon receipt of evidence of the costs reasonably incurred by the Town in the making of such repairs, shall forthwith refund same to the Town. Anything herein to the contrary notwithstanding, the Town shall have the sole obligation to perform all maintenance required. Accordingly, the undersigned shall have no liability hereunder in the event that the repairs result from the failure of the Town to properly maintain same or misuse or abuse (except, however, nothing contained herein shall be construed to release the undersigned from liability for damage or defect caused by acts of the undersigned or its employees or agents in connection with the completion by the undersigned of the project).
- 10.22 *Audit:* Contractor shall permit the Town, or any authorized representatives of the Town, at all reasonable times, access to and the right to examine all records, books, papers or documents related to the Contractor's performance under this Contract including, but not limited to, expenses for sub-contractors, agents or assistants, direct and indirect charges for work performed and detailed documentation for all such work performed or to be performed under this Contract.

IN WITNESS WHEREOF the parties hereto have made and executed this Contract on the day and year first above written.

**TOWN OF HIGHLAND BEACH, FLORIDA**

By: \_\_\_\_\_  
Mayor

ATTEST:

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lanelda Gaskins, Town Clerk

\_\_\_\_\_  
Glen Torcivia, Town Attorney

**ODYSSEY MANUFACTURING CO.**

By: \_\_\_\_\_

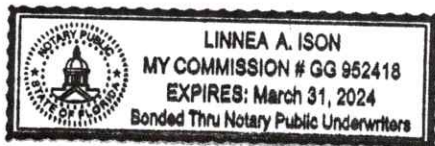
Print Name: Patrick H. Allman  
Title: General Manager



[Corporate Seal]

STATE OF FLORIDA )  
COUNTY OF ~~PALM BEACH~~ Hillsborough

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of October, 2022, by Patrick Allman, who was physically present, as General Manager (title), of Odyssey Manufacturing Co. which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following \_\_\_\_\_ as identification.



Notary Public  
\_\_\_\_\_  
Print Name: Linnea A. Ison  
My commission expires: 3/31/2024

**EXHIBIT “A”**

Town’s Bid

**EXHIBIT “B”**

Tank Specs



May 17, 2022

Re: **CORPORATE RESOLUTION FOR AUTHORITY TO SIGN BIDS, BID FORMS, CONTRACTS, BONDS & PERMITS ON BEHALF OF ODYSSEY MANUFACTURING CO.**

To Whom It May Concern,

WHEREAS, the Board of Directors of Odyssey Manufacturing Co. has determined it to be in the best interest of the Corporation to establish a Corporate Resolution. Be it: RESOLVED, The undersigned hereby certifies that Patrick H. Allman, its General Manager, is authorized to sign bids and all bid forms; to execute agreements and any documents associated with these agreements; to sign bonds of any type; and to sign any permit documents on behalf of Odyssey Manufacturing Co. Additionally, the undersigned is the duly elected and qualified Secretary and the custodian of the books and records and seal of Odyssey Manufacturing Co., a corporation duly formed pursuant to the laws of the state of Delaware and that the foregoing is a true record of a resolution duly adopted at a meeting of the Board of Directors and that said meeting was held in accordance with state law and the Bylaws of the above-named Corporation on May 17, 2022, and that said resolution is now in full force and effect without modification or rescission.

IN WITNESS WHEREOF, I have executed my name as Secretary and have hereunto affixed the corporate seal of the above-named Corporation this 17<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
Stephen Sidelko, Secretary

CORPORATE SEAL

  
\_\_\_\_\_  
Marvin T. Rakes, President