

**AGREEMENT FOR GOODS AND SERVICES  
(50% Caustic Soda-Water Treatment Chemicals)**

**THIS AGREEMENT** is made \_\_\_\_\_, 2021, between the **City of Lake Worth Beach**, Florida, a municipal corporation ("CITY"), with its office located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460, and **Odyssey Manufacturing Co.**, a corporation authorized to do business in the State of Florida ("CONTRACTOR") with its office located at 1484 Massaro Blvd., Tampa, FL 33619

**RECITALS**

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

WHEREAS, the CITY issued Invitation for Bid #21-208 for the procurement of 50% Caustic Soda-Water Treatment Chemicals on an as needed basis (hereinafter "IFB"); and

WHEREAS, CONTRACTOR submitted a bid to provide 50% Caustic Soda-Water Treatment Chemicals as described and set out in the IFB; and

WHEREAS, the CITY desires to accept the CONTRACTOR's bid (with the CONTRACTOR's bid price attached hereto as **Exhibit "A"**) in order for CONTRACTOR to render the goods and services to the CITY as provided herein; and

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

WHEREAS, the CITY finds awarding the IFB to the CONTRACTOR as described herein serves a valid public purpose.

NOW THEREFORE, the CITY hereby engages the services of the CONTRACTOR, and in consideration of the mutual promises herein contained, the sufficiency of which is hereby acknowledged by both parties, the parties agree as follows:

**1. TERM**

1.1 The term of this Agreement (the "Agreement") shall be for three (3) years, with the option to renew for two (2) additional one (1) year renewals periods upon the mutual agreement of both parties and dependent on the annual appropriation of funds by the CITY's City Commission. The renewal terms may be approved by the City Manager upon the same terms, conditions and pricing. Notwithstanding the foregoing, this Agreement may be earlier terminated as set forth in this Agreement.

**2. SCOPE OF WORK**

2.1 The Scope of Work includes furnish and delivery of 50% Caustic Soda on an as needed basis as more specifically set forth in the IFB's Scope of Work, which is attached hereto as **Exhibit "B"**. Work shall commence upon the issuance of a Purchase Order by the City.

2.2 The CONTRACTOR represents to the CITY that the materials provided under this Agreement shall be in accordance with accepted and established trade practices and procedures

recognized in the CONTRACTOR's trade in general and that the CONTRACTOR's work shall conform to the highest standards and in accordance with this Agreement.

2.3 The 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 Agreement. The CONTRACTOR further warrants its capability and experience to perform the work provided for herein in a professional and competent manner.

2.4 All deliveries of the chemicals shall be made within 48-72 hours of the CITY placing the order with CONTRACTOR. In the event of a natural disaster as determined by the CITY, such as a hurricane, and the CITY places an order, such delivery shall be made on a "first priority" basis. Deliveries shall only occur between the hours of 7:00 am to 3:00 pm Monday through Friday.

2.5 The Scope of Work shall be completed in accordance with the terms and conditions set forth in the IFB and this Agreement.

### **3. INDEPENDENT CONTRACTOR; USE OF AGENTS OR ASSISTANTS**

3.1 The CONTRACTOR is and shall be, in the performance of the Scope of Work under this Agreement, an independent contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the Scope of Work performed pursuant to this Agreement shall at all times, and in all places, be subject to the CONTRACTOR's sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the Scope of Work.

3.2 To the extent reasonably necessary to enable the CONTRACTOR to perform the Scope of Work hereunder, the CONTRACTOR shall be authorized to engage the services of any agents or assistants which it may deem proper, and may further employ, engage, or retain the services of such other persons or corporations to aid or assist in the proper performance of its duties. All costs of the services of, or expenses incurred by, such agents or assistants shall be paid by the CONTRACTOR.

### **4. MATERIALS**

4.1 The CONTRACTOR shall provide all chemicals as more specifically set forth in the IFB.

### **5. FEE AND ORDERING MECHANISM**

5.1 For services to be rendered under this Agreement, the CONTRACTOR shall be entitled to a fee for actual goods provided and accepted by the City at the price set forth in CONTRACTOR'S bid price which is attached as **Exhibit "A"**.

5.2 Should the CITY require additional chemicals, not included in this Agreement, fees and payment for such work will be set forth in a separate amendment, as authorized in accordance with the CITY's procurement code and policy prior to any such additional goods being provided by the CONTRACTOR.

5.3 The CITY's ordering mechanism for the Scope of Work (including each order of chemicals) under this Agreement will be by a City issued Purchase Order(s); however, the terms and conditions stated in a City Purchase Order(s) shall not apply. CONTRACTOR shall not provide goods under this Agreement without a City Purchase Order specifically for the stated goods.

CONTRACTOR shall provide the amount of requested goods and price listed in each Purchase Order and not exceed amounts expressed on any Purchase Order. CONTRACTOR shall be liable for any excess goods or costs not specifically stated in the Purchase Order(s). The City's Fiscal Year ends on September 30<sup>th</sup> of each calendar year. The City cannot authorize the purchase of goods or services beyond September 30<sup>th</sup> of each calendar year, prior to the annual budget being approved by the City Commission. Additionally, the City must have budgeted appropriate funds for the goods and services in any subsequent Fiscal Year. If the budget is approved for said goods and services, the City will issue a new Purchase Order(s) each Fiscal Year for required and approved goods.

## **6. MAXIMUM COSTS**

6.1 The CONTRACTOR expressly acknowledges and agrees that the total cost to complete the Scope of Work in accordance with the IFB and this Agreement is **One Hundred Forty Seven Thousand Five Hundred Dollars (\$147,500.00) per fiscal year**, and no additional costs shall be authorized without prior written approval from the CITY.

## **7. INVOICE**

7.1 The CONTRACTOR shall submit an itemized invoice to the CITY for approval prior to receiving compensation. The CONTRACTOR shall be paid within thirty (30) days of receipt of an approved invoice for work.

7.2 If the CITY disputes any invoice or part of an invoice, CITY shall notify the CONTRACTOR within a reasonable time after receipt of the invoice. CITY reserves the right to off-set, reduce or withhold any payment to the CONTRACTOR until the dispute is resolved.

## **8. AUDIT BY CITY**

8.1 The CONTRACTOR shall permit the CITY, or any authorized representatives of the CITY, 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 Agreement 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 Agreement.

## **9. COPIES OF DATA/DOCUMENTS**

9.1 Copies or original documents prepared by the CONTRACTOR in relation to work associated with this Agreement shall be provided to the CITY. Data collected, stored, and/or provided shall be in a form acceptable to the CITY and agreed upon by the CITY.

## **10. OWNERSHIP**

10.1 Each and every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the CONTRACTOR pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

## **11. WRITTEN AUTHORIZATION REQUIRED**



11.1 The CONTRACTOR shall not make changes in the Scope of Work or perform any additional services or provide any additional material under this Agreement without first obtaining written authorization from the CITY for such additional services or materials. Additional services or materials provided without written authorization shall be done at the CONTRACTOR's sole risk and without payment from the CITY.

## **12. DEFAULTS, TERMINATION OF AGREEMENT**

12.1 If the CONTRACTOR fails to timely perform the Scope of Work or has failed in any other respect to satisfactorily perform in accordance with this Agreement; or, is in material breach of a term or condition of this Agreement, the City Manager or designee may give written notice to the CONTRACTOR specifying defaults to be remedied. Such notice shall set forth the basis for any dissatisfaction and suggest corrective measures. If the CONTRACTOR does not remedy defaults within the allotted time or commence good faith steps to remedy the default to the reasonable satisfaction of the City Manager or designee, the CITY may take such action to remedy the default and all expenses related thereto shall be borne by the CONTRACTOR including, without limitation, utilization of another contractor to provide for such work; and/or, the CITY may withhold any money due or which may become due to the CONTRACTOR for such expense and/or work related to the claimed default. Alternatively, or in addition to the foregoing, if after three (3) days the CONTRACTOR has not remedied defaults or commenced good faith steps to remedy defaults to the satisfaction of the City Manager or designee, the CITY may elect to terminate this Agreement. No compensation shall be paid for de-mobilization, take-down, disengagement wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph.

12.2 Notwithstanding paragraph 12.1, the CITY reserves the right and may elect to terminate this Agreement at any time, with or without cause. At such time, the CONTRACTOR would be compensated only for that work which has been satisfactorily completed to the date of termination. No compensation shall be paid for de-mobilization, take-down, disengagement wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph.

## **13. INSURANCE**

13.1. Prior to commencing the Scope of Work, the 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. The Certificates shall clearly indicate that the CONTRACTOR has obtained insurance of the type, amount, and classification as required for strict compliance with this Section and that no material change or cancellation of the insurance shall be effective without thirty (30) days' prior written notice to the CITY. Failure to comply with the foregoing requirements shall not relieve the CONTRACTOR of its liability and obligations under this Contract. All insurance, other than Workers' Compensation, required hereunder shall specifically include the "City of Lake Worth Beach" as an "Additional Insured", on a primary, non-contributing basis and the CONTRACTOR shall provide additional insured endorsements section of Certificates of Insurance.

13.2. The CONTRACTOR shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of \$1,000,000 per occurrence (\$2,000,000 aggregate) to protect the CONTRACTOR from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the CONTRACTOR or by anyone directly employed by or contracting with the CONTRACTOR.



13.3. The CONTRACTOR shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damages liability to protect the CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

13.4. The CONTRACTOR shall maintain, during the life of this Contract, Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes.

#### **14. WAIVER OF BREACH**

14.1 The waiver by either party of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that same or any other provision.

#### **15. INDEMNITY**

15.1 The CONTRACTOR shall indemnify, defend and hold harmless, to the maximum extent permitted by law, the CITY and its officers, agents, employees and representatives, from and against any and all liability, suit, actions, proceedings, judgments, claims, losses, liens, damages, injuries (whether in contract or in tort, including personal injury, accidental death, patent infringement or property damage, and regardless, of whether the allegations are false, fraudulent or groundless), costs and expenses (including attorney's fees, litigation, arbitration, mediation, appeal expenses) to the extent arising out of or alleged to have arisen out of the acts, omissions or neglect of the CONTRACTOR or any of its agents, employees, subcontractors or by anyone the CONTRACTOR directly or indirectly employed.

15.2 The CONTRACTOR's obligation to indemnify, defend and hold harmless shall remain in effect and shall be binding upon the CONTRACTOR whether such injury or damage shall accrue, or may be discovered, before or after termination of this Agreement.

15.3 Compliance with any insurance requirements required elsewhere in this Agreement shall not relieve CONTRACTOR of its liability and obligation to defend, hold harmless and indemnify the CITY as set forth in this section.

15.4 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CITY or CONTRACTOR. Further, nothing contained in this Agreement shall be construed or interpreted as consent by the CITY to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in section 768.28, Florida Statutes, as amended from time to time.

15.5 The CONTRACTOR's failure to comply with this section's provisions shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

#### **16. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE**

16.1 This Agreement consists of the terms and conditions provided herein; **Exhibit "A"**, the Contractor's bid price; **Exhibit "B"**, the IFB's Scope of Work and the remainder of the IFB (including all specifications, exhibits and addenda attached thereto or referenced therein). To the extent that there exists a conflict between this Agreement and the remaining documents, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail with **Exhibit "B"**

and the IFB (including all specifications, exhibits and addenda attached thereto) next taking precedence. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

16.2 This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other Agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

## **17. ASSIGNMENT**

17.1 Nothing under this Agreement shall be construed to give any rights or benefits to any party other than the CITY and the CONTRACTOR. All duties and responsibilities under this Agreement shall be for the sole and exclusive benefit of the CITY and the CONTRACTOR and not for the benefit or any other party. The CONTRACTOR shall not assign any right or interest in this Agreement, and shall not delegate any duty owned, without the CITY's prior written consent. Any attempted assignment or delegation shall be void and totally ineffective for all purposes, and shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

17.2 In the event the CITY consents to an assignment or delegation, the assignee, delegate, or its legal representative shall agree in writing to personally assume, perform, and be bound by this Agreement's covenants, conditions, obligations and provisions.

## **18. SUCCESSORS AND ASSIGNS**

18.1 Subject to the provision regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the respective parties.

## **19. OF TRIAL BY JURY**

19.1 TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

## **20. GOVERNING LAW AND REMEDIES**

20.1 The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Florida and venue shall be in Palm Beach County, Florida.

20.2 No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

## **21. TIME IS OF THE ESSENCE**

21.1 Time is of the essence in all respects under this Agreement.



## **22. NOTICES**

22.1 All notices hereunder must be in writing and, unless otherwise provided herein, shall be deemed validly given on the date when personally delivered to the address indicated below; or on the third (3<sup>rd</sup>) business day following deposit, postage prepaid, using certified mail, return receipt requested, in any U.S. postal mailbox or at any U.S. Post Office; or when sent via nationally recognized overnight courier to the address indicated below. Should the CITY or the CONTRACTOR have a change of address, the other party shall immediately be notified in writing of such change, provided, however, that each address for notice must include a street address and not merely a post office box. All notices, demands or requests from the CONTRACTOR to the CITY shall be given to the CITY address as follows:

City Manager  
City of Lake Worth Beach  
7 North Dixie Highway  
Lake Worth Beach, Florida 33460

All notices, demands or requests from the CITY to the CONTRACTOR shall be given to the CONTRACTOR address as follows:

Odyssey Manufacturing Company  
1484 Massaro Blvd.  
Tampa, FL 33619

## **23. SEVERABILITY**

23.1 Should any part, term or provision of this Agreement or any document required herein to be executed be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.

## **24. DELAYS AND FORCES OF NATURE**

24.1 The CONTRACTOR shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Upon the CONTRACTOR's request, the CITY shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the CONTRACTOR and, if the CONTRACTOR'S delay and failure to timely perform was without it or its subcontractors' fault or negligence, as determined by the CITY in its sole discretion, the time of completion shall be extended for any reasonable time that the CITY, in its sole discretion, may decide; subject to the CITY'S rights to change, terminate, or stop any or all of the work at any time. If the CONTRACTOR is delayed at any time in the progress of the work by any act or neglect of the CITY or its employees, or by any other contractor employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONTRACTOR'S control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY, in its sole discretion, shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY, in its sole discretion, may

decide. No extension of time shall be made for any delay occurring more than five (5) days before a claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary. The CONTRACTOR's sole remedy for a delay in completion of the work for any reason will be an extension of time to complete the work and CONTRACTOR specifically waives any right to seek any monetary damages or losses for a delay in completion of the work, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by CONTRACTOR due to a delay in completion of the work.

## **25. COUNTERPARTS**

25.1 This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. This Agreement may be executed electronically.

## **26. LIMITATIONS OF LIABILITY**

26.1 Under no circumstances shall either party be liable to the other for any consequential, incidental, special, punitive, or any other form of indirect or non-compensatory damages.

## **27. PUBLIC ENTITY CRIMES**

27.1 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 contractor, supplier or 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 CITY immediately if it becomes aware of any violation of this statute.

## **28. PREPARATION**

28.1 This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

## **29. PALM BEACH COUNTY INSPECTOR GENERAL**

29.1 In accordance with Palm Beach County ordinance number 2011-009, the CONTRACTOR acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONTRACTOR has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

## **30. ENFORCEMENT COSTS**

30.1 All parties shall be responsible for their own attorneys' fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of



construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

### **31. PUBLIC RECORDS**

31.1 CONTRACTOR shall comply with Florida's Public Records Laws, Chapter 119, Florida Statutes, and, if it is acting on behalf of the CITY as provided under section 119.011(2), the CONTRACTOR specifically agrees to:

- (a) Keep and maintain public records required by the CITY to perform the services under this Agreement.
- (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 copied within a reasonable time at a cost that does not exceed the cost provided in this Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that said 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 the Agreement term and following completion of the Agreement, if the CONTRACTOR does not transfer the records to the CITY.
- (d) Upon the completion of the Agreement, 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 services. If the CONTRACTOR transfers all public records to the CITY upon completion of the Agreement, 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 Agreement, 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.

**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 AT (561) 586-1660, CITYCLERK@LAKEWORTHBEACHFL.GOV, OR BY MAIL AT CITY OF LAKE WORTH BEACH, ATTN: City Clerk, 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.**

### **32. COPYRIGHTS AND/OR PATENT RIGHTS**

32.1 CONTRACTOR warrants that there has been no violation of copyrights and/or patent rights in the manufacturing, producing or selling of the goods, shipped or ordered, as a result of this Agreement and the CONTRACTOR agrees to hold the City harmless from any and all liability, loss, or expense occasioned by any such violation.

**33. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH**

33.1 CONTRACTOR certifies that all material, equipment, etc., contained in this bid meets all OSHA requirements. CONTRACTOR further certifies that, if the material, equipment, etc., delivered is subsequently found to be deficient in any OSHA requirements in effect on date of delivery, all costs necessary to bring the material, equipment, etc. into compliance with the aforementioned requirements shall be borne by the CONTRACTOR.

**34. FEDERAL AND STATE TAX**

34.1 The CITY is exempt from Federal Tax and State Tax for Tangible Personal Property. The Procurement Official will sign an exemption certificate submitted by the successful Proposer. Vendors or contractors doing business with the CITY shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the CITY, nor shall any Vendor/Contractor be authorized to use the CITY's tax Exemption Number in securing such materials.

**35. PROTECTION OF PROPERTY**

35.1 The CONTRACTOR shall at all times guard against damage or loss to the property of the CITY or of other vendors or contractors and shall be held responsible for replacing or repairing any such loss or damage. The CITY may withhold payment or make such deductions as deemed necessary to insure reimbursement or replacement for loss or damage to property through negligence of the successful CONTRACTOR or its agents. The CONTRACTOR shall be responsible to safeguard all of their property such as tools and equipment while on site. The CITY will not be held responsible for any loss of CONTRACTOR property due to theft or vandalism.

**36. DAMAGE TO PERSONS OR PROPERTY**

36.1 The responsibility for all damage to person or property arising out of or on account of work done under this Contract shall rest upon the CONTRACTOR, and he/she shall save the CITY and political unit thereof harmless from all claims made on account of such damages.

**37. SAFETY: ACCIDENT PREVENTION.**

37.1 In the performance of this Agreement, the CONTRACTOR shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The CONTRACTOR shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the CITY, may determine to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

37.2 It is a condition of this Agreement, and shall be made a condition of each subcontract, which the CONTRACTOR enters into pursuant to this Agreement (if authorized), that the CONTRACTOR and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).



37.3 Pursuant to 29 CFR 1926.3, it is a condition of this Agreement that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

**38. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT** (Applicable to all federally funded contracts and any subcontracts of \$100,000 or more).

38.1 By execution of this Agreement, CONTRACTOR, if applicable, will be deemed to have stipulated as follows:

- (a) Any CITY facility or property that is or will be utilized in the performance of this Agreement, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604 ), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
- (b) CONTRACTOR agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.
- (c) CONTRACTOR shall promptly notify the CITY of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a CITY facility or property that is or will be utilized for the Agreement is under consideration to be listed on the EPA List of Violating Facilities.

**39. SCRUTINIZED COMPANIES**

39.1 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 CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the 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 Agreement.

39.2 If this Agreement is for one million dollars or more, the 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 CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the 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 Agreement.

39.3 The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

39.4 The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the CITY for the term of this Agreement, including any and all renewals.

39.5 The CONTRACTOR agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the CONTRACTOR shall immediately notify the CITY of the same.

39.6 As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

**40. E-VERIFY**

Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONTRACTOR shall:

40.1. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;

40.2. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

40.3. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;

40.4. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;

40.5. Be aware that a violation of section 448.09, Florida Statutes (Unauthorized Aliens; Employment Prohibited), shall be grounds for termination of this Agreement; and,

40.6. Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the CONTRACTOR may not be awarded a contract for at least one (1) year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the CITY as a result of the termination of the Agreement.

**41. SURVIVABILITY**

41.1 Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**  
**SIGNATURE PAGE FOLLOWS**



IN WITNESS WHEREOF the parties hereto have made and executed this Agreement for Goods and Services (50% Caustic Soda-Water Treatment Chemicals) on the day and year first above written.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL SUFFICIENCY:

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Bruce T. Miller, Financial Services Director

CONTRACTOR:

**Odyssey Manufacturing Co.**

By: \_\_\_\_\_  
*[Signature]*

Print Name: Patrick A. Allman

Title: General Manager

[Corporate Seal]

STATE OF Florida )  
COUNTY OF Hillsborough )

THE FOREGOING instrument was acknowledged before me by means of  
• physical presence or • online notarization on this 2nd day of November 2021,  
by Patrick Allman, as the General Manager [title] of Odyssey  
Manufacturing Co., a corporation authorized to do business in the State of Florida, who  
is personally known to me or who has produced \_\_\_\_\_ as  
identification, and who did take an oath that he or she is duly authorized to execute the  
foregoing instrument and bind the CONTRACTOR to the same.

*[Signature]*  
Notary Public Signature

Notary Seal:



**Exhibit A  
CONTRACTOR'S PRICE BID**

(B4)

**IFB # 21-208 50% Caustic Soda-Water Treatment Chemicals**

**SCHEDULE OF UNIT PRICES**

In order to evaluate the total bid amount, each Bidder must identify the unit prices for the materials set forth in the Scope of Services. The quantities below are estimated quantities. City does not guarantee a minimum order and reserves the right to adjust these quantities as considered in the best interest of the City. The bidder acknowledges that no additional payment will be made for adjustments in the quantities. The award will be based on the full truck load pricing.


Item	Description	Annual Usage	Unit Price	Total Usage Annual Usage x Unit Price = Total Usage
	<b>Caustic Soda 50%</b>			
1	Full Truck Load	55,000 GAL	\$ <u>2.20</u> / Gal	\$ <u>121,000</u>
2	Partial Truck Load	10,000 GAL	\$ <u>2.65</u> / Gal	\$ <u>26,500</u>

Name of Bidder: Odyssey Manufacturing Company

Address: 1484 Massaro Blvd., Tampa ST FL. Zip 33619

Phone: ( 813 ) 635-0339 Email: p.allman@odysseymanufacturing.com

Print Name: Patrick Allman Title: General Manager

SIGNATURE:  Date: 8/27/21



**Exhibit B**  
IFB Scope of Work

1. **Delivery Location(s)**. The City currently requires delivery of 50% Caustic Soda-Water Treatment Chemicals at the below address. The CONTRACTOR understands, acknowledges, and agrees that the City may elect to add, remove, or revise delivery locations in the future.

**Delivery Address:**

**R/O WATER PLANT, 301 COLLEGE STREET, LAKE WORTH BEACH, FL 33460**

**Two 2,256 Gallon tanks and One 6,770 Gallon tank**

**Or**

**MASTER PUMP STATION, 202 SOUTH GOLFVIEW ROAD, LAKE WORTH, FL 33460**

CONTRACTOR shall comply with any and all applicable Federal, State, County, City regulations surrounding delivery and handling requirements.

2. **Delivery and Order Fulfillment**. Delivery shall be successfully completed within 48-72 hours of order placement or as stated by the ordering location. Delivery deviations shall be communicated to the ordering location at time of order placement.

It is hereby made a part of this Agreement that before, during, and after a public emergency, disaster, hurricane, flood or Act of God that the City, shall require a "first priority" basis for goods and services. It is vital and imperative that the majority of citizens are protected from any emergency situation that threatens public health and safety.

Time of Delivery: Monday through Friday 7:00 AM to 3:00 PM; exceptions can be made for emergencies.

3. **Quantities**. Quantities specified are based on annual estimates. The City makes no guarantee regarding the quantity to be purchased and reserves the right to vary the quantities. **Prices and quantities are to be quoted based on gallons, NOT weight.**

4. **Delivery & Invoice Documentation**. The City requires all shipments be accompanied by a packing list or bill of lading stating, at a minimum, a description of the product and quantity. Shipments shall bear warning labels as specified by USDOT regulations. Invoices shall contain, at a minimum, the applicable City issued Purchase Order number, delivery date, quantity, product description, price, and unique invoice number.

Delivery Reports:

A certified report from the manufacturer shall be submitted for each Caustic Soda delivery to the City of Lake Worth Beach. The report shall contain the following data:

Date & Time of Manufacture Percent by weight of:

1. Strength in %

2. Shall Meet requirements of AWWA B501(certified as suitable for use in treatment of drinking water)
3. NSF/ANSI Standard 60 Certification
4. Quantity in Gallons
5. Quantity in pounds Specific Gravity (Referenced to a temperature)

5. **Quality Assurance (QA) & Returned Goods.** The CONTRACTOR shall be solely responsible for ensuring that the 93% Sulfuric Acid is the correct quantity and that it meets all the specifications outlined in the Bid document. Deliveries that do not meet bid and purchase order specifications and requirements, including quality standards, shall be subject to delivery refusal and return to the vendor, at the expense of the vendor. No costs will be incurred by the City.

6. **Material Safety Data Sheet (MSDS) and Safety Compliance.** A current Material Safety Data Sheet (MSDS) must be submitted for each applicable item within seven (7) calendar days of notification of award and with each shipment. The CONTRACTOR shall comply with the rules and regulations of the Florida Department of Commerce regarding industrial safety and with the standards set forth in the Occupational Safety and Health Act of 1970 (OSHA and its amendments).

#### **7. ADDITIONAL REQUIREMENTS**

The CONTRACTOR shall assure that when, in the opinion of the City, an emergency condition exists, trained emergency crews and properly fitted equipment will be made available in an expeditious manner and will work with the using agency (if trained staff from using agency are available). CONTRACTOR shall state location and phone number of nearest emergency crew.